

ITEM NO.41

COURT NO.1

SECTION PIL(WRIT)

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

SUO MOTO WRIT PETITION (CRL.) NO.1/2018

IN RE: KATHUA, JAMMU AND KASHMIR

Petitioner(s)

VERSUS

Respondent(s)

Date : 13-04-2018 This petition was taken Suo Moto for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s)

For Respondent(s)

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

Let the matter be registered as a *suo motu* writ petition.

Some lawyers practicing in this Court have brought to our notice that the members of the Kathua District Court Bar Association, Jammu & Kashmir, are obstructing the lawyer who is appearing on behalf of the family of the victim in the court. It is also set forth that there is support from the High Court Bar Association at Jammu.

It is settled in law that a lawyer who appears for a victim or accused cannot be prevented by any Bar Association or group of lawyers, for it is the duty of a lawyer to appear in support of his client, once he accepts the brief. If a lawyer who is engaged, is obstructed from appearing in the court or if his client is deprived of being represented in the court when he is entitled to do so in a lawful manner, that affects the dispensation of justice and would amount to obstruction of access to justice and interference with the administration of justice. In fact, this Court has held that a Bar Association cannot pass a resolution that they would not defend an accused in any particular case. It is the duty of the Bar Association as a collective body and they cannot obstruct the process of law.

In view of the aforesaid, we issue notice to the Bar Council of India, the State Bar Council, Jammu & Kashmir, the High Court Bar Association at Jammu and the Kathua District Bar Association. The Bar Council of India and the State Bar Council shall be served through the Secretary and as far as the Bar Associations are concerned, they shall be served through the President and the Secretary of the respective Associations. Mr. M. Shoeb Alam, learned Standing Counsel for the State of Jammu & Kashmir is requested to serve copies of the petition on the said authorities.

Additionally, a copy be served on Mr. M. Shoeb Alam to assist the Court on behalf of the State of Jammu & Kashmir.

Dasti, in addition, is permitted.

Let the matter be listed on 19th April, 2018.

We hope and trust that when we are issuing notice, the members of the Bar Associations shall conduct themselves and would not obstruct the smooth functioning of the justice delivery system which includes the presence of the persons aggrieved or accused in court or for that matter the presence of investigating agency and the witnesses.

Call on the date fixed.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar