

IN THE SUPREME COURT OF INDIA  
[CRIMINAL ORIGINAL JURISDICTION]

WRIT PETITION (CRL) NO.       /2020

PUBLIC INTEREST LITIGATION

DR. VIKRAM SINGH

CHAIRMAN, CASC

...PETITIONER

VERSUS

UNION OF INDIA & ANR.

...RESPONDENT

**WITH INTERIM APPLICATION SEEKING DIRECTIONS**

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

**ADVOCATE FOR PETITIONER: SACHIN MITTAL**

**PROFORMA FOR FIRST LISTING**

Section - \_\_\_\_\_

- ☐ Central Act (Title) : **Constitution of India**.....  
☐ Section/Order : .....**Article 14 & 21**.....  
☐ Central Rule : (Title) .....**N/A**.....  
☐ Rule No(s) : .....**N/A**.....  
☐ State Act (Title) .....**N/A**.....  
☐ Section: ..... **N/A** .....  
☐ State Rule : (Title) : .....**N/A**.....  
☐ Rule No (s) : .....**N/A**.....  
☐ Impugned Interim Order : (Date) : .....**N/A**.....  
☐ Impugned Final Order/Decree : (Date) ....**N/A**.....  
☐ Coram.....**N/A**.....  
 ...  
☐ High Court : (Name) .....**N/A**.....  
☐ Tribunal/Authority : (Name) : ..... **N/A** .....

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 1. Nature of Matter : (Civil/Criminal) : ....**Writ Petition (Crl)**

2. (a) Petitioner: ...**Dr. Vikram Singh, Chairman CASC**...  
 (b) E-mail ID : ... **smittal.law@gmail.com**.....  
 (c) Mobile Phone numbe...**9999621615**.....

3. (a) Respondent No.1 .....**Union of India**.....  
 (b) E-mail ID : .....  
**N/A**.....

- (c) Mobile Phone number : .....  
**N/A**.....

4. (a) Main Category Classification :..**0812 Letters Petition and PIL Matters**.....  
 (b) Sub-classification : .....**Others**.....

5. Not to be listed before.....**N/A**.....

- 6(a). Similar disposed of matter with citation, if any, & case detail : **No Similar Disposed of Matter**.....
- (b) Similar pending matter with case details: **No Similar Pending Matter** .....
7. Criminal Matters:
- (a) Whether accused/convict has surrendered : **N/A**
- (b) FIR No : .....**N/A** ..... Date : .....**N/A**.....
- (c) Police Station : .....**N/A**.....
- (d) Sentence Awarded : ... **N/A**.....
- (e) Sentence Undergone : .....**N/A**.....
8. Land Acquisition Matters :
- (a) Date of Section 4 notification :.....**N/A**.....
- b) Date of Section 6 notification :..... **N/A**.....
- (c) Date of Section 17 notification : .....**N/A**.....
9. Tax Matters : State the tax effect .....**N/A**.....
10. Special Category (First Petitioner/Appellant Only)
- ☐ Senior Citizen > 65 Years.....**N/A**.....
- ☐ SC/ST.....**N/A**.....
- ☐ Woman/Child.....**N/A**.....
- ☐ Disabled.....**N/A**.....
- ☐ Legal Aid Case .....**N/A**.....
- ☐ In Custody.....**N/A**.....
11. Vehicle Number (in case of Motor Accident Claim Matters): **N/A**.....

**(SACHIN MITTAL)**  
**Advocate-on-Record**  
**Code No. 2290**

**E-mail: smittal.law@gmail.com**  
**Mobile : 9999621615**  
**Date: 16.04.2020**

## RECORD OF PROCEEDINGS

[illegible]

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**SYNOPSIS & LIST OF DATES**

The present public interest litigation is seeking quashing of FIRs registered u/s 188 of Indian Penal Code, and for other petty offences during the lockdown. It is submitted that as per provisions of S. 195 of Code of Criminal Procedure, 1973 as well as many judgments of this Hon'ble Court and High Courts, no FIR can be registered u/s 188 IPC. It is submitted that when the convicts in the Nirbhaya case had utilized one legal remedy after the other, causing a delay in their hanging, it caused a nationwide despair, and questions were asked as to how the legal process can be taken advantage of in such a manner. In the same line, the illegal police action, and increasing police brutality through frequent lathicharge during lockdown cannot be allowed to be normalized and institutionalized.

As per research conducted by think tank Centre for Accountability and Systemic Change (CASC), between 23 March 2020 and 13 April 2020, 848 FIRs under S. 188 IPC have been registered in 50 Police Stations of Delhi alone. As per Uttar Pradesh Government's own admission vide its Twitter handle, 15,378 FIRs under Section 188 have been registered in Uttar Pradesh against 48,503 persons. If this is the situation in the national capital and adjoining state then the situation in other parts of the country can very well be imagined.

Section 188 of the Indian Penal Code is as following-

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to



promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both:

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

The registration of FIRs u/s 188 IPC is grossly illegal and antithesis to Rule of Law, and violates Article 14 and 21 of the Constitution. On one hand, this Hon'ble Court vide its Orders in *Suo Motu Writ Petition (Civil) 1/2020* directed for release of prisoners from jails to reduce overcrowding and on the other hand, Police is continuing to burden the criminal justice system through FIRs in petty offences in unlawful manner, which at the most mandate the jail term of six months.

The Petitioner, who himself was the DG(P) of Uttar Pradesh understands the police functioning as well as the pain and suffering of those who are caught in the wheels of criminal justice system. The Petitioner is also concerned with the undue

burden on police officers, who will have to do voluminous documentation in all such matters. The Petitioner is in no way promoting the violation of the lockdown. The Petitioner is only seeking effective action as per due process of law. The Petitioner submits that stringent action must be taken against all deliberate violations of lockdown, in accordance with law.

That at a time when the Police is wielding immense powers, it is necessary for directions to be passed by this Hon'ble Court, so that they can be implemented at the national level, and judicial discipline is maintained. Coronavirus has caused a global pandemic, in which every person is suffering. The situation needs to be handled humanely, and it will be best to avoid adding aspects of criminality, wherever possible.

The Respondent No. 1 in its guidelines has mandated closure of all non-essential businesses and activities. Yet, the State Governments have relaxed the same on many circumstances. Police action on an individual who is perhaps suffering from distress and lack of information as a result of the circumstances has ramifications which can extend beyond the coronavirus lockdown, and cannot be good for a constitutional democracy.

That doctors are fighting to make the best of the available public health systems. Similarly, it is incumbent upon jurists, lawyers and youth to contribute towards protection of constitutional rights. Action across the country is being taken in the name of lockdown, which in itself is undefined. "We the People" have to safeguard the Rule of Law, which is part of the Basic Structure of the Constitution of India.

**LIST OF DATES**

Date	Event
06.10.1860	Indian Penal Code notified
01.01.1862	Indian Penal Code brought into force
04.02.1897	Epidemic Disease Act notified
01.04.1974	Code of Criminal Procedure, 1973 came into force
23.12.2005	Disaster Management Act notified
30.12.2020	First instance of COVID-19 case detected in Kerala, India
23.03.2020	One day voluntary Janata Curfew as announced by the Hon'ble Prime Minister
24.03.2020	Ministry of Home Affairs issued guidelines on social distancing and enforcing nationwide lockdown for a period of 3 weeks i.e. till 14 April 2020. Annexure to its guidelines stated that "any person violating the containment measures will be liable to be proceeded as per the provisions of Section 51-60 of Disaster Management Act, 2005, besides legal action under Section 188 of the IPC"
06.04.2020	FIRs being registered across the country u/s 188 IPC. <b>ANNEXURE P-1 (pp. 17-19)</b>
13.04.2020	Several Union Ministers attended office at Ministries
14.04.2020	CASC Research showing multiple FIRs u/s 188 IPC filed by Police across States during Lockdown.

	<b>ANNEXURE P-2 (pp. 20-22)</b>
14.04.2020	Hon'ble Prime Minister announced 2 <sup>nd</sup> Phase of lockdown w.e.f. from 14.04.2020 till 03.05.2020
15.04.2020	CASC Research showing FIRs u/s 188 IPC being registered arbitrarily for different actions. <b>ANNEXURE P-3 (pp. 23-25)</b>
15.04.2020	CASC Research showing that Police punishing people in novel ways. Some punishments are corporal in nature, while some are in the nature of social service. <b>ANNEXURE-4 (pp 26-28)</b>
15.04.2020	Ministry of Home Affairs issued Order and guidelines for second phase of lockdown; penalizing violators under aforesaid sections of Disaster Management Act and Indian Penal Code. <b>ANNEXURE P-5/COLLY (pp 29-43)</b>

**HENCE, THE PRESENT WRIT PETITION**

IN THE SUPREME COURT OF INDIA  
[CRIMINAL ORIGINAL JURISDICTION]  
WRIT PETITION (CRL) NO.     /2020  
(UNDER ART. 32 OF THE CONSTITUTION)

PUBLIC INTEREST LITIGATION

**IN THE MATTER OF**

Dr. Vikram Singh  
Chairman, CASC  
S/o Lt. Sh. Markandeya Singh,  
Aged about 69 years,  
R/o Flat 1103, Tower-Aspire-1,  
Supertech Emerald Court, Sector-93,  
Noida, Uttar Pradesh ...Petitioner

VERSUS

1. Union of India  
Through Home Secretary  
Ministry of Home Affairs  
North Block, New Delhi-110001
2. Delhi Police  
Through Commissioner of Police  
Police Headquarters, IP Estate, New  
Delhi-110095 ...Respondents

**WRIT PETITION UNDER ARTICLE 32 OF THE  
CONSTITUTION OF INDIA BEFORE THIS HON'BLE  
COURT**

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS

## COMPANION JUDGES OF THIS HON'BLE COURT

THE HUMBLE WRIT PETITION OF THE PETITIONER  
ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:**

1. The present Writ Petition is seeking quashing of thousands of untenable, frivolous and completely illegal First Information Reports (FIRs) under section 188 of Indian Penal Code (IPC), registered across police stations all over India, during the lockdown during COVID-19. It is submitted that these FIRs are anti-thesis to Code of Criminal Procedure, 1973 (CrPC), and thus violate the Rule of Law. Consequently, rights of persons under Article 14 and 21 are affected. Such persons are thousands in numbers, and may not have the means to institute proper remedies. Hence, the Petitioner is approaching this Hon'ble Court through this public interest litigation.
2. That, Petitioner is the Chairman of think tank Centre for Accountability and Systemic Change (CASC). The Petitioner was the DG(P) of Uttar Pradesh and is the most decorated Police Officer as per Limca Book of Records. The Petitioner has an exemplary record and has been awarded the prestigious President's Medal. Presently, the Petitioner is serving the society in the realm of education by maximizing the contribution of youth in nation building, as being the Chancellor of Noida International University. Under the leadership of the Petitioner, students of many premier law universities are working for jail reforms, and have also researched for the present petition. The PAN Card No. of the Petitioner is AHJPS1474N & the Petitioner

has an annual income of about Rs. 36 lakhs. The Email ID of the Petitioner is vikramsingh1@hotmail.com, the mobile number of the Petitioner is 99192666666. The Aadhaar Card No. of the Petitioner is 694577575377, and his permanent address as mentioned in his Aadhaar Card is A-605, Near Café Coffee Day, A-Block, Indira Nagar, Lucknow-226016.

3. That the Respondent No. 1 is the Union of India through Home Secretary, Ministry of Home Affairs. It is submitted that the lockdown due to COVID-19, being implemented across the country is due to the directions of the Respondent No. 1. The Respondent No. 1 is also in charge of the overall law and order in the country. The Respondent No. 2 is Delhi Police through Commissioner of Police. The Respondent No. 2 has registered several FIRs which are illegal and subject matter to this petition. It is submitted that the Respondents are a necessary party to the petition
4. That the cause of action for the present petition arose when Police registered FIRs u/s 188 of the IPC against persons for violating the lockdown. The cause of action is continuing as since the first day, the Police is continuing to register FIRs under Section 188 IPC.
5. That the Annexures P-1 to P-5 submitted along with the Writ Petition are true copy of their respective original.
6. That the Petitioner has the means to pay the cost, if imposed.
7. That there is no other equally efficacious alternate remedy available to the Petitioner for the relief prayed for in this petition.
8. That, no other similar petition arising out of the same cause of action has been filed by the Petitioner before this honourable court or any other court.

9. That, the brief facts giving rise to the instant petition are as follows: -
10. That the Constitution of India came into force on 26.01.1950, but several colonial laws such as the Indian Penal Code, 1860 and the Epidemic Diseases Act, 1897 continued to remain in force. The main procedural statute for criminal law is the Code of Criminal Procedure, 1973, which has undergone a number of amendments.
11. That the first COVID-19 patient was detected in India on 30.01.2020. Over a period of time, this novel coronavirus has spread fast and wide. As a result, the whole country has been put into a lockdown. The first phase of the lockdown commenced from 24.03.2020 and continued up to 14.04.2020. The Hon'ble Prime Minister announced the second phase of the lockdown on 14.04.2020, which will continue from 15.04.2020 to 03.05.2020.
12. That the lockdown by and large has remained successful due to cooperation of the Public at large. The Hon'ble Prime Minister in his address to the nation, acknowledged this by saying, "It is only because of your restraint, penance and sacrifice that, India has so far been able to avert the harm caused by corona to a large extent. You have endured immense suffering to save your country, save your India." The Union Home Minister has further stated that coronavirus can be tackled through "cooperation and coordination" between Centre and States.
13. That the lockdown is being enforced by different States as per communication issued by the Respondent No. 1. It is submitted that for the first phase, as well as the second phase, the Respondent No. 1 has issued multiple communications to Chief Secretaries of States, and Administrators of Union Territories.



14. That the Central Government in its guidelines has recommended action under provisions of Disaster Management Act, 2005 and Section 188 of Indian Penal Code (IPC) against the violators. It is submitted that all such guidelines issued by the Central Government must be first promulgated by public servants in their respective jurisdictions, and then only will they become the law and be enforceable.
15. That the Centre has issued unified guidelines for all States, yet different places are interpreting them as per their own whim. In some places in Delhi, shops are allowed to continue up to 10PM, while at some places, the shutters are put down at 5PM. In effect, these steps by Police in the garb of action under S. 144 of Code of Criminal Procedure, 1993 (CrPC) and Epidemic Act, 1897 have rendered all other laws redundant.
16. Ever since the lockdown has been put in place, Police across States has booked violators under S. 188 of the IPC. On many occasions, these FIRs include other provisions of the IPC and other penal laws, while many a times; only S. 188 is mentioned in the FIR. The FIR's under the said provisions are being incessantly filed for trivial offences, which will have to go through their own process, eventually burdening the police, jails and whole criminal justice system.
- True Copy of FIR No. 97/2020 u/s 188 IPC, registered at Police Station Sarojini Nagar, New Delhi on 06.04.2020 is attached herewith as **ANNEXURE P-1 (pp. 17-19)**
17. It is submitted that no FIR can be registered under S. 188 IPC. It is most humbly submitted that S. 188 of the IPC must be read with S. 195 of the CrPC, which mandates that only a Magistrate can take cognizance of an offence under Section 188 IPC, and that too on a complaint submitted by a public servant. It is

submitted that the Petitioner's organization conducted a research on FIRs registered at different Police Stations in Delhi between 23 March 2020 and 13 April 2020. Shockingly, 848 FIRs under S. 188 have been registered by Respondent No. 2 in 50 Police Stations of Delhi alone. If this is the situation in the national capital, the situation in other parts of the country can very well be imagined. For instance, as per Uttar Pradesh Government's own admission vide its Twitter handle, 15,378 FIRs under Section 188 have been registered in Uttar Pradesh against 48,503 persons.

True Copy of Chart showing FIRs under S. 188 of IPC in Delhi is attached herewith as **ANNEXURE P-2 (pp 20-22)**.

18. That the above FIRs have been registered for a number of actions being taken by the alleged accused persons, across different States. These range from walking on the road to opening of shops.

True Copy of Chart showing FIR on various flimsy grounds under S. 188 IPC for lockdown violation is attached herewith as **ANNEXURE P-3 (pp 23-25)**.

19. That as per reports, a lady in a Madhya Pradesh village had gone to get Rs. 500 from their Jan Dhan account were apprehended by the Police, kept confined for five hours, and made to submit a bond for Rs. 10,000.
20. That at the same time, novel methods of punishment are being utilized against the poor. On occasions, this is in form of corporal punishment, which is strictly against the law. At times, better methods for social reforms, such as planting of trees, cleaning of drains etc. are adopted. The Hon'ble Supreme Court itself on many occasions has ordered for planting of trees, or directed the persons to involve them in social service, as part of the punishment.

True Copy of Chart showing alternate punishment methods adopted by Police officials during lockdown is attached herewith as **ANNEXURE P-4 (pp 26-28)**

21. That even as this Hon'ble Court directed hearings through video conferencing, it is a fact that Courts across India are barely functioning. In times of a lockdown, the person against whom FIR is registered is really condemned, more so if that person is poor. The immense police power has the ability of overwhelming any situation is not shown when the crime is on an organized scale, or when the culprit is a rich person. All the above shows that the errant police action in the country needs an effective check, which the judiciary is duty bound to do.

22. That the second phase of the lockdown is underway from 15.04.2020 and will continue up to 03.05.2020.

True Copy of Order regarding Second Phase of Lockdown along with necessary guidelines from the Home Secretary is attached herewith as **ANNEXURE P-5/COLLY (pp 29-43)**.

23. That the Petitioner in no way promoting the violation of the lockdown. The Petitioner is only seeking effective action as per due process of law. The Petitioner submits that stringent action must be taken against all deliberate violations of lockdown, in accordance with law.

24. That the present petition is being filed on the following grounds, which are without prejudice to each other:

## **GROUND**

A. Because considering the fact that no FIR can be registered under S. 188 IPC. It is most humbly submitted that S. 188 of the IPC must be read with S. 195 of the CrPC, which mandates that only

a Magistrate can take cognizance of an offence under Section 188 IPC, and that too on a complaint submitted by a public servant. Thus, registering of FIRs u/s 188 IPC is antithesis to Rule of Law, and violates Article 14 and 21 of the Constitution.

- B. Because considering the fact that the research annexed by the Petitioner as well as the admission by the State Governments on social media highlights the fact that lawlessness is rampant in the country, as the Police is continuing to register FIRs, even when it has no authority to do so. It is submitted that the law on the street is different in each of the 15,579 Police Stations across 718 Districts in India. The same is a result of arbitrary interpretation due to verbal directions as well as implementation.
- C. Because considering the fact that Hon'ble Supreme Court in *C. Muniappan v. State of T.N.*, [(2010) 9 SCC 567] qua S. 188 IPC has said, "the law can be summarised to the effect that there must be a complaint by the public servant whose lawful order has not been complied with. The complaint must be in writing. The provisions of Section 195 CrPC are mandatory. Non-compliance with it would vitiate the prosecution and all other consequential orders. The court cannot assume the cognizance of the case without such complaint. In the absence of such a complaint, the trial and conviction will be void ab initio being without jurisdiction".
- D. Because considering the fact that this Hon'ble Court vide its Orders in *Suo Motu Writ Petition (Civil) 1/2020* directed for release of prisoners from jails to reduce overcrowding in the wake of outbreak of COVID-19. The implementation of the said orders is slow, and many prisoners, who may be liable to be released, are still in jail. However, there are certain rich and powerful people, like the Wadhawan family of DHFL group in

Maharashtra, taking advantage of the situation, violated the lockdown to go to the hill town of Mahabaleshwar. Similarly, other rich persons like arms dealer Christian Michel, godman Asaram Bapu and politician Lalu Prasad Yadav are trying to get out of jail in the same process. And now, most of FIRs are being lodged against poor and hapless, who may not even be able to ensure due to legal representation.

- E. Because considering the fact that Section 195, Cr.P.C., in no unequivocal terms, mandates that no Court shall take cognizance of offence punishable under Section 188, IPC except on the “complaint” in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. The term “complaint” has been defined under Section 2(d) of the Cr.P.C. as under:

“2. (d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.”

Thus, the definition of “complaint” implies two things: 1st that the allegations regarding the commission of offence has to be made to a “magistrate”; and 2nd that the “police report” does not fall within the meaning of “complaint”. It is submitted that in the instant case the machinery of criminal justice for offence punishable under Section 188, IPC has been set in motion by filing FIRs, instead of “complaint” before the magistrate, which is not permissible in view of the plain wordings of Section 195, Cr.P.C. The Hon’ble Delhi High Court quashed one such proceeding for offence punishable under Section 188, IPC initiated upon the FIR lodged at the instance of CEO of the District Disaster Management Authority, vide its judgment dated

18-01-2019 in Mohan Kukreja v. State Govt. of NCT of Delhi and Another, 2019 SCC OnLine Del 6398.

- F. Because considering the fact that there is absolute confusion over power allocation between Centre and States. In the first phase of the Lockdown, the Delhi Government had ordered that no flights will be landing or taking off from Delhi Airport, even when it had no power to do so. For the second phase, many States ordered for lockdown before the Hon'ble Prime Minister made any such announcement. Moreover, at a time when the Police is wielding immense powers, it is necessary for directions to be passed by this Hon'ble Court, so that they can be implemented at the national level, and judicial discipline is maintained. Coronavirus has caused a global pandemic, in which every person is suffering. The situation needs to be handled humanely, and it will be best to avoid adding aspects of criminality, wherever possible.
- G. Because considering the fact that mere disobedience of an order of a public servant will not attract the provision of S. 188 IPC. The Hon'ble Supreme Court in Ramlila Maidan Incident, In re, [(2012) 5 SCC 1] has said, "Disobedience of an order promulgated by a public servant lawfully empowered will not be an offence unless such disobedience leads to enumerated consequences stated under the provision of Section 188 IPC. More so, a violation of the propitiatory (sic prohibitory) order cannot be taken cognizance of by the Magistrate who passed it. He has to prefer a complaint about it as provided under Section 195(1)(a) CrPC. A complaint is not maintainable in the absence of allegation of danger to life, health or safety or of riot or affray".

- H. Because considering the fact that Bombay High Court in *Anand Ramdhani Chaurasia and another v State of Maharashtra*, through Public Prosecutor Office, Mumbai and others [2019 SCC OnLine Bom 1857] has held, “Disobedience of the promulgated order under Section 188 of the IPC is punishable if it causes or tends to cause danger to human life. The section do not use the term 'likely to cause', conveying that there has to be a positive evidence of causing or tends to cause danger to human life and in absence, Section 188 is not attracted.” Thus, it is important that a complaint qua S. 188 must be specific and not purely mechanical.
- I. Because considering the fact that higher standard required for a complaint under S. 188 IPC has also been described by the Delhi High Court in *Bhoop Singh Tyagi v State* [2002 SCC OnLine Del 277] “As already seen, a person booked u/s. 188 IPC must have actual knowledge of public servant's order requiring him to do or abstain from doing some act. Acquiring or gaining of such knowledge is a pre-requisite. Any proof of general notification promulgated by a public servant would not satisfy the requirement.”
- J. Because considering the fact that the Lockdown, which is for the noble purpose of preventing the community spread of coronavirus, should not result into India becoming a Police State. The Madras High Court in a number of judgments has held that no criminal case is maintainable for trivial offences. (*Mailvahanan and others v State*, represented by Sub Inspector of Police, Virudhunagar, [2019 Indlaw MAD 5291], *R. Anand Sekaran and others v State*, through Inspector of Police, Tuticorin [2019 Indlaw MAD 5177] *Sivakumar @ Mayil v*

Superintendent of Police, Dindigul and others, [2019 Indlaw MAD 4838]). In fact, in *R. Anand Sekaran and others v State*, through Inspector of Police, Tuticorin [2019 Indlaw MAD 5177], the Madras High Court has laid down extensive guidelines for offence under S. 188 IPC, and has held that police has no power to lodge FIR.

- K. Because considering the fact that Bombay High Court in *Shrinath Gangadhar Giram v State of Maharashtra and another*, [2017 Indlaw MUM 2308] qua an FIR under S. 188 IPC has also said, “the impugned FIR is nothing but an abuse of process of law. It would dissipate the precious time of the Court and no fruitful purpose would be sub-served, for continuation of the proceedings initiated on the basis of FIR of police personnel filed without any authority”.
- L. Because considering the fact that the research of the Petitioner’s organization highlighted several examples wherein Magistrates mechanically issued process for offences u/s 188 IPC, and the case was quashed only by the Hon’ble High Court. At a time when this Hon’ble Court has put a special emphasis on decongesting the prisons, filing of FIRs for trivial offence, does not make any sense.
- M. That it is a well-known fact that jails are the places where first time petty offenders may become hardened criminals. Such is the state that The Bureau of Police Research and Development conducted a two day seminar on Criminal Activities and Radicalization in Jails. The Hon’ble Supreme Court in *Mohd. Giasuddin v. State of A.P.*, [(1977) 3 SCC 287] has also said, “brutal incarceration of the person merely produces laceration of his mind”. If the goal of the criminal justice system is reformation, then the better methods of socio-legal action may be



promoted, and violators of lockdown be directed to do positive tasks for the society which further acts as a deterrent as well. In fact, the biggest offenders are the economic offenders, who are often rich and mighty. But the energy of the Police is spent on petty offences against the poor and downtrodden, who may not be having any mens rea, and the offence being alleged is because of their circumstances.

- N. Because considering the fact that a person who is arrested for violation of lockdown can very well be asymptomatic patient, and can further spread coronavirus in jails. Apprehending persons during the lockdown is as it is going to add to the burden of the police. People who are forced to be out, due to them being without a job or livelihood should not be treated as criminals.
- O. Because considering the fact that this Hon'ble Court in *Commandant, 20th Battalion, ITB Police v. Sanjay Binjola*, [(2001) 5 SCC 317] had said, "in an offence of a trivial nature ..., we find it to be a fit case where powers under Section 3 of the Probation of Offenders Act can be exercised." It is submitted that most of the cases registered during the lockdown are petty offences, which are a result of circumstances, and not mens rea.
- P. Because considering the fact that the notification for the first phase had mandate a lockdown for 21 days. However, many Union Ministers joined their offices before the said period of 21 days were over. This shows that the guidelines are indeed flexible. It is submitted that in the same manner, the public should be treated in the same humanitarian manner, in cases without any criminal intent.

- Q. Because considering the fact that the Economic Survey has stated the need for reducing litigation to better India's ranking in the Ease of Doing Business. A research by Daksh has suggested that Indians lose about Rs. 50,000 crore annually due to loss of earnings, which comes to be 0.4% of the country's GDP. The Vice Chairman of NITI Aayog has stated that it is time to build capacity of improving public health system and ensure availability of resources. It is submitted that when the whole economy is going through India's biggest emergency, burdening up the criminal justice system with more cases is not going to help anyone.
- R. Because considering the fact that lawyers had a stellar role in the fight for independence from the British. Similarly, it is a duty upon everyone, to preserve the Rule of Law, and prevent undue police actions.
- S. Because considering the fact that in these extraordinary times, the Courts have taken many steps which have relaxed the normal processes. These include directions with respect to filing, Affidavits, personal presence and hearings etc. In the same breath, it is most humbly submitted that it is very important to put a check on the burgeoning number of FIRs being filed in petty cases.

### **PRAYER**

It is therefore prayed that this Hon'ble Court may be pleased to issue:

- a) A writ in the nature of *Certiorari* thereby quashing the FIRs registered u/s 188 IPC, and for other petty offences during the corona crisis and violation of lockdown;

- b) A writ in the nature of mandamus directing the Respondent No. 1 to issue directions under the Disaster Management Act, 2005 to the various State Governments to refrain from filing complaints / registering FIRs under S. 188 or other petty offences during the corona virus and lockdown;
- c) Any other relief, as may be deemed fit in light of above facts and circumstances;

AND FOR THIS ACT OF KINDNESS THE PETITIONER  
SHALL EVER PRAY

**Drawn by**

Sachin Mittal and Gaurav  
Pathak, Advocates

Drawn on: 15.04.2020

Filed on: 16.04.2020

**Settled by:**

Gopal Sankaranarayanan, Senior Advocate

**Filed by**



Sachin Mittal

Advocate for the Petitioner

IN THE SUPREME COURT OF INDIA  
[CRIMINAL ORIGINAL JURISDICTION]  
WRIT PETITION (CRL) NO.     /2020  
(UNDER ART. 32 OF THE CONSTITUTION)  
PUBLIC INTEREST LITIGATION

**IN THE MATTER OF:-**

DR. VIKRAM SINGH  
CHAIRMAN, CASC

...PETITIONER

**VERSUS**

UNION OF INDIA & ANR.

...RESPONDENT

**AFFIDAVIT**

I, Dr. Vikram Singh, S/o Lt. Sh. Markandeya Singh, aged about 69 years, R/o Flat 1103, Tower-Aspire-1, Supertech Emerald Court, Sector-93, Noida, Uttar Pradesh, do hereby solemnly affirm and state as follows:-

1. That I am the Petitioner in the aforesaid matter and am conversant with the facts and circumstances of the case and am competent to swear this affidavit.
2. That I have read and understood accompanying writ petition from para 1 to 24 ,pages 1 to 15, and do state that the facts stated therein are true and correct to the best of my knowledge.
3. That the Annexures P-1 to P-5 are true copy of their originals.
4. That the Petitioner has no personal gain, private motive or oblique reason in filing the PIL.

  
**DEPONENT**

**VERIFICATION**

I, the deponent above named do hereby verify that averments made in this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom. Verified at Noida on this the 16<sup>th</sup> day of April 2020.

  
**DEPONENT**

## ANNEXURE P-1

## FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

(धारा 154 दंड प्रक्रिया संहिता के तहत )

1. District (ज़िला): SOUTH WEST P.S.(थाना): SAROJINI NAGAR Year(वर्ष): 2020 FIR No(प्र.सू.रि.सं.): 0097 Date : 06/04/2020
2. Act(s)(अधिनियम): Section(s)(धारा(एँ)):  
- IPC 1860 188
3. Occurrence of Offence (अपराध की घटना):  
(a) Day(दिन): MONDAY Date From(दिनांक से): 06/04/2020 Date To(दिनांक तक): 06/04/2020  
Time Period (समय अवधि): Time From (समय से): 19:20 hrs Time To (समय तक): 19:20 hrs  
(b) Information received at P.S.(थाना जहां सूचना प्राप्त हुई): Date(दिनांक): 06/04/2020 Time (समय): 21:10 hrs  
(c) General Diary Reference (रोजानामचा संदर्भ): Entry No.(प्रविष्टि सं.): 016A Date/Time(दिनांक/समय): 06/04/2020 21:10
4. Type of Information (सूचना का प्रकार): Written
5. Place of Occurrence (घटनास्थल):  
(a) Direction and Distance from P.S (थाना से दूरी और दिशा): SOUTH , 1.5 Km(s) Beat No(बीट सं.): 01  
(b) Address(पता): ,INA PICKET ,AURBINDO MARG, DELHI  
(c) In case, Outside the limit of the Police Station (यदि थाना सीमा के बाहर हैं):  
Name of P.S(थाना का नाम): District(ज़िला):
6. Complainant / Informant (शिकायतकर्ता/सूचनाकर्ता):  
(a) Name(नाम): SANT LAL  
(b) Date/Year of Birth (जन्म तिथि /वर्ष): 01/12/1965 Nationality (राष्ट्रियता): INDIA  
(c) Passport No.(पासपोर्ट सं.): Date of Issue (जारी करने की तिथि): Place of Issue (जारी करने का स्थान):  
(d) Occupation (व्यवसाय):  
(e) Address(पता): PS SAROJINI NAGAR, SAROJINI NAGAR, SOUTH WEST, DELHI, INDIA, 9968767111,
7. Details of Known/Suspect/Unknown accused with full particulars(attach separate sheet if necessary)(ज्ञात/ संदिग्ध /अज्ञात अभियुक्त का का पुरे विवरण सहित वर्णन):  
- AMIT ARORA (S/O) G B ARORA  
(R/O) B-173, GROUND FLOOR, KHASRA NO. 08, 36 BIRLA COMPLEX, CHATTAR PUR EXTN. NEAR GURUDWA, SOUTH, DELHI, INDIA
8. Reason for delay in reporting by the complainant/informant (शिकायतकर्ता / सूचनाकर्ता द्वारा रिपोर्ट देरी से दर्ज कराने के कारण):  
NO DELAY
9. Particulars of the properties stolen/involved (attach separate sheet if necessary):  
Sl.No. (क्र.सं.) Property Type(Description) Est. Value(Rs.)(मूल्य (रु में))
10. Total value of property stolen (चोरी हुई सम्पत्ति का कुल मूल्य):
11. Inquest Report / U.D. Case No., if any (मृत्यु समीक्षा रिपोर्ट / यू.डी.प्रकरण नं., यदि कोई हो):

District : SOUTH WEST

P.S: SAROJINI NAGAR

Year: 2020

FIR No: 0097

Date: 06/04/2020

**12.F.I.R. Contents (attach separate sheet, if required)(प्रथम सूचना रिपोर्ट तथ्य):**

श्रीमान Duty Officer साहब थाना सरोजनी नगर नई दिल्ली निवेदन इस प्रकार है कि आज दिनांक 06/04/2020 को मैं ASI मय Ct. Rakesh Kumar No. 2510/SW व W/Ct Simpi No. 2859/SW को duty ERV 30 गाडी पर गस्त मे थी जो मैं ASI मय Staff मय सरकारी गाडी गस्त करते हुए समय करीब 6.50 बजे शाम INA Picket Arvindo Marg पहुंचे जहा पर मन ASI ने हमराही Staff के साथ रोड पर आने जाने वाले वाहन व व्यक्तियों को चेक करने लगे को उसी दौरान AIIMS Hospital की तरफ से एक गाडी न. DL2CAX2317 Ford Eco Sports आती दिखाई दी जिसमें चालक के साथ एक महिला बैठी थी उस Car को रोका गया और पूछकाछ पर Car चला रहे व्यक्ति ने अपना नाम पता Amit Arora S/O Sh. G.B.Arora R/O H.NO. B-173 , Ground Floor खसरा न. 08, 36 Birla Complex Chattar Pur Extn. Near Gurudwara New Delhi-74 , बा उम्र -35 साल बतलायी और उन्होंने बताया कि वह पता उपरोक्त पर रहते है और अपनी पत्नि के साथ घर का सामान लेने INA Market जा रहे है। जबकि भारत मे Lockdown है , करफ्यू दिल्ली मे लगा हुआ है और सरकार का आदेश है कि सभी अपने -2 घरो मे रहेगे जो कि Amit Arora पता उपरोक्त ने Government of India Ministry of Home Affairs New Delhi Notification No. U11036/3/1978(I) UTL dated 01.07.1978 के तहत Order No. 2153-2252-R/ACP Sub- Division Safdurjang Enclave New Delhi dt. 31/03/2020 के खिलाफ जुर्म करके अपराध U/S . 188 IPC का किया है जो कि इनके पास कोई वैध परमीशन या करफ्यू पास नही है और ना कोई Emergency का कारण बता रहे है। इसलिये मन ASI ने एक तहरीर तैयार करके Ct. Rakesh Kumar No . 2510/SW को थाना भेजा जा रहा है मुकदमा दर्ज करके नम्बर से अवगत कराया जाये मन ASI मौका पर जाँच कर रहा हूँ। अपराध घटित होने कि तारीख व समय :-06.04.2020 at about 7.20 PM , अपराध घटित होने का स्थान :- INA Picket Aurvindo Marg , तहरीर भेजने कि तारीख व समय :- 06.04.2020 at 08.50 PM . Sd English ASI Santlal 193/SW P.S. -S.Nagar dt:- 06.04.2020 कार्यवाही पुलिस स्वयं लेख की प्राप्ति पर FIR के उपरोक्त अपराध को Register CCTNS किया गया फिर FIR Computerized Copy व मूल रूप मे लेख Ct.Rakesh Kumar No. 2510/SW के माध्यम के द्वारा ASI Santlal साहब के पास भिजवायी जा रही है। जो place of occurrence पर व्यस्त Investigation में है। FIR DO साहब से Check कराकर बाद सन्तुष्टि Submit की गयी। अन्य प्रतियाँ डाक के माध्यम से उच्च अधिकारी की सेवा मे भेजे जायेंगे।

**13.Action Taken Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2:**

(की गयी कार्यवाही: चूंकि उपरोक्त जानकारी से पता चलता है कि किया गया अपराध मद सं.2.में उल्लेख धारा के तहत है ):

(i) Registered the case and took up the investigation:

OR (या)

(प्रकरण दर्ज किया गया और जांच के लिए लिया गया):

(ii) Directed (Name of the I.O.)(जांच अधिकारी का नाम ): SANT LAL

Rank (पद):

ASST. SI (ASSISTANT SUB-INSPECTOR)

No(सं.): 28861691

to take up the investigation (को जांच आपने पास में लेने के लिए निर्देश दिया गया ) OR(या)

(iii) Refused investigation due to (जांच के लिए):

OR (के कारण इंकार किया या)

(iv) Transferred to P.S(name)(थाना):

District(ज़िला):

on point of jurisdiction (को क्षेत्राधिकार के कारण हस्तांतरित)

**F.I.R read over to the complainant/informant, admitted to be correctly recorded and a copy given to the complainant/informant, free of cost :** (शिकायतकर्ता / सूचनाकर्ता को प्राथमिकी पढ़ कर सुनाई गयी, सही दर्ज हुई माना और एक कॉपी निशुल्क शिकायतकर्ता को दी गयी ) :

**R.O.A.C.(आर.ओ.ए.सी.):**

District : SOUTH WEST

P.S: SAROJINI NAGAR

Year: 2020

FIR No: 0097

Date: 06/04/2020

**14. Signature / Thumb Impression  
of the Complainant / Informant:**

(शिकायतकर्ता / सूचनाकर्ता के हस्ताक्षर / अंगूठे का निशान):

**Signature of Officer****Name(नाम):** BHARAT SINGH**Rank (पद):** HC (HEAD CONSTABLE)**No.(सं.):** 28071717**15. Date and Time of despatch to the court:**

(अदालत में प्रेषण की दिनांक और समय):

## ANNEXURE P-2

**SUMMARY CHART OF FIRs UNDER SECTION 188, IPC  
IN DELHI DURING LOCKDOWN**

<b>S. No.</b>	<b>Police Station</b>	<b>District</b>	<b>No. of FIRs</b>
1.	Rajouri Garden	West	67
2.	Bhalswa Dairy	Outer North	60
3.	Darya Ganj	Central	47
4.	New Friends Colony	South East	41
5.	Kalkaji	South East	41
6.	D.B.G. Road	Central	40
7.	Jama Masjid	Central	38
8.	Karol Bagh	Central	36
9.	Pul Prahlad Pur	South East	33
10.	Sarojini Nagar	South-West	31
11.	Chandni Mahal	Central	27
12.	Jait Pur	South East	26
13.	Jamia Nagar	South East	25
14.	Anand Parbat	Central	25
15.	Hazarat Nizamuddin	South East	21
16.	Narela	Outer North	21
17.	Janakpuri	West	20
18.	Narela Industrial Area	Outer North	20
19.	Burari	North	20
20.	Okhla Ind. Area	South East	18
21.	I.P. Estate	Central	18
22.	Vasant Kunj North	South-West	17



23.	Gandhi Nagar	Shahdara	15
24.	Vikas Puri	West	14
25.	Channakya Puri	New Delhi	14
26.	Inder Puri	West	12
27.	Barakhamba Road	New Delhi	08
28.	Sarita Vihar	South East	07
29.	Mandir Marg	New Delhi	07
30.	Parliament Street	New Delhi	07
31.	Punjabi Bagh	West	06
32.	Amar Colony	South East	06
33.	Kishan Garh	South-West	06
34.	Khyala	West	05
35.	Mayapuri	West	05
36.	Alipur	Outer North	05
37.	Tughlak Road	New Delhi	05
38.	Bawana	Outer North	04
39.	Connaught Place	New Delhi	04
40.	North Avenue	New Delhi	04
41.	South Avenue	New Delhi	04
42.	Kirti Nagar	West	03
43.	Sagar Pur	South-West	03
44.	Hari Nagar	West	02

45.	Naraina	West	02
46.	Tilak Nagar	West	02
47.	Kalindi Kunj	South East	02
48.	Tilak Marg	New Delhi	02
49.	Shaheen Bagh	South East	01
50.	RK Puram	South-West	01
	Total		848

**DATE: 23/03/2020-13/04/2020**

**The above Chart is with respect to few Police Stations only.  
Not every Police Station in Delhi has been covered.**

**EXCERPT FROM BOOK:**

**“Breakdown of Law and Justice during Lockdown”  
published by CASC, Edited by Virag Gupta, Advocate**

**Researched And Compiled By:**

Adya Bajpai - I year, West Bengal NUJS

Ambar Modi - III year, NLU Delhi

Devyani Singh - III year, Amity Law School, Delhi

Shikhar Yadav - III year, Amity Law School, Noida

Shiv Verma - IV year, NLU Jodhpur

Law Interns, CASC

//TRUE COPY//

**ANNEXURE P-3****FIR ON FLIMSY GROUNDS UNDER S. 188 IPC**

S. No.	Description	State
1.	15,378 FIR registered in Uttar Pradesh against 48,503 persons <sup>1</sup>	Uttar Pradesh
2.	137 booked for stepping out without mask in Delhi <sup>2</sup>	Delhi
3.	Woman walking along the riverfront garden in Ahmedabad booked <sup>3</sup>	Gujarat
4.	Police register FIR against 7 persons for not wearing mask <sup>4</sup>	Maharashtra
5.	Shopkeeper booked for opening shop and further fined Rs. 10,000 <sup>5</sup>	Punjab
6.	3-day imprisonment to three people for violating lockdown in Pune <sup>6</sup>	Maharashtra
7.	Police in Jamshedpur nabbed 122 morning walkers, fined <sup>7</sup>	Jharkhand
8.	Man booked for spitting in public <sup>8</sup>	Telangana
9.	3634 cases registered in Mumbai for violating lockdown <sup>9</sup>	Maharashtra
10.	6 crore fine charge collected in UP from lockdown breakers <sup>10</sup>	Uttar Pradesh
11.	Police jailed 15 people for roaming without mask <sup>11</sup>	Chhattisgarh

**EXCERPT FROM BOOK:**

**“Breakdown of Law and Justice during Lockdown”**  
**published by CASC, Edited by Virag Gupta, Advocate**

<sup>1</sup> <https://twitter.com/UPGovt/status/1249304807921205248>

<sup>2</sup> <https://timesofindia.indiatimes.com/city/delhi/137-booked-for-stepping-out-without-mask-in-delhi/articleshow/75088988.cms>

<sup>3</sup> <https://timesofindia.indiatimes.com/city/ahmedabad/being-bored-no-valid-reason-to-be-on-road-woman-booked/articleshow/75088435.cms>

<sup>4</sup> <http://www.punekarnews.in/pune-police-register-fir-against-seven-persons-for-not-wearing-mask/>

<sup>5</sup> <http://www.uniindia.com/curfew-violation-nurmahal-shopkeeper-booked-for-opening-shop/north/news/1942943.html>

<sup>6</sup>

<https://www.newindianexpress.com/cities/hyderabad/2020/apr/11/coronavirus-scare-hyderabad-man-booked-for-spitting-in-public-2128710.html>

[://www.deccanchronicle.com/nation/current-affairs/020420/three-sentenced-to-3-day-imprisonment-for-violating-lockdown-in-pune.html](https://www.deccanchronicle.com/nation/current-affairs/020420/three-sentenced-to-3-day-imprisonment-for-violating-lockdown-in-pune.html)

<sup>7</sup> <https://www.avenuemail.in/jamshedpur/lockdown-jamshedpur-police-nab-122-morning-walkers-issue-warning/145500/>

<sup>8</sup> <https://timesofindia.indiatimes.com/entertainment/events/hyderabad/hyderabad-man-booked-for-spitting-in-public/articleshow/75099154.cms>

<sup>9</sup> [https://english.lokmat.com/national/haryana-cm-releases-rs-5-cr-to-2588-panchayats-for-sanitisation/?utm\\_source=english.lokmat.com&utm\\_medium=InfiniteArticle](https://english.lokmat.com/national/haryana-cm-releases-rs-5-cr-to-2588-panchayats-for-sanitisation/?utm_source=english.lokmat.com&utm_medium=InfiniteArticle)

<sup>10</sup> <https://thestateindia.com/2020/04/12/6-crore-fine-charge-collected-in-up-from-lockdown-breakers/>

<sup>11</sup> <https://www.bhaskar.com/local/chhattisgarh/raipur/news/two-new-patients-from-katghora-3-discharged-13-out-of-33-recovering-jailed-15-without-a-mask-127171310.html>

//TRUE COPY//

## ANNEXURE P-4

**ALTERNATIVE PUNISHMENT TO LOCKDOWN  
VIOLATORS**

S. No.	Description	State
1.	Jaipur police warns of Masakali 2.0 punishment for violators <sup>1</sup>	Rajasthan
2.	Police punishes lockdown evaders with sit-ups <sup>2</sup>	Andhra Pradesh
3.	Uttarakhand Police asks 10 foreigners to write “Didn’t follow lockdown, I am sorry” 500 times <sup>3</sup>	Uttarakhand
4.	Police in West Bengal make violators do squats and frog jumps <sup>4</sup>	West Bengal
5.	Chennai Police made violators wear a mask which were cut out in shape of Coronavirus and hung placards around them <sup>5</sup>	Tamil Nadu
6.	Police in Uttar Pradesh make violators hold signs that read “I am friend of Coronavirus” or “I am the enemy of society” before posting their pictures on Twitter <sup>6</sup>	Uttar Pradesh
7.	UP Cop makes violators hop with bags during lockdown <sup>7</sup>	Uttar Pradesh
8.	Police asks man who violated lockdown to advise 25 people over the phone <sup>8</sup>	Kerala

9.	Police does Aarti, puts vermillion, showers flowers on violators to embarrass them <sup>9</sup>	Chhattisgarh
10.	Mumbai cops subject violators to murga punishment <sup>10</sup>	Maharashtra
11.	Police made lockdown violators clean public places as punishment <sup>11</sup>	Karnataka

### EXCERPT FROM BOOK:

**“Breakdown of Law and Justice during Lockdown”**  
**published by CASC, Edited by Virag Gupta, Advocate**

<sup>1</sup> <https://www.indiatoday.in/trending-news/story/jaipur-police-warns-of-masakali-2-0-punishment-for-coronavirus-lockdown-violators-see-post-1665343-2020-04-10>

<sup>2</sup> <https://nypost.com/2020/03/31/india-police-punish-coronavirus-lockdown-evaders-with-sit-ups/>

<sup>3</sup> <https://www.hindustantimes.com/india-news/didn-t-follow-lockdown-i-am-sorry-uttarakhand-police-ask-10-foreigners-to-write-500-times/story-QmB8HIFOpzdKxyVjiP0FI.html>

<sup>4</sup> <https://economictimes.indiatimes.com/news/politics-and-nation/from-squats-to-frog-jumps-police-punish-lockdown-violators-in-bengal/articleshow/74828968.cms?from=mdr>

<sup>5</sup> <https://www.newindianexpress.com/cities/chennai/2020/apr/01/chennai-police-find-innovative-ways-to-restrict-people-from-stepping-outside-their-houses-2124341.html>

- <sup>6</sup> <https://www.reuters.com/article/us-health-coronavirus-india-police/friend-of-coronavirus-police-in-north-india-shame-those-defying-lockdown-idUSKBN21B23Z>
- <sup>7</sup> <https://www.outlookindia.com/website/story/india-news-up-cops-make-people-hop-with-bags-during-coronavirus-lockdown-ssp-apologises/349512>
- <sup>8</sup> <https://english.mathrubhumi.com/news/offbeat/police-asks-man-who-violated-lockdown-to-advise-25-people-over-phone-1.4657073>
- <sup>9</sup> <https://www.storypick.com/police-aarti-lockdown-violators/>
- <sup>10</sup> <https://www.businessinsider.in/india/news/lockdown-mumbai-cops-subject-violators-to-murga-punishment/articleshow/75097636.cms>
- <sup>11</sup> <https://www.udayavani.com/english-news/lockdown-violators-in-mandya-made-to-clean-public-places-as-punishment>

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## ANNEXURE P-5/COLLY

No. 40-3/2020-DM-I(A)  
Government of India  
Ministry of Home Affairs

North Block, New Delhi-110001  
Dated 15<sup>th</sup> April, 2020

**ORDER**

Whereas, in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act 2005, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order dated 14<sup>th</sup> April, 2020 that the lockdown measures stipulated in the Consolidated Guidelines of Ministry of Home Affairs (MHA) for containment of COVID-19 epidemic in the country, will continue to remain in force upto 3<sup>rd</sup> May, 2020 to contain the spread of COVID-19 in the country;

Whereas, to mitigate hardship to the public, select additional activities will be allowed, which will come into effect from 20<sup>th</sup> April, 2020. However, these additional activities will be operationalized by States/ Union Territories (UTs)/ District Administrations based on strict compliance to the existing guidelines on lockdown measures. Before operating these relaxations, States/ UTs/ District Administrations shall ensure that all preparatory arrangements with regard to social distancing in offices, workplaces, factories and establishments, as also other sectoral requirements are in place. The consolidated revised guidelines incorporating these relaxations are enclosed;

Whereas, the consolidated revised guidelines will not apply in containment zones, as demarcated by States/ UTs/ District administrations. If any new area is included in the category of a containment zone, the activities allowed in that area till the time of its categorization as a containment zone, will be suspended except for those activities as are specifically permitted under the guidelines of Ministry of Health and Family Welfare (MoHFW), Government of India;

Whereas, in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues directions to all the all Ministries/ Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities for the strict implementation of enclosed consolidated revised guidelines.

  
Union Home Secretary

**To:**

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories  
(As per list attached)

**Copy to:**

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

**Consolidated Revised Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/ UT Governments and State/ UT authorities for containment of COVID-19 in the country**

**[As per Ministry of Home Affairs (MHA) Order No. 40-3/2020-DM-I (A) dated 15<sup>th</sup> April, 2020]**

**1. With the extension of the lockdown period, the following activities will continue to remain prohibited across the country until 3<sup>rd</sup> May, 2020:**

- i. All domestic and international air travel of passengers, except for purposes enumerated in para 4 (ix), and for security purposes.
- ii. All passenger movement by trains, except for security purposes.
- iii. Buses for public transport.
- iv. Metro rail services.
- v. Inter-district and inter-State movement of individuals except for medical reasons or for activities permitted under these guidelines.
- vi. All educational, training, coaching institutions etc. shall remain closed.
- vii. All industrial and commercial activities other than those specifically permitted under these guidelines.
- viii. Hospitality services other than those specifically permitted under these guidelines.
- ix. Taxis (including auto rickshaws and cycle rickshaws) and services of cab aggregators.
- x. All cinema halls, malls, shopping complexes, gymnasiums, sports complexes, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls and similar places.
- xi. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions/ other gatherings.
- xii. All religious places/ places of worship shall be closed for public. Religious congregations are strictly prohibited.
- xiii. In case of funerals, congregation of more than twenty persons will not be permitted.

**2. Operation of guidelines in Hotspots and containment zones**

- i. 'Hotspots', i.e., areas of large COVID-19 outbreaks, or clusters with significant spread of COVID-19, will be determined as per the guidelines issued by Ministry of Health and Family Welfare (MoHFW), Government of India (GoI).
- ii. In these hotspots, containment zones will be demarcated by States/ UTs/ District administrations as per the guidelines of MoHFW.
- iii. In these containment zones, the activities allowed under these guidelines will not be permitted. There shall be strict perimeter control in the area of the containment zones to ensure that there is no unchecked inward/ outward movement of population from these zones except for maintaining essential services (including medical emergencies and law and order related duties) and Government business continuity. The guidelines issued in this regard by MoHFW will be strictly implemented by State/ UT Governments and the local district authorities.





**3. Select permitted activities allowed with effect from 20<sup>th</sup> April, 2020:**

- i. To mitigate hardship to the public, select additional activities have been allowed which will come into effect from 20<sup>th</sup> April, 2020. These limited exemptions will be operationalized by States/ UTs/ district administrations based on strict compliance to the existing guidelines. Also, before allowing these select additional activities, States/ UTs/ district administrations shall ensure that all preparatory arrangements with regard to the Standard Operating Procedures (SOPs) for social distancing in offices, workplaces, factories and establishments, as also other sectoral requirements are in place.
- ii. The consolidated revised guidelines incorporating these select permitted activities have been enumerated in paras 5-20 below.

**4. Strict enforcement of the lockdown guidelines**

- i. State/ UT Governments shall not dilute these guidelines issued under the Disaster Management Act, 2005, in any manner, and shall strictly enforce the same.
- ii. State/ UT Governments, may, however, impose stricter measures than these guidelines as per requirement of the local areas.

**5. All health services (including AYUSH) to remain functional, such as:**

- i. Hospitals, nursing homes, clinics, telemedicine facilities.
- ii. Dispensaries, chemists, pharmacies, all kinds of medicine shops including *Jan Aushadhi Kendras* and medical equipment shops.
- iii. Medical laboratories and collection centres.
- iv. Pharmaceutical and medical research labs, institutions carrying out COVID-19 related research.
- v. Veterinary Hospitals, dispensaries, clinics, pathology labs, sale and supply of vaccine and medicine.
- vi. Authorised private establishments, which support the provisioning of essential services, or efforts for containment of COVID-19, including home care providers, diagnostics, supply chain firms serving hospitals.
- vii. Manufacturing units of drugs, pharmaceuticals, medical devices, medical oxygen, their packaging material, raw material and intermediates.
- viii. Construction of medical/ health infrastructure including manufacture of ambulances.
- ix. Movement (inter and intra State, including by air) of all medical and veterinary personnel, scientists, nurses, para-medical staff, lab technicians, mid-wives and other hospital support services, including ambulances.

**6. Agricultural and related activities:****A. All agricultural and horticultural activities to remain fully functional, such as:**

- i. Farming operations by farmers and farm workers in field.
- ii. Agencies engaged in procurement of agriculture products, including MSP operations.
- iii. 'Mandis' operated by the Agriculture Produce Market Committee (APMC) or as notified by the State/ UT Government (e.g., satellite *mandis*). Direct marketing operations by the State/ UT Government or by industry, directly



from farmers/ group of farmers, FPOs' co-operatives etc. States/ UTs may promote decentralized marketing and procurement at village level.

- iv. Shops of agriculture machinery, its spare parts (including its supply chain) and repairs to remain open.
- v. 'Custom Hiring Centres (CHC)' related to farm machinery.
- vi. Manufacturing, distribution and retail of fertilizers, pesticides and seeds.
- vii. Movement (inter and intra State) of harvesting and sowing related machines like combined harvester and other agriculture/ horticulture implements.

**B. Fisheries - the following activities will be functional:**

- i. Operations of the fishing (**marine and inland**)/ aquaculture industry, including feeding & maintenance, harvesting, processing, packaging, cold chain, sale and marketing.
- ii. Hatcheries, feed plants, commercial aquaria.
- iii. Movement of fish/ shrimp and fish products, fish seed/ feed and workers for all these activities.

**C. Plantations- the following activities will be functional:**

- i. Operations of tea, coffee and rubber plantations, with maximum of 50% workers.
- ii. Processing, packaging, sale and marketing of tea, coffee, rubber and cashew, with maximum of 50% workers.

**D. Animal husbandry – the following activities will be functional:**

- i. Collection, processing, distribution and sale of milk and milk products by milk processing plants, including transport and supply chain.
- ii. Operation of animal husbandry farms including poultry farms & hatcheries and livestock farming activity.
- iii. Animal feed manufacturing and feed plants, including supply of raw material, such as maize and soya.
- iv. Operation of animal shelter homes, including *Gaushalas*.

**7. Financial sector: following to remain functional:**

- i. Reserve Bank of India (RBI) and RBI regulated financial markets and entities like NPCI, CCIL, payment system operators and standalone primary dealers.
- ii. Bank branches and ATMs, IT vendors for banking operations, Banking Correspondents (BCs), ATM operation and cash management agencies.
  - a. Bank branches be allowed to work as per normal working hours till disbursement of DBT cash transfers is complete.
  - b. Local administration to provide adequate security personnel at bank branches and BCs to maintain social distancing, law and order and staggering of account holders.
- iii. SEBI, and capital and debt market services as notified by the Securities and Exchange Board of India (SEBI).
- iv. IRDAI and Insurance companies.





**8. Social sector: following to remain functional:**

- i. Operation of homes for children/ disabled/ mentally challenged/ senior citizens/ destitutes/ women/ widows.
- ii. Observation homes, after care homes and places of safety for juveniles.
- iii. Disbursement of social security pensions, e.g., old age/ widow/ freedom fighter pensions; pension and provident fund services provided by Employees Provident Fund Organisation (EPFO).
- iv. Operation of *Anganwadis* – distribution of food items and nutrition once in 15 days at the doorsteps of beneficiaries, e.g., children, women and lactating mothers. Beneficiaries will not attend the *Anganwadis*.

**9. Online teaching/ distance learning to be encouraged:**

- i. All educational, training, coaching institutions etc. shall remain closed.
- ii. However, these establishments are expected to maintain the academic schedule through online teaching.
- iii. Maximum use of Doordarshan (DD) and other educational channels may be made for teaching purposes.

**10. MNREGA works to be allowed:**

- i. MNREGA works are allowed with strict implementation of social distancing and face mask.
- ii. Priority to be given under MNREGA to irrigation and water conservation works.
- iii. Other Central and State sector schemes in irrigation and water conservation sectors may also be allowed to be implemented and suitably dovetailed with MNREGA works.

**11. Public utilities: following to remain functional:**

- i. Operations of Oil and Gas sector, including refining, transportation, distribution, storage and retail of products, e.g., petrol, diesel, kerosene, CNG, LPG, PNG etc.
- ii. Generation, transmission and distribution of power at Central and State/ UT levels.
- iii. Postal services, including post offices.
- iv. Operations of utilities in water, sanitation and waste management sectors, at municipal/ local body levels in States and UTs.
- v. Operation of utilities providing telecommunications and internet services.

**12. Movement, loading/ unloading of goods/ cargo (inter and intra State) is allowed, as under:**

- i. All goods traffic will be allowed to ply.
- ii. Operations of Railways: Transportation of goods and parcel trains.
- iii. Operations of Airports and related facilities for air transport for cargo movement, relief and evacuation.
- iv. Operations of Seaports and Inland Container Depots (ICDs) for cargo transport, including authorized custom clearing and forwarding agents.



- v. Operations of Land Ports for cross land border transportation of essential goods, including petroleum products and LPG, food products, medical supplies.
- vi. Movement of all trucks and other goods/ carrier vehicles with two drivers and one helper subject to the driver carrying a valid driving license; an empty truck/ vehicle will be allowed to ply after the delivery of goods, or for pick up of goods.
- vii. Shops for truck repairs and dhabas on highways, with a stipulated minimum distance as prescribed by the State/ UT authorities.
- viii. Movement of staff and contractual labour for operations of railways, airports/ air carriers, seaports/ ships/ vessels, landports and ICDs is allowed on passes being issued by the local authority on the basis of authorizations issued by the respective designated authority of the railways, airports, seaports, landports and ICDs.

**13. Supply of essential goods is allowed, as under:**

- i. All facilities in the supply chain of essential goods, whether involved in manufacturing, wholesale or retail of such goods through local stores, large brick and mortar stores or e-Commerce companies should be allowed to operate, ensuring strict social distancing without any restriction on their timing of opening and closure.
- ii. Shops (including *Kirana* and single shops selling essential goods) and carts, including ration shops (under PDS), dealing with food and groceries (**for daily use**), hygiene items, fruits and vegetables, dairy and milk booths, poultry, meat and fish, animal feed and fodder etc, should be allowed to operate, ensuring strict social distancing without any restriction on their timing of opening and closure.
- iii. District authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.

**14. Commercial and private establishments, as listed below, will be allowed to operate:**

- i. Print and electronic media including broadcasting, DTH and cable services.
- ii. IT and IT enabled Services, with upto 50% strength.
- iii. Data and call centres for Government activities only.
- iv. Government approved Common Service Centres (CSCs) at Gram Panchayat level.
- v. E-commerce companies. Vehicles used by e-commerce operators will be allowed to ply with necessary permissions.
- vi. Courier services.
- vii. Cold storage and warehousing services, including at ports, airports, railway stations, container Depots, individual units and other links in the logistics chain.
- viii. Private security services and facilities management services for maintenance and upkeep of office and residential complexes.





- ix. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.
  - x. Establishments used/ earmarked for quarantine facilities.
  - xi. Services provided by self-employed persons, e.g., electrician, IT repairs, plumbers, motor mechanics, and carpenters.
- 15. Industries/ Industrial Establishments (both Government and private), as listed below, will be allowed to operate:**
- i. Industries operating in rural areas, i.e., outside the limits of municipal corporations and municipalities.
  - ii. Manufacturing and other industrial establishments with access control in Special Economic Zones (SEZs) and Export Oriented Units (EoUs), industrial estates, and industrial townships. These establishments shall make arrangements for stay of workers within their premises as far as possible and/ or adjacent buildings and for implementation of the Standard operating protocol (SOP) as referred to in para 21 (ii) below. The transportation of workers to work place shall be arranged by the employers in dedicated transport by ensuring social distancing.
  - iii. Manufacturing units of essential goods, including drugs, pharmaceuticals, medical devices, their raw material and intermediates.
  - iv. Food processing industries in rural areas, i.e., outside the limits of municipal corporations and municipalities.
  - v. Production units, which require continuous process, and their supply chain.
  - vi. Manufacturing of IT hardware.
  - vii. Coal production, mines and mineral production, their transportation, supply of explosives and activities incidental to mining operations.
  - viii. Manufacturing units of packaging material.
  - ix. Jute industries with staggered shifts and social distancing.
  - x. Oil and gas exploration/ refinery.
  - xi. Brick kilns in rural areas i.e., outside the limits of municipal corporations and municipalities.
- 16. Construction activities, listed as below, will be allowed to operate:**
- i. Construction of roads, irrigation projects, buildings and all kinds of industrial projects, including MSMEs, in rural areas, i.e., outside the limits of municipal corporations and municipalities; and all kinds of projects in industrial estates.
  - ii. Construction of renewable energy projects.
  - iii. Continuation of works in construction projects, within the limits of municipal corporations and municipalities, where workers are available on site and no workers are required to be brought in from outside (in situ construction).
- 17. Movement of persons is allowed in the following cases:**
- i. Private vehicles for emergency services, including medical and veterinary care, and for procuring essential commodities. In such cases, one passenger besides the private vehicle driver can be permitted in the backseat, in case of





four-wheelers; however, in case of two-wheelers, only the driver of the vehicle is to be permitted.

- ii. All personnel travelling to place of work and back in the exempted categories, as per the instructions of the State/ UT local authority.

**18. Offices of the Government of India, its Autonomous/ Subordinate Offices will remain open, as mentioned below:**

- i. Defence, Central Armed Police Forces, Health and Family Welfare, Disaster management and Early Warning Agencies (IMD, INCOIS, SASE and National Centre of Seismology, CWC), National Informatics Centre (NIC), Food Corporation of India (FCI), NCC, Nehru Yuva Kendras (NYKs) and Customs to function without any restriction.
- ii. Other Ministries and Departments, and offices under their control, are to function with 100% attendance of Deputy Secretary and levels above that. Remaining officers and staff to attend upto 33% as per requirement.

**19. Offices of the State/ Union Territory Governments, their Autonomous Bodies and Local Governments will remain open, as mentioned below:**

- i. Police, home guards, civil defence, fire and emergency services, disaster management, prisons and municipal services will function without any restrictions.
- ii. All other Departments of State/ UT Governments to work with restricted staff. Group 'A' and 'B' officers may attend as required. Group 'C' and levels below that may attend upto 33% of strength, as per requirement to ensure social distancing. However, delivery of public services shall be ensured, and necessary staff will be deployed for such purpose.
- iii. District administration and Treasury (including field offices of the Accountant General) will function with restricted staff. However, delivery of public services shall be ensured, and necessary staff will be deployed for such purpose.
- iv. Resident Commissioner of States/ UTs, in New Delhi, only to the extent of coordinating COVID-19 related activities and internal kitchen operations.
- v. Forest offices: staff/ workers required to operate and maintain zoo, nurseries, wildlife, fire-fighting in forests, watering plantations, patrolling and their necessary transport movement.

**20. Persons to remain under mandatory quarantine, as under:**

- i. All such persons who have been directed by health care personnel to remain under strict home/ institutional quarantine for a period as decided by local Health Authorities.
- ii. Persons violating quarantine will be liable to legal action under Section 188 of the IPC, 1860.
- iii. Quarantined persons, who have arrived in India after 15.2.2020, after expiry of their quarantine period and being tested Covid-19 negative, will be released following the protocol prescribed in the SOP issued by MHA.

**21. Instructions for enforcement of above lockdown measures:**

- i. All the district magistrates shall strictly enforce the National COVID 19 directives as specified in **Annexure I**. Penalties prescribed shall be levied and collected from all persons and entities violating these directives.



- ii. All industrial and commercial establishments, work places, offices etc. shall put in place arrangements for implementation of SOP as in **Annexure II** before starting their functioning.
- iii. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such incident commander. The Incident Commander will issue passes for enabling essential movements as explained.
- iv. The Incident Commanders will in particular ensure that all efforts for mobilization of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.
- v. **Additional activities permitted in these guidelines shall be implemented in a phased manner, after making all arrangements necessary for strict implementation of the guidelines. These will come into force with effect from 20<sup>th</sup> April, 2020.**

## 22. Penal provisions

Any person violating these lockdown measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC, and other legal provisions as applicable. Extracts of these penal provisions are at **Annexure III**.

  
15/04/2020  
Union Home Secretary



**Annexure I****National Directives for COVID-19 Management**

The National Directives shall be enforced by the District Magistrate through fines and penal action as prescribed in the Disaster Management Act 2005.

**PUBLIC SPACES**

1. Wearing of face cover is compulsory in all public places, work places.
2. All persons in charge of public places, work places and transport shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare.
3. No organization /manager of public place shall allow gathering of 5 or more persons
4. Gatherings such as marriages and funerals shall remain regulated by the District Magistrate.
5. Spitting in public spaces shall be punishable with fine.
6. There should be strict ban on sale of liquor, gutka, tobacco etc. and spitting should be strictly prohibited.

**WORK SPACES**

7. All work places shall have adequate arrangements for temperature screening and provide sanitizers at convenient places.
8. Work places shall have a gap of one hour between shifts and will stagger the lunch breaks of staff, to ensure social distancing.
9. Persons above 65 years of age and persons with co-morbidities and parents of children below the age of 5 may be encouraged to work from home.
10. Use of Arogya setu will be encouraged for all employees both private and public.
11. All organizations shall sanitize their work places between shifts.
12. Large meetings to be prohibited.

**MANUFACTURING ESTABLISHMENTS**

13. Frequent cleaning of common surfaces and mandatory hand washing shall be mandated.
14. No overlap of shifts and staggered lunch with social distancing in canteens shall be ensured.
15. Intensive communication and training on good hygiene practices shall be taken up.

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Annexure II**Standard Operating Procedure for Social Distancing for Offices, Workplace, Factories and Establishments**

The following measures shall be implemented by all offices, factories and other establishments:

1. All areas in the premises including the following shall be disinfected completely using user friendly disinfectant mediums:
  - a. Entrance Gate of building, office etc.
  - b. Cafeteria and canteens.
  - c. Meeting room, Conference halls/ open areas available/ verandah/ entrance gate of site, bunkers, porta cabins, building etc.
  - d. Equipment and lifts.
  - e. Washroom, toilet, sink; water points etc.
  - f. Walls/ all other surfaces
2. For workers coming from outside, special transportation facility will be arranged without any dependency on the public transport system. These vehicles should be allowed to work only with 30-40% passenger capacity.
3. All vehicles and machinery entering the premise should be disinfected by spray mandatorily.
4. Mandatory thermal scanning of everyone entering and exiting the work place to be done.
5. Medical insurance for the workers to be made mandatory.
6. Provision for hand wash & sanitizer preferably with touch free mechanism will be made at all entry and exit points and common areas. Sufficient quantities of all the items should be available.
7. Work places shall have a gap of one hour between shifts and will stagger the lunch breaks of staff, to ensure social distancing.
8. Large gatherings or meetings of 10 or more people to be discouraged. Seating at least 6 feet away from others on job sites and in gatherings, meetings and training sessions.
9. Not more than 2/4 persons (depending on size) will be allowed to travel in lifts or hoists.
10. Use of staircase for climbing should be encouraged.
11. There should be strict ban of gutka, tobacco etc. and spitting should be strictly prohibited.
12. There should be total ban on non-essential visitors at sites.
13. Hospitals/clinics in the nearby areas, which are authorized to treat COVID-19 patients, should be identified and list should be available at work place all the times.

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Annexure III**Offences and Penalties for Violation of Lockdown Measures****A. Section 51 to 60 of the Disaster Management Act, 2005**

**51. Punishment for obstruction, etc.**—Whoever, without reasonable cause

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

**52. Punishment for false claim.**—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**53. Punishment for misappropriation of money or materials, etc.**—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

**54. Punishment for false warning.**—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

**55. Offences by Departments of the Government.**—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.



(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.**—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

**57. Penalty for contravention of any order regarding requisitioning.**—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**58. Offence by companies.**—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section— (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

**59. Previous sanction for prosecution.**—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

**60. Cognizance of offences.**—No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.



**B. Section 188 in the Indian Penal Code, 1860**

**188.** Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

*Illustration*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

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IN THE SUPREME COURT OF INDIA  
[CRIMINAL ORIGINAL JURISDICTION]

I.A. NO.                      OF 2020

IN

WRIT PETITION (CRL) NO.        /2020

PUBLIC INTEREST LITIGATION

**IN THE MATTER OF:-**

DR. VIKRAM SINGH

CHAIRMAN, CASC

...PETITIONER

VERSUS

UNION OF INDIA & ANR.

...RESPONDENT

**INTERIM APPLICATION SEEKING DIRECTIONS**

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS  
COMPANION JUDGES OF THIS HON'BLE COURT

THE HUMBLE APPLICATION SEEKING INTERIM  
DIRECTIONS OF THE APPLICANT ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:**

1. That the Applicant has filed the accompanying Writ Petition inter alia seeking quashing of FIRs registered u/s 188 IPC, and for other petty offences during the lockdown. The contents of the same may be deemed to be incorporated herein and are not being repeated for the sake of brevity.
2. That in the Writ Petition, the Applicant has demonstrated that a FIR cannot be registered u/s 188 IPC. Yet, as per the research conducted by the think tank CASC, and also published in its book titled "Breakdown of Law and Justice during Lockdown", from 23.03.2020 to 13.04.2020, 848 FIRs under S. 188 have been registered in 50 Police Stations of Delhi alone.



3. That as per Uttar Pradesh Government's own admission vide its Twitter handle, 15,378 FIRs under Section 188 have been registered in Uttar Pradesh against 48,503 persons. Many more FIRs are being reported across States through news reports.
4. That an FIR u/s 188 IPC in itself is completely illegal and has no sanctity in law. However, it is also known that FIR is the biggest tool for harassment, and puts the already burdened criminal justice mechanism into work.
5. That the pious objection of the lockdown must be achieved through public cooperation, and action as per rule of law. Hence, the Applicant has approached this Hon'ble Court, seeking the following interim relief-

### **PRAYER**


It is therefore prayed that this Hon'ble Court may be pleased to grant:

- a) interim relief directing the Respondent to issue advisory to all Chief Secretaries of States and Administrators of Union Territories for non-filing of FIRs u/s 188 IPC and other petty offences during the pendency of the Writ Petition;
- b) further order(s) as may be deemed fit and proper fit in light of above facts and circumstances or the interest of justice;

Drawn by

Filed by

Sachin Mittal and Gaurav Pathak,  
Advocates

  
Sachin Mittal  
Advocate for the Petitioner

Drawn on: 15.04.2020

Filed on: 16.04.2020

**Settled by:**

Gopal Sankaranarayanan, Senior Advocate

**IN THE SUPREME COURT OF INDIA**  
**CIVIL/CRIMINAL/ORIGINAL/APPELLATE JURISDICTION**

**Writ Petition (Crl) No. \_\_\_\_\_ Of 2020**

**DR. VIKRAM SINGH**  
**CHAIRMAN, CASC**

...PETITIONER

**VERSUS**

**UNION OF INDIA & ANR.**

...RESPONDENT

**V A K A L A T N A M A**

I, Dr. Vikram Singh, S/o Lt. Sh. Markandeya Singh, aged about 69 years, R/o Flat 1103, Tower-Aspire-1, Supertech Emerald Court, Sector-93, Noida, Uttar Pradesh, the Petitioner in the above Petition do hereby appoint and retain Mr. Sachin Mittal, Advocate, Supreme Court of India to act and appear for me/us in the above Suit/Appeal/Petition and on my/our behalf to conduct and prosecute or defend or withdraw the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review, to file and obtain return of documents and to deposit and receive money on my/our behalf in the said Suit/Appeal/Petition and in application for Review and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/We agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.

Dated this the 16<sup>th</sup> day of April 2020



**SACHIN MITTAL**



**Dr. Vikram Singh**

**Accepted & Identified**

**PETITIONER**

**Advocate-On-Record**  
**Supreme Court of India**  
**(Registration/Code No.: )**

**MEMO OF APPEARANCE**

To,  
The Registrar,  
Supreme Court of India  
New Delhi

Sir,  
Please enter my appearance on behalf on the Petitioner(s)/Appellant(s)/  
Respondent(s)/Intervenor in the matter above mentioned.

Dated this the 16<sup>th</sup> day of April 2020

Yours faithfully,



Sachin Mittal

Advocate-On-Record

(Registration/Code No.: 2290)

[Advocate for the Petitioner/Appellant/Respondent]

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