

§
W.P(C)No. 46 OF 2004
ITEM No.301

Court No. 2

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

W.P.(C) NO. 46/2004

VIJAY SHEKHAR & ANR.

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With appln. for directions and exemptions from filing O.T. and impleading party and office report)
(For final disposal)

Date : 20/07/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H.KAPADIA

For Petitioner (s)Mr. Maninder Singh, Adv.
Mrs. Pratibha M.Singh, Adv.
Mr. Kirtiman Singh, Adv.
Mr. Ankur Talwar, Adv.
Mr. Angad Mirdha, Adv.
Mr. A.Mariaputam, Adv.

For Respondent (s)Mr. A.P.Medh, Adv.
Mr. Prashant Kumar, Adv.
Mr. Rohan Thawani, Adv.
Mr. Janak Shah, Adv.
Ms. Pooja Dhar, Adv.

Mr. Yashank Pravin Adhyaru, Sr.Adv.
Mr. S.Udaya Kumar Sagar, Adv.
Ms. Bina Madhavan, Adv.
Mr. Bikas Kar Gupta, Adv.
Ms. Pooja Nanekar, Adv.
Mr. Iqbal Kati, Adv. for
M/s. Lawyer's Knit & Co.

Mr. Sushil Kumar, Sr. Adv.
Mr. D.Bhawani Wala, Adv.
Mr. Vinay Arora, Adv.
Mr. Sanjay Jain, Adv.
Mr. Adolf, Adv.

Mr. G.E.Vahanvati, SG,
Mr. P.Parmeswaran, Adv.
Mr. Prateek Jalan, Adv.

Ms. Hemantika Wahi, Adv.

Ms. Meenakshi Arora, Adv.

Mr. S.C.Patel, Adv.

Mr. Ajit Kr. Sinha, Adv.

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

Pursuant to the directions issued by this Court the High Court of Gujarat has filed report dated 15th July, 2004 indicating the steps taken by the Gujarat High Court as against the Presiding Officer of Metropolitan Magistrate Court, Ahmedabad who had issued bailable warrants against the named persons. The report also indicated the steps taken by them in the administrative side to prevent the occurrence of such episodes. But from the report we are not able to find out whether during the course of the inquiry conducted by the High Court, the High Court had come to know of any other similar incident which had taken place within its jurisdiction. The learned Solicitor General appearing for CBI has filed the report of the CBI indicating that they had recorded the statements of various people but they have not been able to find out whether such misdeeds are being practiced in a systematic manner, however they have in their report pointed out that this court earlier in the case of Manohar M. Galani Vs. Ashok Kumar Adwani 1999 Volume 8 SCC 737 had given directions to the Gujarat High Court to take on record a public interest litigation filed before it and dispose of the same in terms of the directions issued in the said judgment but in spite of that the same writ petition has not yet been disposed of by the High Court. The learned Solicitor General also submits that they have recorded the statement of V. Shekhar who has not told the investigation agency any thing more than the fact that he was informed by Manohar M. Galani about the manner in which warrants were obtained from the Magistrial Courts in Gujarat without giving any particulars.

In this background we direct the High Court of Gujarat to file a report informing this Court whether it has come to its knowledge from its inquiry that any other similar cases have come to its knowledge or not. The High Court will also report to this court the status of Special Civil Application No. 13258/94 and the reasons why same has not been disposed of till date. We direct the learned counsel appearing for Sh. V. Shekhar to file a further affidavit because he in his petition filed before this Court had stated that he had come to know that "such mala fide misuser of criminal process is taking place in the subordinate courts all over the country". If that be so we call upon the said V. Shekhar to substantiate this statement by indicating the source of information obtained by him. We grant two weeks time to him to file an affidavit in this regard as also to the High Court of Gujarat to file its further report bearing in mind the observations made herein above. List this matter after three weeks.

(Shashi Sareen)
Court Master

(Prem Prakash)
Court Master