

IN THE SUPREME COURT OF INDIA
(CRIMINAL ORIGINAL JURISDICTION)
CRL.M.P.NO. OF 2020

IN

WRIT PETITION (CRL.) NO. 177 OF 2020

IN THE MATTER OF:

Ghanshyam Upadhyay

.... Petitioner

Vs.

State of U. P. & Ors.

.... Respondent

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THE PETITIONER IN PERSON:- **GHANSHYAM UPADHYAY**

IN THE SUPREME COURT OF INDIA

(CRIMINAL APPELLATE JURISDICTION)

CRL.M.P.NO. OF 2020

IN

WRIT PETITION (CRL.) NO. 177 OF 2020

IN THE MATTER OF:

GhanshyamUpadhyay ...Petitioner

Vs.

State of U. P. & Ors. ...Respondents

AN APPLICATION SEEKING SUOMOTO INITIATION OF CONTEMPT PROCEEDING AGAINST THE CHIEF MINISTER OF THE STATE OF UTTAR PRADESH SHRI ADITYANATH YOGI AND REIGSTRATION OF FIR AGAINST HIM AND OTHERS FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302 R/W120B OF IPC FOR COMMITTING MURDDER OF VIKAS DUBEY AND HIS OTHER FIVE ALLEGED AIDS/CO-ACCUSED.

To,

**THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA.**

**THE HUMBLE PETITION ON BEHALF OF
THE PETITIONERS ABOVE NAMED.**

MOST RESPECTFULLY SHOWETH:

1. The Petitioner by filing the present application seeks suo-moto initiation of contempt proceeding against Shri Adityanath Yogi, the Chief Minister of the State of Uttar Pradesh for he having given statement in media thereby exhorting and supporting killing of six accused and thus, lowering down the authority, majesty and dignity of this Hon'ble Court and further interfering in the administration of justice concerning the captioned petition and other connected petitions seeking probe in the killing six accused under the guise of police encounter.
2. It is not necessary to burden the present application with several other details leading to the filling of the same, suffice it to say that while this Hon'ble Court being the highest court of the country is seized of the matter and in the process, this Hon'ble Court vide its order dated 23.07.2020 approved the draft with regard to appointment of Judicial Commission consisting three members headed by former judge of this Hon'ble Court, Shri Adityanath Yogi gave interview/made statement

before media viz. 'Republic News/TV' thereby supporting and justifying killing of six accused. The said news article has been published E-media under the heading **'YOGI ADITYANATH BREAKS SILENCE ON VIKAS DUBEY ENCOUNTER: GANGSTERS WILL MEET THEIR FATE'**. Copy of the said article containing the aforesaid statement of Shri Adityanath Yogi is hereto annexed and marked as **Annexure-'P1'(Pages 9-10)**.

3. When this Hon'ble Court is seized of the matter and has appointed Judicial Commission headed by a former judge of this Hon'ble Court and has directed the Judicial Commission to submit its report in two months before this Hon'ble Court and with the result, if in the inquiry by judicial commission, it is found that so called police encounters are false and fake, then this Hon'ble Court will in all probability take legal action against all those responsible for killing of six accused and therefore, statements given by Shri Adityanath Yogi, the Chief Minister of the State, which is threatening in nature to all those who have raised doubt over the theories of police/state administration and have raised their voices against the most inhuman and barbaric acts of killing of six accused, tantamount interference with due administration justice within the meaning of section 2 (c) (iii) of the Contempt of Court Act, 1971, to be administered by this Hon'ble Court in the killing of six accused under the guise of police encounters.
4. Similarly, the aforesaid statements given by Shri Adityanath Yogi tantamount to challenge and defy the authority and majesty of this Hon'ble Court and thereby lowering down the dignity and image of

this court in the eyes of public. The aforesaid statements given by the highest functionary of the State, are bound to prejudice the mind of the people/witnesses, who with the result, are likely to refrain from giving evidence against the State/its functionary which includes Shri Adityanath Yogi as well, as he himself is alleged to be main person involved in killing of six accused under the guise of police encounters.

5. As a matter of fact, the aforesaid statements given by Shri Adityanath Yogi and that too when this Hon'ble Court is seized of the matter is nothing sort of subverting judicial system prevailing in the country. If this act and conduct of the highest functionary of the State is not dealt with iron hands by this Hon'ble Court, then it will lead to complete anarchy and failure/breakdown of constitutional machineries in the State, which under no circumstances can be countenanced. From the aforesaid statements given the Chief Minister of the State Shri Adityanath Yogi, it is axiomatic that he has become law unto himself and therefore, there is need to send a very loud and clear message that no one is above the law and such acts of subverting judicial system even by the highest functionary of the State will be dealt with iron hands by this Hon'ble Court.
6. Permitting such statement to be made by the highest functionary of the State, which not only interferes and/or tends to interfere with due administration of justice, but also undermines the authority and majesty of the highest court of the country, is bound to breed contempt for law and would encourage lawlessness and everyman would have tendency to become law unto himself thereby leading to anarchism, which no civilized nation can permit to happen and that

being the case, this Hon'ble Court be pleased to initiate suo-moto contempt proceeding against the Chief Minister of the State Shri Adityanath Yogi, in exercise of the powers vested with this Hon'ble Court under Articles 129 /r/w 142 of the Constitution of India

7. Since in view of the peculiar facts and circumstances of the case, petitioner approaching the Advocate General of the State or Solicitor General of India seeking their consent would have been futile exercise and hence, present application has been necessitated hereby inviting the attention of this Hon'ble Court on the gross criminal contempt of this Hon'ble Court committed by Shri Adityanath Yogi and thereby seeking initiation of suo-moto contempt proceeding by this Hon'ble Court against him, as permitting him to go scot-free is bound to lead subversion of judicial system and anarchism by none other than State itself and its functionaries, who are duty bound to uphold the rule of law, which under no circumstances, can be permitted.

PRAYER:


It is, therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) to issue suo-moto contempt proceeding against Shri Adityanath Yogi, the Chief Minister of State of Uttar Pradesh for having committed gross criminal contempt of this Hon'ble Court, and accordingly, deal with him in accordance with law;

- b) pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case;

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS DUTY BOUND SHALL EVERPRAY.

FILED BY:



FILED ON: - 27.07.2020
PLACE:NEWDELHI

(GHANSHAYMUPADHYAY)
THE PETITIONER INPERSON

SETTLED BY: - THE PETITIONER IN PERSON

IN THE SUPREME COURT OF INDIA**(CRIMINAL APPELLATE JURISDICTION)****CRL.M.P.NO. OF 2020****IN****WRIT PETITION (CRL.) NO. 177 OF 2020****IN THE MATTER OF:**

GhanshyamUpadhyay ...Petitioner

Vs.

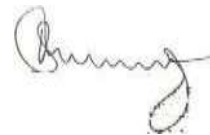
State of U. P.&Ors. ...Respondent

AFFIDAVIT

I, Ghanshyam Upadhyay, having my office at 506, Arcadia Premises, 195, NCPA Road, Nariman Point, Mumbai 400 021, (Maharashtra), do hereby solemnly affirm and state as under:

1. That I am the Petitioner in this case and as such I am well acquainted with the facts of the case. Hence, I am competent to swear thisaffidavit.

2. That I have read and understood the contents of the accompanying Crl. Misc. Petitions and state that the averments made therein are true and correct to the best of my knowledge and belief.
3. That the contents of the aforesaid paras are true and correct to my knowledge.



DEPONENT

VERIFICATION

I, above named deponent, do hereby verify that the contents of para no. 1 to 7 of this my Affidavit are true and correct to my personal knowledge and belief and nothing has been concealed therefrom.

Verified at Mumbai on this 27th day of July, 2020.



DEPONENT

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Annexure A-1

Gangster Vikas Dubey, Uttar Pradesh CM
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 Written by Suchitra Karthikeyan
 f t


Backing the police encounter against Gangster Vikas Dubey, Uttar Pradesh CM Yogi Adityanath, on Friday broke his silence on the issue stating that it was the government's duty to make gangsters meet their ultimate fate. He added that those shielding criminals must not hinder the govt's steps to curb crimes. Currently, a 3-member panel appointed by the Supreme Court is probing into Dubey's encounter by UP police.

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 Last updated: July 24, 2020 16:45 IST
Yogi Adityanath breaks silence on Vikas Dubey encounter: 'Gangsters will meet their fate'
 Backing the police encounter against Gangster Vikas Dubey, Uttar Pradesh CM Yogi Adityanath, on Friday broke his silence on the issue amid Supreme Court probe

Written by Suchitra Karthikeyan
 f t


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Yogi breaks silence on Dubey encounter
 “
“It is the government’s duty to let gangsters meet their ultimate fate. Those who will misbehave with the women in state will meet their fate. Those who are shielding these criminals should not get irritated with our steps towards criminals,” said Adityanath
 ”
 He added, “There are people who are bringing the religion factor in everything. They always put their emotions out after sensing the other religion. They see religion in everything and hence people ousted them from power. They have lost

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 They always put their emotions out after sensing the other religion. They see religion in everything and hence people ousted them from power. They have lost their sense with the greed of power”.
 Ex-CM Kamal Nath questions MP govt on Vikas Dubey arrest, says 'Mahakal punishes sinners'
Vikas Dubey shot dead
 On July 10, Dubey - accused of killing 8 policemen - was killed in an encounter, after his car turned turtle as he reached Kanpur along with the Uttar Pradesh STF. The police have maintained that the car swerved to avoid a herd of cattle on the road leading to an accident. The police claim that while Dubey attempted to escape in the ensuing confusion, the police tried to capture him alive but had to shoot him in self-defense. While four policemen were

self-defense. While four policemen were injured in the encounter, Dubey was declared dead as he was brought to the hospital.



Vikas Dubey encounter: UP STF releases press note, says 'police tried to nab him alive'

Vikas Dubey arrested

The Kanpur gangster - charge-sheeted in 60 cases - ranging from murder to kidnapping and robbery - was arrested at Ujjain near the Mahkal Temple on July 10. In the 48 hours prior to that, Police in various states carried out a huge search operation and arrested several people in connection with the gangster. In the process, five of his aides - Amar Dubey, Atul Dubey, Kartikeya Mishra alias Prabhat, Praveen Dubey alias Bauua, and Prem Pandey have been also gunned down by the Uttar Pradesh Special Task Force, while others are in custody. After his arrest, Dubey had confessed that he and his aides were informed that the police will raid his house and that he had several contacts in various police stations helping him in issues.

Retd Justice BS Chauhan to head 3-member panel probing Vikas Dubey encounter, orders SC

(True Copy)

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IN

WRIT PETITION (CRL.) NO. 177 OF 2020**IN THE MATTER OF:**

Ghanshyam Upadhyay

.... Petitioner

Vs.

State of U. P. & Ors.

.... Respondent

**AN APPLICATION FOR EXEMPTION FROM
FILING ATTESTED AFFIDAVIT OF THE
PETITIONER****To,**THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA.THE HUMBLE PETITION ON BEHALF OF THE
PETITIONERS ABOVE NAMED.**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner is a citizen of India and domiciled in the State of Maharashtra. The Petitioner is a practicing advocate in the Hon'ble High Court, Bombay and the

Hon'ble Supreme Court of India and has been duly enrolled with the Bar Council of Maharashtra and Goa, having registration No. MAH/5167/1999. While the Respondent No.1 is the State of Maharashtra, the Respondent No.2 is the Superintendent of Police, Kanpur, State of Uttar Pradesh, the Respondent No.3 is the officer-in-charge of Chaubeypur Police Station, Kanpur, State of Uttar Pradesh and the respondent No.4 is the Central Bureau of Investigation. The Respondents are 'State' within the meaning of Article 12 of the Constitution of India and hence, all the Respondents are amenable to the writ jurisdiction of this Hon'ble Court.

2. That the Petitioner says that he has already explained all the fact and circumstances of this case in present Writ Petition and the same shall be read as part and parcel of this application.

3. That the Petitioner says that the above said matter has some urgency to be filed before this Hon'ble Court and due to COVID-19 LOCKDOWN situation, it is not possible to file notarized attested affidavit of the Petitioner in support of this petition hence the Petitioners may be exempted from filing affidavit accordingly.

PRAYER

It is, therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to :

- a) exempt the Petitioner from filing notarized attested affidavit of the Petitioner in support of this petition and order accordingly.
- b) pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER
AS DUTY BOUND SHALL EVERPRAY.

FILED BY:



PLACE: NEW DELHI
FILED ON:- 27.07.2020

(GHANSHAYMUPADHYAY)
THE PETITIONER IN PERSON

GHANSHYAM UPADHYAY**Offi:-**

506, Arcadia Premises,
195, NCPA Road, Nariman
Point, Mumbai- 400 021
Mob. 9869240921
(E-mail:lawjuris@hotmail.com)

To,
The Registrar,
Supreme Court of
India, New Delhi
Sir,

Dated:-27.07.2020

Sub:- W.P.(CRL) No. 177 of 2020
Ghanshyam Upadhyay
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Due to COVID-19 LOCKDOWN, Petitioner is unable to attested affidavit. The undersigned undertakes to complete all formalities as and when required by the Hon'ble Court or Lockdown is over hence the permit accordingly.

Thanking you.

Yours' sincerely



(GHANSHYAM UPADHYAY)
The Petitioner in person

