



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 25th JANUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 15373/2023 & CM APPL. 61687/2023**

AJAY KUMAR

..... Petitioner

Through: Ms. Aditi Shivadhatri, Capt. Subedita Rani and Mr. R. R. Bharati, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Himanshu Pathak, Sr. Panel Counsel with Mr. Mimansak Bhardwaj, GP and Mr. Samman Kumar Singh, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court for a writ of mandamus directing Respondent No.2/Dainik Jagran and Respondent No.3/Hindustan Times to conceal the identity of the Petitioner while circulating news or any article carried out by them wherein the name of the Petitioner figures. In order to ensure that the Petition is maintainable under Article 226 of the Constitution of India, the Petitioner has also prayed for a direction to the Union of India to ensure strict compliance of the Judgment passed by the Apex Court in People's Union for Civil Liberties & Anr. v. The State of Maharashtra & Ors., (2014) 10 SCC 635.

2. The facts, as stated in the Writ Petition are that the Respondent No.4, who is the Assistant Commissioner of Police, is a close associate of a land



mafia in the area of Burari and has an eye on the property of the Petitioner. It is alleged that there is a constant threat to the Petitioner and his family members from enjoying their property. It is stated that W.P.(Crl.) 3464/2023 has been filed by the mother of the Petitioner to curb the procedural overreach of Respondent No.4. It is pertinent to mention that the said Writ Petition has not been filed with the present Writ Petition. The Petitioner has not even stated the prayer of the said Petition in the present Writ Petition. It is the case of the Petitioner that only with the sole motive to jeopardise the case of the mother of the petitioner and to misguide this court from inquiring the procedural overreach carried out by Respondent No.4, Respondent No.4 briefed Respondent No. 2/Dainik Jagran & Respondent No. 3/Hindustan Times regarding a case which is pending adjudication before the Consumer Forum, Lucknow, in C/297/2019. It is submitted by the Petitioner that the publication of such material is likely to have an adverse effect on the Writ Petition which is pending before this Court and also on the consumer case pending in the Consumer Forum at Lucknow. It is also pertinent to mention here that the Petitioner has also not filed a copy of the consumer complaint along with the present Writ Petition. This Court is, therefore, not in a position to appreciate the relief sought in the Writ Petition which is pending before this Court or the relief sought in the consumer complaint which is pending before the Consumer Forum, Lucknow. Without revealing anything as to what is the nature of the Writ Petition which is pending in this Court and which, according to the Petitioner, is likely to be affected by the press clippings in question, the Petitioner has approached this Court with the following prayers:

“I. Issue writ under article 226 of the Constitution Of



India R/W Section 151 Of The CPC in the Nature Of Mandamus or any other writ directing the Respondent No.2/Dainik Jagran And Respondent No.3/Hindustan Times to conceal the identity of the petitioner while publishing or circulating the news or any article carried out by them: and /or

II. Direct Respondent no.1/Union of India to ensure strict compliance by the concerned respondents /media houses to comply with the guidelines established by the hon'ble supreme court in PEOPLE'S UNION FOR CIVIL LIBERTIES & ANR. VERSUS THE STATE OF MAHARASHTRA & ORS(CRIMINAL APPEAL NO 1255 OF 1999), and /or

III. And Respondent No 4/ Dharmendrer be prevented from harassing the petitioner by outsourcing unfound news about the petitioner only with the intent to further the malign motives of Ram Tyagi , moved on behalf of the petitioner, and /or

IV. Such other or further orders as this hon'ble court may deem fit and proper in the facts and circumstances of the present case be also passed in favour of the petitioner to meet the ends of justice.”

3. A perusal of the newspaper cuttings only reveal that a suspended Constable, who is involved in a fake encounter which took place in Connaught Place, is an accomplice in an insurance fraud. The newspaper reports mentions that certain cars have been stolen and in the insurance claims that have been lodged in respect of those cars the chasis number of the stolen cars does not match with the manufacture year.

4. The Petitioner has come to this Court seeking for a gag order against Respondents No.2 & 3 without bringing on record all the relevant facts and



material. This Court is of the opinion that the instant petition is nothing but a complete abuse of the process of law by the Petitioner. A reading of newspaper cuttings does not give any indication that it pertains to any consumer complaint in which the Petitioner is involved. A reading of the newspaper cuttings also does not indicate that it is in any way connected to the Writ Petition filed by the mother of the Petitioner.

5. Merely because a publication pertains to a Court proceeding this Court cannot come to a conclusion that the publication either tends to impair the impartiality of the Court or affects the ability of the Court to determine the true facts. One has to carefully see the nature of the publication and find out as to the content of the publication will cause prejudice to the trial of a case or not. Prejudice by a publication can be of two categories one which tends to impair the courts impartiality and the other which prejudices the court's ability to determine true facts. The Petitioner has not revealed the nature of the Writ Petition which has been filed by his mother and also the prayers sought for in the said writ Petition. The Petitioner has also not filed anything relating to the pending consumer case. The contents of the newspaper does not, in the opinion of this Court, indicate any kind of apprehension or danger or prejudice that can be caused to the Petitioner or his mother.

6. It is well settled that gag orders should be passed only when it is necessary and to prevent substantial risk to fairness of a trial. In the absence of any material, this Court is unable to come to the conclusion that the guidelines laid down by the Apex Court in Sahara India Real Estate Corpn. Ltd. v. SEBI, (2012) 10 SCC 603, has been, in any way, violated. This Court is, therefore, inclined to dismiss the present Writ Petition with cost of



Rs.10,000/- to be paid by the Petitioner to the *Armed Forces Battle Casualty Welfare Fund* for wasting the judicial time of this Court.

7. Accordingly, the Writ Petition is dismissed along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JANUARY 25, 2024

Rahul