

OUT-TODAY

PART-HEARD  
ITEM NO.301

COURT NO.1

SECTION X/II/IIA/XVIA

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

WRIT PETITION (CRL.) NO.137 OF 2011

SUBHASH POPATLAL DAVE

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(With appln(s) for stay, modification of Court's Order and office report)  
[For Final Disposal]

Writ Petition (Crl.) No.138 of 2011  
(With appln.(s) for stay, directions and office report)

Writ Petition (Crl.) No.14 of 2012  
(With appln.(s) for ex-parte stay and office report)

Writ Petition (Crl.) No.142 of 2011  
(With appln.(s) for directions, stay of execution proceedings,  
permission to file rejoinder affidavit, stay and office report)

S.L.P. (Crl.) No.1909 of 2011  
(With appln.(s) for stay and office report)

S.L.P. (Crl.) No.1938 of 2011  
(With appln.(s) for stay and office report)

S.L.P. (Crl.) Nos.2091-2092 of 2012  
(With appln.(s) for stay, permission to file additional  
documents and office report)

Writ Petition (Crl.) No.220 of 2011  
(With appln.(s) for stay, permission to file rejoinder  
affidavit, directions and office report)

S.L.P. (Crl.) No.2442 of 2012  
(With appln.(s) for c/delay in filing SLP, exemption from  
filing c/c of the impugned order and office report)

Writ Petition (Crl.) No.249 of 2011  
(With appln.(s) for directions, ex-parte stay and office  
report)

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Writ Petition (Crl.) No.35 of 2011  
(With appln.(s) for directions, permission, intervention,  
impleadment as party respondent, impleadment as petitioner  
and office report)

Transfer Petition (Crl.) Nos.38-39 of 2013  
(With appln.(s) for stay and office report)

Date: 07/03/2013 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. Ravindra Keshavrao Adsure, Adv.  
In WP 137/11, 138/11, Mr. Pramod K. Singh, Adv.  
SLP 1909/2011 &  
1938/2011:

In WP 14/2012: Mr. Mukul Rohatgi, Sr. Adv.  
Dr. G.K. Sarkar, Adv.  
Mr. Saurabh Kirpal, Adv.  
Mr. Sanjay Agarwal, Adv.  
Ms. Malabika Sarkar, Adv.  
Mr. Karan Bharioke, Adv.  
Mr. D. Mahesh Babu, Adv.

In WP 35/2011 &  
SLP 2442/2012: Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Sujay N. Kantawala, Adv.  
Mr. Saurabh Kirpal, Adv.  
Mr. Sanjay Agarwal, Adv.  
Mr. Karan Bharioke, Adv.  
Mr. Rakesh Dahiya, Adv.

In WP 142/2011,  
220/11 & 249/2011: Mr. Vikram Chaudhri, Adv.  
Mr. Nikhil Jain, Adv.  
Mr. Gagandeep Sharma, Adv.  
Ms. Preeti Singh, Adv.  
Mr. Sangram S. Saron, Adv.

In SLP 2091-92/12:  
TP 38-39/13: Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Sujay N. Kantawala, Adv.  
Mr. Saurabh Kirpal, Adv.  
Mr. Sanjay Agarwal, Adv.  
Mr. Karan Bharioke, Adv.  
Mr. Nikhil Jain, Adv.

...3/-

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For Respondent(s) Mr. P.P. Malhotra, ASG.  
Ms. Ranjana Narayan, Adv.  
Mr. Chetan Chawla, Adv.  
Ms. Asha G. Nair, Adv.  
Mr. B. Krishna Prasad, Adv.  
Mr. Arvind Kumar Sharma, Adv.  
  
Mr. B.H. Marlapalle, Sr. Adv.  
Ms. Asha Gopalan Nair, Adv.  
  
Mr. Pramod K. Singh, Adv.  
Mr. Gopal Balwant Sathe, Adv.  
  
Dr. Kailash Chand, Adv.

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

Writ Petition (Crl.) No.142 of 2011:

Writ Petition (Crl.) No.142 of 2011 filed by Dr. Sushma Garg had been taken up by us for consideration and we had heard Mr. Vikram Chaudhri, learned counsel, in support of the writ petition. However, today, when the matter is taken up, learned Additional Solicitor General, Mr. P.P. Malhotra, brought to our notice an order dated 28th September, 2010, which gives a different complexion to the matter before us. It is quite possible that this order had been shown to us, but it now appears that by the said order dated 28th September, 2010, the Delhi High Court had allowed the detinue, Lokesh Garg, to withdraw the writ petition [Writ

Petition (Crl.) No.1470 of 2010], which had been filed by him challenging the detention order at the pre-execution stage, with liberty to approach the High Court in case he had a grievance after the grounds of detention and the detention order had been served on him.

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Today, Lokesh Garg, son of the petitioner herein, has, in fact, been detained. In that view of the matter, the order passed on 28th September, 2010, has come into operation and it is for the petitioner to move the High Court first in terms of the order of 28th September, 2010. Accordingly, we treat this writ petition as withdrawn, to enable the petitioner to move the Delhi High Court and, in case such an application is moved, the High Court should consider disposing of the matter as early as possible, but preferably within two months from date since the detenu has already undergone about three months of the detention period.

S.L.P. (Crl.) Nos.2091-2092 of 2012:

Let this matter be listed on 3rd April, 2013, at 2.00 p.m. for further consideration. Let this Bench be re-constituted on the said date for the said purpose.

[ T.I. Rajput ]  
A.R.-cum-P.S.

[ Juginder Kaur ]  
Assistant Registrar