

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION  
**WRIT PETITION (CRL) NO. \_\_\_\_\_ OF 2016**  
(Petition under Article 32 of the Constitution of

India)

**(PUBLIC INTEREST LITIGATION)**

**IN THE MATTER OF:**

KAMINI JAISWAL  
43, Lawyers, Chamber,  
Supreme Court of India,  
New Delhi - 110001

... PETITIONER

VERSUS

1. UNION OF INDIA  
MINISTRY OF HOME AFFAIRS  
THR.ITS SECRETARY  
NORTH BLOCK  
CENTRAL SECRETARIAT  
NEW DELHI – 110001
2. DELHI POLICE  
THR. THE COMMISSIONER OF POLICE,  
I.P. ESTATE, ITO,  
NEW DELHI
3. VIKRAM SINGH CHAUHAN  
Advocate  
Through;  
Bar Council of India  
21, Rouse Avenue Institutional Area,  
  
Near BalBhawan,  
New Delhi – 110 002
4. YASHPAL SINGH  
Advocate  
Through;  
Bar Council of India  
21, Rouse Avenue Institutional Area,  
  
Near BalBhawan,  
New Delhi – 110 002
5. OM SHARMA  
Advocate  
Through;

Bar Council of India  
21, Rouse Avenue Institutional Area,  
Near BalBhawan,  
New Delhi – 110 002

... RESPONDENTS

**WRIT PETITION UNDER ARTICLE 32 OF  
THE CONSTITUTION OF INDIA READ WITH  
ARTICLE 21 OF THE CONSTITUTION OF  
INDIA SEEKING APPROPRIATE  
WRIT/DIRECTIONS/ORDERS TO  
INSTITUTE A SPECIAL INVESTIGATION  
TEAM TO INVESTIGATE THE INCIDENTS  
OF ATTACKS ON 15.02.2016 AND  
17.02.2016 BY SOME LAWYERS IN THE  
PREMISES OF PATIALA HOUSE COURT ON  
THE JOURNALIST, STUDENTS, TEACHERS,  
DEFENCE LAWYERS AND THE ACCUSED  
PERSON AND ALSO FOR ISSUANCE OF SUO  
MOTO CONTEMPT PROCEEDING AGAINST  
THE RESPONDENT ADVOCATES FOR  
INTERFERING IN THE ADMINISTRATION  
OF JUSTICE AND FOR WILLFULLY  
VIOLATING THE ORDERS DATED  
17.02.2016 OF THIS HON'BLE COURT.**

TO,  
THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS  
COMPANION JUDGES OF THE SUPREME COURT OF  
INDIA

THE HUMBLE PETITION OF THE PETITIONER  
ABOVENAMED

**MOST RESPECTFULLY SHOWETH:**

1. That the present Writ Petition is being filed under Article 32 of the Constitution of India by the Petitioner for enforcement of the fundamental rights guaranteed under Article 14 and 21 of the Constitution of India. The immediate cause of filing this petition is the facts which have come to light about the blatant violation of the rule of law and also contempt on the face of court committed by certain lawyers, including Respondent Nos. 3 to 5, on 15.02.2016 and 17.02.2016 in the Patiala House court premises and complete inaction of the Delhi Police which has been exposed by the report dated 18/2/16 of 5 senior advocates appointed as court commissioners by this court, report dated 19.02.2016 of the National Human Rights Commission as well the sting operation dated 22.02.2106 conducted by the India Today news channel.

2. The Petitioner is a practicing advocate in this Hon'ble Court.

3. Respondent No. 1 is the Ministry of Home Affairs which is entrusted with the responsibility of internal security and law & order, etc. Respondent No. 2 is directly under the control and supervision of Respondent No. 1.

4. Respondent NO. 2 is Delhi Police. It is the duty of the Respondent to ensure that there is law and order maintained

in the state of Delhi including Court premises. That the Respondent No. 2 has grossly derelicted in its duties in failing to provide safety and security to the litigants, journalists and others in the Patiala House Court premises on the day when the incident of took place.

5. Respondent Nos. 3 to 5 are the advocates who have been found to be leading the attacks in the above mentioned incidents as per various reports including media reports and the sting operation aired on the India Today news channel. Since their addresses are not known to the Petitioner, they have been made parties through Bar Council of India.

6. That the Petitioner has no personal interest involved in the present matter and only seeks to protect the rights of the citizens, litigants who in their individual capacity do not possess the necessary knowledge or means to approach this Hon'ble Court to seek redressal of their grievances. That the Petitioner is not involved in any litigation before any other forum/court/authority, which has a nexus with the instant Petition.

7. It is submitted that the Petitioner has not approached any Respondents or any other authority for the redressal of his grievances since all the alleged in this petition are in

public domain and still no action has been taken by the concerned authorities.

## **8. BRIEF FACTS:**

8.1. On 09.02.2016, a cultural program called “A Country without a Post Office” was organized by some of the students of the Jawaharlal Nehru University (hereinafter ‘JNU’).

8.2. That on 12.02.2016, an FIR was registered against certain students of the JNU under Section 124A and 120B of the Indian Penal Code, 1860. On 12.02.2016, Mr. Kanhaiya Kumar, the student union president of Jawaharlal Nehru University, was arrested on the basis of the said FIR.

8.3. On 15.02.2016 when Kanhaiya Kumar was to be produced before the Magistrate at Patiala House Courts, students and teachers from JNU and journalists were attacked by some criminal elements, including advocates and a sitting member of the Delhi legislative assembly, in Patiala House Court. The injured journalist and defense advocates approached the police to register FIRs on the basis of a written complaint and to give the names of the advocates who were leading the attack but even

though the facts of the said event were in public domain and the pictures and videos of the said advocates and MLA were being circulated in the media, still the Delhi police refused to register FIR on the basis of the said complaint. Copies of the some news reports dated 16.02.2016 giving details of the said events at Patiala House are annexed herewith as **ANNEXURE P-1 (Pages \_\_\_\_\_)**. The aforesaid facts have been also confirmed by 5 faculty members of the JNU who were present in the Patiala House Court premises on 15.02.2016. A copy of the said report dated nil is annexed herewith as **ANNEXURE P-2 (Pages \_\_\_\_\_)**.

Despite the fact that the entire incident was widely reported in newspaper reports and some of the lawyers, including the Respondent Nos 3 to 5 were not only identified but they also admitted their involvement, still the police did not make any attempt to arrest them.

8.4. That on 16.02.2016, the above-mentioned events of 15.02.2016 led to the filing of a writ petition before this Hon'ble Court. In the morning of 17.02.2016 after a detailed hearing, this Hon'ble Court issued detailed orders to ensure safety of the accused

namely Kanhaiya Kumar when he was to be produced before the Metropolitan Magistrate at the Patiala House Courts at 2 pm and to ensure that the court proceedings were concluded without any disruptions. A copy of the order dated 17.02.2016 in the Writ petition (Criminal) No. 25 of 2016 is annexed and marked as **ANNEXURE P-3(Pages \_\_\_\_\_)**.

- 8.5. That on 17.02.2016, at around 2 pm, the Petitioner's counsel got a call from one of the defense lawyers who had been permitted by this Hon'ble Court to be present at the Court of the Shri Loveleen, Metropolitan Magistrate, Patiala House Court. The Petitioner's counsel was told that total pandemonium had broken out at the court premises and the defense lawyers had been forced to lock themselves inside the court room in order to save their lives from the unruly mob of lawyers. The petitioner's counsel immediately mentioned the events which were being transpired at the Patiala House Court premised before the accused Kanhaiya Kumar could be produced the MM. While this Hon'ble Court was waiting to get the version of the Delhi Police on this, it was brought to the notice of

the Hon'ble Court by the petitioner's counsel and some senior lawyers that the accused person was beaten up and journalists assaulted again despite the order passed by this Hon'ble Court in the morning. This Hon'ble Court directed a team of lawyers to inspect the Patiala House Courts and give a report. A copy of the second order dated 17.02.2016 of this Hon'ble Court in Writ petition (Criminal) No. 25 of 2016 is annexed herewith as **ANNEXURE P-4(Pages \_\_\_\_\_)**.

8.6. That on 17.02.2016, at 4.05pm, the court appointed committee submitted its oral report that the accused was badly beaten up, journalists bashed up and police again failed to maintain law and order. The committee also mentioned that they were abused in filthy language and pelted with flower pots, pebbles and water bottles. It was also informed that lawyers and journalists were locked inside the court room.

8.7 That on 18.02.2016; News reports showed that the lawyers leading the assaults on 17.02.2016 and 15.02.2016 were the same and that the said assaults were premeditated. The news reports also

mentioned that the police had remained mute spectators to this open violation of the law and the order of this Hon'ble Court. Copies of the said News Reports dated 18.02.2016 are annexed and marked as **ANNEXURE P-5(Pages \_\_\_\_\_)**. One news report carried the first person account of a journalist about the blatant mockery of the judicial process and quoted the assaulters viz. "Ab le aao SC koapnesaath. Kahaangaya SC isswaqt? (Now bring the SC with you. Where is the SC right now?)".

8.8 The team of 5 senior lawyers who were sent by this Hon'ble Court on 17.02.2016 to Patiala House Court submitted its written report to this Hon'ble Court. They have observed the following facts in the said report:

*"The atmosphere outside was surcharged and intimidating. Abuses were also shouted and hurled on Mr. Sibal and all other committee members. There was an instigation to intimidate the committee members and create an atmosphere of fear and terror. The upbeat mood of the crowd in lawyers' dress who continuously were shouting slogans and abuses to present a terrorizing atmosphere was*

*clearly visible.” The police team which had accompanied the Committee members from the Hon’ble Supreme Court realized the gravity of the situation and circled the Committee members by forming a Security ring of the officers as the Committee members started walking from the court room towards the gate to go (sic) the Supreme Court in the police vehicles. Said ring of the police officers/cordone was broken on more than three occasions by the lawyers who were present in the Court Compound despite the presence of other Delhi Police Personnel. There was continuous slogan raising, shouting, hurling of abuses throughout. After coming out of the court building within the premises of the Patiala House Court, sand stones were thrown on the members of the Committee. Even a sharp piece of a broken flower pot was also thrown. A half-filled plastic water bottle was also thrown. The intimidating shouting and chanting of slogans continued. That but for the security ring provided by the officers of the Supreme Court Security police, it would not have been possible for the Committee members to come out unscathed. It was only on account of the security cover provided by the DCP Mr.*

*Bharadwaj of the Supreme Court and his personnel accompanying the members that the committee members could be safely evacuated from Court premises. Though there was large number of police personnel deployed, they could not contain the other lawyers present in large number to intimidate one and all.*

*All Committee members felt that the atmosphere, to say the least, not being at all congenial, was surcharging, threatening and frightening and the Police had completely failed in its duty to contain the atmosphere and the crowd.”*

*As per the said report, “According to Committee members unanimously, the responsibility had to be fastened on all the police personnel who were present there and were aware of the direction of this Hon’ble Court despite this unauthorisedly two persons were knowingly permitted to enter and let assault take place in the Court Room and outside in the Court premises.*

A copy of the report dated 18.02.2016 by a team of 5 senior lawyers annexed hereto as **ANNEXURE P-6(Pages \_\_\_\_\_)**.

The defense lawyers also submitted their report before this Hon'ble Court wherein they have given their eye-witness account. They have in their report affirmed that the accused was badly beaten by the lawyers when he was brought to the court building and also inside the Court hall no. 3 by an unidentified person. Copy of the report of defense lawyers dated nil is being annexed hereto as **ANNEXURE P-7(Pages \_\_\_\_\_)**.

The report dated 17.02.2016 by the Registrar General, High Court of Delhi raises question about the role of Sh. Jatin Narwal, DCP, New Delhi who despite insistence on the part of the Id. Registrar General of the Delhi High Court, did not apprehend the unauthorized person in plain clothes present in the Court of the Id. MM. Apart from the aforesaid reports, a report dated 19.02.2016 by Shri Ajit Kumar Sinha, Sr. Advocate who had gone with the team of 5 senior lawyers and the report dated 19.02.2016 of the Delhi Police have also been submitted before this Hon'ble Court. Copy of report dated 17.02.2016 by the Registrar General, High Court of Delhi is being annexed hereto as **ANNEXURE P-8(Pages \_\_\_\_\_)**. Copy of the report

dated 19.02.2106 by ShriAjit Kumar Sinha, Sr. Advocate is being annexed hereto as **ANNEXURE P-9(Pages \_\_\_\_\_)**. Copy of the report dated 19.02.2016 of the Delhi Police is being annexed hereto as **ANNEXURE P-10(Pages \_\_\_\_\_)**.

- 8.9. That on 19.02.2016, the National Human Rights Commission issued a report on the crackdown of Delhi police on the students of JNU and the attack on the accused Kanhaiya Kumar and others by lawyers in Patiala House Court. The report has stated that the attack in the Patiala House courts complex on Kanhaiya Kumar on Wednesday "appears to be organised and pre-planned." It further stated that the attack on Mr Kumar, who was "abused and physically assaulted by some persons dressed as advocates", was a major security lapse on part of the police. The report also pulled up Delhi Police for "serious dereliction of duty" and said it "did not do anything to prevent the assault" on Kumar inside the Patiala House Court premises Wednesday or "apprehend the attackers". As per the report, "He was subjected to psychological pressure during interrogation. The

statement, which was issued by police as an appeal on behalf of Kanhaiya Kumar, was not written by him voluntarily. The content, construction and framework of the statement were as dictated by the police” A copy of the new report dated 19.02.2016 is annexed herewith as **ANNEXURE P-11(Pages )**.

On 17/2/16, an Associate Professor at Centre for Economic Studies and planning, JNU, Mr. Himanshu, had accompanied the defense lawyers to attend the court hearing as a faculty member, as per the direction of this Hon’ble Court, and he has also given his eye-witness account. He confirms that the accused was attacked by a person wearing dark sun glasses inside the court room but the police did not make any attempt to arrest him. The said Associate Professor has been able to identify the said assailant in a photograph published along with a report in Hindustan Times dated 19.02.2016 where he is seen wearing a checked court and standing along with other lawyers at the gate of Patiala House Court. Copy of the eye-witness account of Mr. Himashu, Associate Professor, JNU dated nil is annexed hereto as **ANNEXURE P-12(Pages )**. Copy of the Hindustan Times

report dated 19.02.2016 is being annexed hereto as **ANNEXURE P-13(Pages \_\_\_\_\_)**.

8.10. That on 22.02.2016, India Today aired a sting operation on 3 lawyers, viz. Respondent Nos. 3 to 5, wherein they have been shown saying that they had beaten up the accused for 3 hours in the presence of the police personnel. In fact, they are claiming that the police were not only supporting them but also appreciating their acts. The Respondents have admitted that the attacks were not spontaneous but in fact were pre-planned. The Respondent Nos. 3 to 5 also say that they will repeat the same acts of violence when the accused is produced in the court again. Respondent No.4 has been found brazenly saying that he will get a patrol bomb next time and he will not leave him (the accused) even if he is charged with murder for doing so. He has also stated on camera that if he is arrested he would like to go to the same jail and visit the accused's cell and beat him up there itself. A copy of the news report dated 22.02.2016 containing the transcript of relevant extracts downloaded from the India today website is annexed herewith as **ANNEXURE P-**

**14(Pages \_\_\_\_\_)**.Link of the said sting video is as follows:

<http://indiatoday.intoday.in/story/exclusive-kanhaiya-wet-his-pants-while-we-beat-him-up-in-police-custody-say-lawyers-behind-patiala-house-assault/1/602690.html>.

8.11. That on 23.02.2016, the Times of India published a news story that a judicial officer of the Patiala House Court has written an eye-witness account to the District Judge concerned about the incidents of 15.02.2016 and 17.02.2016 wherein he says that the attacks by the lawyers were one-sided and against all those who were not in lawyers' garbs. The said report dated 23.02.2016 is annexed as **Annexure P/15**.

8.12. That on 24.02.2016, apparently Respondent No.4 was arrested and later let out on bail.

9. In the light of all the facts and circumstances narrated above, the petitioner seeks the intervention of the court on the following among other:

### **GROUND**

- A. Because the inaction of the Delhi Police in preventing the events of 15.02.2016 and 17.02.2016 at Patiala House Court appears deliberate and malafide and has led to and threatens the fundamental rights if people guaranteed by article 21 of the Constitution of India.
- B. Because the reports of the Court Commissioners and that of the National Human Rights Commission has not only indicted the Delhi Police for its failure to prevent the attacks by the lawyers and to ensure the safety of the accused person but the NHRC has also adversely commented upon the manner in which the Delhi Police has forced the accused to issue a statement while in custody.
- C. Because various eye witness accounts from 15.02.2016 and 17.02.2016 also state that the police had remained mute spectators to the acts of violence committed by the lawyers and others.
- D. Because the said sting operation shows the Respondent Nos. 3-5 stating that the police were not only supporting them but also appreciating their acts, thereby substantiating the accounts from all sources that the police were not doing their duty of maintaining order and not implementing the

orders of the court. In such circumstances, it would be futile to allow the same Police to investigate the events of 15 and 17 Feb at Patiala House, and that a fair investigation would only be possible through an SIT appointed by this court.

- E. Because the said sting operation shows the Respondent Nos. 3-5 stating that they will repeat the same acts of violence when the accused is produced in the court again. Respondent No.4 has been found brazenly saying that he will get a petrol bomb next time and he will not leave him (the accused) even if he is charged with murder for doing so. He has also stated on camera that if he is arrested he would like to go to the same jail and visit the accused's cell and beat him up there itself. This raises serious apprehension about the safety of the accused person and others attending the court proceedings in future.
- F. Because the report of the NHRC as well as the sting operation conducted by the India Today show that the attacks on 15.02.2016 and 17.02.2016 were premeditated and thus the attacking lawyers including the Respondent advocates had committed

contempt in the face of law by interfering in the administration of justice.

- G. Because the Respondent advocates have deliberately violated the orders passed by this Hon'ble Court on 17.02.2016 and thus committed willful defiance of this Hon'ble Court's orders and thereby committing contempt of this Hon'ble Court.
10. That the Petitioners have not filed any Petition before any High Court or this Hon'ble Court seeking the same or similar relief.

**PRAYER**

Under the circumstances mentioned above, it is most humbly prayed that this Hon'ble Court:

- a. Issue an appropriate writ, order or direction to constitute a Special Investigation Team to investigate the incidents of attacks on 15.02.2016 and 17.02.2016 by some lawyers and others in the premises of Patiala house court on the journalists, students, teachers, defense lawyers and the accused person, and
- b. Issue suomoto contempt proceeding against the Respondent Nos. 3-5 for interfering in the administration of justice and for willfully violating the orders dated 17.02.2016 of this Hon'ble Court, and

- c. Pass such further and other orders as the Court may deem fit in the interest of justice and circumstances of the present case.

FILED BY:

**PRASHANT BHUSHAN**  
ADVOCATE FOR THE PETITIONER

DRAWN BY: PYOLI, Adv

DRAWN ON: 23.02.2016

FILED ON: \_\_\_\_ .02.2016