



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

Peer-reviewed, open-access, refereed journal

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www.ijlar.com

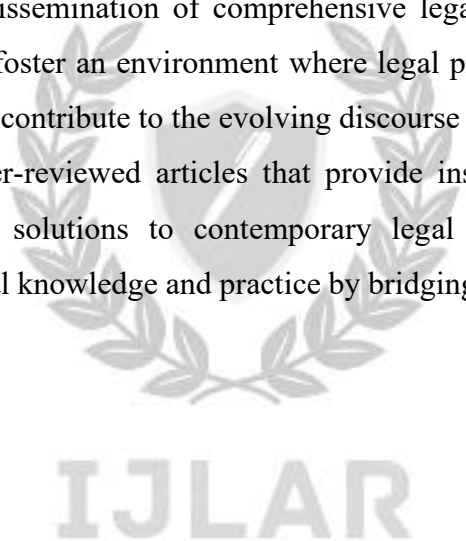
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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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CRIMINAL DEFAMATION BEYOND DOCTRINE: PROCEDURAL SAFEGUARDS AND THE NALLA BALU GUIDELINES

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ABSTRACT

In India, criminal defamation is easily levelled and difficult to disprove at a preliminary stage, which is why it has a procedural safeguard that only the person actually aggrieved by an imputation may set the criminal process in motion. The police cannot take cognizance and register a case on their own initiative, as codified in Section 222 of the Bharatiya Nagarik Suraksha Sanhita, 2023. This exists to prevent defamation as a charge from being weaponised against political speech or such. This piece examines the Telangana High Court's decision in *Nalla Balu @ Durgam Shashidhar Goud v. State of Telangana*, where three FIRs invoking defamation and other offences were registered against a social media user for tweets criticising the ruling party and the Chief Minister of Telangana. For all the three FIRs, none of the complainants was the person actually defamed; one was a serving police constable filing in his personal capacity. The Court quashed all three FIRs and held that the tweets amounted to protected political criticism under Article 19(1)(a). Independently, the FIRs were unsustainable because none of the complainants held the locus standi as required by Section 222 BNSS. This piece argues that the decision's doctrinal reasoning breaks no new ground, being a straightforward application of *Subramanian Swamy v. Union of India* and *Shreya Singhal v. Union of India*. Its significance lies in what the facts expose: that the locus standi safeguard has no filter at the point of registration itself, and that it depends entirely on a court intervening after the accused has already borne the cost of an FIR, the threat of arrest, and the reputational injury of a public investigation. The operational guidelines the Court issued are a meaningful corrective, but they bind only Telangana's police force, and offer no structural fix to the absence of a verification requirement built into the registration process itself. As political criticism increasingly migrates online, this piece contends that the more durable answer lies in requiring that a complainant's standing be verified on record before an FIR is registered, and not for it to be discovered months later through judicial intervention.

Keywords: Criminal Defamation, Telangana High Court, Section 222 BNSS, Locus Standi, Political Speech, Article 19(1)(a)

Introduction

A person's reputation is invisible yet one of the most closely guarded assets that one can hold. It is recognized, valued, and protected in law across every legal system. This concept is not confined to individuals. Apple did not build its market position through products alone; it built it through decades of reliability that eventually became reputation in its own right, one that now precedes the product itself in the eyes of the consumer. When built by non-natural persons or business entities, this is called "goodwill", a measurable financial and legal asset representing a business's capacity to attract paying customers, whereas reputation is the general public opinion or awareness of a brand, which can exist without active commercial transactions or local sales.

In India, this interest is not left to informal social consensus. It is anchored constitutionally: the right to reputation forms an integral part of the right to life and personal liberty under Article 21. The concept of reputation does not extend just to figures like politicians and film actors, but to everyone. Dead or alive. An injury to reputation leaves no physical mark but is treated as real and compensable harm, and its protection finds its sharpest expression in the law of defamation.

In India, for the offence of criminal defamation, only the person actually aggrieved by an imputation may set the criminal process in motion. The police officer cannot register a case on their own initiative. This piece argues that the recent Telangana High Court decision in *Nalla Balu @ Durgam Shashidhar Goud v. State of Telangana*¹ is significant less for what it says about the doctrine of defamation², which is to simply restate the settled law, and more for what its facts reveal: that this procedural safeguard has no filter at the point of registration of offence itself, and that it depends entirely on the court intervening after the fact, by which point the accused has already borne the cost of an FIR, the threat of arrest, and the reputational injury of being publicly investigated. If the very institution the safeguard is meant to check, the police,

¹ Nalla Balu @ Durgam Shashidhar Goud v. State of Telangana, CrI. Pet. Nos. 4905, 4903 & 8416 of 2025, ¶ 21 (Telangana HC, Sept. 10, 2025) (India).

² Nalla Balu, ¶¶ 22, 27 (locus standi holding as the independent, procedural ground for quashment).

can itself become the third-party complainant it was designed to exclude, the safeguard is not doing the work it was built to do.

Defamation Under Indian Law: The Substantive Ingredients

The constitutional status of the right to reputation was made explicit by the Supreme Court in the case of *Subramanian Swamy v. Union of India*.³ In this case, the Court upheld the constitutional validity of Sections 499 and 500⁴ of the Indian Penal Code, holding that reputation is a basic element of Article 21; that criminal defamation does not produce a chilling effect on free speech. In doing so, the Court has also resolved a collision between two fundamental rights, which are, free expression under Article 19(1)(a) and the right to reputation (RoR) under Article 21.⁵ The offence of defamation is not a recent legislative invention. It traces back to Thomas Macaulay's drafting of the first Indian Penal Code. Unlike England and other common law nations, India has never created separate offences for libel and slander; the two remain unified under a single offence of defamation, regardless of whether the imputation is written, spoken, or conveyed through gestures.

For now, defamation is an offence chargeable under Section 356 of the Bharatiya Nyaya Sanhita, 2023⁶, and applies to a wide spectrum of situations, from a defamatory remark in a private letter to a public allegation in a newspaper column to, and increasingly, also to a single tweet aimed at a public figure, so long as its essential ingredients are made out. Two elements must generally be shown: first, publication, meaning the imputation must reach a third person and not merely the person defamed, and second, harm or intent to harm reputation, judged by whether the statement would lower the person in the estimation of right-thinking members of society.

Defamation is not confined to living, natural persons either; imputations against companies and such can attract liability, as can imputations against the deceased where their estate or surviving family's interest is affected. The law also carves out three principal exceptions: truth published for the public good, fair comment on matters of public interest, and privileged communication made in the discharge of a legal, social, or moral duty. These exceptions exist because an

³ *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221 (India).

⁴ *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221 (India); cited in Nalla Balu, ¶¶ 20, 25(iii).

⁵ India Const. art. 19, cl. 1(a); id. art. 21.

⁶ Bharatiya Nyaya Sanhita, 2023, § 356, No. 45, Acts of Parliament, 2023 (India).

unqualified defamation regime would have a chilling effect on legitimate criticism.

Speech, Reputation, and Constitutional Balance

“Defamation” sits at the intersection of two constitutional guarantees which do not necessarily point in the same direction. Article 19(2) permits reasonable restrictions on speech in the interest of, among other things, defamation itself. The Constitution does not treat criminal defamation as inherently incompatible with free expression, but requires that the restriction be reasonable and narrowly applied. *Subramanian Swamy v. Union of India* has settled the threshold question in favour of this balance; what it still left open was how narrowly the offence of defamation is to be read in practice. *Shreya Singhal v. Union of India* further supplied that answer in the context of online speech⁷, it was held that mere annoyance, inconvenience, or offence caused by a statement does not cross the threshold into criminality, and that only speech meeting the specific statutory ingredients of an offence, such as incitement, false imputation, or actual reputational harm, can attract sanctions for offence of defamation.

By reading together, *Shreya Singhal* and *Subramanian Swamy*, one can conclude that criminal defamation law is not a general-purpose tool for silencing criticism of public figures or governments. For offence of defamation to be triggered, it requires proof of a false factual imputation. A mere harsh opinion does not trigger the offence. But this is a substantive answer to what counts as defamation. It says nothing about who is entitled to invoke the machinery of the criminal law once a statement is made, and it is at this procedural stage where Indian law does its more interesting work, where *Nalla Balu* earns its relevance.

A Safeguard Without a Gatekeeper

Defamation in India is treated as a non-cognizable offence. For non-cognizable offences, police cannot register an FIR and investigate on their own initiative; they require an order through judicial authority. Section 222 of the Bharatiya Nagarik Suraksha Sanhita, 2023 carves defamation out.⁸ It requires that cognizance for defamation to be taken only upon a complaint made by the aggrieved person themselves, not by a third party, nor the police acting *suo motu*. The logic follows from the fact that defamation is a charge easily levelled and difficult to definitively disprove at a preliminary stage. The statute clearly intended to prevent it from

⁷ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1 (India); cited in *Nalla Balu*, ¶¶ 25(i), 26, 29(iii).

⁸ Bharatiya Nagarik Suraksha Sanhita, 2023, § 222, No. 46, Acts of Parliament, 2023 (India).

being weaponised through police machinery by parties who are not themselves the ones injured. The difficulty is that nothing in an ordinary FIR registration process requires a police station to verify locus standi before opening a file. It is possible that the allegation of defamation is bundled alongside other cognizable offences, as it frequently is. The safeguard of defamation being non-cognizable does exist, but its enforcement is entirely reactive.

It activates only when a court is eventually asked to look at the complaint and notices that the complainant was never entitled to bring it in the first place. Between this process of registration and judicial correction, the accused has already been named in an FIR, exposed to arrest under the relevant safeguards, and subjected to the reputational cost of a criminal investigation, which is, ironically, precisely the kind of injury defamation law itself exists to prevent. This is the gap that *Nalla Balu* exposes with clarity.

Nalla Balu v. State of Telangana:

The petitioner had posted three tweets critical of the Indian National Congress and the Chief Minister of Telangana, Revanth Reddy.⁹ One mentioned of Congress party as a "scourge" affecting the state "like a pest"; another accused the government of "no vision, no mission, only 20% commission"; a third contained allegedly vulgar remarks about the Chief Minister. On the basis of these tweets, three separate FIRs were registered, invoking Sections 192, 352, 353(1)(b), and 356(2) read with Section 61(2) BNS, Section 3(5) BNS, and Section 67 of the Information Technology Act, 2000.¹⁰

None of these FIRs were filed by the Chief Minister or the Congress party, the parties which are actually implicated in the tweets. All three came from third-party complainants. One of them was a serving police constable, filing in his personal capacity.¹¹ Section 222 BNSS exists to keep out complaints from people with no stake in the matter. Nobody at the registering station stopped to ask if this complainant was even the aggrieved person. The statutory bar didn't work as a filter at the stage where filtering would have actually protected the accused. It only became useful months later, as a ground for the High Court to quash the case.

⁹ Nalla Balu, ¶¶ 3–5 (setting out the three FIRs and their underlying tweets).

¹⁰ Information Technology Act, No. 21 of 2000, § 67 (as amended by Information Technology (Amendment) Act, No. 10 of 2009) (India).

¹¹ Nalla Balu, ¶ 4.

The Court's Reasoning

Justice N. Tukaramji quashed all three FIRs on two independent grounds. On the substantive side, the Court held that the tweets, sharply worded as they were, amounted to political criticism which is protected under Article 19(1)(a), and that the prosecution had failed to establish the mens rea and actus reus required for offences such as provocation to riot, intentional insult, or public mischief.¹² At most, the second tweet might arguably touch on defamation, but even there, the defences of truth for public good and fair comment remained available, and in any case the accusation of a "commission" was levelled at the government, not at any individual, and a government cannot itself sue for defamation, though its individual office-holders may.¹³ Section 67 of the IT Act was held inapplicable because the remarks, though abusive, were not obscene in the sense the provision requires. None of these breaks new doctrinal ground; it is *Subramanian Swamy* and *Shreya Singhal* applied competently to an obvious fact pattern.

The procedural holding is where the Court found the FIRs were independently unsustainable because none of the complainants was the "aggrieved person" as contemplated under Section 222 BNSS.¹⁴ Defamation being non-cognizable, the police had no authority to register FIRs on third-party reports in the first place. Applying *State of Haryana v. Bhajan Lal*, the Court found the proceedings fell within multiple categories¹⁵ warranting quashment, both an absence of prima facie offence and a clear legal bar to prosecution. Having identified this as symptomatic of a wider pattern rather than a one-off lapse, the Court went further than the case before it required.

Guidelines Without Structural Change

Beyond quashing the proceedings, the Court also issued operational directions to police officers for handling social-media-based complaints¹⁶: verifying the complainant's locus standi before registration, conducting a preliminary inquiry where a cognizable offence is disclosed, applying a high threshold before registering cases which involve political speech, defamation complaints are exclusively to be routed through the magistrate under Section 174(2) BNSS¹⁷,

¹² Nalla Balu, ¶ 10.

¹³ R. Rajagopal v. State of T.N., (1994) 6 SCC 632 (India); cited in Nalla Balu, ¶ 18.

¹⁴ Nalla Balu, ¶¶ 22, 27.

¹⁵ State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 (India).

¹⁶ Nalla Balu, ¶ 29(i)–(viii) (full list of eight guidelines).

¹⁷ Bharatiya Nagarik Suraksha Sanhita, 2023, § 174(2), No. 46, Acts of Parliament, 2023 (India).

and complying with the arrest safeguards laid down in *Arnesh Kumar v. State of Bihar*.¹⁸ These directions draw on the same logic as *Lalita Kumari v. Government of U.P.*¹⁹, which had already distinguished mandatory FIR registration for cognizable offences from the more restrained inquiry process applicable for elsewhere.

It is worth being honest about what these guidelines can and cannot do. They are binding on police and magistrates within State of Telangana as a matter of High Court's authority, but they are not a pan-India statutory amendment. Lalita Kumari's own guidelines, more than a decade old and issued by the Supreme Court itself, have not eliminated inconsistent FIR practices nationally.

These directions by the Telangana High Court have addressed to state's police force, however well-reasoned, they are applied after a specific instance of misuse was caught. It is not a structural fix to the absence of a locus standi check built into the registration process itself.

If the lesson of *Nalla Balu* is taken with sincerest consideration, the more durable answer may lie less in repeated judicial vigilance case by case, and more in an administrative or statutory requirement that a complainant's standing in a defamation-linked FIR be verified, on the record, before registration itself, rather than being left to be discovered by a judicial authority.

Conclusion

Nalla Balu reaffirms the settled defamation law, applied to a fact pattern that is becoming common: political criticism on social media. Its real value lies in showing exactly where Section 222 BNSS fails to do its job. The provision of statute keeps third-party complainants out on paper, but nothing stops them at the point of registration itself. In the present case, one such complainant was a serving police constable acting in his own capacity. Justice Tukaramji's intervention was necessary and correctly reasoned, but it arrived only after the accused had already been named in three FIRs, faced the threat of arrest, and absorbed the reputational cost of a public investigation. That cost is what defamation law exists to prevent, and no quashing order after the fact can undo it. The guidelines that followed are a step forward, but they bind one state's police force, and Lalita Kumari's own directions have shown how far the gap can

¹⁸ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 (India); cited in *Nalla Balu*, ¶¶ 25(v), 29(vi).

¹⁹ *Lalita Kumari v. Govt. of U.P.*, (2014) 2 SCC 1 (India); cited in *Nalla Balu*, ¶¶ 25(iv), 26.

remain between a Supreme Court mandate and its everyday enforcement. As political criticism keeps moving online, the fix that matters is not another round of guidelines waiting to be enforced, but a requirement, written into the process itself, that a complainant's standing be checked before an FIR is registered, not after.

