

via Video-conferencing

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ **CRL. M.C. 1623/2020 & CRL. M.A. Nos. 10351-53/2020**

YEYE SAEPUL MALIK
SOBANA & ORS.

.....Petitioners
Through : Ms. Rebecca M. John, Senior
Advocate with Ms. Ashima
Mandia and Ms.Mandakini
Singh, Advocates.

versus

STATE (NCT OF DELHI)
& ORS.

..... Respondents
Through : Mr. Tarang Srivastava, APP for
State for R1 & R2.
Mr. Anil Soni, CGSC for R3.

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+ **CRL. M.C. 1624/2020 & CRL. M.A. Nos. 10355-57/2020**

ABDI JULIADI & ORS.

.....Petitioners
Through : Ms. Rebecca M. John, Senior
Advocate with Ms. Ashima
Mandia and Ms.Mandakini
Singh, Advocates.

versus

STATE (NCT OF DELHI)
& ORS.

..... Respondents
Through : Mr. Mridul Jain, SPP for State.
Mr. Ajay Dignpaul, CGSC for
R3.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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31.07.2020

CRL.M.As. No. 10351/2020 & 10353/2020 in CRL. M.C. No. 1623/2020 (for exemption)

CRL.M.As. No. 10355/2020 & 10357/2020 in CRL. M.C. No. 1624/2020 (for exemption)

Exemption are granted, subject to just exceptions and subject to the applicant completing all requirements of filing typed/original/certified copies of annexures, attested affidavits and court fee within 10 days of physical re-opening of the court.

The applications stand disposed of.

CRL. M.C. No. 1623/2020 & CRL. M.A. No. 10352/2020 (for stay)
CRL. M.C. No. 1624/2020 & CRL. M.A. No. 10356/2020 (for stay)

All 11 petitioners in Crl. M.C. No. 1623/2020 are Indonesian nationals who are arrayed as accused in charge-sheet arising from FIR No. 107/2020 dated 01.04.2020 registered under sections 188/269/270/271 IPC read with section 3 of the Epidemic Diseases Act 1897 at PS : Seelampur, Delhi.

2. All 12 petitioners in CRL. M.C. No. 1624/2020 are Indonesian nationals who are arrayed as accused in charge-sheet arising from FIR No. 109/2020 dated 01.04.2020 registered under sections 188/269/270/271 IPC read with section 3 of the Epidemic Diseases Act 1897 at PS : Seelampur, Delhi.

3. The essential allegation against all petitioners, who visited India to participate in a religious congregation, is that they violated orders issued by the Central Government under section 144 Cr.P.C. and under the provisions of the Disaster Management Act, 2005.

4. By way of the present petitions, the petitioners seek quashing of the FIRs and all proceedings arising therefrom; as also closure of the Look-out Circulars issued against them.

5. Ms. Rebecca M. John, learned senior counsel appearing for the petitioners submits that the petitioners were also arrayed in the charge-sheets arising from FIR No. 63/2020 dated 31.03.2020 registered under sections 188/269/270/271/120B IPC read with section 3 of the Epidemic Diseases Act and sections 51/58 of the Disaster Management Act at PS : Crime Branch, Delhi; in which the petitioners pleaded guilty, entered plea-bargains, paid the fine imposed, and *vidé* orders dated 24.07.2020 and 27.07.2020 made by the learned CMM, proceedings against the petitioners in the charge-sheets arising from FIR No. 63/2020 have since been closed.

6. Consequent thereupon, the petitioners were preparing to head back to their country, when it transpired that FIR No. 107/2020 and FIR No. 109/2020, which are subject matter of the present petitions ('subject FIRs', for short), had also been filed against them and charge-sheets had been presented before the learned trial court arising from the subject FIRs.

7. Ms. John points-out that the offences alleged in the subject FIRs are the same as those in FIR No. 63/2020; and that all that is stated in the subject FIRs is that the petitioners were found to be

staying at Jama Masjid and Kaddha Masjid, New Seelampur, Delhi since 21.03.2020. Ms. John submits that in the course of proceedings arising from FIR No. 63/2020, at no stage did the State inform the trial court that the subject FIRs were also pending against the petitioners nor were the petitioners aware of the same. This, Ms. John submits, is gross abuse of the process of law and highly unfair on the part of the State. As a consequence of the subject FIRs, which according to Ms. John arise from the same offence as FIR No. 63/2020, the petitioners are not able to return to their country despite having pleaded guilty, entered plea-bargains and having paid the fine imposed.

8. Issue notice.

9. Mr. Tarang Srivastava, learned Additional Public Prosecutor appears for respondents Nos. 1 and 2/State and Mr. Anil Soni, learned Central Government Standing Counsel appears for respondent No. 3/ Union of India (Ministry of Home Affairs) in CRL. M.C. No. 1623/2020 on advance copy; accept notice; and seek time to file status report.

10. Mr. Mridul Jain, learned Special Public Prosecutor appears for respondents Nos. 1 and 2/State and Mr. Ajay Diggpaul, learned Central Government Standing Counsel appears for respondent No. 3/Union of India (Ministry of Home Affairs) in CRL. M.C. No. 1624/2020 on advance copy; accept notice; and seek time to file status report.

11. Let status reports be filed before the next date, with advance copy to the opposing counsel.

12. For the record, at the present time the petitioners are residing at Jamiat Ulema-i-Hind, Bahadur Shah Zafar Marg, New Delhi and at Axle School, Azad Market Road, Delhi, as recorded before the Division Bench in order dated 28.05.2020 in W.P.(Crl.) No. 838/2020.

13. To substantiate the submission that the offences alleged in FIR Nos. 107/2020 and 109/2020 are exactly the same as those alleged in FIR No. 63/2020, Ms. John seeks liberty to file a copy of a sample charge-sheet in FIR No. 63/2020. Let the same be done before the next date of hearing.

14. Ms. John submits that, as per her instructions, summons have been received by some of the petitioners in the charge-sheets filed before the learned CMM arising from the subject FIRs; and in the event there are any dates of appearance before the learned CMM prior to the date given in these matters, the petitioners may be given liberty to inform the learned CMM about the pendency of the present matters. Liberty is granted, as prayed.

15. List on 10.08.2020.

ANUP JAIRAM BHAMBHANI, J.

JULY 31, 2020

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