

ITEM NO.53

COURT NO.3

SECTION II

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 (Crl.) No(s). 1024/2016

(Arising out of impugned final judgment and order dated 07/12/2015 in CRLMC No. 3333/2014 passed by the High Court Of Delhi At New Delhi)

SONIA GANDHI

Petitioner(s)

VERSUS

DR. SUBRAMANIAM SWAMY AND ANR.

Respondent(s)

(With appln. (s) for bringing on record the additional facts and exemption from filing c/c of the impugned judgment and permission to file additional documents and permission to file synopsis and list of dates and interim relief and office report)

WITH

SLP(Crl) No. 1035/2016

(With appln.(s) for permission to file additional documents and Interim Relief and Office Report)

SLP(Crl) No. 1036/2016

(With Interim Relief and Office Report)

SLP(Crl) No. 1037/2016

(With appln.(s) for permission to file additional documents and appln.(s) for exemption from filing c/c of the impugned judgment and Interim Relief and Office Report)

SLP(Crl) No. 1038/2016

(With appln.(s) for permission to file additional documents and appln.(s) for exemption from filing c/c of the impugned judgment and Interim Relief and Office Report)

Date : 12/02/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.  
Mr. Devadatt Kamat, Adv.  
Mr. Rajesh Inamdar, Adv.  
Mr. Javedur Rahman, Adv.  
Mr. Gautam Talukdar, Adv.

Mr. Harin P. Raval, Sr. Adv.  
Mr. Anando Mukherjee, Adv.

Ms. Divya Anand, Adv.  
Ms. Nipun S., Adv.  
Mr. Shikhar Sareen, Adv.  
Mr. Prashant Kumar, Adv.  
M/s. AP & J Chambers, Adv.

Dr. Abhishek M. Singhvi, Sr. Adv.  
Mr. Amit Bhandari, Adv.  
Mr. Prashant Kumar, Adv.  
Mr. Shikhar Sareen, Adv.

Mr. R.S. Cheema, Sr. Adv.  
Ms. Tarannum Cheema, Adv.  
Ms. Hiral Gupta, Adv.  
Mr. Manvendra Singh, Adv.  
Mr. Sanjay Jain, Adv.

For Respondent(s) Dr. Subramaniam Swamy, Caveator-in-person  
Dr. Roxna Swamy, Adv.  
Mr. Yatinder Chaudhary, Adv.  
Mr. Ishkaran S. Bhandari, Adv.

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

We have heard learned counsel for the petitioner in the different petitions, and also, Dr. Subramaniam Swamy, Caveator-in-person at some length.

Insofar as the determination rendered by the High Court, in rejecting the prayer for quashing the proceedings against the petitioners is concerned, we find no justification in interfering therewith. Learned counsel for the petitioners, has also drawn our attention, to the discussion in the impugned order, commencing from paragraph 31, and also, the conclusions recorded thereon, more particularly in paragraph 39. We are of the view, that it was not open to the High Court to record any firm conclusions, and the same ought to have been left to the

Trial Court, to be rendered after recording evidence in the matter. Accordingly, we hereby expunge all final inferences and conclusions drawn by the High Court, on the various factual aspects in the matter.

We affirm the liberty granted by the High Court, and reiterate the same. We hereby permit the petitioners to raise all the issues that are open to them, at the stage of framing of the charges.

Having concluded the submissions canvassed before us, learned counsel for the petitioners seeks exemption of the petitioners from personal appearance, before the Trial court. This prayer is sought to be contested by respondent no. 1 - Dr. Subrmaniam Swamy by placing reliance on TGN Kumar v. State of Kerala, 2011 (2) SCC 772, wherein this Court has opined that the accused should seek exemption from personal appearance from the Trial Court. And that, exemption can be granted on the satisfaction of the concerned Magistrate. Undoubtedly, there is no dispute about the aforesaid proposition. However, in the peculiar facts and circumstances of the present case, especially keeping in mind the position occupied by the petitioners, we are of the considered view, that the presence of the petitioners during hearing before the Trial court, would cause more inconvenience than convenience. And accordingly, we direct that the petitioners shall be exempted from personal appearance before the Trial Court. Needless to mention, that it

shall be open to the Trial court, to require the personal appearance of the petitioners, as and when required.

All the petitions, are disposed of in the above terms.

In view of the above, all pending interlocutory applications also stand disposed of.

(Madhu Bala)  
Court Master

(Renuka Sadana)  
Court Master