

**IN THE COURT OF THE LEARNED ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE 8TH COURT AT ESPLANADE,
MUMBAI**

C. C No.

OF 2010

DR. KIRIT JAYANTILAL SOMAIYA, an adult,)
aged 55 years, Occupation: Chartered)
Accountant, residing at 9-C, Nilam Nagar,)
Mulund (E), Mumbai 400081 having office at)
CDO Barak No.1, Vasant Rao Bhagwat Chowk,)
Opp. Yogkshem, Nariman Point, Mumbai 400)
020 and at Vasant Smruti, Dadasaheb Phalke)
Marg, Dadar, Mumbai 400 014)

..Complainant

V/s

SHRI. DIGVIJAY SINGH, an adult, residing at)
115-117, South Avenue, New Delhi-110011)
and having office at 24, Akbar Road, New Delhi)
110001)

..Accused

COMPLAINT U/S. 500 OF I.P.C

MAY IT PLEASE YOUR HONOUR:

The Complainant, **DR. KIRIT JAYANTILAL SOMAIYA**, most respectfully begs to submit as under:

1. The complainant is the National Secretary of Bhartiya Janata Party and has been active in public life for the last three decades. The Complainant started his political career as a grass root level worker. He was Member of Legislative Assembly, Maharashtra State from 1994-1999. The complainant was also Member of Parliament Lok Sabha. The complainant has taken up various causes of ordinary people including fighting for the victims of Mulund Railway blast 2003. He took up the cause before the Human Rights Commission of the victims of 11/7 serial railway blast of 2006. The complainant also helped

the victims of terror attack of 26/11 by filing petition before Human Right commission. The complainant has taken up the cause of small investors and he is the president of Investors Grievances Forum.

2. The complainant is a political activist and has taken up social causes from time to time. He has also earned Ph.D from University of Mumbai and is recently elevated to the post of National Secretary of Bhartiya Janata Party.
3. The Accused is the Gen. Secretary of a political party the Congress –I. The Accused is residing at the address given in the title and the address of the office of the Accused is also mentioned in the title.
4. The party of the complainant raised serious objections regarding the recent multilevel corruption scam in the name of “Adarsh Housing Society” at Mumbai and the corruption in the "Common Wealth Games" and 2G Telecom Scam, which resulted in the Congress-I party removing its previous Chief Minister of Maharashtra, the then Telecom Minister, Parliamentary Secretary and three of the office bearers of organizing committee of common wealth games are arrested.
5. The complainant submits that the matter of corruption in organizing of common wealth games and corruption in Adarsh Housing Society, 2G is published by the print media and also aired by the electronic media and as a result of the same the Congress party started damage control matters.
6. The complainant submits that on 15.11.2010 the Accused has made several blatantly false and frivolous defamatory allegations against the complainant alleging his involvement in the matter of "Share Market Ghotala" and calling the complainant as the "Dalal of share Bazar". The print media printed the defamatory statement of the Accused and the same is widely reported in the news

papers published from Mumbai and other places and the electronic media has flashed the news of ex facie defamatory allegations made by the Accused after the Accused spoke before the media.

7. the complainant submits that the principal defamatory statements made by the Accused against the complainant are as under:
 - a) The Accused called the complainant broker of the share bazaar
 - b) The Accused stated that the complainant is a scamster and master in Stock Exchange scam
8. The charges made by the Accused amounts to a very serious defamation of the complainant and have caused him considerable, distress and embarrassment. The allegations by the Accused have made imputation concerning the complainant intending to harm the reputation of the complainant.
9. The complainant submits that the defamatory statement by the Accused is totally false to the knowledge of the Accused. The Accused address the media with full intention of defaming the complainant knowing full well that whatever the Accused has stated is defamatory, totally false and baseless.
10. The complainant submits that the false, baseless and defamatory statement made by the Accused has received wide publicity in the electronic, print and web media.
11. The complainant submits that the defamatory statement which he made before the reporter of Star News and other reporters on 15.11.2010 was aired by the Star News wherein the Accused says, "... efkeÀjeri meesce³³ee pees efkeÀ MesDej yeepeej keÀe oueeue Deewj MesDej yeepeej kesÀ leesieueskeÀe meyemes ye[e efnjes..." (...KIRIT SOMAIYA JO KI

SHARE BAZAAR KA DALAL AUR SHARE BAZAAR KE GHOTALE KA SABSE BADA HIRO). The complainant has obtained the video tape recording of the said news aired by Star News. Hereto annexed and marked as **Exhibit "A"** is the true copy of the transcript of the said electronic media news item aired in the news coverage of Star News.

12. The complainant submits that the news item was published in daily Navakal published from Mumbai on 16.11.2010. On the 1st page of the news paper in the sub title "KIRIT SOMAIYA MHANJE SHARE BAJARATIL DALAL". The Accused has stated les cnCeeues keÀer, efkeÀjeri meesce³³ee ns MesDej yeepeejeleerue leesieUsyeepe Demetve lees Deelee Deece^{®3}eekeÀ[^{tve} peyeeeye ceeieles cnCepes keÀe^{3e}? Hereto and marked as **Exhibit "B"** is the copy of the news item published in the Marathi daily Navakal dtd.16.11.2010.
13. The complainant submits that similar type of news item was posted in Indian Express on dtd.15.11.2010 that the Accused made the statement at Lakhimpur saying, "KIRIT SOMAIYA WHO WAS ACCUSED IN STOCK EXCHANGE SCAM". Hereto annexed and marked as **Exhibit "C"** is the copy of the news item posted in the Indian Express dtd.15.11.2010.
14. The complainant submits that similar type of news item was posted in the popular news portal sify.com wherein the accused repeats the allegations accusing the complainant of being accused of stock exchange scam. Hereto annexed and marked as **Exhibit "D"** is the copy of sify.
15. The complainant submits that the accused went on making reckless, false, baseless and malicious allegation and went to the extent of saying that the DRI must investigate into the assets of the complainant. The

accused has done so with a sole intention of maligning the image of the complainant. Hereto annexed and marked as **Exhibit "E"** is the copy of item published in Hindustan.

16. The complainant submits that on 16.11.2010 the complainant issued notice to the Accused stating that the Accused made false and baseless allegations against the complainant knowing the same to be false hence; the Accused has committed an offence of defamation. The complainant called upon the Accused to tender unconditional apology within 24 hours from the time of receipt of notice. Hereto and marked as **Exhibit "F"** is the copy of the notice dtd. 16.11.2010.
17. The complainant further submits that the Accused has failed and neglected to tender unconditional apology to the complainant. The notice was sent to the Accused on 16.11.2010 under RPAD wide receipt no, RLAD A5905. Hereto and marked as **Exhibit "G"** is the copy of the RPAD receipt.
18. The complainant states that the Accused made the statement against the complainant maliciously and recklessly knowing very well that the statement made by the Accused is totally false and baseless.
19. The complainant submits that the allegations made by the Accused against him are totally false and baseless and the attack by the Accused is completely unjustified as the complainant is having very clean record.
20. The complainant submits that he is never involved in any stock exchange scam as falsely alleged by the Accused. The complainant was never a share broker and has nothing to do with any scam pertaining to any share bazaar. The false, reckless, baseless and malicious imputations made by the Accused lowered down the reputation and image of the complainant in the estimation of right thinking people in the society. The Accused has

made the allegation with the intention of lowering down the reputation in the eyes of right thinking people in the society.

21. The allegations made by the Accused before the electronic media and the print media were given wide publicity in the daily news papers published from other places and also published from the city of Mumbai.
22. The allegation made by the Accused in the electronic media were flashed throughout the country including the city of Mumbai.
23. The complainant is permanent residence of Mumbai and having office within the Marin Drive Police Station hence; this Hon'ble court has jurisdiction to entertain and try this complaint.

In the circumstances the complainant charges the accused as above and pray that:

- a. This Hon'ble Court be pleased to issue process against the accused u/s. 500 IPC.
- b. This Hon'ble Court be pleased to punish with the accused as per the provisions of the law.
- c. Such other order and relief be granted, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the matter.

And for which act of kindness I, **DR. KIRIT JAYANTILAL SOMAIYA**, the complainant abovenamed shall as in duty bound every pray.

Dated: 29.11.2010

Mumbai

Advocate for the Complainant

Complainant

VERIFICATION

I, **DR. KIRIT JAYANTILAL SOMAIYA**, aged about 55 years, Indian inhabitant, do hereby states on solemn affirmation and declared as under that whatever stated in the above paragraphs are true and correct to the best of my knowledge and believe the same to be true.

Solemnly declared at Mumbai

Dated this 29th day of November 2010

Advocate for the Complainant

Complainant

LIST OF THE DOCUMENTS AND WITNESSES RELIED UPON BY THE COMPLAINANT:

1. Mahendra Jain
2. Deepak dalvi Kanjur Marg (E)
3. Pradeep Bhat
4. Amarjeet Mishra
5. The true copy of the transcript of the said electronic media news item aired in the news coverage of Star News.
6. The copy of the news item published in the Marathi daily Navakal dtd.16.11.2010.
7. The copy of the news item posted in the Indian Express dtd.15.11.2010.
8. The copy of sify.
9. The copy of item published in Hindustan.
10. The copy of the notice dtd. 16.11.2010.
11. The copy of the RPAD receipt.
12. Any other documents with the permission of this Hon'ble Court.

Advocate for the Complainant

Complainant

Advocates for the Complainant
Gold Coin Premises, Nehru Road,
Vakola Pipe Line, Santacruz (E),
Mumbai 400 055

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