

## INDEX

<u>Sl. No.</u>	<u>Particulars of documents</u>	<u>Page No. of part to which it belongs</u>		<u>Remarks</u>
		Part 1 (Contents of Paper book)	Part II (Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
	Court fees			
1.	O/R on Limitation		A	
2.	Listing Performa		I-II	
3.	Cover Page of Paper Book		III	
4.	Index of Record Proceedings		IV	
5.	Defect List			
6.	Note Sheet			
7.	Synopsis & List of Dates	B-D		
8.	Writ Petition with Affidavit	1-32		
9.	<b><u>Appendix:</u></b> Sections 120-B, 153, 153A, 153 B, 295A, 298, 500, 504, 505(2), 506 (2) of IPC	33-39		
14.	Application for interim Directions	40-42		
17.	Valaktnama			

## **S Y N O P S I S**

The present writ petition under Article 32 of the Constitution of India is being filed in this Hon'ble Court to preserve and protect the fundamentals rights of the press, electronic and print media guaranteed under Article 19(1)(a) Constitution of India due to which general public becomes aware and able to form opinion about the functioning of the respective Governments and officers working under it.

At present some news channels are being targeted who expose the reasons and involvement of anti social, anti national persons behind the incident and a number of FIRS are being logged in different States to snub their voice to prevent them from awaking the citizens from such nefarious and dangerous activities of such elements.

It is relevant to mention that no provision has been enacted to protect the freedom of press from frivolous and malicious prosecution and there is complete vacuum on this subject. Therefore the petitioner is praying the Hon'ble Court to lay down some guideline to protect the press providing that no FIR shall be registered and/or prosecution launched against press/media/journalist and its people for the offences punishable

under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r/w Section 120-B of I.P.C. and other similar provision/s in other statute/s, if any, on the basis of press/media and/or its people having printed, published, telecast any news, views, comments, debates, show, programme etc. in and/or on their newspapers/news channels, unless, sanction for registration of such FIRs/prosecution **has been granted** by the Press Council of India and/or of any judicial authority as may be provided in the guidelines.

The Hon'ble Court may also provide in the guidelines that the sanctioning authority shall be under an obligation to decide the application submitted by aggrieved person/s who seeks to lodge/file FIR/prosecution against the press/media and its people for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r/w Section 120-B of I.P.C. and other similar provision/s in other statute/s, if any, on account of press/media and/or its people having printed, published, telecast any news, views, comments, debates, show, programme etc. in and/or on their newspapers/news channels, within a time bound manner,

It is duty of the press council of India to have check and ascertain the truthfulness or otherwise of the claims made by

newspapers/news channels, media agency/house, who seek to avail the benefit of the guidelines but it has failed to discharge its duties and has not taken any steps to protect the press from malicious prosecution. At the same time press council has not taken any steps for those who are aggrieved with the circulation of false news telecasted or/ printed by print / electronic media.

In these circumstance the petitioner invokes the jurisdiction of the Hon'ble Court under Article 32 of the Constitution of India in the interest of the press and the public in general.

**List of dates**

16.4.2020 That it is relevant to mention that the Respondent Nos. 3 and 4 during the spread of pandemic and consequent lockdown in the country telecast news on their respective TV channels and exposed Tablighi Jamaat/Maulana Saad responsible for spreading the deadly Covid 19 virus all over the country. Similarly, the Respondent No.3 questioned the Congress President for maintaining complete silence after brutal massacre of the two Hindu saints and their driver at Palghar on 16.4.2020. The Respondent Nos. 3 and 4 strongly raised these important news through news

reporting/debates/discussions on their TV channels in the months of March/April and May 2020. These news channels as a matter of fact performed their duties as responsible media which did not violate any law for the time being in force. On the contrary, these two channels which are being targeted now by certain section of people and political party by telecasting such programmes performed their professional responsibility and duty toward the country and its people and responsibility of journalism. However, the Respondent Nos. 3 and 4 became eyesore for certain disgruntled elements and with a view to silence them, a number of FIRS have been lodged against them in different states of the country.

....05.2020

Hence this writ petition

**IN THE SUPREME COURT OF INDIA**  
**[CIVIL ORIGINAL JURISDICTION]**

(Petition under Article 32 of the Constitution of India read with  
Order XXXVIII of the Supreme Court Rules, 2013)

**PUBLIC INTEREST LITIGATION (C) NO.      OF 2020**

Ghanshyam Upadhyay,  
aged 50 years, Indian Inhabitant,

...Petitioner

-Versus-

1.     Union of India,  
  
         Through Secretary,  
  
         Ministry of Home Affairs  
  
         North Block  
  
         New Delhi.-110001

2. The Press Council of India,  
Through its Chairman, Suchana Bhavan,  
8-C. G. O. Complex, Lodhi Road,  
New Delhi- 110 003.
  
3. Republic T. V.,  
Wadia International Centre,  
Kamala Mills Compound,  
NBW Building, Bombay Dying,  
Panduranga Budhkar Marg,  
Century Mills, Lower Parel,  
Mumbai- 400 025.
  
4. Zee Media Corporation Ltd.  
A-Wing, 14<sup>th</sup> Floor, Marathon Futurex,  
N.M. Joshi Marg, Lower Parel,  
Mumbai- 400 013. ...Respondents

**WRIT PETITION UNDER ARTICLE 32 OF THE**  
**CONSTITUTION OF INDIA PRAYING TO LAY DOWN**  
**GUIDELINES WITH REGARD TO REGISTRATION**

**OF FIR AGAINST JOURNALISTS WHISTTELE  
CASTING NEWS/DEBATES IN ELECTRONIC MEDIA.**

**TO,**

**THE HON'BLE THE CHIEF**

**JUSTICE OF INDIA AND**

**OTHER COMPANION JUSTICES**

**OF THE HON'BLE SUPREME**

**COURT OF INDIA;**

**HUMBLE PETITION OF THE PETITIONER**

**ABOVENAMED;**

**MOST RESPECTFULLY SHEWETH;**

1. The petitioner is a citizen of India and domiciled in the State of Maharashtra. The petitioner is a practicing advocate in the Hon`ble High Court, Bombay and the Hon`ble Supreme Court of India and has been duly enrolled with the Bar Council of Maharashtra and Goa, having registration No. MAH/5167/1999. While the Respondent No.1 is the Union of India, the Respondent



No.2 is the Press Council of India, which is a regularity statutory body with regard to media, the Respondent Nos.3 and 4 are the leading and renowned news channels of the country.

- 1.A That it is relevant to mention that the Respondent Nos. 3 and 4 during the spread of pandemic and consequent lockdown in the country telecast news on their respective TV channels and exposed Tablighi Jamaat/Maulana Saad responsible for spreading the deadly Covid 19 virus all over the country. Similarly, the Respondent No.3 questioned the Congress President for maintaining complete silence after brutal massacre of the two Hindu saints and their driver at Palghar on 16.4.2020. The Respondent Nos. 3 and 4strongly raised these important news through news reporting/debates/discussions on their TV channels in the months of March/April and May 2020. These news channels as a matter of fact performed their duties as responsible media which did not violate any law for the time being in force. On the contrary, these two channels which are being targeted now by certain section of people and political party by telecasting such

programmes performed their professional responsibility and duty toward the country and its people and responsibility of journalism. However, the Respondent Nos. 3 and 4 became eyesore for certain disgruntled elements and with a view to silence them, a number of FIRS have been lodged against them in different states of the country.

- 1.B The citizens of the country which includes the petitioner as well are entitled to receive complete, uncut and truthful information/analysis, especially concerning issues affecting/impacting sovereignty and integrity of India. Certain elements in the society averse to free flow of such unbiased, truthful, complete, uncut information which are based on in-depth analysis/investigation, take recourse to entangle journalists engaged in providing such vital and crucial information to the public at large by entangling them in frivolous and vexatious criminal prosecution so that voices of such journalism could be silenced. Such elements cannot be permitted to directly and/or indirectly silence/gag the media by entangling journalists in vexatious complaints/ FIRs. The Respondent Nos.3 and 4

have been arrayed as the Respondents in the instant petition as they have in their possession all the evidence/material information with regard to false, frivolous, vexatious and malicious criminal proceedings initiated/ threatened to be initiated against them, including FIRs recently registered against their Editor-In-Chief. The petitioner is relying on such information and materials broadcast by the Respondent Nos.3 and 4 for the purpose of the petition and the reliefs claimed herein.

1.C That in the circumstances mentioned above, the Petitioner begs to approach this Hon'ble Court seeking laying down of guidelines with regard to registration of FIR against journalists/ press/ media / their executives and investigation in respect thereof so as to ensure that the press/ media, which is the fourth pillar of democracy, is not subjected to suppression and oppression and their voice is not silenced by entangling them in false, frivolous, vexatious and malicious prosecution under the garb of investigation, in the manner in which recently, FIRs have been registered against the Editor-In

Chief of the Respondent Nos. 3 and 4. The Petitioner craves leave of this Hon'ble Court to refer those FIRs, when produced.

2. Factual matrix, giving rise to the filing of the present petition are as follows:-

2.1 The petitioner being a citizen of India is extremely disturbed and anguished on account of growing tendency of certain people in power or their supporters of resorting to suppress/oppress and gag the media by initiating false and frivolous FIRs, merely because, media exposed anti-national activities of these people and their supporters, which are not liked by these people/their supporters. The petitioner being an alert citizen of the country is interested to see free, independent and fearless media, which is the fourth pillar of our democracy, is not subjected to harassment/oppression at the instance and behest of anti-national elements who have been relentlessly working to destabilise/destroy the country and even partition the country once again and who find media like the Respondent Nos.3 and 4 huge stumbling blocks in the way of such elements/ their supporters. It is the duty of the petitioner as a citizen of India and as an Advocate, to ensure that patriotic and nationalist media like the Respondent Nos. 3

and 4 are not suppressed and their voice is not gagged. The Respondent Nos. 3 and 4 have been raising their voice from time to time against anti-national activities of these elements and in the interest of nation and hence the disgruntled people cannot be permitted to silence and crush the voice of media like respondent Nos. 3 and 4, by initiating false, frivolous, vexatious and malicious prosecution against them.

2.2. That the group/sect of these anti-national element have occupied prominent places even in media and with the result, at present even media seems to be divided in two groups inasmuch as while one group is that of a patriotic and nationalists and have been from time to time exposing the anti-national elements and their anti-national activities and sinister design of sabotaging and partitioning the country, however, the other group is acting on the lines of anti-national elements. The Respondent Nos. 3 and 4 belong to the patriotic and nationalist group and with the result, they have been raising issues of great public importance, including exposing anti-national element and their anti-national activities with whom even certain political parties are closely connected with, to gain political mileage.

2.3 That the Respondent Nos. 3 and 4 have been rendering invaluable services to the nation by raising issues of great public importance, exposing anti-national element and their anti-national activities and sinister design of destabilising the country and thereby to establish their own theories and way of governance, which cannot be countenanced. It would not be exaggeration to state that the Respondent Nos. 3 and 4 have been instrumental in establishing the present government which has nationalist outlook which government is headed by a man who comes from a humble background and has reached to this stage not on compassionate ground but on his own merits, something which eluded the nation right from the year 1947. The Respondent Nos. 3 and 4 have contributed extensively in sustenance of good governance, integrity and unity of the nation. The Respondent Nos.3 and 4 by their reporting, programmes, debates and shows have been able to inculcate sense of patriotism and nationalism in the people and more particularly amongst the young generation of the country and with the result, they are most liked and preferred news channels of the country.

2.4 That the certain political parties which ruled the country for several decades and in the process, persons being on high

echelon of these political parties kept on indulging in corruption, favouritism and nepotism and thereby taking the nation backward, consider the media like that of the Respondent Nos.3 and 4 to be their enemies, since such political parties have been dethroned from power also because of the media like the Respondent Nos. 3 and 4 having performed their responsibility in true spirit and thereby making the people of the country to know about the corrupt and anti-national stance of such political parties and their supporters. Resultantly, these political parties and their supporters have now started adopting ingenious methods to silence the voice of patriotic and nationalistic media like that of the Respondent Nos. 3 and 4 by getting false, frivolous and malicious FIRs registered against them and thereby to ensure that the media do not expose their corrupt and anti-national activities. Recently, FIRs registered against the Editor-In-Chief of the Respondent No. 3 by Mumbai police and so also in several other states which are ruled by a particular political party and/or its allies and similarly hundreds of FIRs registered against the Editor-in-Chief of the Respondent No.4 in the State of Kerala and in other states, are glaring examples of misuse and abuse of such false

/frivolous and vexatious FIRs by certain political parties who are in alliance and whose only 'Dharma' is to remain in power.

2.5 **That** false, frivolous, vexatious and malicious FIRs have been registered against journalists to silence and suppress their voice violates the fundamental rights of the citizens to know the facts and reasons conserving the incidents to exercise right of speech and expression enshrined in Article 19(1)(a) of Constitution of India. The information being given by T.V. news channels are necessary for the citizens to protect their right under Article 21 of the Constitution of India. Right to know has been held to be fundamental right and therefore silencing the voice of media/journalists on the basis of frivolous and vexatious FIR, as has been done in the case of the respondent Nos.3 and 4 will have chilling effect on democratic structure of the country and hence, it is high time that some guidelines are laid down by this Hon'ble Court so as to ensure that no FIR be registered against a journalist on account of their reporting, publishing or telecasting any news or conducting any debate/programme on their news channel, unless sanction is accorded for such FIR, either by the



Press Council of India and/or such regulatory body as may be directed to be constituted and/or the concerned judicial magistrate, having jurisdiction over the area and such guidelines be directed to be followed scrupulously all over the country till a legislation in this regard is enacted by the legislature/ parliament.

2.6 That the Hon'ble Court can lay down guidelines in appropriate cases in the absence of a law dealing with the situation though it may not direct the legislature to enact a particular law. However, the Hon'ble Court in appropriate cases has laid down necessary guidelines to meet the requirement of the hour to do complete justice in the matter. Thus, guidelines such as mandatory sanction from the Press Council of India or the concerned magistrate for registration of FIR against journalists, media houses, their executives need to be made applicable only in respect of prosecution for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r.w. Section 120-B of I.P.C. and similar such other enactments, if any.

2.7 That it would not be an exaggeration on the part of the petitioner to state that in fact, fate of the country rests in

the hands of this Hon'ble Court and it is only this Hon'ble Court which can save the country from being sabotaged, destabilised and its democratic structure being destroyed by certain people/political parties, who consider the country to be their ancestral and personal property and its citizens as their slaves. This Hon'ble Court being not only final arbitrator of the disputes amongst citizens and/or between the citizens and states, but also being interpreter and maker of law, has in the past saved the country by its judicial pronouncements, whenever attempts have been made by powerful people sitting at high echelon of powers/ political parties. As a matter of fact, but for the intervention of this Hon'ble Court, the country would have been sabotaged long back and its democratic structure would have been destroyed few decades ago itself. People of the country which includes the petitioner as well, look upon this Hon'ble Court as ultimate saviour of the nation and its people from inside people or political parties, who consider country to be their ancestral and personal property and its citizens as their slaves and in the process, act and conduct themselves against the integrity, unity and democratic structure of the country with sole intention to

safeguard their own personal and vested interest who in the facts are real and internal enemies of the nations and its people .

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**Delete the above line**

### **3. Questions of Law**

The following substantial questions of law arise for consideration of this Hon'ble court

3.1 Whether in the absence of statute, this Hon'ble Court in exercise of its powers vested under Articles 32 r/w 142 has power to lay down guide lines till such time the parliament enacts a law to deal with the situation as sought by the petitioner in the petition?

3.2 Whether in the facts and circumstances of the case and more particularly when recent FIRs registered against the Editor-In-Chief of the Respondent Nos. 3 and 4 demonstrate dangerous trend of crushing/silencing and suppressing voice of the media by certain class of people/political parties by entangling them in absolutely false, frivolous, vexatious and malicious FIRs, guidelines as sought by the petitioner deserves to be laid down for the

protection of fundamental rights of people of the country  
and for protection of the fourth pillar of our democracy?

3.3 Whether the manner in which the recent FIRs have been registered against the Editor-In-Chief of the Respondent Nos. 3 and 4 and which are in public domain and are also matter of debate all over the country, suggests that if no such guidelines are issued immediately which are sought in the instant petition, people of our country shall be deprived of their right to know, as in that event, media will be scared of exposing anti-national elements and their anti-national activities, which is imperative for survival, safety, integrity and unity of the nation?

3.4 Whether issuance of guidelines sought in the instant petition is imperative to protect the media which is considered to be fourth pillar of democracy from false, frivolous, vexatious and malicious prosecution at the instance and behest of disgruntled elements, who consider patriotic and nationalist media like the Respondent Nos. 3 and 4, to be stumbling block in their nefarious design/agenda of destroying, destabilising and sabotaging the nation for their own vested interest?

**4.DECLARATION IN TERMS OF RULE :**

The Annexures “P-1 to P-8” are produced alongwith this Special Leave Petition are true copies of pleading(s)/ document (s) which formed part of records of the case in the court below, against whose order, leave to appeal is sought for in this petition.

**5:- GROUND:**

Leave to appeal is sought for, on following amongst other grounds:

A) Because Press/Media is considered to be fourth pillar of any democratic country and hence courts worldwide, including this Hon’ble Court have been jealously upholding freedom of expression of media/press, as such freedom is the heart of social and political discourse, which is lifeline of democracy and therefore, if FIRs are registered in routine manner with complete impunity against journalists at the instance of disgruntled elements out of sheer animosity, malafide intention to persecute such journalists and thereby silence the

voice of media/ press, as has been done in case of Editor-in-Chief of the Respondent Nos.3 and 4, then the democracy itself would be in grave danger, which under no circumstance, can be countenanced and that being the case, guidelines sought in the present petition deserves to be issued by this Hon'ble Court to uphold the constitutional mandate and fundamental right of the people of the country.

B. Because media being purveyors of news and views having a bearing on public administration, very often carry material, which may not be palatable to certain class of people or political parties and sometime, even governments in power or authorities concerned, however, if FIRs are registered against press/ media/journalists in routine manner at the instance and behest of such class of persons/political parties, as have been done in the case of the Respondent Nos. 3 and 4, then the same would amount denial of free flow of information which is essential for survival of democracy.

C. Because, since, material, news, information carried, published and/or telecast by the press/media and /or discourse and debates conducted by them are bound to be unpalatable for certain group of people and at the same time, palatable for their opponents, if some guidelines, as prayed for are not laid down by this Hon'ble Court, there is every possibility of disgruntled element resorting to silence / crush and suppress media by entangling them in false, frivolous and vexatious FIRs and as matter of fact, recent false and frivolous FIRs registered against the Editor-In-Chief of the Respondent Nos. 3 and 4 clearly suggest that tendency of lodging false and frivolous FIRs by such disgruntled elements to silence/crush the voice of media, is gaining momentum and therefore, there is an urgent need that some guidelines are laid down by this Hon'ble Court to ensure that the voice of media/press which is lifeline of our democracy is not silenced/crushed on the basis of false and frivolous FIRs.

D. Because considering the importance of free press/media in democracy, democratic institutions, all over the

world, have made provisions guaranteeing freedom of speech and expression and similarly, courts worldwide, including this Hon'ble Court have uphold the freedom of press/media and in the process, have gone to the extent of invalidating/striking down the law, which trenches upon the freedom of press/media.

E. Because freedom of expression and free speech have found place in the form of Article 19 of the Constitution of India as fundamental right and this fundamental right has been conferred in public interest to enable the press/media to exercise this right in the service of the people and of the nation. Freedom of press/media is regarded as essential for the healthy growth and systematic function of any democracy and that being the case, growing tendency of suppressing/oppressing and in a way gagging the press/media by disgruntled element with the aid of false and frivolous FIRs needs to be nipped in the bud, failing which, democracy itself would be a casualty, which under no circumstance can be permitted.



F. Because freedom of press/media is understood as freedom of expression of opinion, idea, views, information thorough printing, publishing, telecast etc. and free from interference, pressure, restraint or compulsion from whatever source, governmental or social, external or internal. These rights are held to be basic rights which are recognised as the natural rights inherent in the status of a citizen and therefore, any illegal pressure or undue influence on the exercise of these rights on the basis of frivolous and malicious FIRs/prosecution, needs to be viewed seriously by this Hon'ble Court.

G. Because the Constitution under Article 19(1)(a) guarantees to all citizens freedom of speech and expression, in which freedom of Press/media is implicit, against arbitrary invasion by the State and has also provided constitutional remedy under Article 32 besides the reliefs available under Article 226. Article 19 of the Constitution presupposes that the citizen to whom possession of these fundamental rights is secured, is already vested with these rights. Article 19 of the Constitution also gives a list of such liberties,

including freedom of speech and expression which comprehends freedom of press/media.

H. Because the right of self-expression, by whatever mode, is a natural right and has now become a right guaranteed by the Constitution. One may write and publish what he/she pleases, so long as he/she does not injure another individual through unwarranted exercise of this liberty. The editor of a newspaper/news channel possess right to gather news, right to select the news for inclusion in the newspaper/telecast, the right to print, publish or telecast the news so selected and then the right to comment or express his/her own views on all matters of public importance and even invite the views of people of the country. All these rights were in existence and had arisen from the common law, before they were declared and guaranteed by the Constitution and that being the case, disgruntled element can not be permitted to take away these fundamental rights of press/media and citizen of the country by persecuting the press/media on the basis of frivolous and malicious FIRs.

- I. Because it is indisputable that by freedom of the press/media is meant the right of all citizens to speak, publish or express their views and also right to know. The freedom of the press/media embodies the right of the people to read, view and know. The editor is the living articulate voice of the press/media and even people of the country and he/she speaks through his/her newspaper/news channel and therefore, persecution of journalist, editor of newspapers/news channel on the basis of false and frivolous FIR, tantamount to infringement of fundamental rights of people of the country and that being the case, growing tendency of the disgruntled element of routinely lodging frivolous FIRs against press/media, needs to be deprecated and discouraged and in fact stopped forthwith.
- J. Because any pressure subversive of the freedom of press/media from any quarter, agency or authority will amount to infringement of fundamental right of the citizens of the country. Any interference with the presentation of the news, views or comments or any attempt to suppress or constrain it, would be

impairment of the fundamental right of citizens of the country, which can not be countenanced.

K. Because the selection of the news is the sole responsibility of the editor. The sole responsibility for truthful, objective and comprehensive presentation of news from all corners of the world falls on the editor for existence or survival of the newspapers/news channels. In the matter of comment or criticism of political or other policies, solely rests upon the their editors and thus, the editors/proprietors or owners of a newspaper/news channel are entitled, if they so wish, to lay down any partisan policy for their newspaper/news channel and make the newspaper/news channel an instrument of propagation of that policy. The readers/viewers of the newspapers/news channels would know in advance that the particular newspaper/news channel is partisan or even those readers/viewers may be interested in the views and comments in favour of such partisan policy and hence, persecution of editors/owners of newspapers/news channels on the basis of absolutely frivolous FIRs, as have been done in the case of the Respondent Nos. 3

and 5, would amount to infringement of fundamental right of readers/viewers of such news papers/news channel and that being the case, this Hon'ble Court would be justified in laying down the guidelines, which are sought in the instant petition, in exercise of powers vested with this Hon'ble Court under Article 32 of the Constitution of India to safeguard and protect the fundamental right of the citizens of the country.

L. Because the editor of newspaper/news channel is a person who is responsible for the selection of the material that is published/telecast. The selection is not confined to only news items, but it extends to the views or comments from readers/ viewers and these views or comments may be expressed by others or may be written/spoken by the Editor himself in the editorial column/programme reserved for him/her . The Editor has to make choice of the material to go into a newspaper/news channel and the decisions made as to the content, treatment of public issues and healthy criticism on public officials and therefore, persecution of Editors of newspapers/news channels at the instance of disgruntled element on the basis of frivolous

FIRs, as has been done in the case of the Respondent Nos. 3 and 4, amount to striking at the very root of the fundamental right of the people of the country, as enshrined under Article 19 of the Constitution of India.

M. Because considering the importance of free press/media for sustenance and in fact for very survival of democracy and to protect the fundamental right of the people of country and further taking into account, the nature of duty and function of press/media and that too, to the stature of the Respondent Nos. 3 and 4, due to which, they are susceptible to frivolous prosecution at the hands disgruntled element under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r.w. Section 120-B of I.P.C. and offences under similar other enactment/s, it is not only desirable but also in the interest of nation and its people that guidelines are laid down by this Hon'ble Court, thereby making it mandatory that no FIR/ prosecution shall be launched against press/media for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r.w. Section 120-B of I.P.C. and/or offences punishable under other similar enactment/s if

any, unless sanction for such prosecution is accorded, either by the Press Council of India or the concerned judicial magistrate, having jurisdiction in the matter. In order to ensure that genuine prosecution is not stifled, further provision be made in the guidelines issued by this Hon'ble Court thereby making provision with regard to decision of sanctioning authority being appealable before such forum, as this Hon'ble Court may deem fit and proper.

N. Because in view of the fact that there are mushrooming of small time newspapers/ news channels all over the country at local level, whose credential are extremely doubtful and people associated with such newspapers/news channels mostly indulge in blackmailing tactics and extortion, guidelines issued by this Hon'ble Court be made applicable only for those newspapers/news channels, media agency/house, which have a particular number of circulations/readers/viewership, as this Hon'ble Court may deem fit and proper.

O. Because similar guidelines to the guidelines which are sought in the instant petition have been issued by this Hon'ble Court in case of medical practitioners and since

press/media are more prone to false and frivolous prosecution than the medical practitioners and even the role of press/media in the service of nation/its people is not of lesser importance than the role of medical practitioners and that being the case, this Hon'ble Court would be justified in laying down guidelines as sought in the petition.

### **PRAYERS**

The petitioner therefore, most humbly prays that this Hon'ble court may be pleased to:-

- a) **issue a writ** of Mandamus and/or any other appropriate writ, order and/or direction in the nature of Mandamus thereby directing that no FIR shall be registered and/or prosecution launched against press/media/journalist and its people for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r/w Section 120-B of I.P.C. and other similar provision/s in other statute/s, if any, on the basis of press/media and/or its people having printed, published, telecast any news, views, comments, debates, show, programme etc. in



and/or on their newspapers/news channels, unless, sanction for registration of such FIRs/prosecution has been granted by the Press Council of India and/or of judicial authority as may be nominated by the Hon'ble Court;

- b) provide in the guidelines that the sanctioning authority shall decide the application submitted by aggrieved person/s who seeks to lodge/file FIR/prosecution against the press/media and its people for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r/w Section 120-B of I.P.C. and other similar provision/s in other statute/s, if any, on account of press/media and/or its people having printed, published, telecast any news, views, comments, debates, show, programme etc. in and/or on their newspapers/news channels, within a time bound manner, which this Hon'ble Court may deem fit and proper;
- c) provide in the guidelines that decision of the sanctioning authority will be appealable and/or revisable within a specified time before such

court/judicial forum as may be provided by the Hon'ble Court;

d) declare that the guidelines so issued by this Hon'ble Court will be applicable in respect of only those newspapers/news channels, media agency/house, which have a particular number of circulations/readers/viewership, as this Hon'ble Court may deem fit and proper;

e) direct the Respondent No.2 to formulate policies/parameters in consultation with all the stake holders and rest of the Respondents for fixing criteria with regard to have check and ascertain the truthfulness or otherwise of the claims made by newspapers/news channels, media agency/house, who seek to avail the benefit of the guidelines and submit the same before this Hon'ble Court, within such reasonable time as this Hon'ble Court may deem fit and proper, so as to enable this Hon'ble to examine the said policies/parameters and approve the same in larger public interest till such time the legislature enacts a statute to deal

with the freedom of expression of the  
press/media/journalist;

f) issue any other and further order and/or  
directions be given as in the nature and  
circumstances of the case may require;

g) Allow the petition with costs.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER  
SHALL AS IN DUTY BOUND EVER PRAY.

Filed By:

Vishnu Shankar Jain  
(Advocate for the Petitioner)

NEW DELHI;

FILED ON: .....05.2020

**IN THE SUPREME COURT OF INDIA**

**[CIVIL ORIGINAL JURISDICTION]**

(Petition under Article 32 of the Constitution of India read with  
Order XXXVIII of the Supreme Court Rules, 2013)

**PUBLIC INTEREST LITIGATION (C) NO.      OF 2020**

**IN THE MATTER OF :**

Ghanshyam Upadhyay ...Petitioner

- Versus -

Union of India &amp;Ors. ...Respondents

**AFFIDAVIT**

I, Ghanshyam s/o Dayalu Upadhyay, having my office at 506, Arcadia Premises, 195, NCPA Road, Nariman Point, Mumbai 400 021, presently at Mumbai, do hereby solemnly affirm and state on oath as under:

1. That I am myself Petitioner in the above mentioned matter.

I am fully conversant with the facts of the case and I am competent to swear this affidavit.

2. I say that the contents of Synopsis & List of Dates at pages B to D and contents of Writ Petition as contained at para 1 to 5 at pages 1 to 30 and in the interlocutory application at pages 40

to 42 are true to my knowledge and information derived from the record of the case and those submissions of law made in question of law, ground and para 1 of the Writ Petition are true as per the legal advice received and same is believed to be true and correct by me.

3. That the averments of facts stated herein above are true to my knowledge and belief, no part of its false and nothing material has been concealed therefrom

DEPONENT

VERIFICATION:

I, the above deponent hereinabove do, hereby verify the contents of para 1 to 3 of this affidavit to be true and correct to the best of my knowledge and belief. I state that no part of this affidavit is false and nothing material has been concealed therefrom.

Verified at Mumbai on this day of May, 2020.

DEPONENT

**APPENDIX-****THE INDIAN PENAL CODE , 1860****120B. Punishment of criminal conspiracy.**

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

**153. Want only giving provocation with intent to cause riot--if rioting be committed- if not committed.-**

Whoever maliciously, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend

to one year, or with fine, or with both, and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony. (1)**

Whoever-

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity,

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be

likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.—

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

**153B. Imputations, assertions prejudicial to national integration.** (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,-

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial,



language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons by reason of their being members of any religious, racial, language or regional group or caste or community be denied, or deprived of their rights as citizens of India, or

(c) makes or publishes and assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

**295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.**

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**298. Uttering words, etc., with deliberate intent to wound religious feelings of any persons.-**

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**500. Punishment for defamation.-**

Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**504. Intentional insult with intent to provoke breach of the peace.-**

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**[505 (2) Statements creating or promoting enmity, hatred or ill- will between classes.**

-Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

**506. Punishment for criminal intimidation.—**

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

**If threat be to cause death or grievous hurt, etc-**

And if threat be to cause death or grievous hurt, etc.--and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastely to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**WRIT PETITION (CRIMINAL) No.                      OF 2020**

**IN THE MATTER OF: -**

Ghanshyam Upadhyay ...Petitioner

-Versus -

Union of India &amp; Ors. ...Respondents

## APPLICATION FOR INTERIM DIRECTION

To,

## The Hon'ble Chief Justice and His

## Companion Justices of the Supreme Court of India

Humble petition of the

Applicants above named;

MOST RESPECTFULLY SHEWETH:

1. It is most respectfully submitted that the Petitioner has filed the present writ petition for issuing guidelines to protect the freedom of press by laying down the condition that that no FIR shall be registered and/or prosecution launched against press/media/journalist and its people for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r/w Section 120-B of I.P.C. and other similar provision/s

in other statute/s, if any, on the basis of press/media and/or its people having printed, published, telecast any news, views, comments, debates, show, programme etc. in and/or on their newspapers/news channels, unless, sanction for registration of such FIRs/prosecution has been granted by the Press Council of India and/or of judicial authority as may be nominated by the Hon'ble Court.

2. It is most respectfully submitted that against respondent no. 3 Republic T. V. and respondent no. 4 ,Zee Media Corporation Ltd are being harassed by logging several FIRs against them for the reason that they have exposed the persons and motive behind the incident and also the role of foreign agencies in collusion with the culprits. .

### **PRAYER**

It is therefore most respectfully prayed that this Hon'ble Court be graciously pleased to: -

- a) issue an ad-interim direction that till final disposal of the present petition, no FIR shall be registered and/or prosecution launched against the press/media and its people for the offences punishable under sections 295A, 153, 153A, 153 B, 298, 500, 504, 505(2), 506 (2) r.w.

Section 120-B of I.P.C. and other similar provision/s in other statute/s, if any, on account of press/media and/or its people having printed, published, telecast any news, views, comments, debates, show, programme etc. in and/or on their newspapers/news channels, unless, sanction for lodging/launching such FIR/prosecution is accorded by the Press Council of India or the concerned judicial magistrate having jurisdiction in the matter, as this Hon'ble Court may deem and fit and proper;

- b) pass any other order or such further orders as may be deemed fit in the facts of the present case.

AND FOR THIS ACT OF KINDNESS THE APPLICANTS AS  
IN DUTY BOUND SHALL EVER PRAY

FILED BY:

Vishnu Shankar Jain

Advocate for the Applicant

DRAWN ON: 19.05.2020

NEW DELHI

FILED ON: ....05.2020