

(2019) 11 DEL CK 0032

In the Delhi High Court

Case No : Civil Writ Petition No. 11652 Of 2019

Court On Its Own Motion

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 06-11-2019

Acts Referred:

Citation : (2019) 263 DLT 791

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ;C.Hari Shankar, J

Bench : Division Bench

Advocate : Maninder Acharya, Anil Soni, Shreeshail Malge, K.M.Nataraj, Anurag Ahluwalia, Anmol Chandan, Abhigyan Siddhant, Rahul Mehra, Chaitanya Gosain, Tushar Sannu, Amarpreet Singh, Anand Thanbayil, Jamal Akhtar, Manan Kumar Misra, S. Prabhakaran, Ved Prakash Sharma, Ram Shankar, K.C. Mittal, Suman Rani, Sanjay Rath, Piyush Sharma, D.K. Sharma, R.K. Kochar, Sanjay Rath, D.K. Singh, Surya Prakash Khatri, Murari Tiwari, Ajayinder Sangwan, Rakesh K. Khanna, J.M. Sharma, Rishi Kumar, Sandeep Lamba, Yasir, Preeti Singh, Tanver Ahmed Khan, Shoaib Shakil, and Vishwajit Shahi, Sanjay Khanna, Jagjeet K. Sud, Saching Gupta, Vivek Narayan Sharma, Savita Singh, Mohit Mathur, Kriti Uppal, B.S. Dhir, Kajal Chandra, Naginder Benipal, Dhan Mohan, Jatan Singh, Rupali Kapoor, Abhijat, Mohit Gupta, Amit Saxena, Harshit Jain, P.S. Prakash, Sitab Ali Chaudhary, A.K.Chaurasiya, B.P.Singh, G.M. Akhtar, Ajay Sharma, Nikhil Mehta, Rahul Dutta, Mithilesh Kumar Jaiswal, Abhishek Gupta, Rajiv Khosla, Sunil Rai, Sunil Sharma, Amit Sharma and Surender Chauhan, N.C. Gupta, Jaivir Chauhan, Anshul Pratap Singh, Shitez Sharma, Mohit Rana, Sahil Aeron, Vaibhav Jain, Robin, Prateek Mehta, Vivek Kumar, Ankur Kr. Sharma, J.S. Chauhan, Rajender Sharma, Rachit Sahney and, Naveen Gaur, R.K. Sharma, Varun Sakuja, Karnail Singh, Dhir Singh Kasana, Deepanshu Joshi, Himanshu Vashishth, and Hemant Mehta, Raman Sharma, Ch. Rabindra Singh, R.B.S. Chauhan and Pramod Nagar, Amit Sinha, Y.P. Singh, Rajesh Kaushik, Jai Singh Yadav, Subhash Ahlawat, K.K. Chauhan, R.K.Wadhwa, D.S. Khatana, Nagender Kumar, Ravi Mehta, Vijay Pratap Singh, Sunil Pandey, Sandeep Lamba, S.N. Sharma, Naveen Kapila, Ashok Sharma, Jalaj Agarwal, A. Rana and Prashant Saini, Mahavir Sharma, Advocate, Rajbir Malik, Rakesh Chahar, Siddharth, Tarun Dubey, Rajiv Sharma, Prateek Goswami, Ojas Mittal, Anupam S. Sharma, Prakash Airan, Apoorv Bansal and Mr Pankaj Chaudhary, Pardeep Kumar Saini, Hemant Kumar, Sachin Gautam, Jatin Anand Dwivedi, Shubhnan Chaturvedi, Hemant Kumar Mathur, Abhishek Rana, Manish Kumar, Gagan Gupta, Ashish P., Sanket Gupta, , A.C.P.Gautam, Anil Kumar Verma, Ashu Rani, T. Singh and Tanveer A. Khan, Suraj Kumar and Gagan

Kumar, Amit Kumar Singh, Satish Bhandari, B.S. Bagga and Pankaj Gupta, Vishal Singh, Raja Ram Tripathi, Ashish Deep Verma, Anshul Pratap Singh, Upendra K. Nagar, Vivek Ojha, Sanjeev, Ankur Kumar, S.N. Sharma, Neeraj, Akhilesh Singh and Nawin Kumar, Nitesh Mehra, Angel Bhardwaj, S. Bhateja and Hitaakshi Mehra

Judgement

CM Appl. No. 48283/2019 in W.P.(C) 11652/2019

1. This Civil Miscellaneous Application has been preferred by Ministry of Home Affairs, Union of India with the following prayers:

"a) Allow the instant application and clarify the order dated 03.11.2019 that there is no impediment in taking any action in accordance with law to maintain law and order;

b) Pass any other order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. By this application applicant is seeking clarification of the order passed by this Court dated 3rd November, 2019 in W.P.(C) 11652/2019, especially seeking clarification in paragraph 15(ix).

3. Having heard all the counsels at length and looking to our order dated 3rd November, 2019, we hereby clarify that the observations made in para 15(ix) were for FIR Nos. 268/2019 and 269/2019, both dated 2nd November, 2019.

3. Hence, paragraph 15(ix) will now be read as under:

"(ix) Meanwhile, no coercive action shall be taken against the Advocates in pursuance of the F.I.R. Nos. 268/2019 and 269/2019 dated 2nd November, 2019 with regard to the aforesaid incident filed against Advocates."

4. Thus, we hereby clarify that observations made in para 15(ix) that no coercive action shall be taken is only in pursuance of FIR Nos. 268/2019 and 269/2019, both dated 2nd November, 2019.

5. With this clarification this civil miscellaneous application is hereby allowed and disposed of.

CM Appl. No. 48439/2019 in W.P.(C) 11652/2019

1. This Civil Miscellaneous Application has been preferred by Delhi Police. Looking to the urgency of the matter, the same is taken up for hearing today. Prayers in this Civil Miscellaneous Application read as under:

"(a) Pass an order modifying the order dated 03.11.2019 to exclude the words "One had opened the firing upon the Advocates and another had dragged a lawyer into the lockup room and confined him therein. Normally lockup room is meant for prisoners." in Para15(viii) so that the same cannot be read and interpreted as the conclusive findings against the officers of the Delhi Police in

question;

(b) Pass an order modifying the Order

"Mr. Harender Kumar Singh had ordered for firing. Firearm injuries sustained by Advocates. Mr.Sanjay Singh ordered for lathicharge upon Advocates. Because of this order injuries were sustained by Advocates and also the police had broken window glasses of Cars parked at the Tis Hazari Courts Complex and have ransacked the Chambers of Advocates at Tis Hazari Courts Complex, New Delhi." in Para 15(x) so that the same cannot be read and interpreted as the conclusive findings against the officers of the Delhi Police in question;

(c) Pass any Order or any further Orders as this Hon'ble Court may deem fit in the facts and circumstances of the case in the interest of justice."

2. Having heard all the counsels at length and looking to our order dated 3rd November, 2019, we hereby clarify that the observations made in paragraph 15 (viii) of the order dated 3rd November, 2019:-

"One had opened the firing upon Advocates and another had dragged a lawyer into the lockup room and confined him therein. Normally the lockup room is meant for prisoners."

are prima facie observations, tentative in nature and these observations are only to be read in the context of the order dated 3rd November, 2019; otherwise, these facts are to be proved on the basis of the evidences on record.

3. Similarly, the observations made by this Court in paragraph 15(x) of our order dated 3rd November, 2019, in W.P.(C) 11652/2019:

"Mr. Harender Kumar Singh had ordered for firing. Firearm injuries sustained by Advocates. Mr.Sanjay Singh ordered for lathicharge upon Advocates. Because of this order injuries were sustained by Advocates and also the police had broken window glasses of Cars parked at the Tis Hazari Courts Complex and have ransacked the Chambers of Advocates at Tis Hazari Courts Complex, New Delhi. Further order will be passed by this Court after receipt of the inquiry report."

are prima facie observations, tentative in nature and these observations are only to be read in the context of the order dated 3rd November, 2019; otherwise, these facts are to be proved on the basis of the evidences on record.

4. Moreover, we have also clarified, in para 16 of our order dated 3rd November, 2019, that "the inquiry will be completed in accordance with law and on the basis of the evidences on record, on its own merits and without being influenced by the order of this Court in this matter."

5. Before parting with this order, we deem it appropriate to note, with a sense of anguish, that, in our democratic polity, the Bar and the Police establishment represent and constitute, as it were, the preserver, and the protector, of the rule of law. They are but two faces of the coin of justice, and it is essential, for the

rule of law to prevail, that they work in close proximity and harmony. Any dissonance, or friction, between them, is deleterious to peace and harmony, and destructive of public interest, in the long run.

6. In our view, therefore, it would be advisable, in this case, that a joint meeting, of responsible representatives of the Advocates and the Police establishment be convened, who should make a sincere effort to meet and sort out their differences amicably, on the basis of discussion and deliberations, with the objective of dissolution of their differences, which, in our view, have essentially arisen owing to a communication gap, during the last few days. We are hopeful that, if a sincere attempt is made in this direction, peace and harmony will ultimately prevail.

7. With this clarification, this civil miscellaneous application is hereby disposed of.