



November 8, 2020

Dear Mr. Singh,

Sub: Your request for consent to initiate proceedings for criminal contempt under Section 15 of the Contempt of Courts Act, 1971 read with Rule 3(c) of the Rules to Regulate Proceedings for Contempt of the Supreme Court of India, 1975

I am in receipt of your request for consent to initiate proceedings for criminal contempt against Mr. Prashant Bhushan, Advocate.

I have carefully gone through the contents of your petition. I find from your petition that the statements in question have been published as tweets on the twitter page of Mr. Prashant Bhushan. I am proceeding on the basis that the tweets referred to in your petition have in fact been so published.

I am of the opinion that the imputations contained in the three tweets to the effect that the Chief Justice of India committed an act of impropriety in accepting facilities of the State of Madhya Pradesh during his visit to Kanha National Park while a case pertaining to the disqualification of certain members of the Legislative Assembly of Madhya Pradesh was pending before him were wholly unwarranted, improper, devoid of legal basis and prima face contumacious for the following reasons.

Firstly, the Chief Justice of India is one of the highest constitutional functionaries in the country and is to receive protocol as befits the stature of his office. He is also entitled to 'Z plus' security. Additionally, in terms of the Madhya Pradesh State Guest Rules, 2011, the Chief Justice is a 'State Guest' and is entitled therefore for to be extended facilities for the purpose of his reception, transport and boarding. In addition thereto, State Guests are entitled to be extended appropriate security.

Secondly, one must keep in mind the fact that it has been reported widely in the press that the Kanha National Park, since about the year 2016-2017 has been overrun by Maoists, and has seen the presence of nearly 200 armed cadre. A report in the Hindustan Times dated 30.09.2020 states that the Maoists facing pressure from security forces in Maharashtra and Chhattisgarh decided to shift to the dense and difficult terrain of Kanha for a safe haven. The Chief Justice, notwithstanding his Z Plus Security, would therefore have been extremely vulnerable were he to have travelled by road in his convoy, with ambulance and other facilities through the Kanha National Park. It was therefore, the most prudent and appropriate

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measure for the State Government to have the Chief Justice of India transported via helicopter. The imputation of impropriety therefore was improper and without application of mind to these realities and is contumacious.

Thirdly, the attempt to link the receipt of facilities to which the Chief Justice of India is in any event entitled, to the pendency of a case of disqualification of members of the Legislative Assembly of Madhya Pradesh (hereinafter 'MLAs') was also improper. It is to be noted that the fate of the Government in Madhya Pradesh did not depend on the outcome of the said case, as the resignation of the said MLAs had already been accepted by the previous Speaker. When the Government changed, the protem Speaker rejected the application for disqualification of these MLAs on the ground that as their resignations had already been accepted, they had already ceased to be members of the Legislative Assembly. In any event, with the exit of those MLAs, the BJP Government became the single largest party with 107 MLAs, out of a total strength of 230 in the House.

For these reasons, I was initially of the mind to grant consent to initiate proceedings for criminal contempt.

However, I must bring to your attention two subsequent developments of relevance to my decision in the present matter. Firstly, on 4.11.2020 Mr. Prashant Bhushan, knowing that a request had been made to me as Attorney General, for consent for prosecuting an application for contempt in the Supreme Court of India, and realising that he had made a mistake in connecting the facilities provided to the Chief Justice by the Madhya Pradesh Government to the survival of the Government, had put another tweet in the public domain in the same manner as the original tweet. In this subsequent tweet, published on 4.11.2020, he has expressed regret for the error made in his earlier tweet on 21.10.2020. He has stated publicly that it was incorrect to state that the fate of the Government of Madhya Pradesh depended on the case pending before the Chief Justice of India. The tweet of 4.11.2020 is as follows:

"Elections were held yesterday to seats of defecting Cong MLAs in MP who were made ministers in the Shivraj Govt. Survival of Shivraj govt will depend on their re-election, not on decision of case in CJs court challenging their ministership. I regret this error in my tweet below."


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Secondly, the very same day, i.e. 4.11.2020 the case pertaining to the disqualification of the erstwhile members of parliament in the state of Madhya Pradesh has now been withdrawn by the petitioner as having become infructuous. Sh. Kapil Sibal appearing for the petitioner had made this representation to the Supreme Court which recorded "*Learned Senior Counsel appearing on behalf of the petitioner states that the matter has become infructuous. In view of the above, the special leave petition is disposed of as having become infructuous.*"

In these circumstances, I do not think that it would be in public interest to give consent for proceeding on the basis of the original tweet in view of the subsequent tweet expressing regret.

I accordingly decline consent.

Yours sincerely,



(K.K. Venugopal)

Mr. Sunil Kumar Singh
Advocate, Supreme Court of India