

ITEM NO.40

COURT NO.7

SECTION II

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

Petition(s) for Special Leave to Appeal (Crl) No(s).4692/2011

(From the judgement and order dated 08/04/2011 in CRLA No.675/2001 in CRLA No.1887/2000 of The HIGH COURT OF UTTARAKHAND AT NAINITAL)

SANJEEV KUMAR GUPTA

Petitioner(s)

VERSUS

STATE OF U.P.(NOW UTTARAKHAND)

Respondent(s)

(With appln(s) for exemption from filing O.T.,directions,bail,c/delay in filing reply and office report)

WITH

SLP(Crl) NO. 4789 of 2011

(With appln. for bail and office report)

SLP(Crl) NO. 4823 of 2011

(With appln. for bail and office report)

SLP(Crl) NO. 4843 of 2011

(With appln. for bail and office report)

SLP(Crl) NO. 5286 of 2011

(With appln. for bail and office report)

SLP(Crl) NO. 5300 of 2011

(With appln. for bail and office report)

SLP(Crl) NO. 5365 of 2011

(With appln. for bail and office report)

Date: 30/04/2012      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM

HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s)      Mr. Y. Prabhakara Rao,Adv.

Mr. Altaf Ahmad, Sr. Adv.

Mr. U.U. Lalit, Sr. Adv.

Mr. Ranjit Kumar, Sr. Adv.

Mr. Rahul Malhotra, Adv.

Ms. Neha Gaur, Adv.

Ms. Pallavi Tayal, Adv.

Mr. Chanchal Kumar Ganguli,Adv.

Mr. M.C. Dhingra, Adv.

For Respondent(s)/      Mr. S.S. Shamsbery, Adv.

Intervener              Mr. Rajkishor Chowdhry, adv.

2

Mr. Shaikh Chand Saheb, Adv.

Mr. Jatinder Kumar Bhatia,Adv.

Mr. Jitender Sethi, Adv.

Mr. Umesh Arora, Adv.

Ms. Indra Sawhney ,Adv.

Mr. Abhishek Atrey, Adv.

Mr. Rahul Verma, Adv.

Mr. Shivika Jain, Adv.

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

SLP(Cr1.)No.4692 of 2011

Counsel for the intervenor submits that the copy of the deposition of PW.1, enclosed with the special leave petition as Annexure P.7, is not only incomplete but it is also misleading. A copy of the deposition of PW.1 is enclosed with the special leave petition as Annexure P.7 and it runs from pages 81 to 104 of the SLP paper book. Learned counsel pointed out that at page 82 a number of words were missing and at page 86 two full paragraphs from the deposition of PW.1 that are very material and contain the names of some of the accused, were omitted.

We put the petitioner's counsel to notice and direct him to file a show cause explaining the manner in which the special leave petition has been filed. We make it clear that in case we are not satisfied with the explanation given on behalf of the petitioner, the special leave petition may be liable to be dismissed on that score alone.

SLP(Cr1) NOS. 4789, 4823, 4843, 5286, 5300, 5365 of 2011

3

Even while the matter is pending before this Court, some highly disturbing things seem to be happening. It is stated before us that Mr. Umesh Arora, the counsel for the intervenor is receiving threats from some relatives of some of the petitioners (convicted of the offence of murder) for appearing in these cases on behalf of the intervenor.

The matter was first brought to our notice by filing an intervention application. In the application, it was stated that on November 24, 2011, one Ripu Daman Singh (the brother of one of the petitioner Nitin @ Vippu) and Shitij Vohra (cousin of another petitioner Saurabh Vohra) went to the residence of Mr. Umesh Arora, advocate,

offering him money and threatening him against appearing on behalf of the intervenor (the family member of the victim of the crime). He naturally turned them out. Thereafter, Mr. Umesh Arora has been receiving threatening SMSs from two mobile phones the numbers of which are: 09412058983 and 08755324983. The earlier mobile phone number is said to belong to one Navraj Singh, who is the father of one of the petitioners before this Court, namely, Nitin. It is shocking to find from the transcripts of the SMSs said to have been received on Mr. Umesh Arora's mobile phone are abuses and threats in connection with cases pending before this Court.

When the allegations were brought to our notice, we asked the other side to look into the matter without  
4  
passing any formal order on that date.

Today, Mr. Jitender Sethi, advocate appearing for the intervenor, submitted that the position has gone from bad to worse and that after the matter was brought to our notice, an FIR No.41 of 2012, was instituted at P.S. Dalanwala, but the I.O. instead of doing any proper investigation is threatening the counsel for the intervenor to settle the matter with the accused otherwise he would be facing dire consequences. Mr. Jitender Sethi further stated before the Court that some of the conversations between the I.O. and Mr. Umesh Arora have, in fact, been recorded and, if need be, he will file the transcripts of those recorded conversation. These are in brief the allegations made by Mr. Jitender Sethi, counsel appearing on behalf of the intervenor and representing Mr. Umesh Arora against the I.O. of the case.

In the State's affidavit filed on March 25, 2012, it is stated that the investigation in FIR No.41 of 2012 is still going on. Mr. Ranjit Kumar, learned senior advocate appearing in one of the special leave petitions in this

batch, states that the closure report in this case was filed on April 16, 2012 stating that the allegations appeared to be doubtful and further that Mr. Umesh Arora did not give his mobile phone for FSL examination or for any further investigation in the matter.

We are not fully satisfied with the manner in which the investigation seems to have been done in the matter

5

and we agree with Mr. Altaf Ahmad, learned senior advocate, who, though appearing for one of the accused in these cases, candidly said that the allegations, if true, amount to an assault on the very administration of justice. Mr. U.U. Lalit and Mr. Ranjit Kumar, learned senior counsel, who are also appearing on behalf of different accused persons in this batch of special leave petitions, also agreed that the matter needs to be fully investigated to the fullest satisfaction of the Court.

We direct the Director General of Police (DGP), Uttarakhand, to get a thorough enquiry made into the matter. Needless to say that Mr. Umesh Arora, will fully cooperate in the enquiry and if need be, he will also hand over his mobile phone for further investigation in the matter.

In order to apprise himself of the allegations made on behalf of the intervenor/Mr. Umesh Arora, Advocate, the DGP may go through the intervenor's application (CrI.M.P. No.2403 of 2012) which contains the transcripts of the threatening SMSs said to have been received on the mobile phone of Mr. Umesh Arora. The DGP shall also ascertain the version of the other side, i.e., the accused either by examining them in person or by going through petitions filed on their behalf in this Court.

The DGP shall also consider providing adequate protection to Mr. Umesh Arora. It is made clear that this

Court shall not countenance any harm coming to Mr. Umesh

Arora.

The report from the DGP, Uttarakhand, shall come to this Court within two months from today.

Put up on July 6, 2012.

(Neetu Khajuria)  
Sr.P.A.

(Indu Satija)  
Court Master