

Court on its Own Motion vs. Union of India and others

Present: Mr. Satya Pal Jain, Addl. Solicitor General of India, with
Mr. Dheeraj Jain, Advocate,
for respondent no.1-Union of India.

Mr. Anil Mehta, Senior Standing Counsel, and
Mr. Mayank Sharma, Junior Panel Counsel,
U.T., Chandigarh.

Mr. Vinod Ghai, Advocate General, Punjab, with
Mr. Gaurav Garg Dhuriwala, Addl. A.G., Punjab,
Mr. Aman Pal, Addl. A.G., Punjab, for respondent no.5.

Mr. Puneet Bali, Senior Advocate, with
Mr. Vaihav Jain, Advocate,
Ms. Gauhar Mirza, Advocate,
Mr. Sachin Jain, Advocate, and
Mr. Yash Karunkaran, Advocate,
for respondent no.9-Facebook.

Mr. Anand Chhibbar, Senior Advocate, with
Mr. Shikhar Sarin, Advocate, and
Mr. Rohan Ahuja, Advocate,
for respondent no.10-YouTube.

Mr. Rohit Khanna, Advocate, and
Mr. Saurabh Gautam, Advocate, and
Mr. Saransh Jain, Advocate, and
Ms. Simran Sharma, Advocate,
for respondent n.11-Twitter.

1. Affidavit on behalf of UT, Chandigarh has been filed.
2. Mr. Satya Pal Jain, learned Senior counsel appearing on behalf of respondent no.1-Union of India, submits that needful has been done and a compliance report has been received from the said respondent. He further wishes to file a detailed affidavit and is allowed to do so.
3. Statements of respondents no.6 to 8, namely, Balwinder Singh Sekhon, Pardeep Sharma and Baljit Singh Marwaha have been recorded separately, in pursuance to the charge raised against them vide order dated 20.02.2023.

4. Compliance report on behalf of respondent no.5, by way of affidavit of Mandeep Singh Sidhu, IPS, Commissioner of Police, Ludhiana, who is also present in the Court, has been filed which is taken on record. Perusal of the aforesaid compliance report shows that respondents no.6 and 7 were arrested in pursuance of the directions issued by this Court vide order dated 20.02.2023. However, there is an admission in para no.19, that during police custody, both the contemnors had given media bites to news channel and newspaper reporters in the Court premises at Ludhiana. It is also an admission that there is apparent lapse on the part of the police officials/officers on duty and a departmental inquiry has been initiated against SHO Sarabha Nagar, Ludhiana and explanation has been sought from the ACP Crime-1, Ludhiana and ACP West, Ludhiana regarding this aspect.

5. Accordingly, we direct the State of Punjab to file a status report, in the form of personal affidavit of the Director General of Police, Punjab, regarding the departmental proceedings which are being conducted against any such officials and that the same shall be finalized expeditiously. The status report shall also give an explanation as to how such offending videos, which are constantly being posted on social media platforms since the last six months in which derogatory remarks against the constitutional institutions and against a Judge of the Supreme Court and the Judges of this Court are being made on a regular basis, amounts to an offence under various provisions of the Indian Penal Code, 1860, The Information and Technology Act, 2000 and other Special Acts or not. The affidavit will also give an explanation as to why any such

proceedings were not initiated against the persons who were constantly uploading/posting such videos and why there is dereliction of duties on their behalf in this regard. State shall also give details whether under which other provisions, it has the authority to detain people who indulge in such activities. The needful be done within a period of four weeks from today.

6. As per the report prepared by the Registrar (Computerization) of this Court, the offending material runs into 35 Gigabytes data and is having a play time of 10 to 12 hours.

7. Mr. Puneet Bali, Senior Counsel appearing on behalf of respondent no.9-Facebook has stated that through its authorized company META, it has located the offending URLs/videos and deleted/blocked the same as per the list provided by the officers of this Court in pursuance of the directions given by this Court vide order dated 20.02.2023. He further submitted that to delete such offending videos at all levels, the primary instrument which was used for uploading the material would be required so that the cleansing can be done at base level. Resultantly, Mr. Bali submits that necessary direction will have to be issued in this context to the private respondent nos.6 to 8.

8. On request of counsel for respondent no.9, it is also clarified that with regard to any such offending material, which is being identified and which is still available on the platforms and request is made subsequently by the Registrar Computerization of this Court, appropriate action will be taken on the same to ensure the earlier directions passed.

9. Mr. Anand Chhibbar, learned Senior counsel appearing on behalf of respondent no.10-Youtube submits that the identity of the said respondent has undergone a change and he wishes to file appropriate application to place on record the correct description of respondent no.10 who will be in a position to own up the responsibility for deletion of all the uploaded URLs/videos in compliance of the order dated 20.02.2023. Mr. Chhibbar, on instructions, further submits that active steps are being taken and have been taken to remove all the offending material as per the orders of this Court dated 20.02.2023 and appropriate screening of all the material pertaining to respondents no.6 and 7 is going on. He further submits that the said respondents shall diligently comply with the order of this Court and if any further offending material is found and conveyed to them, active steps will be taken to remove all such material.

10. Mr. Rohit Khanna, learned counsel appearing on behalf of respondent no.11-Twitter, submits that all the offending URLs/videos were located and have been blocked. He also wishes to file appropriate application showing correct description of respondent no.11-Twitter.

11. All the three counsels on behalf of respondent nos.9 to 11 raised the same grievance regarding the reliance placed upon **Swami Ramdev and another vs. Facebook, INC and others**, 2019(263), Delhi Law Times 689, in the order dated 20.02.2023.

12. It is pointed out that the said matter is subject matter of appeal before the Division Bench of the Delhi High Court itself and the only interim relief granted which has been granted is that the contempt proceedings will not be pursued. They accordingly submit that

whatsoever compliance has been done, as per the interim relief, should not be treated as a precedent. They submit that they will file necessary affidavit highlighting whatsoever action has been taken, which is now being pointed out to this Court, before the next date of hearing.

13. It also came to our notice that respondent no.6 had apparently approximately 37000 subscribers on his private channel allegedly called as “Balwinder Sekhon Speaks” which was on Youtube. Respondents no.9 to 11 will file specific affidavit(s) that on account of a large subscriber base of such users, whether any financial benefits accrue to such persons who creates such channel and upload videos and on account of advertisement being posted on such a channel, whether he started earning revenue. Respondent nos.9, 10 and 11, in their affidavit, shall also specify that how much of revenue or earnings, if any, were given to respondent no.6-Balwinder Singh Sekhon by way of monetization and whether any revenue has been generated in the account of said person’s account. The said respondents shall also file affidavit(s) as to whether they received any complaint regarding such uploading/postings by any set of persons including from any State authorities who were aggrieved on the ground that such material, which was being posted was *per se* offensive. If any such representation was received, whether any action was taken on the same. The said respondents, in their affidavits, shall also give details of the redressal mechanism which has been put in place and how actively it has been responded by the said respondents on the complaints received from the citizens.

14. While taking reference from Mr. Bali's suggestions, mobile phones of respondent no.6 and 7, which were seized by the Punjab Police, will be scrutinized by the Punjab Police and identify all the offending material pertaining to Court proceedings.

15. At this stage, Mr. Pardeep Sharma submits that whatever has happened, was an emotional outburst. He, however, was offered an opportunity but he declined to give any unconditional apology.

16. The statements of all the three private respondent nos.6, 7 and 8 were recorded separately and apparently and unwittingly, they had indicted each other for which we feel that once we have invoked Article 215 of the Constitution of India read with the fact that the contempt was in the face of the Court under Section 14 of the Contempt of Courts Act, 1971 (for short "1971 Act"), there is enough judicial precedents that evidence will not have to be led for delaying the matter and for quick dispensation of justice in such like cases to ensure that the message goes home. Reliance can be placed upon observation of a three Judges Bench of the Apex Court in the case of **Leila David vs. State of Maharashtra**, 2009(10) SCC 337, in which there was reference made on account of a divergent view taken earlier.

17. Respondent no.8-Baljit Singh Marwaha has admitted that he conducted the interview on 15.02.2023 in his office studio at 6.30 pm, after hearing had been conducted by this Court on the same day. There is an admission that both the respondent nos.6 and 7 were being interviewed and the recording was done in his studio. His defence is that certain other persons were recording the interview separately who had accompanied

respondent nos.6 and 7. The video was never uploaded on Scroll Punjab channel as there was an obligation to edit the same and scrutinize its contents and eventually on account of the aforesaid fact, the same was never uploaded on their channel. It is further being stated that uploading was done at an independent level by respondent nos.6 and 7 without his permission and he only came to know about the same when he received summons from the Chief Judicial Magistrate, Ludhiana.

18. Respondent no.6-Balwinder Singh Sekhon did not admit the contents of both the videos/transcripts and rather got personal with the Court when his plea of defence was being recorded and his conduct was derogatory in nature. On the other hand, respondent no.7 clearly admitted his presence in both the offending videos Annexure 'A' & 'C' and transcripts 'B' and 'D'. For some of the derogatory remarks, he shifted the onus to respondent no.6-Balwinder Singh Sekhon.

19. In such circumstances, since we have ourselves seen the videos and the respondents are present in the Court and there is no dispute regarding the identity of the persons involved in the videos and the transcripts of the said videos are *per se* derogatory, malicious, libelous and against the constitutional authorities and this institution in principle.

20. It is further not disputed that the said videos were featuring on the platforms of respondents no.9 to 11, the intermediaries, and apparently, as noticed above, there were almost 37000 subscribers and the viewers at this point is uncertain, which would be manifold.

21. Thus mud-slinging by way of open publication and representation of such malicious material being circulated not only at the national but

international level, amounts to inciting people at large against the Rule of Law and against one of the basic wing of the democratic set up under the Constitution of India consisting of the Legislature, Executive and the Judiciary. Thus, it gives us no reason to postpone the proceedings for requiring any trial.

22. Thus, in view of the above, by invoking Article 215 of the Constitution of India, both the respondent nos.6 and 7, namely, Balwinder Singh Sekhon and Pardeep Sharma are held guilty of the charge issued against them vide order dated 20.02.2023 for “Criminal Contempt” as defined under Section 2(c)(i) to (iii) of the 1971 Act, which is in the face of this Court under Section 14 of the 1971 Act and punishable under Section 12 of the 1971 Act.

23. Keeping in view the fact that contempt was committed, for which respondent nos.6 and 7 have no remorse, both the contemnners are convicted and sentenced for a period six months simple imprisonment alongwith fine of Rs.2,000/- each. They shall undergo the aforesaid sentence at Model Jail, Burail, UT, Chandigarh.

24. Mr. Anil Mehta, Senior Standing Counsel, UT Chandigarh is directed to ensure compliance of this order in this regard.

25. At the time, the sentence was announced, respondent no.6- Balwinder Singh Sekhon raised slogans “Judicial Gundagardi Murdabad” in the open Court and further compounded the contempt and for that, we are not in a position to give a lesser sentence than has been awarded.

26. Detailed order/judgment would follow which will be supplied to the contemners through the Superintendent, Model Jail, Burail, UT, Chandigarh for taking any rederssal measures by them.

27. Now to come up on 04.05.2023 for filing necessary affidavits, as noticed above, including that of respondent no.8.

28. A copy of this order, duly attested by the Special Secretary attached with this Court, be supplied to both the convicted persons, Advocate General, Punjab and Senior Standing Counsel for UT Chandigarh for compliance.

(G.S.Sandhawalia)
Judge

February 24, 2023
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(Harpreet Kaur Jeewan)
Judge

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