

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SWrit Petition(s) (Criminal) No(s). 25/2016

N.D JAYAPRAKASH

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

Date : 17/02/2016 This petition was mentioned again at 2.15 p.m.  
today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR  
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s)	Mr. K.T.S. Tulsi, Sr. Adv. Mr. Raju Ramachandran, Sr. Adv. Ms. Mythili Vijay Kumar Thallam, Adv. Mr. Vikram Aditya Narayan, Adv. Mr. Farrukh Rasheed, Adv. Mr. Kuber Boddh, Adv. Mr. Kartikey, Adv.
For Respondent(s) UOI	Mr. Ajay Sharma, Adv. Mr. Vibhu Shankar Mishra, Adv. Mr. Umesh Babu Chaurasia, Adv.
For Delhi H.C	Mr. Sidharth Luthra, Sr. Adv. Mr. A.D.N. Rao, Adv.
For Delhi Police	Mr. Ajit Sinha, Sr. Adv. Mr. Shadman Ali, Adv. Mr. Vibhu Shankar Mishra, Adv. Mr. D.S. Mahra, Adv.
All India Lawyers Union	Mr. P.V. Dinesh, Adv. Mr. Subhash Chandran K.R., Adv.  Mr. Adish C. Aggarwala, Sr. Adv. MR. Vijay Pratap Singh, Adv. Mr. Aakash D. Pratap, Adv. Mr. Aditiya Singh, Adv. Mr. Pradeep Kumar Yadav, Adv.
For Intervenor	Mr. Deepak Prakash, Adv.

For Intervenor            Mr. R.P. Luthra,Adv.

UPON hearing the counsel the Court made the following  
O R D E R

At 2.15 p.m.

Around 2.15 p.m. Mr. Kapil Sibal, learned senior counsel, Mr. Indra Jaising, learned senior counsel and Mr. Prashant Bhushan, learned counsel made an extraordinary mention in the court that inspite of the order passed in the forenoon today in Writ Petition (Crl.)No.25/2016, a tense situation is building up in the Patiala House Courts Complex, New Delhi where a group of lawyers and others are resorting to violence threatening the security of the accused Kanhaiya Kumar (against whom an FIR is lodged being 110/16 filed at P.S. Vasant Kunj, New Delhi) and his counsel. The learned Magistrate in the Patiala House Courts Complex where the proceedings were going, in order to ensure the safety of those persons, has directed the accused Kanhaiya and his counsel to take shelter in his chambers. The learned counsel, therefore, prayed for appropriate directions be given in the situation to rescue the accused and his lawyers.

A mention was also made that even the 5 journalists who went in the Court Hall are also afraid of their safety.

In view of this, we called upon Mr. Ajit K. Sinha, learned senior counsel who represent the Commissioner of Police, Delhi to contact the Commissioner of Police and obtain instructions as to the situation prevailing in the Patiala House Courts Complex. Initially for some time Mr. Sinha was not able to contact him (understandably because

of the situation). Later Mr. Sinha contacted him and took instructions about the prevailing situation.

In the above mentioned circumstances, We thought it fit to depute some members of the Bar of this Court to observe the situation and report to this Court. We also believe the presence of the senior advocates might help diffuse the tension. We accordingly depute Mr. Kapil Sibal, Sr. Adv., Dr. Rajeev Dhawan, Sr. Adv., Mr. Dushyant Dave, Sr. Adv., Mr. H.P. Rawal, Sr. Adv., Mr. Ajit K. Sinha, Sr. Adv. and Mr. A.D.N. Rao, learned counsel to proceed to the Patiala House Courts Complex and report the situation prevailing there.

At 4.00 p.m.

The members of the Committee who visited the Patiala House Courts Complex pursuant to the orders passed earlier returned at about 4.00 p.m. today and made an oral report, the events they observed. We request them to submit a report in writing. We also request Mr. Luthra, learned senior counsel appearing for Delhi High Court to submit a report of the observations made by the Registrar General of the Delhi High court who was present in the proceedings in the noon in the Patiala House court Complex by 2.00 p.m. tomorrow (18.2.2016). Mr. Ajit K. Sinha, Sr. Adv representing Commissioner of Police, Delhi will also submit a report by Friday the 19<sup>th</sup> February, 2016 by 10.30 a.m.

Mr. Sinha, further submitted on instructions that he has spoken to the Commissioner of Police, Delhi and the Commissioner of Police has personally assured the safety of the accused and all others who were permitted to attend today's proceedings before the trial court pursuant to the

order passed by this Court in the morning today. We also direct that Commissioner of Police shall take necessary steps to ensure the safety of the accused until he is produced next before the trial court.

We may place on record that it is reported today by the members of the Committee that the accused was manhandled while he was produced before the Court today. We therefore make it clear that the responsibility is exclusively is that of the Commissioner of Police, Delhi to ensure the safety of the accused.

List the matter tomorrow the 18<sup>th</sup> February, 2016 at 2.00 p.m.

(O.P. SHARMA)  
AR-cum-PS

(RAJINDER KAUR)  
COURT MASTER

ITEM NO.1

COURT NO.5

OUT TODAY  
SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Criminal) No(s). 25/2016

N.D JAYAPRAKASH

Petitioner(s)

VERSUS

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Respondent(s)

Date : 17/02/2016 This petition was called on for hearing today.

CORAM :

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For Petitioner(s) Mr. K.T.S. Tulsi, Sr. Adv.  
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For Respondent(s) Mr. Ajay Sharma, Adv.  
UOI Mr. Vibhu Shankar Mishra, Adv.  
Mr. Umesh Babu Chaurasia, Adv.

For Delhi H.C Mr. Sidharth Luthra, Sr. Adv.  
Mr. A.D.N. Rao, Adv.

For Delhi Police Mr. Ajit Sinha, Sr. Adv.  
Mr. Shadman Ali, Adv.  
Mr. Vibhu Shankar Mishra, Adv.  
Mr. D.S. Mahra, Adv.

All India Mr. P.V. Dinesh, Adv.  
Lawyers Union Mr. Subhash Chandran K.R., Adv.

Mr. Adish C. Aggarwala, Sr. Adv.  
MR. Vijay Pratap Singh, Adv.  
Mr. Aakash D. Pratap, Adv.  
Mr. Aditiya Singh, Adv.  
Mr. Pradeep Kumar Yadav, Adv.

For Intervenor Mr. Deepak Prakash, Adv.

For Intervenor                      Mr. R.P. Luthra, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

This writ petition is filed with the various prayers, in substance seeking appropriate directions to the respondents to ensure a proper and decorous conduct of the proceedings in the Court of Metropolitan Magistrate, Patiala House Court, New Delhi in connection with FIR No. 110/16 filed at P.S. Vasant Kunj, New Delhi regarding an incident which allegedly took place in the campus of JNU.

On 15<sup>th</sup> February, 2016, when the accused by name Mr. Kanhaiya Kumar was produced before the above-mentioned Court, a lot of people gathered including the members of the legal fraternity, students and their "supporters" and a large number of media persons. Certain unpleasant and unacceptable incidents are said to have taken place in the court premises which received wide media coverage thereafter.

It is in the background of the above-mentioned facts the instant writ petition came to be filed.

We are informed that the above-mentioned case of Kanhaiya Kumar is to be taken up again by the concerned Magistrate at 2.00 p.m. today, i.e. 17<sup>th</sup> February, 2016. In view of the incidents that occurred on 15<sup>th</sup> February, 2016, apprehensions were expressed before this Court on behalf of the various interested groups-students, members of the press, general public, legal fraternity, etc.- that the proceedings may not go on in an atmosphere in which legal proceedings are normally expected to be conducted. Therefore, the various learned counsel representing the

various interested groups referred to above unanimously submitted that appropriate directions regarding the conduct of proceedings be given to ensure that the proceedings in the above-mentioned case are conducted in accordance with law.

Having regard to the various allegations made and the submissions of the learned counsel, we are of the opinion that in order to ensure conduct of the proceedings before the trial Court are undertaken today in a ordinarily manner, it is necessary to regulate the entry of people in the Court.

Before we pronounced this order, we have indicated broadly the nature of orders which we are proposed to pass and the learned counsel who made submissions in connection with this matter today broadly agreed with the proposed directions.

We are informed that administrative side of the Delhi High Court which is the authority of the Superintendence over the trial Court is also meeting today at 2.00 p.m. to consider the matter and appropriate administrative measures in this regard.

We, therefore, direct that insofar as today's proceedings are concerned, only the lawyers either Advocates on Record or senior counsel representing either the prosecution or the accused only shall be permitted into the Court hall. A list of lawyers, six in number, representing the accused is handed over to the Court:-

1. Mr. Sushil Bajaj, Adv.
2. Mr. Siddharth Sharma, Adv.
3. Mr. Rishabh Sancheti, Adv.

4. Mr. Prabhu, Adv.
5. Mr. Bankim, Adv.
6. Ms. Vrinda Grover, Adv.

Since the accused is a young student, we also deem it appropriate to permit the immediate family members of the accused, not exceeding four, on an identification by the accused. If such family members are not there, then one from the faculty and one from the student community identified by the accused shall be permitted into the Court(if they are present).

Insofar as the journalists community is concerned, having regard to the constraints of the space in the Court hall, we deem it appropriate to permit only 5 members from the said community into the Court hall at the time of the proceedings and the following names have been submitted by Ms. Bhadra Sinha and Mr. Pramod Kumar(Journalists) who are present in the Court today representing the community of journalists and they have submitted the following 5 names of the journalists who may be permitted to be present in the trial Court room at 2.00 p.m. when the proceedings are on:-

1. Mr. Abhishek Anshu, PTI
2. Mr. Amiya Kumar Khushwaha, IANS
3. Mr. Arvind Singh, ANI
4. Mr. Suchitra Mohanty, Reuters
5. Mr. Anil Punia, DD News

We are also informed that there is a possibility of a large gathering of various groups including the students and political parties at the Court when the matter is taken up. We are inclined to agree with such anticipation and we, therefore, deem it appropriate to direct the

Commissioner of Police, Delhi to take such appropriate measures as he may deem fit to maintain the law and order situation in accordance with law.

Insofar as various groups of persons who are permitted to enter the Court premises the identification shall be made by the concerned with each of the groups before Mr. Goel, learned Registrar General of the Delhi High Court who will personally be present in the Patiala Court today at 1.30 p.m. Only on the certification of the Registrar, each one of identified persons as indicated above will be allowed to enter the Court. We also direct none of the persons entering the Court hall shall carry a mobile phone. The Commissioner of Police shall take appropriate steps in this regard.

We also deem it appropriate that the decision taken by the Delhi High Court Administrative Committee shall also be brought on record within a week after the decision is recorded.

A copy of this order shall be made available to Shri A.D.N. Rao, learned counsel who represent the Delhi High Court, Mr. D.S. Mahra, Mr. Farrukh Rashid who undertake to enter appearance on behalf of the learned counsel and one copy to Ms. Bhadra Sinha, media personnel.

Issue notice in the writ petition.

List the matter on Monday, 22<sup>nd</sup> February, 2016.

We must also place it on record that while the proceedings were going on in the morning, there was considerable amount of concern and agitation among the members present in the Court hall. At some stage there was

certain commotion as one of the members present shouted certain slogans at a pitch which is not normally permitted in the Court. Later, the person named Rajiv Yadav(Advocate) who created the commotion, tendered an unconditional apology. We accept the apology and close the matter.

(DEEPAK MANSUKHANI)  
COURT MASTER

(RAJINDER KAUR)  
COURT MASTER