

ITEM NO.303

COURT NO.2

SECTION IIC

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s).3119-3120/2014

(Arising out of impugned final judgment and order dated 13/03/2014
in CRLA No. 1398/2013 13/03/2014 in CRLA No. 1399/2013 13/03/2014
in DSR No. 6/2013 passed by the High Court Of Delhi At New Delhi)

MUKESH & ANR

Petitioner(s)

VERSUS

STATE FOR NCT OF DELHI & ORS

Respondent(s)

(With Office Report)

WITH

SLP(Cr1) No. 5027-5028/2014

(With Office Report)

Date : 06/03/2017 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

Mr. Sanjay R. Hegde, Sr. Adv. (AC)
Mr. Anil Kumar Mishra-I, Adv.
Mr. S. Nithin, Adv.
Mr. Atul Shankar Vinod, Adv.
Mr. Pranjal Kishore, Adv.
Mr. A. Tanvir, Adv.

Mr. Raju Ramachandran, Sr. Adv.
Mr. K. Parameshwar, AOR
Ms. Mythili Vijay Kumar Thallam, Adv.
Mr. Vikram Aditya Narayan, Adv.

For Petitioner(s) Mr. Manohar Lal Sharma, Adv.
Ms. Suman, Adv.
Mr. Nitin Kumar Thakur, AOR

Mr. A.P. Singh, Adv.
 Ms. Geeta Chauhan, Adv.
 Mr. V.P. Singh, Adv.
 Mr. P.K. Tripathi, Adv.
 Mr. Pratima Rani, Adv.
 Ms. Richa Singh, Adv.
 Mr. S.P. Singh, Adv.
 Mr. C.K. Kesharwani, Adv.
 Mr. Pawan Trivedi, Adv.
 Mr. C.M. Sharma, Adv.
 Mr. Hemant Kumar, Adv.
 Mr. M. M. Kashyap, AOR

For Respondent(s) Mr. Siddharth Luthra, Sr. Adv.
 Ms. Supriya Juneja, Adv.
 Mr. Sameer Chaudhary, Adv.
 Mr. Viraj Gandhi, Adv.
 Ms. Shradha Karol, Adv.
 Mr. Ajay Sharma, Adv.
 Ms. Mehaad Jaggi, Adv.
 Mr. K.L. Janjani, Adv.
 Mr. B.K. Prasad, Adv.
 Mr. D.S. Mahra, AOR

Mr. Jaspreet Singh Rai, Adv.
 Mr. Rohit Nagpal, Adv.
 Mr. Siddhant Sharma, Adv.
 Mr. Shyamal Kumar, AOR

Mr. Arjun Vinod Bobde, Adv.
 Ms. Richa Relhan, Adv.
 Ms. Praneeta Sharma, Adv.
 Ms. Sanya Pawar, Adv.
 Mr. Rajat Joseph, AOR

UPON hearing the counsel the Court made the following
 O R D E R

In pursuance of our order dated 3.2.2017, affidavits on behalf of the petitioners have been filed. Mr. A.P. Singh, learned counsel has filed affidavits on behalf of the three accused persons, namely, Pawan Kumar Gupta, Vinay Sharma and Akshay Kumar Singh and Mr. M.L. Sharma, learned counsel has filed the affidavit on behalf of Mukesh. Be it noted, Mr. A.P. Singh, learned counsel has filed the translated version of the affidavits and Mr. Manohar Lal Sharma, learned counsel has filed the original version in Hindi

as well as the translated one.

At this juncture, Mr. Raju Ramachandran, learned senior counsel who has been appointed as *Amicus Curiae* to assist the Court, submitted that two aspects are required to be further probed to comply with the order dated 3.2.2017 inasmuch as this Court has taken the burden on itself for compliance of Section 235(2) of the Code of Criminal Procedure. Learned senior counsel would point out that the affidavit filed by Mukesh does not cover many aspects, namely, socio-economic background, criminal antecedents, family particulars, personal habits, education, vocational skills, physical health and his conduct in the prison.

Mr. Manohar Lal Sharma, learned counsel submits that a report was asked for from the Superintendent of Jail with regard to the conduct of the accused persons while they are in custody, but the same has not directly been filed by the Superintendent of Jail.

Mr. Siddharth Luthra, learned senior counsel for the respondent-State, would, *per contra*, contend that he has filed the affidavit and the affidavit contains the report of the Superintendent of Jail.

In our considered opinion, the Superintendent of Jail should have filed the report with regard to the conduct of the accused persons since they are in custody for almost four years. That would have thrown light on their conduct. Let the report with regard to their conduct be filed by the Superintendent of Jail in a sealed cover in the Court on the next date of hearing.

As far as the affidavit filed by Mukesh is concerned, Mr. Sharma, learned counsel stated that he will keep the aspects which are required to be highlighted in mind and file a further affidavit within a week hence.

The direction issued on the earlier occasion with regard to the visit of jail by the learned counsel for the parties shall

remain in force till the next date of hearing.

Let the matter be listed at 2.00 p.m. on 20.3.2017. The report of the Superintendent of Jail, as directed hereinabove, shall be filed in Court on that date.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master