

via Video-conferencing

\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1148/2020

MOHAMMAD KHORSHED ALAM & ORS Petitioners

Through: Mr. Musharraf Ali Khan, Adv.

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Rahul Mehra, Senior Standing
Counsel for respondents Nos. 1 & 2.
Mr. Rohan Anand, Adv. on behalf of
Mr. Kirtiman Singh, CGSC for
respondent No.3.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **29.07.2020**

CRL.M.A. No. 10081/2020 (for exemption)

Exemption is granted, subject to just exceptions and subject to the applicant completing all requirements of filing certified/translated/typed/legible copies of annexures/documents, attested affidavits, court fee and welfare stamp within 10 days of physical re-opening of the court.

The application stands disposed of.

W.P.(CRL) 1148/2020 & CRL.M.A. No. 10080/2020 (for stay)

The petitioners seek quashing of FIR No. 63/2020 dated 31.03.2020 registered under the provisions of section 3 of The Epidemic Diseases Act 1987 read with sections 51/58 (1) of The Disaster Management Act 2005 read with section 14(1)(b) of The Foreigners Act read with sections 188/269/270/271/336/308/304/120B IPC at PS : Crime Branch, Delhi.

2. The petitioners also seek quashing of the Look-Out Circulars ('LoCs') opened by respondent No. 3/Bureau of Immigration against the petitioners.
3. The petitioners also seek quashing of notices issued by respondent No.2/Special Investigation Team, Crime Branch, Delhi Police to the petitioners under section 41A Cr.P.C.
4. Mr. Musharraf Ali Khan, learned counsel appearing for the petitioner submits that all 59 petitioners are foreign nationals from Bangladesh, Indonesia and Thailand, who are presently in Kolkata, West Bengal. The petitioners contend, in sum and substance, that no case is made-out against them in the subject FIR.
5. Mr. Rahul Mehra, learned Senior Standing Counsel appears on behalf of respondents Nos. 1 and 2 /State of NCT of Delhi and SIT, Crime Branch, Delhi Police; and Mr. Rohan Anand, learned counsel appears on behalf of Mr. Kirtiman Singh, learned CGSC for respondent No.3/Bureau of Immigration on advance copy.
6. Mr. Mehra submits that the petitioners have not joined investigation despite notices under section 41A of the Cr.P.C. having been duly served upon them.
7. Mr. Mehra states that since investigation is not complete, no charge-sheet has been filed against any of the petitioners as yet. He contends that if the petitioners co-operate in the investigation and furnish requisite information which warrants closure of cases against them, respondents Nos. 1 and 2 may not proceed against them at all.
8. In the circumstances, Mr. Khan, learned counsel for the petitioners submits that the petitioners are ready and willing to cooperate in the investigation. However, counsel states that all petitioners are presently in

Kolkata, which is under lockdown; and will therefore not be able to travel to Delhi for the purpose.

9. In the circumstances, Mr. Mehra, on instructions from the Investigating Officer/Inspector Satish Kumar submits that the Delhi Police will send its officers to Kolkata for purposes of investigation. Mr. Mehra further confirms, on instructions, that the Delhi Police will not require custodial interrogation; and accordingly the petitioners will not be arrested, provided they cooperate in the investigation.

10. Accordingly, let investigation pursuant to section 41A Cr.P.C. notices be carried-on against the petitioners in Kolkata, in accordance with law.

11. Let respondents Nos. 1 and 2 update this court as regards the investigation and proceedings, on the next date.

12. List on 24th August 2020.

ANUP JAIRAM BHAMBHANI, J.

JULY 29, 2020/uj