

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/MISC. CIVIL APPLICATION NO. 1203 of 2023**

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JAKIR YUSUFBHAI MAKWANA

Versus

HITESH DHANDHALIYA

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Appearance:

MR AJ YAGNIK(1372) for the Applicant(s) No. 1,2

for the Opponent(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,20,21,22,23,24,25,26,27,28,29,3,30,31,32,  
33,4,5,6,7,8,9

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**CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

**HONOURABLE MR. JUSTICE M. R. MENGDEY****Date : 24/07/2023****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. The present Application is filed by the Applicants seeking initiation of Contempt Proceedings against the Respondents for violation of the Guidelines issued by the Supreme Court in the case of D.K.Basu v. State of West Bengal reported in (1997) 1 SCC 416.

2. There are very serious allegations made by the Applicants against the Respondents relating to their public flogging, torture and custodial violence during the police custody on 16.6.2023.

2.1 An incident had occurred on the eve of 16<sup>th</sup> June 2023 at Junagadh with regard to the demolition of Gebanshah Dargah at Majevedi Gate at around 4:00 PM. It is the case of the Applicants that they had gathered there to save the said Dargah from its demolition, and the Respondents, at around 7:00 to 7:30 PM, reprimanded the people who are gathered there and asked them to face the

consequences. Thereafter, it is alleged by the Applicants that the violent conflict had taken place between the Muslim Community and the police, and there was a *lathi* charge done by the police in order to disperse the crowd of about 400 to 500 people.

2.2 Thereafter an FIR was registered on 17.6.2023 at 'A' Division Police Station, District Junagadh against the present Applicants and other persons and it was alleged in the FIR that they were pelting stones on the Police.

2.3 It is alleged by the Applicants in the Contempt Application that the Applicant No.1 along with 5 other accused had made an application before the learned Judicial Magistrate First Class, Junagadh with regard to the custodial violence on 21.6.2023. Learned Advocate for the Applicants has also referred to all the statements annexed at Annexure-C to the Application at Page No.39 onward. Learned Advocate Mr. Yagnik has submitted that in fact four juveniles were also assaulted in the police custody whose statements are recorded and placed in the Application at Annexure-E.

2.4 It is submitted by the learned Advocate for the Applicants that four juveniles who are arrested along with other accused persons were arrested and sent to Special Home, Rajkot in accordance with the provisions of Juvenile Justice (Care and Protection of Children) Act 2015. It is submitted by learned Advocate Mr. Yagnik that surprisingly, on 21.6.2015, four juveniles, who are illiterate, allegedly sent an e-mail to learned JMFC, Junagadh for withdrawal of their complaint made against the Police for their custodial violence.

2.5 It is submitted that in fact major accused persons were made to sign on a printed form including Applicant No. 1 for withdrawal of their complaint in the Junagadh Central Jail in the presence of the Jailor. Learned Advocate Mr. Yagnik further submitted that the learned JMFC has not passed any orders

permitting withdrawal of the complaints. It is further submitted by him that day before, the Applicant No.1 and 5 and others made complaints of custodial violence to the learned JMFC including the four juvenile accused on 20.6.2023 which was recorded by learned JMFC, he ordered a medical examination on 20.6.2023. However, such medical report is awaited. Learned Advocate Mr. Yagnik has further placed reliance on the photographs as well as on media reports annexed in the Application with regard to the custodial violence and illegal assault by the Respondent Police Personnels. He has also produced on record CD at Annexure-H containing such recording.

2.6 Thus, it is submitted that the Respondents have, by acting in such a manner, violated the law enunciated by the Supreme Court in the case of D.K.Basu (supra).

3. **Issue Notice** to the Respondents making it returnable on 7<sup>th</sup> August 2023. By the next date of hearing, the Respondent Authorities are directed to file their Affidavits-in-Reply dealing with the contentions raised in the present Contempt Application.

Direct service is permitted.

**(A. S. SUPEHIA, J)**

**(M. R. MENGDEY, J)**

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