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

Judgment delivered on: 22<sup>nd</sup> May, 2017

+ W.P.(C) 4447/2017

NATIONAL LAWYERS CAMPAIGN FOR JUDICIAL  
TRANSPARENCY AND REFORMS & ORS ..... Petitioners

versus

UNION OF INDIA & ORS ..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Mathews J. Medumpara and Mr. A.C. Philip,  
Advs.

For the Respondent : Mr. Bhagwan Swarup Shukla, CGSC with Mr.  
Shambhu Chaturvedi, Adv. for R-1  
Mr. Sanjeev Bhandari, Adv./Spl. Public Prosecutor  
for CBI  
Mr. Gautam Narayan, ASC with Mr. R.A. Iyer,  
Adv. for R-4/Delhi Police

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**22.05.2017**

**SANJEEV SACHDEVA, J. (ORAL)**

1. The petitioners by the present petition seek a direction to the State of Arunachal Pradesh, its police, Delhi Police, West Bengal

Police and the Central Bureau of Investigation to register an FIR based on the allegations contained in the alleged suicide note of its late Chief Minister – Kalikho Pul. Further mandamus is sought directing the respondent no. 1 to 4 to register an FIR and to investigate in the allegations contained in the alleged suicide note.

2. It is noticed that the petition is instituted on behalf of National Lawyers Campaign for Judicial Transparency and Reforms, which has been arrayed as petitioner no. 1. Nine Advocates and one law student have been arrayed as petitioner nos. 2 to 11.

3. The petition has been filed through one Mr. A.C. Philip, Advocate. The petition has not been signed by any of the petitioners and is only signed by Mr. A.C. Philip. At the end of the petition, it is stated “*Filed by Mr. A.C. Philip, Advocate for the petitioners*”. Only signatures of Mr. A.C. Philip Advocate have been affixed on the petition.

4. Along with the petitioner, an affidavit of one Ms. Rohini M. Amin, Advocate (one of the persons arrayed as petitioner) has been filed. None of the other petitioners have filed any affidavit along with the petition.

5. The affidavit accompanying the petition reads as under:

*“AFFIDAVIT*

*I, Rohini M. Amin, Advocate, 41 years, Indian residing at B/705, Nirman Apats., R.J. Marg, Vikas Nagar, Pump House, Andheri (East), Mumbai – 400093, presently at New Delhi, for self and on behalf of other petitioners do hereby solemnly swear and affirm as follows:*

*1. That I am the authorized representative of the 1<sup>st</sup> petitioner in the above Writ Petition, and the 4<sup>th</sup> petitioner in person. I am fully conversant with the facts and circumstances of the case and hence, I am competent to swear this affidavit.*

*2. I state that I have read and understood the contents of the accompanying petition paragraph 1 to 8 at page 1 to 11, Synopsis & list of dates at page B to J, The contents of the same are true and correct to the best of my knowledge and belief.*

*3. I state that the Annexure, if any, filed with the petition are true and correct copies of their respective originals.*

*DEPONENT”*

*(Underlining supplied)*

6. Ms. Rohini M. Amin, in the opening paragraph states that she is filing the affidavit for self and on behalf of other petitioners, however in paragraph no. 1 states that she is the authorized representative of the 1<sup>st</sup> petitioner and the 4<sup>th</sup> petitioner in person. She does not state that she has been authorized by any of the other petitioners. No

authority letter has been filed on behalf of the other petitioners. As noticed above, none of the petitioners have signed the petition nor filed any affidavit in support of the petition. The Vakalatanama filed along with the petition is signed by the petitioners.

7. In paragraph no. 2 of the affidavit, Ms. Rohini M. Amin states that she has read and understood the contents of the accompanying petition paragraphs 1 to 8 at page 1 to 11, Synopsis & List of dates at page B to J. She states that the contents of the same are true and correct to the best of her knowledge and belief.

8. An affidavit in support of a petition is an affirmation on oath to a court that the contents of the petition are true to the knowledge of the deponent. The petition may also contain averments, which are based on information received and believed to be true by the deponent. An affidavit is required to clearly state as to which of the averments in the petition are true to the knowledge of the deponent and which of the averments are based on information received and believed to be true. The source of such information is also required to be stated in the affidavit.

9. In the present case, Ms. Rohini M. Amin in her affidavit does not state that any of the facts alleged in the petition are true to her knowledge or any of the averments contained therein are based on

information received and believed to be true. Very cleverly, it has been stated in the affidavit “*the contents of the same are true and correct to the best of my knowledge and belief*”. This appears to have been done to avoid taking responsibility for any of the allegation made in the petition.

10. An affidavit that does not affirm any fact or averment is no affidavit in the eyes of law. A petition that is not supported by any affirmation of its facts cannot be entertained.

11. The alleged document, claimed in the petition to be a suicide note and annexed as Annexure – A, is a typed copy of an English translation of a document stated to be in Hindi. Annexure – A has some redaction and is not complete.

12. Learned counsel for the petitioners was several times asked as to what is the source of the alleged information, based on which this petition has been filed. He stated that the source of information is information circulated and received on social media “WhatsApp” platform. Neither the name of the sender of the alleged WhatsApp post was stated nor was it stated as to which of the petitioners received the WhatsApp post.

13. During his submissions, learned counsel for petitioner stated that Annexure – A has been sourced from a website –

“northeasttoday.com”., wherein it is mentioned that the note has been translated into English from the Hindi original.

14. Learned counsel for the petitioners very candidly admitted that none of the petitioners have seen or are privy to the original note. He submits that the petition has been filed based on what is being circulated on WhatsApp platform.

15. Learned counsel for the petitioners submits that the petitioners are not in a position to affirm that Annexure – A is a true translated copy of the Hindi version as they neither have seen the original nor are privy to the same.

16. Annexure – A to the petition has been certified as “*True Copy*”. Learned counsel submits that “*true copy*” signifies that it is true copy of the translation as available on the website “northeasttoday.com”.

17. He submits that none of the petitioners can vouch for the document annexed to the petition as Annexure – A. He very candidly admits that the petitioners are not in a position to swear an affidavit that Annexure – A is true to their knowledge.

18. The petition making very serious allegations has been filed merely based on a post allegedly circulated on WhatsApp group.

19. Learned counsel for the petitioner submits that in terms of Section 154 of the Code Criminal Procedure, 1973 any information, which is provided to the police, is sufficient to set the criminal process into motion.

20. I am unable to accept this contention, in as much as, in the present case, the petitioners, very candidly admit that they are not privy to any information. What they believe to be information is a post circulated on WhatsApp platform or an alleged translation in a website. The alleged information is not claimed to be true to their knowledge. It is not even stated in the petition as to how the petitioners have formed a reasonable belief that the alleged post or the translation could be true or have any basis.

21. The petitioners contend that this petition is not a public interest petition and they have stated in the petition that the petitioners are not representing any aggrieved person. It is contended that they themselves are aggrieved person. None of the petitioners are in a position to affirm any of the facts alleged in the petition except to submit that a WhatsApp post is the basis of the petition..

22. The petitioners have also not averred that they had approached any of the authorities for setting the law into motion. It is admitted that no such steps have been taken by the petitioners.

23. The writ petition has been filed making wild allegations.

24. Learned counsel for the petitioner, at this stage, submits that they have not made any wild allegations but they have filed this petition claiming that there is a suicide note and an FIR should be registered.

25. As noticed above, the petitioners are not privy to any information except an alleged WhatsApp circulated post. They have not stated that they have in any manner tried to even ascertain as to whether any of the allegations contained in the petition are true. Nothing has been pleaded or shown as to how they could have even formed a reasonable belief that the post allegedly circulated on WhatsApp group could have any authenticity.

26. The petition has been filed making very serious allegations on mere hearsay without petitioners being to show that they had any occasion to form any reasonable belief.

27. The petitioners in paragraph 5 of the petition state that *“Though the petitioners are none to say that the said suicide note is gospel truth or that the allegations contained therein are so, yet, a vast majority of Indians, including members of the NLC and the petitioners herein believe that the said suicide note carries great amount of credibility.....”*.

28. The petitioners are not able to state as to how they form such a belief. The petitioners have also not shown as to how they are connected or in any manner related to the said allegations made in the petition.

29. Annexure – A does not even qualify as a document in terms of the Evidence Act, 1872, in as much as, neither the original nor the copy of the original has been produced. It is an admitted position that the petitioners have not seen original and have had no occasion to even compare Annexure – A with the original.

30. It appears that the petitioners are mere busy bodies and without any information or basis have filed the present petition making wild allegations.

31. Over one and a half hours of judicial time of this court has been spent in hearing arguments and disposal of the petition. Since the petitioners have admittedly filed the petition without verifying or affirming any fact and without formation of even a belief that what is stated in the petition has any iota of truth behind it, the writ petition is dismissed with costs of Rs. 25,000/- on each of the petitioners.

**SANJEEV SACHDEVA, J**

**MAY 22, 2017/‘rs’**