

2022 LiveLaw (SC) 796

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
M.R. SHAH; J., KRISHNA MURARI; J.**

WRIT PETITION (CRIMINAL) NO. 286 OF 2022; SEPTEMBER 23, 2022

Navika Kumar *versus* Union of India and Others

Criminal Investigation - There cannot be two investigating agencies with respect to the same FIRs/complaints arising out of the same incident/occurrence with respect to different co-accused - Supreme Court transfers FIRs against Times Now Anchor Navika Kumar over Prophet remarks to Delhi- Transfer applicable to Future FIRs likely to be registered over the same telecast.

For Petitioner(s) Mr. Maninder Singh, Sr. Adv. Mr. Neeraj Kishan Kaul, Sr. Adv. Ms. Ruby Singh Ahuja, Adv. Ms. Meenakshi Grover, Adv. Mr. Pawan Narang, Adv. Mr. Varun Khanna, Adv. Ms. Kritika Sachdeva, Adv. Mr. Lakshya Khanna, Adv. M/S. Karanjawala & Co., AOR

For Respondent(s) Mr. Tushar Mehta, SG Mr. K. M. Nataraj, ASG Ms. Swati Ghildiyal, Adv. Mr. Kanu Agarwal, Adv. Mr. Navanjay Mahapatra, Adv. Ms. Rooh-e-Hina Dua, Adv. Ms. Neela Kedar Gokhale, Adv. Mr. Shailesh Madiyal, Adv. Mr. Nakul Chengappa K.K., Adv. Mr. Harshit Khanduja, Adv. Mr. Kanishak Bunderwal, Adv. Mr. G S Makker, AOR Mr. A.K. Sharma, Adv. Ms. Taruna Ardhendumauli Prasad, AOR Ms. Shreya Srivastava, Adv. Mr. Ashish Madaan, Adv. Mr. Aman Singh Bhadoria, Adv. Ms. Ananya Sahu, Adv. Ms. Astha Sharma, AOR Mr. Ravinder Singh, Adv. Ms. Raveesha Gupta, Adv. Ms. Mantika Haryani, Adv. Mr. Shreyas Awasthi, Adv. M/S. Plr Chambers And Co., AOR

J U D G M E N T

M.R. SHAH, J.

1. By way of this petition filed under Article 32 of the Constitution of India, the petitioner has prayed for the following substantive reliefs,

(a) Issue an appropriate writ, order or direction in the nature of certiorari quashing the Impugned FIRs/Complaints described in paragraph 17 of the present Petition or any other FIR/Criminal Complaint filed or inquiry or investigation instituted or to be instituted in the future in relation to the Petitioner arising out of the same incident/occurrence, i.e., the Newshour Debate telecasted on Times Now on 26.05.2022;

(b) Alternatively, issue an appropriate writ, order or direction in the nature of transfer and club all FIRs including the Impugned FIRs/Criminal Complaints described in paragraph 17, and any other FIR/Criminal Complaint filed or inquiry or investigation instituted or to be instituted in the future in relation to the Petitioner arising out of same incident/ occurrence, i.e., the Newshour Debate telecasted on Times Now on 26.05.2022 with FIR No. 130 of 2022 registered by the Special Cell, Delhi Police i.e. the first reported FIR in relation to the said incident/occurrence;

(c) Issue an appropriate writ, order or direction in the nature of mandamus restraining Respondents and/or any other authority to take any coercive steps pursuant to the Impugned FIRs/Criminal Complaints described in paragraph 17 of the present Petition or any other FIR/Criminal Complaint filed or inquiry or investigation instituted or to be

instituted in the future in relation to the Petitioner arising out of same incident/ occurrence, i.e., the Newshour Debate telecasted on Times Now on 26.05.2022;

(d) Issue a writ of mandamus or any other writ of appropriatenature to the effect that no cognizance of any complaint would be taken by any court nor any FIR registered by the police in relation to or arising out of the same incident/ occurrence i.e., the Newshour Debate Telecasted on Times Now on 26.05.2022.

(e) Allow the Petitioner to amend the present Writ Petition in theevent that any other FIR is registered on the same cause of action in future with respect to the various FIRs/criminal complaints filed against the petitioner in different police stations in different States in relation to the incident/occurrence – Newshour Debate telecasted on Times Now on 26.05.2002.

2. The particulars of different FIRs/criminal complaints filed against the petitioner, of which the reliefs are sought in the present petition, are as under:

S. NO.	FIR NO. / DATE	OFFENCE(S)	POLICE STATION	STATE
1.	FIR No: 220 of 2022 Date: 04.06.2022	Sections 153-A, 295-A, 298 and 34 of the Indian Penal Code, 1860	Police Station Narkeldanga, Kolkata, West Bengal	West Bengal
2.	FIR No: 125 of 2022 Date: 07.06.2022	Sections 153-A, 295-A, 298 and 34 of the Indian Penal Code, 1860	Amherst, Police Station, Kolkata, West Bengal	West Bengal
3.	FIR No: 0367 of 2022 Date: 11.06.2022	Section 153-A and Section 295-A of the Indian Penal Code, 1860	Yavatmal Urban, Police Station, District Yavatmal, Maharashtra	Maharashtra
4.	Case No. 25788251 of 2022 Case instituted on: 11.06.2022	Sections 120-B, 153A, 153B, 295A, 298 and 505(2) of the Indian Penal Code, 1860	Court of City Judge/ JMJC, Srinagar	Jammu and Kashmir
5.	FIR No. 165 of 2022 Date: 12.06.2022	Section 153-A, 504, 505(2), 506, 295-A and 34 of the Indian Penal Code, 1860	Police Station Jorasanko, Kolkata, West Bengal	West Bengal
6.	FIR No. 197 of 2022 Date: 14.06.2022	Sections 153-A, 295-A, 298 and 34 of the Indian Penal Code, 1860	Entally Police Station, Kolkata, West Bengal	West Bengal

2.1 It is also submitted that apart from the aforesaid FIRs/complaints, two more FIRs have been filed against the petitioner, details of which are given below, which are not the part of the present writ petition:

S. NO.	FIR NO. / DATE	OFFENCE(S)	POLICE STATION	STATE
1.	FIR No: 96 of 2022 Date: 23.06.2022	Sections 120-B, 153-A, 295-A, 298 of the Indian Penal Code, 1860	Wagtunge, Police Station, Kolkata, West Bengal	West Bengal
2.	FIR No: Not yet Available, Date: Not yet Available	Sections 295-A of the Indian Penal Code, 1860	Nanlpeth, Police Station, Parbhani, Maharashtra	Maharashtra

3. It is the case on behalf of the petitioner, who at the relevant time was the anchor who conducted the Newshour Debate telecasted on Times Now on 26.05.2022, that with respect to the aforesaid FIRs/criminal complaints in case of another co-accused – Nupur Sharma, this Court *vide* order dated 10.08.2022 in Miscellaneous Application No. 1238/2022 in Writ Petition (Criminal) No. 239/2022 has transferred the respective FIRs/complaints to IFSO Unit of Delhi Police for the purpose of investigation. Therefore, it is the case on behalf of the petitioner that similar order may be passed in case of the petitioner also who is the co-accused in the transferred FIRs/complaints as there cannot be two investigating agencies with respect to same FIRs/complaints.

4. Shri Tushar Mehta, learned Solicitor General of India appearing for the Union of India and also appearing on behalf of the Government of NCT of Delhi, State of Maharashtra, and Union Territory of Jammu & Kashmir and Shri Ravinder Singh, learned counsel appearing on behalf of the State of West Bengal are not in a position to dispute the above fact that the same FIRs/complaints in which the petitioner is also a coaccused are transferred to IFSO Unit of Delhi Police.

5. We have heard learned counsel for the respective parties and considered the order passed by this Court dated 10.08.2022 in Miscellaneous Application No. 1238/2022 in Writ Petition (Criminal) No. 239/2022 by which with respect to the aforesaid FIRs/complaints except two FIRs arising out of the same incident/occurrence, namely, Newshour Debate telecasted on times Now on 26.05.2022, the investigation/s is/are transferred to IFSO unit of Delhi Police. The FIRs/complaints which are transferred to IFSO unit of Delhi Police, in which the petitioner is also a co-accused, there cannot be two investigating agencies with respect to the same FIRs/complaints arising out of the same incident/occurrence with respect to different co-accused. On the aforesaid ground as well as on the ground of parity, the FIRs/complaints, referred to hereinabove, are also required to be transferred to IFSO unit of Delhi Police so far as the petitioner is concerned being co-accused.

6. At this stage, it is required to be noted that by the aforesaid order dated 10.08.2022 in the case of accused *Nupur Sharma*, this Court has also passed an order that investigation of any subsequent FIRs/complaints which are registered in future in respect of the same incident/occurrence, namely, Newshour Debate telecasted on Times Now on 26.05.2022 shall also stand transferred to IFSO unit of Delhi Police.

7. Taking into consideration the order passed by this Court dated 10.08.2022 in the case of accused *Nupur Sharma* passed in Miscellaneous Application No. 1238/2022 in Writ Petition (Criminal) No. 239/2022, we dispose of the present writ petition with the following directions:

- i) all FIRs/complaints, referred to hereinabove in paragraph 2 and 2.1 are ordered to be transferred to the IFSO unit of Delhi Police;
- ii) first FIR No. 683 dated 28.05.2022 along with FIR No. 140 of 2022 dated 08.06.2022 registered by Delhi Police, IFSO Unit are to be treated as lead cases and investigated together along with the other FIRs/complaints, referred to hereinabove, in which the petitioner is the co-accused, which are already ordered to be transferred to IFSO unit of Delhi Police;

iii) IFSO unit of Delhi Police shall be at liberty to collect and gather any information from the concerned State agencies, if so required, for the purpose of conducting a thorough investigation and taking it to its logical conclusion;

iv) no coercive action shall be taken against the petitioner pursuant to the aforesaid FIRs/complaints and for the FIRs/complaints which may be entertained in future pertaining to the telecast dated 26.05.2022 on Times Now, for a period of eight weeks from today so as to enable the petitioner to approach the concerned Court/Delhi High Court for appropriate relief; and

v) the investigation of any subsequent FIRs/complaints which are registered in future in respect of the same Newshour Debate telecasted on Times Now on 26.05.2022 shall also stand transferred to IFSO unit of Delhi police.

8. As far as the primary prayer in terms of prayer (a) in the writ petition is concerned, the petitioner shall be at liberty to pursue such prayer by approaching the High Court of Delhi under Article 226 of the Constitution of India or Section 482 of the Criminal Procedure Code. As and when such proceedings are instituted by the petitioner, the same shall be considered in accordance with law and on their own merits. We clarify and make it clear that we have not expressed any opinion on the merits of the allegations contained in the various FIRs/complaints.

9. The present petition stands disposed of in terms of the above.

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