

ITEM NO.2

COURT NO.10

SECTION PIL

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

WRIT PETITION (CIVIL) NO(s). 211 OF 2010

JASWANT &amp; ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA &amp; ORS.

Respondent(s)

(With appln(s) for directions, impleadment as petitioner and intervention and placing addl. documents on record and exemption from filing O.T.,intervention)

Date: 08/12/2010      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)      Mr. Colin Gonsalves, Sr.Adv.  
                                 Ms. Ritu Kumar, Adv.  
                                 Ms. Jyoti Mendiratta,Adv.

For Respondent(s)      Mr. P.N. Mishra, Sr. Adv.  
                                 Mr. Manjit Singh, A.A.G.  
                                 Ms. Anubha Agrawal, Adv.

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

By this order, we are disposing of prayer (g) made in I.A. No. 3 of 2010 filed by the petitioners for transferring the criminal cases relating to the incident, which is subject matter of the writ petition to Delhi.

By an order dated 23.11.2010, the Court had,  
2

after taking into consideration affidavits of Shri Rajat Kalson and Smt. Veena Sharma, Advocates who had appeared in the Court of Additional Sessions Judge, Hissar in connection with Case No.3-SC/ST titled State v. Dharambir and others, directed Additional District Judge, Hissar to send a report. In compliance of that order, Additional Sessions Judge, Hissar sent report to this Court in an envelope, which was opened in the

presence of the learned counsel for the parties. After going through the report, which was also made available to the learned counsel for the parties for perusal, the case was adjourned for today to enable the learned counsel for the parties to find out whether Special Courts have been established at Chandigarh and/or Delhi under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the 1989 Act').

Learned counsel for the petitioners has submitted a list of nine Courts at Delhi, which have been designated as Special Courts under the 1989 Act. Shri P.N. Mishra, learned senior counsel appearing for the State of Haryana stated that two Courts including the Court of Sessions Judge, Chandigarh have been designated as Special Courts for the purposes of the 1989 Act.

3

Shri Colin Gonsalves, learned senior counsel appearing for the petitioners argued that the case should be transferred to some Court in Delhi because free and fair trial of the case is not possible due to surcharged atmosphere prevailing in the area. He submitted that on each date of hearing large number of relatives and friends of the accused gather in the Court premises and the advocates representing the petitioners are so frightened that they are unable to effectively conduct the case. Shri Gonsalves submitted that Delhi is nearer to Hissar as compared to Chandigarh and if the case is transferred to a Court at Delhi, the prosecution will be able to conduct trial without any pressure from any quarter. Shri P.N. Mishra, learned senior counsel for the State of Haryana submitted that the case may be transferred to either of

the two Courts at Chandigarh, else the police authorities will find it extremely difficult to provide protection to the witnesses and the alleged victims of crime.

We have considered the arguments/submissions of the learned counsel and carefully perused the report sent by Additional Sessions Judge, Hissar.

Keeping in view the nature of the case and the developments which have taken place over a period

4

of about 6 months, we feel that it is a fit case for exercise of power by this Court under Section 406 of the Code of Criminal Procedure.

Accordingly, we direct

transfer of Case No. 3-SC/ST titled "State versus Dharambir and others" pending in the Court of Additional Sessions Judge, Hissar to the Court of Additional Sessions Judge, Rohini Courts, Delhi, which has been notified as Special Court under the 1989 Act.

The Additional Sessions Judge, Hissar is directed to transmit the records of the case to the Court of Additional Sessions Judge (SC/ST), Rohini Courts at the earliest. The Court at Rohini shall be free to conduct the trial afresh.

For consideration of other issues, the petition is adjourned to second week of January. 2011.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master