

IN THE SUPREME COURT OF INDIA
[CIVIL ORIGINAL JURISDICTION]
WRIT PETITION (CRL) NO. /2020
DIARY NO. 10953 OF 2020
PUBLIC INTEREST LITIGATION

IN THE MATTER OF:-

DR. VIKRAM SINGH
CHAIRMAN, CASC

...PETITIONER

VERSUS

UNION OF INDIA & ANR.

...RESPONDENTS

INTERIM APPLICATION SEEKING DIRECTIONS

To,
THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF THIS HON'BLE COURT

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is the chairman of think tank Centre for Accountability and Systemic Change (CASC) and in the accompanying Writ Petition has prayed for quashing the FIRs registered u/s 188 IPC, and for other trivial offences during the corona crisis and violation of lockdown. In the petition, the Petitioner has showed as to how thousands of illegal FIRs have been registered during the lockdown. Through this present application, the Petitioner is seeking attention of this Hon'ble Court towards the thousands of arrests being caused in trivial offences, which is unduly burdening the police as well as judicial system.
2. That the Hon'ble Supreme Court vide its Orders in Suo Motu Writ Petition (Civil) 1/2020 directed for release of prisoners

from jails to reduce overcrowding in the wake of outbreak of COVID-19. However, after the announcement of the nation-wide lockdown, the District Courts are practically closed, and the role of *the sentinel on the qui vive* has reduced drastically during the lockdown.

3. That lockdown is most commonly used word but not properly defined in law books. In such times, the role of the Police becomes very important. It has the onerous duty of keeping the lockdown in force, maintaining law and order, pursue investigations and file chargesheets etc. That there are indeed heinous crimes and serious offences in which arrest is inevitable. Such cases include systemic and organized violation of lockdown by certain groups, which must be prevented and require strict action as per law.
4. That there are two kinds of trivial offences, the first kind where only complaint is permissible, and the second kind which are acted through FIRs. It is submitted that no FIR should be lodged, and no arrests be made in any trivial offence in the name of violation of lockdown. Besides arrests, there are numerous other instances wherein for violation of lockdown, certain police officials have used excessive force. Due to such excesses on many occasions, several people have lost lives.

True Copy of Chart showing Death due to excessive force by Police authorities for violation of Lockdown is attached herewith as **ANNEXURE-1**.

5. That any arrest will only increase the burden of police, as it will have to deal with keeping the accused in lock-up, bail formalities, producing the accused before the Magistrate and other related things. Along with the doctors, the police and all

public services are at the frontline, and they should not be burdened with tasks, which are futile and waste of time and resource.

6. That police has arrested thousands of persons in name of violation of lockdown across the country. It is submitted that the nature of offence in most of these cases is rather innocuous. Moreover, in many of such cases, despite an FIR being not maintainable, one has been registered.

True Copy of Chart showing details of arrest of persons for innocuous offences during lockdown as per research done by think tank CASC is attached herewith as **ANNEXURE-2**.

7. That in a recent development, in Bhondsi Jail in Gurgaon, accommodating more than 2000 prisoners, a jail warden has been tested positive for COVID-19. This is a scary situation as per the dictum of this Hon'ble Court in Suo Motu Writ Petition (Civil) 1/2020 which held that "The rate of ingress and egress in prisons is very high, especially since persons (accused, convicts, detenues etc.) are brought to the prisons on a daily basis. Apart from them, several correctional officers and other prison staff enter the prisons regularly, and so do visitors (kith and kin of prisoners) and lawyers. Therefore, there is a high risk of transmission of COVID-19 virus to the prison inmates. For the reasons mentioned above, our prisons can become fertile breeding grounds for incubation of COVID-19."
8. That the persons arrested, even for trivial offences are put inside lock-up with more such persons. Congregation of people inside the police lock-up, or even jail for that matter, drastically increases the chances of spreading of the COVID-19 infection and thereby defeating the very objective of the

lockdown. In fact, the situation in jails is more precarious due to tight quarters.

9. That on one hand, undertrials are being released without strict formalities, on the other, stern steps are undertaken for trivial offences. Such arrested persons also face immense difficulty in furnishing bail as they may be unable to furnish suitable surety due to the lockdown. Thus, it is best that they be released on personal bonds only.
10. The Petitioner in no manner is suggesting violation of lockdown. The Petitioner only wants to state that the rule of law must be maintained during the lockdown, and the criminal justice system not be unnecessarily burdened in these trying times. People who are in distress and forced to go out of their homes as a result of their circumstances should not be unduly labelled as criminals.
11. That lockdown as a concept is not sacrosanct and is subject to different relaxations. Governments have themselves shown so when Uttar Pradesh sent 250 buses to get back students stranded in Kota, Rajasthan. The Central Government has also allowed intra state travel of migrants who were stuck in metro cities. That Kerala government has allowed restrictive road transport despite the objections raised by Union Home Ministry. For all such violations, no warning or action is taken against the State government under Art. 256 of the Constitution. Then how can police FIR, Arrest and brutality be allowed against the common people for trivial violations of lockdown.
12. That the above instances show that some relaxations can surely be given under the lockdown. The Petitioner submits that in such situation, people who do not have any mens rea,

should not be labelled criminals and there should not be arrested for trivial offences during the lockdown. The zeal of arresting violators for innocuous offences will do more harm than any good.

13. That the Petitioner salutes the hard-work and appreciates various services being provided by the police officers to the aggrieved in the nature of goodwill, such as transporting cancer medicines, camel milk over hundreds of kilometres etc. The Petitioner is only concerned with the unjustified excess of Police in the name of deterrence on the poor and marginalized and thereby seeks the enforcement as per due process of law.

PRAYER

It is therefore prayed that this Hon'ble Court may be pleased to:

- a) Direct the Respondent to issue necessary directions to States and Union Territories to not take coercive action in trivial offences for violation of lockdown;
- b) Pass any other further order(s) as may be deemed fit and proper fit in light of above facts and circumstances or the interest of justice;

Drawn by

Filed by

Sachin Mittal and Gaurav Pathak,
Advocates


Sachin Mittal
Advocate for the Petitioner

Drawn on: 20.04.2020

Filed on: 20.04.2020

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1. That I am the Petitioner in the aforesaid matter and am conversant with the facts and circumstances of the case and am competent to swear this affidavit.
2. That I have read and understood accompanying application from para 1 to 13, pages 1 to 6, and do state that the facts stated therein are true and correct to the best of my knowledge.
3. That the Annexures are true copy/true typed copy of their originals.
4. That the Petitioner has no personal gain, private motive or oblique reason in filing the PIL.



DEPONENT

VERIFICATION

I, the deponent above named do hereby verify that averments made in this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom. Verified at Noida on this the 20th day of April 2020.



DEPONENT