

VINEET NARAIN AND ORS.

A

v.

UNION OF INDIA AND ANR.

JANUARY 30, 1996

[J.S. VERMA, S.P. BHARUCHA AND S.C. SEN, JJ.]

B

Hawala Transactions :

Investigation—Conduct of—Every accusation against each and every person irrespective of the position and status of that person, must be investigated expeditiously—Impartial working of Government agencies Imperative to retain public—Confidence—Directions issued.

C

CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Crl.)
Nos. 340-43 of 1993.

D

(Under Article 32 of the Constitution of India.)

Anil B. Diwan, Ms. Lata Krishnamurthy, A.K. Sahoo and Ms. Kamini Jaiswal for the Petitioners.

D.P. Gupta, Solicitor General and N. Natarajan, P. Parameshwaran for the Respondents.

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The following Order of the Court was delivered :

The true scope of this writ petition has been indicated during the earlier hearings. At this stage, when some charge sheets have been filed in the Special Court and there is considerable publicity in the media regarding this matter, with some speculation about its true scope, it is appropriate to make this order to form a part of the record.

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The gist of the allegations in the writ petition are that Government agencies, like the CBI and the revenue authorities, have failed to perform their duties and legal obligations inasmuch as they have failed to properly investigate matters arising out of the seizure of the so called "Jain Diaries" in certain raids conducted by CBI. It is alleged that the apprehending of certain terrorists led to the discovery of financial support to them by clandestine and illegal means, by use of tainted funds obtained through

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- A 'hawala' transactions; that this also disclosed a nexus between several important politicians, bureaucrats and criminals, who are all recipients of money from unlawful sources given for unlawful considerations; that the the CBI and other Government agencies have failed to fully investigate into the matter and take it to the logical and point of the trial and to prosecute all persons who have committed any crime; that this is being done with a view to protect the persons involved, who are very influential and powerful in the present set up; that the matter discloses a definite nexus between crime and corruption in public life at high places in the country which poses a serious threat to the integrity, security and economy of the nation; that probity in public life, to prevent erosion of the rule of law and the preservation of democracy in the country, requires that the Government agencies be compelled to duly perform their legal obligations and to proceed in accordance with law against each and every person involved, irrespective of the height at which he is placed in the power set up.

- D The facts and circumstances of the present case do indicate that it is of utmost public importance that this matter is examined thoroughly by this Court to ensure that all Government agencies, entrusted with the duty to discharge their functions and obligations in accordance with law, do so, bearing in mind constantly the concept of equality enshrined in the Constitution and the basic tenet of rule of law : "Be you ever so high, the law is above you". Investigation into every accusation made against each and every person on a reasonable basis, irrespective of the position and status of that person, must be conducted and completed expeditiously. This is imperative to retain public confidence in the impartial working of the Government agencies.

- F In this proceeding we are not concerned with the merits of the accusations or the individuals alleged to be involved, but only the performance of the legal duty by the Government agencies to fairly, properly and fully investigate into every such accusation against every person, and to take the logical final action in accordance with law.

- G In case of persons against whom a *prima facie* case is made out and a charge sheet is filed in the competent court, it is that court which will then deal with that case on merits, in accordance with law.

- H However, if in respect of any such person the final report after full investigation is that no *prima facie* case is made out to proceed further, so

that the case must be closed against him, that report must be promptly submitted to this Court for its satisfaction that the concerned authorities have not failed to perform their legal obligations and have reasonably come to such conclusion. No such report having been submitted by the CBI or any other agency till now in this Court, action on such a report by this Court would be considered, if and when that occasion arises. We also direct that no settlement should be arrived at nor any offence compounded by any authority without prior leave of this Court.

We may add that on account of the great public interest involved in this matter, the CBI and other Government agencies must expedite their action to complete the task and prevent pendency of this matter beyond the period necessary. It is needless to observe that the results achieved so far do not match the available time and opportunity for a full investigation ever since the matter came to light. It is of utmost national significance that no further time is lost in completion of the task.

G.N.

Petition disposed of.