

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 6583 of 2021

Petitioner :- Dr. Mukut Nath Verma

Respondent :- Union Of India, Through Home Secretary

Counsel for Petitioner :- Dr. Mukut Nath Verma

Counsel for Respondent :- G.A.

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Piyush Agrawal,J.

1. Heard Dr. Mukut Nath Verma, petitioner in person through video conferencing and Sri Manish Goel, learned Additional Advocate General assisted by Sri A.K. Sand, learned AGA for State-respondent.

2. This writ petition has been filed praying for the following relief:

"I. Issue a writ, order or direction in the nature of mandamus to the respondent no. 5 & 6 SHO P.S. Hazratganj Kotwali Lucknow UP and SHO Colonelganj, Prayagraj, UP to lodge FIRs on the basis of complaints dated 22.12.2020 and 07.07.2021 respectively under Section 154 Cr P C made by the petitioner and to provide copy of the FIRs thereof;

II. Issue a writ, order or direction in the nature of mandamus to the respondent no. 12 Central Bureau of Investigation for investigating (C.B.I.) both the FIRs;

III. Issue a writ, order or direction in the nature of mandamus to the respondent No. 1 & 2 to provide sufficient permanent security to the Petitioner in order to meet his client Mr. Mani Lal Patidar and to prosecute the petitions before the any Authorities as Petitioner has been receiving life threats from the agents of the Respondent no. 8, 9, 10 and 11;

IV. Issue a writ, order or direction in the nature of mandamus to the respondent no. 1, 2, 3 & 4 that a meeting be arranged with the petitioner and his client Mr. Mani Lal Patidar (IPS) so that the petitioner can collect his remaining pending fee and seek further instructions;

V. Issue a writ, order or direction in the nature of mandamus to the respondent no. 2, 3 and 4 to initiate departmental proceedings against respondent no. 5,6,8, 9, 10 and 11;

VI. Issue a writ, order or direction in the nature of mandamus to the respondent no. 2 and 4 to suspend respondent no. 5, 6, 8, 10 and 11 so that they can not influence the investigation any manner;

VII. Issue a writ, order or direction in the nature of mandamus to the respondent no. 7 to withhold the pension and all other dues of respondent no. 9 till the investigation is completed by the Central Bureau of Investigation and a clearance is given by the Hon'ble Courts;

VIII. Issue a writ, order or direction in the nature of mandamus to the respondents to provide protection to the life and limb of the petitioner. So that he may perform his legal/ professional duties continuously along with his social obligations towards weaker sections of the society and to assist/ work fearlessly through his pro bono litigation / legal awareness program/ professional work/ litigation/ pre litigation in Uttar Pradesh;

IX. To pass any other relief as this Court deems fit in the interest of justice, equity and good conscience."

3. In paragraph-4 of the writ petition, the petitioner has stated that “*The petitioner is a practicing advocate in the Supreme Court of India under the Advocates Act, 1961 registered under Bar Council of Delhi bearing Enrolment No.D/1062/2014*”. As per alleged copy of Adhar Card (issuing dated 10.11.2020), the address of the petitioner is “*Khasra No.433/221, Chhattarpur Pahari, Chhattarpur, South Delhi, 110074*”. However, in writ petition, he has given his address as “*C/o 177-P, Aram Bagh, Paharganj, New Delhi-110055*”.

4. In paragraphs-5, 6, 7, 8, 9, 14, 21, 22, 29, 30, 34 and 44, the petitioner (an advocate) has made averments basically on personal knowledge relating to his client Mani Lal Patidar, as under:

“5. That the petitioner's client Mr. Mani Lal Patidar, aged about 32 years, who hails from Rajasthan is young, disciplined, honest and energetic gentle person, besides a law-abiding citizen and a farsighted IPS Officer of 2014 batch, had been assigned UP Police Cadre. He belongs to a middle-class family having no political background. By nature, he is an innocent person, who on several occasions worked against the corruption and criminals so that every citizen of the district shall enjoy a secured peaceful life. Mr. Patidar was posted as Superintendent of Police in 2019 of Mahoba District (UP), who during his tenure has tirelessly working for the safety and security of the nation.

6. That respondent no.9 Mr. Hitesh Chandra Awasthi (IPS- Retd) the then Director General of Police of Uttar Pradesh started pressurising Mr. Mani Lal Patidar (IPS) the then SP of Mahoba, UP in 2020 for the benefits of Khanan Mafia (mining mafia) and criminals, but Mr. Patidar did not support his illegal and devious plan. Later on, Respondent No.8-Mr. Awanish Kumar Awasthi (IAS) as Addl. Chief Secretary (Home) also started pressurising Mr. Mani Lal Patidar (IPS) the then SP of Mahoba, for the benefits of Khanan Mafias. But Mr. Patidar neither agreed to support the illegal works of khanan mafias nor their other criminal activities. Mr. Patidar had never compromised with honesty by following the footprints titled ‘Apraadh Mukh & Bhay Mukh Uttar Pradesh’ of Hon'ble the Chief Minister of Uttar Pradesh to set-right the illegal mining by Khanan Mafias, took stern legal actions

against them from time to time. Consequently, illegal work of Khanan Mafias and such like criminals was stopped. Criminals started fleeing the city and because of which money flow from the Khanan Mafias to respondent no.9-Mr. Hitesh Chandra Awasthi (IPS Retd), the then Director General of Police of Uttar Pradesh and respondent no.8-Mr. Awanish Kumar Awasthi (LAS), Addl. Chief Secretary (Home) has been stopped. Resulting, these officers started enmity and were hatching heinous conspiracy in connivance with Khanan Mafias as well as other type of criminals against the victim, Mr. Mani Lal Patidar.

7. That respondent nos.9 & 8, in a pre-planned manner, in joint collaboration for corruption with Khanan Mafias and such like criminals composed a video, which got viral on the web/social media with totally false and concocted allegations against Mr. Mani Lal Patidar for their ulterior motives, as they abetted Mr. Indrakant Tripathi (now deceased) to commit suicide and sending a video thereof in advance through electronic media which was totally based upon a criminal conspiracy hatched between them against Mr. Patidar. So that Mr. Patidar could be implicated in a false charge leading to his false conviction by the appropriate courts in India. Consequently, Mr. Indrakant Tripathi (now deceased) in pre-planned manner attempted to commit suicide by making a small wound on 8th September 2020, but unfortunately it turned out to be fatal and later he died after being admitted to hospital for 4-5 days.

8. That Hon 'ble the Chief Minister of Uttar Pradesh suspended Mr. Mani Lal Patidar on 9.9.2020, for their ulterior motives and are sheltering the Khanan Mafias of the State of Uttar Pradesh. By this act, the morale of the criminals/Khanan Mafias get higher, however, lowered the dignity of an honest police officer by putting him into great difficulties. Due to pressure of Khanan Mafias and under the directions/help of respondent nos. 9 and 8, two FIRs have successfully been lodged with false and fabricated allegations with mala fide intentions i.e. FIR bearing No.0505 dated 10.9.2020, PS Kotwali Nagar, Mahoba, UP under sections 384 IPC, 7/13 of PC Act, 1988 and FIR no.0234 dated 11.9.2020 PS Kabrai, Mahoba, UP under sections 387, 307 (converted into 302 which finally converted into 306) 120B, IPC 1860, 7/13 PC Act, 1988 against Mr. Mani Lal Patidar (IPS) Ex-SP, Mahoba, UP and to investigate this matter, a Special Investigation Team (SIT) was constituted by U.P. Government headed by Mr. Vijay Singh Meena (IPS) IG zone Varanasi.

9. That the petitioner has been authorised as a legal representative and Advocate by Mr. Mani Lal Patidar (IPS), Ex-Superintendent of Police, Mahoba (UP) by way of an email dated 21.9.2020 and requested to look into his abovesaid matters to collect the relevant papers qua his investigation and further to represent him on his behalf before the SIT Mahoba (UP) to put his version.

True copy of the email dated 21.9.2020 authorising the petitioner as legal representative and Advocate sent by Mr. Mani Lal Patidar, (IPS) Ex. SP Mahoba U.P. is being filed herewith marked as **Annexure No.3** to this writ petition.

14. That on 27.11.2020 (Friday) while Mr. Mani Lal Patidar was coming to meet the petitioner in relation to his legal matters and to pay pending professional fees, he has been arrested by the Uttar Pradesh Police on the same day and was deliberately detained by the police authorities, under a pre-planned manner for their ulterior motives.

21. That looking at the gravity of the matter, the petitioner had given a written complaint which covered cognizable offences to respondent No. 05-SHO, PS Hazratganj Kotwali, Lucknow by hand on 22.12.2020 as well as through speed post to lodge an FIR against the main conspirator i.e. the then Director General of Police of Uttar Pradesh-Mr. Hitesh Chandra Awasthi (IPS) now Retd. On 30.06.2021, the Addl. Chief Secretary (Home)-Mr. Awanish Kumar Awasthi (IAS) and others. A copy whereof had also been forwarded to the Lucknow Police Commissioner, Hon'ble the Chief Minister of Uttar Pradesh, Hon'ble Governor of Uttar Pradesh etc.

True copy of complaint letter dated 22.12.2020 addressed to the SHO, PS Hazratganj Kotwali, Lucknow regarding abduction, illegal detention, criminal conspiracy etc of Mr. Manilal Patidar is being filed herewith marked as **Annexure No.10** to this writ petition.

22. That the petitioner vide his communications dated 24.12.2020 (email) and 26.12.2020 (speed post) addressed to the Hon'ble Chief Minister of UP and Mr. Dhruv Kant Thakur (IPS), Police Commissioner, Lucknow had approached to direct the concerned police authorities to provide copy of the FIR and that if there is any doubt to the concern SHO/authority regarding allegation of charges or technical typing error mentioned in this earlier communication dated 22.12.2020 relates to the offences covered under Sections 109, 115, 116, 120B etc, they can seek clarification directly from the petitioner through his e-mail with an instruction to provide copy of the FIR within 72 hours from the date of receiving of that communication in which petitioner clearly told that in the matter of **Lalita Kumari v. State of Uttar Pradesh, (2014) 2 SCC 1**, the Constitution Bench of the Hon'ble Supreme Court has held as under:

"120. In view of the aforesaid discussion, we hold:

120.1 The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation."

Despite this, Respondent No. 5-SHO, PS Hazratganj Kotwali and Mr. Dhruv Kant Thakur, IPS (Police Commissioner, Lucknow) knowingly disobeyed directions under law with intention to cause injury for their wrongful gain. In addition they have also acted in collaboration in concealing the crime which has been committed under the guidance of Mr. Hitesh Chand Awasthi (IPS), the then DGP, UP and Mr. Awanish Kumar Awasthi (IAS), Addl Chief Secretary (Home) respondent nos. 8 and 9 respectively.

True copies of letter for issuance of necessary direction for registration of FIR dated 23.12.2020 (email) and 26.12.2020 (Speed post) addressed to the Hon'ble Chief Minister of Uttar Pradesh and the Police Commissioner, Lucknow (colly) being filed herewith marked as Annexure No.11 (Colly) to this writ petition.

29. That respondent no. 9-Mr. Hitesh Chandra Awasthi (IPS Retd)-the then Director General of Police of Uttar Pradesh and Respondent no.8-Mr.Awanish Kumar Awasthi (IAS), Addl. Chief Secretary (Home) UP with the full cooperation of other respondents, since inception, for the sake of minting money from the Khanan Mafias and other criminals, are adopting the different wrongful tactics and camouflage i.e. firstly by hatching a criminal conspiracy, hand-in-gloves with the Khanan Mafias and other criminals with the intend to injury for their wrongful gain, had abetted Mr. Inderkant Tripathi (now deceased) for suicide on 8.9.2020 and in a pre-planned manner falsely implicated my client-Mr. Mani Lal Patidar; secondly, my client-Mr. Mani Lal Patidar (IPS), Ex- SP has been suspended without going into the depth of the matter on 9.9.2020; thirdly immediately after suspension with malafide intention on 10.9.20 and 11.9.20 abovesaid two FIRs were registered against the petitioner's client on the concocted grounds; fourthly, on 27.11.2020 when Mr. Mani Lal Patidar was coming to meet the petitioner personally along with his pending fees, he was abducted and illegally detained at some unknown place by the UP police authorities for ulterior motives and ultimately put under wrongful confinement at a secret place under the directions of respondents no.9&8 with the consent of Hon'ble the Chief Minister; fifthly during the unlawful detention of petitioner's client, they also have created so many false, fabricated documents for wrongful loss of petitioner's client and have announced fake award on 29.11.2020 of Rs.25,000/- by respondent no.10 (Mr. Arun Kumar Srivastava, SP, Mahoba) and later immediately on 6.12.2020, enhanced the amount of fake award to Rs. 50,000/- by Mr. K. Satyanarayana, IG, Chitrakoot Dham Banda, UP for production of Mr. Mani Lal Patidar dead or alive, besides lodging a fake case as absconder in PS Kabrai, Mahoba on 12.12.2020 under section 174-A IPC for the purpose of cheating with the intent to injury when petitioner's client is under their illegal detention since 27.11.2020; sixthly for the purpose of cheating, they concealed the genuineness of the facts and misguided the Hon'ble High Court of Allahabad and its subordinate courts with the intent to cause injury to the petitioner's client. A complete monitoring of the above said conspiracy is performed by respondents the guidance and supervision of respondent nos. 8 & 9 with ulterior motives, which fact is well within the knowledge of respondent no.2, no action has been taken/ solicited till date against any of the culprits rather a protection has been granted to their wrongful acts. All these facts has been mentioned in the Habeas Corpus Writ Petition bearing no.353/2021 titled, "Dr. Mukut nath Verma v. State of UP & 11 Ors.", the contents thereof may please be read as part and parcel of this petition.

30. While respondents the public servants are bound to serve the nation with deep honesty, but they are deliberately involved in unlawful and several heinous criminal activities for his wrongful gain in the interest of Khanan

Mafias. Not only this, they are misusing their power for their self-benefits in different modes contrary to law i.e. they used to get the work done through their subordinate police officers to pressurise the criminals to work according to their whims and fancies and managing/promoting various illegal works for their wrongful gain and by taking bribe/gratification from the criminals and/or to work for the benefits of criminals because of which the high morale of the honest police officers is getting down. By taking gratification from criminals and well-wishers/erring police officers, they shelter crime of murder abduction/kidnapping, dacoity etc. Consequently, the crime and morale of criminals are getting high which is dangerous for every citizens of the nation. All over the U.P. State neither victims are getting the FIR/NCR lodged in easy way nor any receipt to most of the complaints is being given by the concerned police stations, rather SHO of the concerned police station harassing the victim/complainant by delaying tactics. More so, U.P. Police neither investigate fairly nor protect the victim but support/favour the accused for the wrongful gain. Sometimes, they also used abusive behaviour against the complainant to draw a fear in them, but no action is being taken against the erring police officials and the honest/innocent police officer is being harassed by drawing him accused. These officers by grabbing all media agencies into their hands or of putting fear of false allegations; by concealing real picture of the crime in the U.P. state, by advertising/flushing false news and tarnishing the image of an honest person/police officer/media person, by lodging false complaint against him and by manipulating a false FIR to save the criminals and because of these reasons, any common man/journalist/writer/professor/teacher remains under fear for publishing, speaking and/or writing true news. Consequent to their defective working procedure adopted by them, several innocent persons have been put to severe custody, got imprisonment due to their false and fabricated allegations, fake encounters, forced to suicide etc. Because of all these reasons, the life of Inderkant Tripathi (now deceased) comes to an end and Mr. Mani Lal Patidar based on false and fabricated allegations became accused. Mr. Hitesh Chandra Awasthi and Mr. Awanish Kumar Awasthi, respondent nos. 9 and 8 respectively are so powerful that they have made several people suffer in custody, and are capable of even detaining or arranging for wrongful confinement of the victim, Mr. Mani Lal Patidar. In fact, a thorough and complete enquiry is called for against both respondent nos. 8 & 9 as many innocent people are languishing in prison because of them. They with the above said illegal activities are putting a fear and terror over the victims, it is possible either the client of the petitioner can be murdered or can be eloped at some unknown place/abroad. In view of the fact that they are under the influence of the Khanan Mafias, it can be possible that these two authorities (respondent nos.8 & 9) may have connection with the other agencies involved in terrorist activities resulting a shabby picture of the UP State.

34. That since Mr. Mani Lal Patidar is a honest and innocent police officer who took legal action against Khanan Mafias and their alliance. As there is collaboration of respondents with Khanan Mafias, so other respondents are working under pressure of them. Knowingly all respondents remain silent spectators of whole of the issue and never feel duty bound to clear cut the issue or to help Mr. Manilal Patidar.

44. That it is astonishing to note that the Petitioner has been writing and sending several representations to various authorities in the State and to the Central Government but till date the whereabouts of the victim Mr. Mani Lal Patidar has not been disclosed or brought on record by the UP Police. It is shocking to see that such a senior police officer of the UP Police has been missing/ arrested/ illegally detained but till date no action has been taken by the UP Police.”

5. The affidavit accompanying the writ petition has also been sworn by the petitioner as deponent. The swearing clause of the affidavit is reproduced below:

“1. That the deponent is the petitioner representing accompanying petition in person. He is Hindu by religion and is an Advocate by profession and is filing the photo copy of the Aadhar Card as a proof of his identity, and as such he is fully acquainted with the facts deposed to below and those stated in the writ petition.

That the contents of paragraph 1 of this affidavit and those of paragraphs 1 to 45 of the writ petition are true to the personal knowledge of the deponent, those of paragraphs 1, 4, 9, 10, 11, 12, 16, 18, 20, 21, 22, 23, 24, 26, 27, 28, 31, 33, 36, 39, 40, 41, 43 of the writ petition are based on perusal of records those of paragraph are based on the Information received by the deponent, those of paragraph 45 of the writ petition are based on the legal advice which also the deponent verily believes to be true, and nothing material has been concealed and that no part of the affidavit is false.

SO HELP ME GOD.

DEPONENT”

6. Along with the writ petition, the petitioner herein has filed a declaration as under:

“DECLARATION

IN

CIVIL MISC. WRIT PETITION NO. OF 2021

(Under Article 226 of the Constitution of India)

(DISTRICT: MAHOBA)

Dr. Mukut Nath Verma

.....Petitioner-in-Person

Versus

Union of India, through Home Secretary & Others ... Respondents

Dr. Mukut Nath Verma S/o Shri Ram Deo Verma, aged about 42 years, Correspondence address 177-P, Aram Bagh, Paharganj, New Delhi-110055 and official address as Khasra No.433/221, Chhattarpur Pahari, Chattarpur, South Delhi, Delhi- 110074 (I Card of Supreme Court Bar Association V-406 & Aadhar Card no.993450334460)

That the petitioner who is representing the accompanying petition in-person, is a practicing advocate in Hon'ble the Supreme Court of India and as such is fully acquainted with the facts deposed to below and those state in the criminal misc. writ petition.

That due to the Covid-19 pandemic in the entire country, the formalities of the affidavit have not been fully complied with and deponent undertakes that the same shall be duly complied with once the situation becomes normal, as per the High Court guidelines.

That in view of the abovesaid facts and circumstances, this Hon'ble Court may graciously be pleased to take this verification/declaration on record, treating the same as part of the criminal misc. writ petition to meet the ends of justice.

DEPONENT

(DR. MUKUT NATH VERMA)

Petitioner-in-Person

Khasra No.433/221, Chhattarpur Pahari,

Chattarpur, South Delhi, Delhi-110074

Email: advocatedrverma@gmail.com

Date: 19.07.2021

Allahabad.

Mob: 8800949892”

7. In paragraph 9 of the writ petition, the petitioner has stated that he has been authorised as legal representative and advocate by Mani Lal Patidar (IPS, Ex-Superintendent of Police, Mahoba U.P.) by way of e-mail as Anenxure-3 to the writ petition which is reproduced below:

“Mon, Sep 21, 2020 at 12:18 AM

2 minute craft <manilal.engineer@gmail.com>

To. digrvns@up.nic.in

CC:shome@nic.in, dgpcontrol-up@nic.in, spmba-up@nic.in,
advocatedrverma@gmail.com

URGENT/THR.E-MAIL

Shri Vijay Singh Meena sir , IPS,

IG Varanasi Range

&

The Head In-Charge,

SIT Mohoba.

REF : FIR No.0234 PS Kabrai, Mahoba dated 11.9.2020

JAI HIND,

Respected Sir(s)

I would like to inform you that as from the last week my father is suffering from cold-cough with high fever and admitted to hospital yesterday with COVID positive sign. I too have sign of cold and throat infection, my doctor has advised me complete quarantine for few days due to which I am unable to put my side of representation before the Special investigation Team Sir.

*However, my utmost humbly & polite request to authorities is to please kindly allow Dr.Mukut Nath Verma, Advocate, Supreme Court of India **to appear on my behalf to collect the relevant necessary papers and represent myself before Special Investigating Team at this pandemic situation as per the prescribed schedule.** Since I have full faith upon him, I am too authorising and requesting Dr. Verma for that purpose to appear before the authorities so that there shouldn't be any delay at the initial stage on my part in investigation. I am further expecting for a favourable and graceful opportunity to appear before the Investigating Authorities, to put my side truthfully before coming to any conclusion and submitting any report at the higher level of the Administration/ Government.*

Yours Sincerely,

(MANI LAL PATIDAR)

IPS

Ex-Superintendent of Police, Mohoba

ID NO.

Cadre year : RR-2014

CC: 1. The Add chief Secretary (Home), Government Uttar Pradesh

2. The Director General of Police, Lucknow (UP)

3. SP MAHOBA

4. Dr.Mukut Nath Verma, Advocate, Supreme Court of India,

(Enrolment No.D/1062/2014) - for collecting documents and to present before the Special Investigation Team.

(MANI LAL PATIDAR)

IPS Ex-Superintendent of Police, Mohoba”

8. As per own allegation of the petitioner, in afore-quoted paragraph-9 of the writ petition read with alleged e-mail (Annexure-3), the petitioner as an advocate has been allegedly authorised by the accused Mani Lal Patidar to appear on his behalf to collect relevant and necessary papers and represent before the SIT and other authorities.

9. However, the petitioner herein, i.e. Dr. Mukut Nath Verma Advocate has filed a **Habeas Corpus Writ Petition No.353 of 2021 (Dr. Mukut Nath Verma vs. State of U.P. and 11 others)** to produce the accused Mani Lal Patidar, which is stated to be pending. It further appears that the accused Mani Lal Patidar had filed a **Criminal Misc. Writ Petition No.11301 of 2020 (Mani Lal Patidar vs. State of U.P. and 2 others)**, which was **dismissed** by the Division Bench **by order dated 02.11.2020** and liberty was granted to him to move an application under Section 438 of the Cr.P.C. It further appears that the accused Mani Lal Patidar had also filed a **Criminal Misc. Anticipatory Bail Application under Section 438, Cr.P.C. No.8921 of 2020 (Mani Lal Patidar vs. State of U.P. and another)**, which was **rejected** by the learned Single Judge **vide order dated 16.12.2020**. It appears that the aforesaid accused Mani Lal Patidar had also filed a **Criminal Misc. Writ Petition No.11774 of 2020 (Mani Lal Patidar vs. State of U.P. and 2 others)**, which was **dismissed** as not pressed, **by order dated 03.11.2020** passed by the Division Bench. The accused Mani Lal Patidar filed another **Criminal Misc. Bail Application No.8533 of 2020 (Mani Lal Patidar vs. State of U.P. and another)**, which was **dismissed by order dated 03.12.2020**.

10. Perusal of the orders passed in the above referred Criminal Misc.

Writ Petition No.11301 of 2020 dismissed on 02.11.2020, Criminal Misc. Writ Petition No.11774 of 2020 dismissed as not pressed on 03.12.2020 and Criminal Misc. Anticipatory Bail Application No.8921 of 2020 rejected on 16.12.2020, all filed by the accused Mani Lal Patidar, would show that all these orders are subsequent to the alleged missing of accused Mani Lal Patidar since 27.11.2020 as alleged in paragraph-14 of the writ petition, but perusal of the orders passed in the aforesaid cases argued by advocates and senior advocates of this court, would reveal that no statement was made that the accused is missing. Perusal of the order dated 03.12.2020 passed in Criminal Misc. Anticipatory Bail Application under Section 438 Cr.P.C. No.8533 of 2020, reveals that the learned Single Judge has noted the allegations that the applicant/ accused is absconding and is not cooperating in the investigation.

11. In the order dated 16.12.2020 passed in Criminal Misc. Anticipatory Bail Application under Section 438 Cr.P.C. No.8921 of 2020 (Mani Lal Patidar vs. State), the learned Single Judge has noted the submissions made by learned counsel for the accused-applicant, the informant's counsel and the learned Additional Advocate General, as under:

“In the backdrop of the allegations, learned counsel appearing for the applicant submits that after preliminary inquiry conducted on the direction of the State Government, it transpired that investigation is to be carried out for offence under section 306 IPC. It is urged that ingredients of the offence under section 306 IPC is not made out against the applicant; deceased shot himself by using his own weapon; applicant is not in a position to escape investigation; applicant is entitled to bail.

*Learned counsel appearing for the State, in rebuttal, submits that **applicant is already facing criminal case being Crime Case No. 234 of 2020, under sections 387/306/120-B/ IPC and section 7 & 13 of Prevention of Corruption Act, 1988; in the said case applicant has been declared an absconder. In the instant case applicant is absconding; coercive measures have been initiated under section 82 of Cr.P.C; a F.I.R has been lodged under section 174-A IPC being Case Crime No. 0331 of 2020, police station Kabrai, District Mahoba. It is further urged that government has announced reward of Rs. 50,000/- vide communication dated 16.12.2020, inviting information about the applicant from the public. It is urged that applicant is a senior civil servant and his conduct in not participating in the investigation or the departmental inquiry does not augur well, either with the department, or in the administration of justice. It will not be in public interest at this***

stage to grant anticipatory bail to the applicant; it is a case of custodial interrogation. Applicant, a protector of law has become law unto himself. It is further submitted that charge sheet has been filed against the other accused police personnel and the investigation is kept open against others, including, the applicant. It is further informed that anticipatory bail application of the applicant (No. 8533 of 2020) in the other crime case has been rejected by this Court vide order dated 03.12.2020.”

12. The submissions of learned counsel for the accused Mani Lal Patidar as aforequoted were made on 16.12.2020 in which there is no whisper about alleged missing of the accused. There is no disclosure in the present writ petition about the family members of the accused Mani Lal Patidar. There is no averment in the writ petition that any of the family members of the accused Mani Lal Patidar have either instructed or approached the petitioner herein to file the present writ petition. There is also no allegation in the writ petition that any of the family members of the accused Mani Lal Patidar have approached the petitioner herein for filing various alleged representations/ repeated representations etc. at various forums. Source of finance towards cost of litigation by the petitioner herein has also not been disclosed in the writ petition.

13. One of the letters of the petitioner dated 04.12.2020 was allegedly replied by the Superintendent of Police, Mahoba by letter dated 21.12.2020 (Annexure-9 to the writ petition), which is reproduced below:

“ANNEXURE No. 9 (Colly)

सेवा में,

डा० मुकुट नाथ वर्मा, एडवोकेट
सुप्रीम कोर्ट ऑफ इण्डिया
चेम्बर—SCBA लाइब्रेरी, SCI
पोस्ट बॉक्स नं०—5758
नई दिल्ली— 110055

कृपया आप अपने पत्रांक: **Information/2020** दिनांक 04.12.2020 का संदर्भ ग्रहण का कष्ट करें, जो 1—अध्यक्ष, राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली 2—महामहिम राज्यपाल उ०प्र०, 3—मा० मुख्यमंत्री उत्तर प्रदेश को सम्बोधित करते हुए पूर्व पुलिस अधीक्षक महोबा श्री मणिलाल पाटीदार के अवैध निरुद्धीकरण उत्तर प्रदेश पुलिस द्वारा किये जाने के संबंध में है। अवगत कराना है कि:—

1— मु०अ०सं०—505/2020 वादी नितेश पाण्डेय द्वारा थाना कोतवाली महोबा पर दिनांक 10. 09.2020 को पंजीकृत कराया गया, जिसकी विवेचना क्षेत्राधिकारी नगर, महोबा द्वारा सम्पादित की जा रही है। इस अभियोग में आपके क्लाइन्ट (वांछित अभियुक्त) मणिलाल पाटीदार ने एण्टिसिपेटरी

बेल (अर्न्तगत धारा 438 सीआरपीसी) मा0 उच्च न्यायालय इलाहाबाद में दिनांक 19.11.2020 को क्रिमिनल रिट पिटीशन योजित किया गया, जिसे मा0 उच्च न्यायालय द्वारा दिनांक 03.12.2020 को निरस्त किया गया।

2- मु0अ0सं0-234/2020 वादी रविकान्त त्रिपाठी द्वारा थाना कबरई जनपद महोबा पर दिनांक 11.09.2020 को पंजीकृत कराया, जिसकी विवेचना वर्तमान में पुलिस अधीक्षक अपराध, जनपद प्रयागराज द्वारा सम्पादित की जा रही है। इस अभियोग में आपके क्लाइन्ट (वांछित अभियुक्त) मणिलाल पाटीदार ने मा0 उच्च न्यायालय इलाहाबाद में पी0आई0एल0 दिनांक 05.10.2020 को योजित किया जो कि मा0 उच्च न्यायालय द्वारा दिनांक 02.11.2020 को निरस्त कर दिया गया। दिनांक 14.10.2020 को FIR Quash करने व गिरफ्तारी पर स्थगन प्राप्त करने हेतु रिट योजित किया गया, जिसे मा0 उच्च न्यायालय ने दिनांक 02.11.2020 को निरस्त कर दिया।

इसी अभियोग में आपके क्लाइन्ट के विरुद्ध पी0सी0 कोर्ट-9 लखनऊ द्वारा दिनांक 25.10.2020 को एन0बी0डब्लू0 निर्गत किया गया जिसे दिनांक 19.10.2020 को तथा धारा 82 सीआरपीसी का अधिपत्र निर्गत दिनांक 13.11.2020 को दिनांक 17.11.2020 को नियमानुसार तामील कराया गया। धारा 82 सीआरपीसी के आदेश का अनुपालन आपके क्लाइन्ट मणिलाल पाटीदार द्वारा न करने के कारण दिनांक 12.12.2020 को धारा 174ए भादवि का अभियोग थाना कबरई पर इनके विरुद्ध पंजीकृत किया गया।

3- आपके क्लाइन्ट मणिलाल पाटीदार द्वारा मु0अ0सं0-234/2020 थाना कबरई के अभियोग में मा0 उच्च न्यायालय में एण्टिसिपेटरी बेल धारा 438 सीआरपीसी अर्न्तगत रिट दिनांक 04.12.2020 को योजित किया गया, जिसे मा0 उच्च न्यायालय ने दिनांक 16.12.2020 को निरस्त कर दिया।

4- इसी मध्य दिनांक 27.11.2020 को कुछ चैनलो व ट्वीटर पर यह समाचार प्रसारित किया गया कि मणिलाल पाटीदार को राजस्थान से गिरफ्तार किया गया, जिसे बाद में पुष्टि न होने के कारण चैनलो द्वारा वापस कर लिया गया।

5- आप द्वारा प्रेषित दिनांक 04.12.2020 के इस नोटिस में जिसमें वांछित अभियुक्त मणिलाल पाटीदार को उत्तर प्रदेश पुलिस द्वारा दिनांक 27.11.2020 से Illegal Detention किये जाने का उल्लेख किया गया है, से प्रतीत होता है कि आपके द्वारा ही सुनियोजित ढंग से षडयन्त्र करते हुए गिरफ्तारी का समाचार चैनलो/ट्वीटर पर दिया गया क्योंकि यदि गिरफ्तारी की बात सही है तो मा0 उच्च न्यायालय में अर्न्तगत धारा 438 सीआरपीसी एण्टिसिपेटरी बेल आपके क्लाइन्ट वांछित अभियुक्त मणिलाल पाटीदार द्वारा योजित न करते हुए अर्न्तगत धारा 439 सीआरपीसी में योजित किया जाता।

इससे स्पष्ट है कि आप एवं आपके क्लाइन्ट वांछित अभियुक्त मणिलाल पाटीदार ने मनगढ़न्त तथ्यों का सहारा लेते हुए एक खतरनाक ढंग से षडयन्त्र कर मा0 आयोग एवं मा0 उच्च न्यायालय को दिगभ्रमित करने का असफल प्रयास किया गया है, जो कि अपराध की श्रेणी में आता है। यदि इस पत्र का उत्तर दिनांक 30.12.2020 तक प्राप्त नहीं होता है, तो आपके विरुद्ध विधिपूर्ण कार्यवाही करते हुए प्रकरण BAR Council को भी संदर्भित कर दिया जाये।

संलग्नक-
1-टिवट 27.11.2020
2-रिट नं0-8921/2020
3-मा0 उच्च न्यायालय का दि0 16.12.2020 का आदेश

पत्र संख्या: एसटी/एसपी-45/2020
दिनांक: दिसम्बर 21, 2020

ह0 अपठनीय
21.12.2020
पुलिस अधीक्षक
महोबा

प्रतिलिपि:

1. अपर पुलिस महानिदेशक, प्रयागराज जोन, प्रयागराज को सादर अवलोकनार्थ।
2. पुलिस महानिरीक्षक, चित्रकूटधाम परिक्षेत्र, बांदा को सादर अवलोकनार्थ।”

14. Perusal of the contents of the afore-quoted reply/ letter of the Superintendent of Police, Mahoba dated 21.12.2020 *prima facie* reflects about the conduct of the petitioner.

15. Perusal of the swearing clause as afore-quoted would reveal that the afore-quoted paragraphs of the writ petition have been sworn by the petitioner herein i.e. an advocate, on the basis of his personal knowledge. It has not been stated in the writ petition that how the petitioner being an advocate has personal knowledge of the allegations made in the afore-quoted paragraphs of the writ petition, which relates to the accused Mani Lal Patidar personally and at best may be within his (Mani Lal Patidar) knowledge. Thus, swearing of the afore-quoted paragraphs of the writ petition by the petitioner on personal knowledge is without foundation as well a conscious attempt to mislead this court.

16. From the facts briefly noticed above, it appears that the accused Mani Lal Patidar is absconding and against him proceedings under Section 82, Cr.P.C. has also been initiated and whose criminal misc. writ petitions have been dismissed and anticipatory bail applications have been rejected. The habeas corpus writ petition filed by the petitioner herein to produce the accused Mani Lal Patidar is stated to be pending. Under the circumstances, the present writ petition is apparently an abuse of process of law by the petitioner herein, which has stated himself to be an advocate.

17. Thus, in view of the facts and discussion noted above, the **relief Nos. (I) and (II)** have neither any substance nor can be granted. The **Relief Nos.(III) and (IV)** sought by the petitioner herein are mischievous in nature. The relief sought by the petitioner for collecting his remaining pending fees from the accused Mani Lal Patidar , can not be granted. In **Improvement Trust Ropar through its Chairman vs. S. Tejinder Singh Gujral and others, 1995 Supp. (4) SCC 577 (para-3)**, Hon'ble Supreme Court held that *“We find that the High Court had allowed the writ petition filed by the respondent-advocate for the recovery of his professional fees from the petitioner. No writ petition can lie for recovery of an amount under a contract. The High Court was clearly wrong in entertaining and allowing the petition. There is no separate*

law for the advocates.”

18. In **Dhanraj Singh Choudhry vs. Nathulal Vishwakarma**, (2012) 1 SCC 741 (Para-25), Hon’ble Supreme Court observed as under:

*“Any compromise with the law's nobility as a profession is bound to affect the faith of the people in the rule of law and, therefore, unprofessional conduct by an advocate has to be viewed seriously. **A person practising law has an obligation to maintain probity and high standard of professional ethics and morality.**”*

19. In **O.P. Sharma vs. High Court of P&H**, (2011) 6 SCC 86 (para-38), Hon’ble Supreme court held as under:

*“An advocate's duty is as important as that of a Judge. Advocates have a large responsibility towards the society. A client's relationship with his/her advocate is underlined by utmost trust. An advocate is expected to act with utmost sincerity and respect. **In all professional functions, an advocate should be diligent and his conduct should also be diligent and should conform to the requirements of the law by which an advocate plays a vital role in the preservation of society and justice system. An advocate is under an obligation to uphold the rule of law and ensure that the public justice system is enabled to function at its full potential. Any violation of the principles of professional ethics by an advocate is unfortunate and unacceptable. Ignoring even a minor violation/misconduct militates against the fundamental foundation of the public justice system.**”*

20. The principles laid down in the case of **Dhanraj Singh Choudhry and O.P. Sharma (supra)** as aforequoted, have been quoted with approval by Hon’ble Supreme Court in **Chandra Prakash Tyagi vs. Benarsi Das (dead) by legal representatives and others**, (2015) 8 SCC 506.

21. From perusal of the present writ petition, it appears that the petitioner herein has been continuously filing various applications at different forums and has also filed the present writ petition. But he has not disclosed the source of finance of the litigation for his alleged client, i.e. the accused Mani Lal Patidar. Non-disclosure of this fact itself indicates some hidden motive in filing the present writ petition.

22. The **Relief Nos. (V), (VI) and (VII)** as sought in the present writ petition are beyond scope of criminal misc. writ petition inasmuch as departmental proceeding, suspension and pension of an employee are all service law matters.

23. Neither the employee, i.e. the accused nor any of his family members have filed the present writ petition. There is nothing on record to show that the accused employee Mani Lal Patidar or any of his family members has authorised the petitioner herein to file the present writ petition for the relief sought. Thus, the petitioner herein has unauthorisedly filed the present writ petition.

24. The **Relief No.(VIII)** sought by the petitioner, under the facts and circumstances of the case as discussed above; is an abuse of process of court and such reliefs without there being any material on record, cannot be granted.

25. From perusal of the aforequoted paragraphs of the writ petition, it appears that serious allegations have been made by the petitioner against the respondent authorities but neither any supporting document has been annexed with the writ petition nor any material is available on record to believe the contention. Although the petitioner in the affidavit filed in support of the writ petition, has sworn the afore-quoted paragraphs on his personal knowledge, but has completely failed to disclose his source of knowledge as well as material, if any, to support the allegations.

26. It is also obvious from reading of afore-quoted paragraphs of the writ petition that only vague allegations of *mala fide* have been levelled and that too without any basis. The *mala fide* can be made out with specific object of damaging the interest of the petitioner and such action is helping some one which results in damage to the party alleging *mala fides*. It would be seen that there is no allegation whatsoever in the pleadings in respect of the petitioner.

An inference of *mala fides* has been sought to be drawn in the course of vague pleading that the respondent authorities are allegedly helping the mining mafias.

27. Serious allegations have been made against the respondents, which appear to be *mala fide* in order to malign the image of the State -respondents. The petitioner is expected to disclose true and correct facts before making any allegation against respondents. The petitioner in person, being a practising lawyer, is also expected to verify the same, himself and then levelled such allegations against the respondents. It is also expected that source of such information as well as material, if any, must be brought on record and in absence thereof, the allegations made in the writ petition cannot be accepted.

28. For all the reasons afore-stated and the law laid down by Hon'ble Supreme Court in the judgments referred above, **the writ petition is dismissed with cost of Rs.05 lakhs (five lakhs)**, which shall be deposited by the petitioner with the High Court Legal Services Committee, High Court Allahabad, within one month from today.

29. A copy of this order along with copy of the writ petition be also sent by the Registrar General of this Court to the Bar Council of Delhi for taking appropriate action against the petitioner - Dr. Mukut Nath Verma, Advocate, (Advocate Roll No.D/1062/2014) in accordance with law and without being influenced by any of the observations made in the body of this order.

Order Date :- 17.08.2021
Rahul Dwivedi/ NLY

Justice Surya
Prakash
Kesarwani

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Justice Surya
Prakash Kesarwani
Date: 2021.08.25
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