

[2023] 1 S.C.R. 731

SAURAV DAS

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v.

UNION OF INDIA & ORS.

(Writ Petition (Civil) No. 1126 of 2022)

JANUARY 20, 2023

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[M. R. SHAH AND C. T. RAVIKUMAR, JJ.]

Code of Criminal Procedure, 1973:ss. 173, 207 – Report of police officer on completion of investigation – Writ Petition u/Art. 32 seeking direction to all the States to upload all chargesheets on public domain/websites – Held: Relief sought is contrary to scheme of CrPC – It would violate the rights of the accused as well as victim and/or even the investigating agency – Putting the FIR on the website cannot be equated with putting the chargesheets along with the relevant documents on the public domain and on the websites of the State Governments – Chargesheet are not public documents u/s. 73 of the Evidence Act – Copies of chargesheet do not fall within s. 4(1)(b) of the RTI Act – Thus, the petitioner not entitled to the relief – Evidence Act, 1872 – s. 73, 74 – Right to Information Act , 2005 – s.4(2).

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Dismissing the writ petition, the Court

HELD : 1.1 The petitioner is not entitled to the relief as prayed in the present petition namely directing all the States to put on their websites the copies of all the chargesheets/challans filed under Section 173 of the Cr.P.C. [Para 7][736-E]

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1.2 On conjoint reading of Section 173 Cr.P.C. and Section 207 Cr.P.C. the Investigating Agency is required to furnish the copies of the report along with the relevant documents to be relied upon by the prosecution to the accused and to none others. Therefore, if the relief as prayed in the present petition is allowed and all the chargesheets and relevant documents produced along with the chargesheets are put on the public domain or on the websites of the State Governments it will be contrary to the Scheme of the Criminal Procedure Code and it may as such violate the rights of the accused as well as the victim and/or even the

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- A investigating agency. Putting the FIR on the website cannot be equated with putting the chargesheets along with the relevant documents on the public domain and on the websites of the State Governments. [Para 4.5][735-E-G]

- 1.3. Documents mentioned in Section 74 of the Evidence Act only can be said to be public documents, the certified copies of which are to be given by the concerned police officer having the custody of such a public document. Copy of the chargesheet along with the necessary documents cannot be said to be public documents within the definition of Public Documents as per Section 74 of the Evidence Act. As per Section 75 of the Evidence Act all other documents other than the documents mentioned in Section 74 of the Evidence Act are all private documents. Therefore, the chargesheet/documents along with the chargesheet cannot be said to be public documents under Section 74 of the Evidence Act, reliance placed upon Sections 74 & 76 of the Evidence Act is absolutely misplaced. [Para 5][735-H; 736-A-B]

- 1.4. Under Section 4(2) of the RTI Act a duty is cast upon the public authority to take steps in accordance with the requirements of clause (b) of sub-Section 1 of Section 4 of the RTI Act to provide as much information *suo moto* to the public at regular intervals through various means of communications. Copies of the chargesheet and the relevant documents along with the charge-sheet do not fall within Section 4(1)(b) of the RTI Act. Under the circumstances also the reliance placed upon Section 4(1)(2) of the RTI Act is also misconceived and misplaced. [Para 6][736-C-D]

Youth Bar Association of India v. Union of India (2016)
9 SCC 473 – referred to.

Case Law Reference

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| G (2016) 9 SCC 473 | referred to | Para 4.1 |
| CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil)
No.1126 of 2022 | | |
| (Under Article 32 of The Constitution of India) | | |
| H | Prashant Bhushan, Ms. Ria Yadav, Advs. for the Petitioner. | |

The Judgment of the Court was delivered by

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M. R. SHAH, J.

1. By way of this petition under Article 32 of the Constitution of India the petitioner has prayed for appropriate directions/orders directing the respondents - States to enable free public access to chargesheets and final reports filed as per Section 173 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C') in furtherance of the rationale as established by this Court in **Youth Bar Association of India v. Union of India, (2016) 9 SCC 473** on their websites.

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2. Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has heavily relied upon the decision of this Court in the case of **Youth Bar Association of India (supra)** by which this Court directed copies of FIRs to be published within 24 hours of their registration on the police websites or on the websites of the State Governments.

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2.1 It is the case on behalf of the petitioner that while the direction of this Hon'ble Court directing the police to publish copies of FIRs on their websites has indeed induced transparency in the working of the criminal justice system, the logic of disclosure applies more strongly to chargesheets, for while FIRs are based on unsubstantiated allegations, chargesheets are filed after due investigation.

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2.2 Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has taken us to the Scheme of the Code of Criminal Procedure more particularly Sections 207, 173(4) and 173(5) of the Cr.P.C and relying upon the said provisions it is vehemently submitted that as per the aforesaid provisions when a duty is cast upon the Investigating Agency to furnish the copy of the challans/charge-sheets along with all other documents to the accused, the same also should be in the public domain to have the transparency in the working of the Criminal Justice System.

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2.3 Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has also vehemently submitted that the chargesheet is a public document once filed in the Court. Reliance is placed on Sections 74 and 76 of the Indian Evidence Act, 1872. It is submitted that even under Section 4(2) of the Right to Information Act, 2005 (hereinafter referred to as the 'RTI Act') a duty is cast upon the public officer/public authority to provide as much information *suo moto* to the public at regular

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- A intervals through various means of communications and to provide as much information as mentioned in Section 4(1)(b) of the RTI Act.

Making the above submissions, it is prayed to grant the relief as sought in the present petition.

- B 3. We have heard Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner at length.

4. At the outset, it is required to be noted that by way of present writ petition under Article 32 of the Constitution of India, the petitioner by way of Public Interest Litigation has prayed for an appropriate direction/order directing all the States in the country to enable free public

- C access to chargesheets and final reports filed as per Section 173 of the Cr.P.C. on their websites.

4.1 For the aforesaid heavy reliance is placed on the decision of this Court in the case of **Youth Bar Association of India (supra)**.

On going through the decision of this Court in the case of **Youth Bar**

- D **Association of India (supra)**, the reliance placed upon the same by the counsel appearing on behalf of the petitioner for the relief sought in the present petition is thoroughly misconceived and misplaced. In the aforesaid decision this Court directed that the copies of the FIRs should be published within 24 hours of their registrations on the police websites

- E or on the websites of the State Government. From the entire judgment it appears that this Court directed the copies of the FIRs to be published within 24 hours on the police websites or on the websites of the State Government. Looking to the interest of the accused and so that the innocent accused are not harassed and they are able to get the relief from the competent court and they are not taken by surprise. Therefore,

- F the directions issued by this Court are in favour of the accused, which cannot be stretch to the public at large so far as the chargesheets are concerned.

4.2 Even the relief which is sought in the present writ petition directing that all the challans/chargesheets filed under Section 173 Cr.P.C.

- G shall be put on public domain/websites of the State Governments shall be contrary to the Scheme of the Criminal Procedure Code. As per Section 207 Cr.P.C. a duty is cast upon the Investigating Officer to supply to the accused the copy of the police report and other documents including the First Information Report recorded under Section 154 Cr.P.C. and H the statements recorded under sub-Section (3) of Section 161 Cr.P.C.

4.3 As per sub-Section 173(4) Cr.P.C. a duty is cast upon the Investigating Agency to furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1) under Section 173. Section 173(4) reads as under:

“173(4). After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1) and of the first information report recorded under section 154 and of all 41 other documents or relevant extracts thereof, on which the prosecution proposes to rely, including the statements and confessions, if any, recorded under section 164 and the statements recorded under sub-section (3) of section 161 of all the persons whom the prosecution proposes to examine as its witnesses.”

4.4 As per Section 173(5) Cr.P.C. when any report is filed in respect of the case to which Section 170 Cr.P.C. applies, the police officer shall forward to the Magistrate along with the report all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation.

4.5 Therefore on conjoint reading of Section 173 Cr.P.C. and Section 207 Cr.P.C. the Investigating Agency is required to furnish the copies of the report along with the relevant documents to be relied upon by the prosecution to the accused and to none others. Therefore, if the relief as prayed in the present petition is allowed and all the chargesheets and relevant documents produced along with the chargesheets are put on the public domain or on the websites of the State Governments it will be contrary to the Scheme of the Criminal Procedure Code and it may as such violate the rights of the accused as well as the victim and/or even the investigating agency. Putting the FIR on the website cannot be equated with putting the chargesheets along with the relevant documents on the public domain and on the websites of the State Governments.

5. Now so far as the reliance placed upon on Sections 74 & 76 of the Evidence Act is concerned, the reliance placed upon the said provisions are also absolutely misconceived and misplaced. Documents mentioned in Section 74 of the Evidence Act only can be said to be public documents,

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- A the certified copies of which are to be given by the concerned police officer having the custody of such a public document. Copy of the chargesheet along with the necessary documents cannot be said to be public documents within the definition of Public Documents as per Section 74 of the Evidence Act. As per Section 75 of the Evidence Act all other documents other than the documents mentioned in Section 74 of the Evidence Act are all private documents. Therefore, the chargesheet/documents along with the chargesheet cannot be said to be public documents under Section 74 of the Evidence Act, reliance placed upon Sections 74 & 76 of the Evidence Act is absolutely misplaced.
- B 6. Now so far as the reliance placed upon Section 4 of the RTI Act is concerned, under Section 4(2) of the RTI Act a duty is cast upon the public authority to take steps in accordance with the requirements of clause (b) of sub- Section 1 of Section 4 of the RTI Act to provide as much information *suo moto* to the public at regular intervals through various means of communications. Copies of the chargesheet and the relevant documents along with the charge-sheet do not fall within Section 4(1)(b) of the RTI Act. Under the circumstances also the reliance placed upon Section 4(1)(2) of the RTI Act is also misconceived and misplaced.
- C 7. In view of the above and for the reason stated above, the petitioner is not entitled to the relief as prayed in the present petition
- D E namely directing all the States to put on their websites the copies of all the chargesheets/challans filed under Section 173 of the Cr.P.C.

Present writ petition lacks merits and the same deserves to be dismissed and is accordingly dismissed.

Nidhi Jain
(Assisted by : Abhishek Agnihotri, LCRA)

Writ Petition dismissed.