

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION [CRIMINAL] NO. \_\_\_\_\_ OF 2020

[Under Article 32 of the Constitution of India read with Order  
XXXVIII, Rule 12 (1) (d) & 2 of The Supreme Court Rules, 2013)

IN THE MATTER OF:

SATYAMA DUBEY & ORS. ...PETITIONERS

-VERSUS-

UNION OF INDIA & ORS. .... RESPONDENTS

**REPLY OF THE AFFIDAVIT FILED BY THE**  
**RESPONDENT STATE DATED 05.10.2020.**

**MOST RESPECTFULLY SHOWETH:**

1. That the affidavit filed by the State is complete non-application of mind by the State of Uttar Pradesh and it is premature affidavit filed by the State, it was just an eye washer just to divert the attention of this Hon'ble Court the State had just tried to shift the burden.
2. The affidavit was filed prior to the listing of the matter before this Hon'ble Court and in Anticipation and before the issuance of the notice in the above-mentioned matter.

3. That this Hon'ble Court had observed the gravity of the offence and injustice done to the girl and this Hon'ble Court was pleased to issue the notice in the present matter and State had not opposed the petition.
4. That this Hon'ble Court was pleased to issue notice on 06.10.2020 with directions to returnable next week and list this matter along with the letter (s) received from the learned counsel appearing in the instant matter.
5. That before issuance of the notice in the above-said matter the SIT was constituted by the State Govt. of U.P. just to divert the attention of this Hon'ble Court. In the present matter the petitioners had requested to constitute a SIT of the serving or retired of the Supreme Court of High Court Hon'ble Judges. A three-member Special Investigation Team or SIT was set up by the UP Government in great rush and it has received immense criticism over its handling of the case.
6. This Hon'ble Court has asked to the petitioners that what are their Locus in the present matter, in this regard it is pertinent to mention before Your Lordship's that Petitioner are Citizens of India and they are working in their respectable professions and also Shocked by the incident and the acts of the Police personnel's, therefore the petitioner have knocked at the door Your Lordships through this present petition and this Hon'ble Court treat the present petition as "Public Interest Litigation" and every citizen of India has the Right to

approach before this Hon'ble Court if any injustice caused by the State, State Authorities or State Administration.

7. That it is pertinent to mention here that petitioners has filed this petition on 30<sup>th</sup> September, 2020 and Hon'ble High Court of Judicature at Allahabad, Bench at Lucknow was pleased to take Suo-Moto Cognizance in the fateful incident occurred in Hathras, Uttar Pradesh on 1<sup>st</sup> of October, 2020, soon after the PIL was filed by the petitioners before this Hon'ble Court.
8. That subsequent that the family of the victim has approached the Hon'ble High Court of Allahabad in "Habeas Corpus Writ Petition" in Case No. 509 of 2020 and the Hon'ble High court was pleased to dismiss the same vide order dated 08.10.2020 and Hon'ble High Court has quoted as below in the order:

*"In the aforesaid facts and circumstances of the case judicial propriety demands that it will not be proper for this court to entertain the present petition on merits, especially when security has been provided to petitioners 1 to 6 and other family members of the deceased victim-girl on the observation made by the Hon'ble Apex Court and also on the basis of the directions issued by the Lucknow Bench of this Court on 01.10.2020 in a Suo Moto Petition. If the petitioners have any grievance, they are at liberty to file appropriate petition/ application before the Hon'ble Apex Court".*

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A copy of the order in Hebeas Corpus Writ Petition” in Case No. 509 of 2020 dated 08.10.2020 is annexed herewith and marked as **Annexure P-1.**

9. That the petitioners most humbly prays before this Hon’ble Court that State of Uttar Pradesh has constituted a SIT under the governance of some respected persons other than Hon’ble Justices (sitting or retired) of this Hon’ble Court or Hon’ble High Court, however, petitioners have made prayer in their above-mentioned petition that SIT may be constituted under the monitoring of the Hon’ble Supreme Court of India and if this Hon’ble Court be pleased then petitioner would recommend the following Hon’ble Judges to be the member of the SIT, as they have a very vast knowledge of the Criminal Jurisprudence.

- 1) Hon'ble Mr. Justice Uday Umesh Lalit
- 2) Hon'ble Dr. Justice D.Y. Chandrachud
- 3) Hon’ble Justice Madan Bhimarao Lokur, (Retd.)
- 4) Hon’ble Justice Kurian Joseph, (Retd.)
- 5) Hon’ble Justice R. Banumathi, (Retd.)
- and 6 ) Hon’ble Justice Deepak Gupta, (Retd.)

may be appointed by this Hon’ble Court in the present matter.

10. That the State of Uttar Pradesh desired to shift his burden and tried to cover up the incident and registered the case in U/s. 307 which is not the case, the incident pertains to a brutal gang rape by the 4 accused persons and later on the accused

persons had broken most of the bones of a 19 year old girl (Victim).

11. That in the above-mentioned matter the question was asked by this Hon'ble Court from Ld. Solicitor General of India, who was appearing for the State of Uttar Pradesh that what is the status of providing security to the victim's family and in reply the State assured this Hon'ble Court to file the report next day but till date not filed.
12. That there are various contradiction in the affidavit this is filed by the state of Uttar Pradesh, which is to be examined properly.
13. That it has come to the knowledge of the petitioners that the inquiry in the present matter had been handed over to the CBI by the Govt. of Uttar Pradesh before the next date of hearing in the above mentioned matter, in order to demonstrate before this Hon'ble Court that the investigation is being carried out in right direction and no one can blame the State of U.P. for their inactions.

### **PRAYER**

It is most humbly prayed before this Hon'ble Court that in view of the facts and circumstances narrated hereinabove, the present reply to the Affidavit filed by the