

Gujarat High Court

Vikramsingh vs Hon'Ble on 16 December, 2010

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SCA/15920/2010 4/ 4 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CIVIL APPLICATION No. 15920 of
2010

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VIKRAMSINGH
KISHORESINGH RATHORE - Petitioner(s)

Versus

HON'BLE
MR JUSTICE D K TRIVEDI COMMISSION & 1 - Respondent(s)

=====

Appearance
:
MR
BM GUPTA for
Petitioner(s) : 1,
None for Respondent(s) : 1,
MS MAITHILI
MEHTA, ASST. GOVERNMENT PLEADER for Respondent(s) :
2,

=====

CORAM

:

HONOURABLE

MR.JUSTICE AKIL KURESHI

Date
: 16/12/2010

ORAL
ORDER

1. Petitioner is a witness, whose examination is going on before the Hon'ble Mr. Justice D.K. Trivedi Commission of Inquiry, which is inquiring into the facts and circumstances, leading to the death of two school boys in Asharam Ashram, situated in the outskirts of city of Ahmedabad.

2. Petitioner has challenged the orders dated 20.09.2010 and 21.09.2010, passed by the Hon'ble Chairman of the Inquiry Commission, by which his application Exhibit Nos. 1962, 2031, 2038 and 2039 were rejected.

3. The case of the petitioner is that he has carried out a sting operation against some of the persons, who according to the petitioner, have been carrying on a triad against Asharam Bapu to malign and defame him. He fears for his safety, at the hands of some of these persons. It is his case that he was also attacked, previously, for which he has filed a complaint before the police. He, therefore, requested to the Commission that his evidence be recorded at Delhi, through a Commissioner and he objected to six persons, to whom the communication was made by the Commission for remaining present, during further recording of evidence of the petitioner. Essentially, these requests came to be turned down by the impugned orders.

4. Counsel for the petitioner drew my attention to various averments made in the petition as well as emerging from the documents on record, to contend that there is a serious threat to the safety of the petitioner, on account of his activities, particularly, by carrying on sting operation against the above-mentioned persons and others, of the said group. He drew my attention to the observations of the Hon'ble Commissioner in the order dated 27.06.2010, which read as follows:

" In view of the directions given earlier, Registry, vide letter dated 22.06.2010, had informed six persons viz. M/s. Raju Chandak, Amrut Prajapati(Vaidya), Mahendra Chawala, Shekar Girdharilal, Ms. Veena Chauhan and Ms. Falguni Patel (Editor-Sandesh) that, the witness MR. Rathore is being examined on behalf of Sant Shri Asaramji Ashram and his evidence has remained partially recorded on 18.06.2010 and that further evidence is to be recorded on 27.06.2010 and if so desire, they may remain present either personally or through authorized representative and may clarify the averments concerning them. Accordingly, M/s. Mahdera Chawala, Surendra Chauhan (GM, Admn.-Sandesh) and Ms. Veena Chauhan remained present and this order is passed in their presence."

5. Insofar as the concern of the petitioner for his safety is concerned, in order to ensure that no untoward incident takes place, without going into the allegations made in the petition, the State authorities are DIRECTED to provide POLICE PROTECTION to the petitioner, while he is in AHMEDABAD for giving his EVIDENCE before the Commission, if he or his authorized agent MAKES a formal APPLICATION, in this regard, before the Commissioner of Police, Ahmedabad.

6. With respect to the observations of the Commission noted in the order dated 27.06.2010, I do not see how the petitioner is harmed or prejudiced by mere presence of the six persons to whom an intimation of recording of evidence of the petitioner has been sent by the Commission.

7. The learned Counsel for the petitioner, however, submitted that in the said order the Commission has permitted those persons to cross-examine the petitioner with respect to averments concerning them. I am unable to read the order of the Commission to mean that such persons are permitted to cross-examine the present petitioner. However, if such a stage arrives, I LEAVE it to the petitioner to OBJECT to the same, which objection, I am sure, the Commission shall EXAMINE, in accordance with law.

With the above observations and directions, this petition is DISPOSED of.

(AKIL KURESHI, J.) Umesh/ Top