

ITEM NO.2

Virtual Court 2

SECTION X

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(CRIMINAL) Diary No(s).11006/2020

ARNAB RANJAN GOSWAMI

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(WITH IA No. 48402/2020 - EX-PARTE STAY)

Date : 24-04-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Siddharth Bhatnagar, Sr. Adv.
Mr. Saket Shukla, Adv.
Mr. Mrinal Ojha, Adv.
Ms. Malvika Trivedi, Adv.
Vasanth Rajasekaran, Adv.
Mr. Debarshi Dutta, Adv.
Mr. Ninad Laud, Adv.
Mr. Rajat Pradhan, Adv.
Mr. Harshul Singh, Adv.
Mrs. Pragya Baghel, AOR

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Varun K. Chopra, Adv.
Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, Adv.

Mr Vivek K Tankha, Sr Adv
Mr Sumeer Sodhi, Adv.
Mr Ashok Basoya, Adv.
Mr Varun Tankha, Adv.
Mr Varun Chopra, Adv.
Mr Aman Nandrajog, Adv.

Mr. Nishant Patil, Adv.

Dr. Manish Singhvi, Sr. Adv.
Mr. Varun K. Chopra, Adv.
Mr. Sandeep Jha, Adv.

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

The Court convened through video conferencing.

1 We have heard Mr Mukul Rohatgi with Mr Siddharth Bhatnagar, senior counsel appearing on behalf of the petitioner.

2 Mr Kapil Sibal, senior counsel appears on behalf of the State of Maharashtra. Mr Vivek Tankha, senior counsel appears on behalf of the State of Chhattisgarh. Dr Manish Singhvi, senior counsel appears on behalf of the State of Rajasthan. They have opposed the petition.

3 Leave to amend, on the oral request of senior counsel appearing on behalf of the petitioner, for the purpose of:

(i) Impleading the complainants at whose behest, the First Information Reports¹ or, as the case may be, the criminal complaints have been filed;

(ii) Setting up an alternate prayer for the consolidation of all the FIRs or, as the case may be, criminal complaints for being investigated at one and the same place; and

(iii) Filing copies of the FIRs and the criminal complaints.

4 Issue notice, returnable in eight weeks. Notice shall also issue to the respondents permitted to be impleaded by amendment.

5 The petitioner is the Editor-in-Chief of Republic TV. The principal submission on the basis of which these proceedings have been instituted is that multiple FIRs and criminal complaints have been lodged against the petitioner on the basis of the same cause of action, emanating from a programme which was telecast on Republic TV on 21 April 2020. FIRs and criminal complaints have been lodged in the States of Maharashtra, Chhattisgarh, Rajasthan, Madhya Pradesh, Telangana and Jharkhand as well as in the Union Territories of Jammu and Kashmir. The jurisdiction under Article 32 has been invoked in view of the filing of FIRs and complaints in multiple jurisdictions, straddling several States.

6 Mr Rohatgi submitted that the statements which have been attributed to the petitioner are based on a small part of the overall programme and that if the programme is viewed in its entirety, no offence has been made out under Sections 153, 153A, 153B, 295A, 298, 500, 504 and 506 of the Indian Penal Code 1860. The petitioner has asserted his rights under Article 19(1)(a) of the

Constitution, while urging that the programme presented an analysis of an incident of mob lynching which took place at Palghar on 16 April 2020 in the course of which two persons were killed in the presence of personnel belonging to the police and the forest department. These submissions have been buttressed by relying upon the decisions of this Court in **T T Antony v State of Kerala**², **Subramanian Swamy v Union of India**³ and **Satinder Singh Bhasin v Government of NCT of Delhi & Ors**⁴.

7 Opposing these submissions, Mr Kapil Sibal, learned senior counsel, submitted that the offending part of the telecast relates to an excerpt which commences at 10.51 pm. Placing reliance on the excerpt, Mr Sibal urged that this amounts not only to an abuse of the freedom of speech and expression, but implicates the offences which are complained of. Mr Sibal submitted that having regard to the settled principle of law, this Court ought not to restrain a proper investigation being conducted. At the same time, it was urged that should the petitioner move a prayer for the clubbing of the FIRs which have been filed in diverse jurisdictions, there would be no objection to the Court passing an order for a common investigation in the interests of justice.

2(2001) 6 SCC 181

3(2016) 7 SCC 221

4(2019) 10 SCC 800

8 Dr Manish Singhvi and Mr Vivek Tankha supported the submissions which were urged on behalf of the State of Maharashtra by Mr Kapil Sibal.

9 The Court was apprised by Mr Mukul Rohatgi, learned senior counsel, on seeking instructions, that the petitioner would have no objection if the FIR which has been lodged at Nagpur is transferred for the purpose of investigation to the N M Joshi Marg Police Station, Mumbai, where the petitioner has lodged an FIR on 23 April 2020. The FIR by the petitioner is in relation to an incident which took place at midnight, during the course of which, he and his spouse were obstructed by two persons and an alleged to have been subjected to an assault, while returning home from the studio.

10 Mr Sibal has indicated that there should be no objection to the transfer of the FIR which has been lodged at Nagpur to Mumbai.

11 The details of the FIR which has been lodged at Nagpur are extracted below:

"FIR No 238 of 2020 dated 22 April 2020, registered at Police Station Sadar, District Nagpur City, Maharashtra, under Sections 153, 153-A, 153-B, 295-A, 298, 500, 504(2), 506, 120-B and 117 of the Indian Penal Code 1860"

12 In the interest of ensuring the fair administration of criminal justice, the order which we intend to pass should present a balance between the following governing principles:

(i) The need to ensure that the criminal process does not assume the character of a vexatious exercise by the institution of multifarious complaints founded on the same cause in multiple States;

(ii) The need for the law to protect journalistic freedom within the ambit of Article 19(1)(a) of the Constitution;

(iii) The requirement that recourse be taken to the remedies available to every citizen in accordance with the Code of Criminal Procedure 1973;

(iv) Ensuring that in order to enable the citizen to pursue legal remedies, a protection of personal liberty against coercive steps be granted for a limited duration in the meantime;

(v) The investigation of an FIR should be allowed to take place in accordance with law without this Court deploying its jurisdiction under Article 32 to obstruct the due process of law; and

(vi) Assuaging the apprehension of the petitioner of

a threat to his safety and the safety of his business establishment.

13 Bearing the above principles in mind, we issue the following directions:

(i) Save and except for FIR No 238 of 2020 dated 22 April 2020, registered at Police Station Sadar, District Nagpur City, Maharashtra, all further proceedings arising out of and emanating from the remaining FIRs and complaints listed out at Annexure P-2 of the petition shall remain stayed, until further orders;

(ii) The FIRs and complaints in respect of which further proceedings have been stayed under direction (i) above are extracted below:

- FIR No. 245 of 2020, dated 22 April 2020, registered at Police Station Supela, District Durg, Chhattisgarh, under sections 153-A, 295-A and 505 (2) of the Indian Penal Code 1860.
- FIR No. 180 of 2020, dated 23 April 2020, registered at Police Station Bhilal Nagar, District Durg, Chhattisgarh, under sections 153-A, 188, 290 and 505 (1) of the Indian Penal Code 1860.
- FIR No. 176 of 2020, dated 22 April 2020, registered at Police Station Civil Lines, District Raipur, Chhattisgarh, under sections 153-A, 295-A and 505 (2) of the Indian Penal Code 1860.
- Complaint dated 21 April 2020 by District Congress Committee - Antagrah, Kanker, Chhattisgarh.
- Complaint dated 22 April 2020 by Pritam Deshmukh

(adv.), Durg District Congress Committee - to SHO city PS Durg, Chhattisgarh.

- Complaint dated 22 April 2020 by Suraj Singh Thakur, State Vice President, Indian Youth Congress- to Sr. Police Officer, Chirag Nagar, Ghatkopar East, Mumbai.
- Complaint dated 22 April 2020 - Pankaj Prajapati (party worker of INC and ex-spokesperson NSUI) through counsel Anshuman Shrivastavas - Superintendent of Police, Crime Branch, Indore, Madhya Pradesh.
- Complaint dated 22 April 2020 - Balram Jakhad (adv.) - to PS Shyam Nagar -u/s 153, 188, 505, 120B in Jaipur.
- Complaint by Jaswant Gujar - to SHO Bajaj Nagar PS, Jaipur.
- Complaint dated 22 April 2020 by Fundurdihari, Ambikapur, District Sarguja, Chhattisgarh - Rajesh Dubey, Chhattisgarh State Congress Committee - to SHO Gandhi Nagar, Ambikapur - u/s 153, 153A, 153B, 504, 505.
- Complaint dated 22 April 2020 in Telangana by Anil Kumar Yadav, State President of Telangana Youth Congress - to SHO Hussaini Alam - u/s 117, 120B, 153, 153A, 295A, 298, 500, 504, 505 and 506. Also 66A of the IT Act.
- Complaint dated 23 April 2020 by Anuj Mishra before Kotwali, Urai, Tulsi Nagar.
- Complaint dated 22 April 2020 by Kumar Raja, VP, Youth Congress, Jharkhand Congress Committee before Kotwali Police Station, Upper Bazar, Ranchi.
- Complaint dated 22 April 2020 by Madhya Pradesh Youth Congress.

(iii) FIR No 238 of 2020 dated 22 April 2020 shall stand transferred from Police Station Sadar, District Nagpur City, Maharashtra to the N M Joshi Marg Police

Station, Mumbai. The petitioner will, however, cooperate in the investigation;

(iv) For a period of three weeks, the petitioner shall be protected against any coercive steps arising out of and in relation to the above FIR arising out of the telecast which took place on 21 April 2020;

(v) The petitioner would, within the above period of three weeks, be at liberty to move an application for anticipatory bail under Section 438 of the Code of Criminal Procedure 1973 and to pursue such remedies as are available in accordance with law. Such an application shall be considered on its own merits by the competent court;

(vi) In view of the above directions, further proceedings shall remain stayed, pending further orders of this Court, in respect of any other FIR or, as the case may be, criminal complaint which has been filed or which may be filed hereafter, with respect to the same incident; and

(vii) In addition to the personal security provided to the petitioner, if a request is made by the petitioner to the Commissioner of Police, Mumbai for providing adequate security at the residence of the petitioner or at the studio of Republic TV in Mumbai, such a request shall be

expeditiously considered and, based on the threat perception, police protection shall be provided, if considered appropriate and for the period during which the threat perception continues.

(SANJAY KUMAR-I)

AR-CUM-PS

(SAROJ KUMARI GAUR)

COURT MASTER