

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

Writ Petition (Criminal) No. 426 of 2021

IN RE: VIOLENCE IN LAKHIMPUR KHERI (U.P.) LEADING TO LOSS OF LIFE

O R D E R

The Court is convened through hybrid mode.

2. The present PIL arises in the background of an incident which took place in Tikunia in the Lakhimpur Kheri District of Uttar Pradesh, during the farmers' protests against the Indian Agricultural Acts of 2020. On October 3rd 2021, several protesters had been blocking the road to restrict passage for the UP Deputy Chief Minister who was on his way to Banbirpur village. While standing and/or walking on the road, these protesters were rammed from behind by a Mahindra Thar SUV, and then run over by the same vehicle. Two other vehicles that were part of the same convoy also ran over those who had already been thrown to the ground and crushed by the first SUV. The incident resulted in 8 deaths and several suffered injuries. This Court was seized of the matter when two lawyers wrote to this Court seeking an independent and federal inquiry into the incident.

3. The matter is currently under investigation by the local police, a Special Investigation Team (SIT) has been formed, and some arrests have been made. Given the nascent stage of the investigation, we are consciously reluctant to make any observation on the merits of the case, as that would have an impact on the parties involved and influence the prosecuting agency and the courts which would ultimately look into the case.

4. During the course of hearing on 8.11.2021, 12.11.2021 and 15.11.2021, some of the parties questioned the fairness of the ongoing investigation. Hence we proposed to appoint a former Judge of the High Court to monitor the investigation and also to induct new Members in the SIT who may carry out the investigation, uninfluenced by any consideration. Shri Harish Salve, learned Senior Counsel appearing on behalf of the State of Uttar Pradesh sought time to have instructions and thereafter on 15.11.2021, he very fairly stated that the State Government has no objection to the recourse suggested by this Court.

5. This Court is equally concerned about guaranteeing an impartial, fair, just and thorough investigation into the incident which has resulted in such a tragic loss of lives of protesters as well as some other persons.

6. Earlier hereto, we have expressed our disapproval on the slow pace, manner and outcome of the investigation conducted so far, as well as the composition of the SIT charged with investigating the matter.

7. This Court in ***Babubhai Jamnadas Patel v. State of Gujarat & Ors.***¹ has delineated the purpose of the judiciary in such circumstances, and noted that the Supreme Court and High Courts are the “***sentinels of justice***” that ensure that the rule of law and Constitutional guarantees of a fair and impartial investigation into alleged criminality, are upheld. On several prior occasions, including in ***Bharati Tamang v. Union of India & Ors.***² and ***Zahira Habibulla H. Sheikh & Anr. v. State of Gujarat & Ors.***³ steps have been taken by Courts for monitoring the investigation of alleged criminal offences.

8. While investigating such offences, justice must not only be done, but also be seen and perceived to be done. We thus deem it appropriate to re-constitute the SIT hereinafter to preserve the faith and trust of people in the Criminal Administration of the Justice System. Further, to assure full and complete justice to the victims of crime, we are inclined to order that the ongoing investigation be monitored by a retired High Court Judge, who too may not have his roots in the State of Uttar Pradesh. We, therefore, appoint Justice (Retd.) Rakesh Kumar Jain, a former Judge of the Punjab & Haryana High Court, to monitor the ongoing investigation so as to ensure transparency, fairness and absolute impartiality in the outcome of the investigation in the Lakhimpur Kheri incident which is to be conducted in a time-bound manner.

¹ (2009) 9 SCC 610

² (2013) 15 SCC 578

³ (2004) 4 SCC 158

9. We are informed that the present SIT predominantly comprises of middle level/sub-ordinate level police officers posted in district Lakhimpur Kheri. It appears to us that in spite of their perceived commitment and sincerity in carrying out the investigation, there may still be a lurking suspicion in respect of the fairness and independence of such an investigation. We, therefore, deem it appropriate to direct re-constitution of the SIT infused with directly recruited IPS officers who do not hail from the State of U.P. though are allocated to U.P. Cadre. It goes without saying that the SIT shall utilize latest forensic investigative methods to reach the truth.

The short-listed officers are as follows:-

1. Mr. S.B. Shiradkar IPS, Batch RR 1993- ADG Intelligence HQ, hailing from Nanded, Maharashtra. (Head of SIT)
2. Ms. Padmaja Chauhan, IG, IPS-RR 1998
3. Dr. Preetinder Singh, DIG, IPS-RR 2004

10. The newly constituted SIT shall be free to seek assistance from, and/or associate with or include the local police of Lakhimpur Kheri for taking the ongoing investigation to its logical conclusion under the continuous monitoring of the learned Monitoring Judge, appointed hereinbefore.

11. The SIT shall make all efforts to conclude the investigation expeditiously and file the charge-sheet.

12. The State of Uttar Pradesh is directed to provide all perks, facilities, emoluments, secretarial assistance and any other related requirements equivalent to the post of a sitting High Court Judge (minus the pension) to the learned Monitoring Judge.

13. Post the matter for hearing on receipt of a Status Report from the Monitoring Judge, after the charge-sheet is filed.

.....CJI
(N.V. RAMANA)

.....J
(SURYA KANT)

.....J
(HIMA KOHLI)

New Delhi;
Dated: November 17, 2021

ITEM NO.304

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(Criminal) No.426/2021

IN RE VIOLENCE IN LAKHIMPUR KHERI (UP) LEADING TO LOSS OF LIFE

(LETTER PETITION BY MR. SHIV KUMAR TRIPATHI, ADVOCATE)

Date : 17-11-2021 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s)

By Courts Motion

Mr. Shiv Kumar Tripathi, Adv.
Mr. C.S. Panda, Adv.
Mr. Kamlesh Kumar Maurya, Adv.
Mr. Shiv Kumar Vats, Adv.
Mr. Goverdhan Dass Aggarwal, Adv.

For Respondent(s)

Mr. Arun Bhardwaj, Sr. Adv.
Mr. Ronak Karanpuria, AOR
Mr. Rahul Kumar Sharma, Adv.

Dr. A.P. Singh, Adv.
Mr. V.P. Singh, Adv.
Ms. Geeta Chauhan, Adv.
Mr. Sadashiv, AOR

Mr. Harshvir Pratap Sharma, Sr. Adv.
Ms. Astha Tyagi, AOR
Mr. Dinesh Chander Trehan, Adv.
Mr. Vyom Chaturvedi, Adv.

Mr. Harish Salve, Sr. Adv.
Ms. Garima Prashad, AAG, UP
Mr. Shantanu Singh, Adv.
Mr. Akshay Chowdhary, Adv.
Ms. Ruchira Goel, AOR

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

The Court is convened through hybrid mode.

This Court passed the directions, in terms of the signed
Order.

Post the matter for hearing on receipt of a Status Report from
the Monitoring Judge, after the charge-sheet is filed.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(Signed Order is placed on the file)

(R.S. NARAYANAN)
COURT MASTER (NSH)