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

+ **W.P.(C) 7248/2017**

ANUBHAV GUPTA

..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Anil Soni, CGSC for R-1/UOI.
Ms. Sukriti Ghai, Adv. for
Mr. Devesh Singh, ASC (Civil),
GNCTD for R-2 to 4/GNCTD.
SI Ram Tirath, Pairvi Officer, Traffic.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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04.07.2019

1. This Public Interest Litigation has been preferred with the following prayers:

“a. Give Proper definition of 'Road Rage' which is presently a lacuna in the law. This void can be filled by exercising the powers vested in the Hon. Court under the Article 226 of Constitution of India.

b. With the help of various stakeholder or amicus curiae, it is imperative to draft proper set of guidelines on the footsteps of Vishaka's case and Mrs. Neelam Katara's case to curb this nuisance. The guidelines should be such that they act as deterrent to possible offenders.

c. The offence of Road Rage should be made Non Bailable, Cognizable and serve with Rigorous imprisonment when the magnitude of harshness exceeds to despicable levels. Exemplary penal fines should be levied on offenders.

d. There should be strict liability u/s 355 IPC and grave provocation should not be acceptable defence for road rage incidents, as blindly following the concept of 'mens rea' will not yield fruitful result which is required for the ends of justice.

e. Direct Delhi Police and all other concerned authorities to take preventive steps so that drivers don't resort to violent behaviour on the roads/ streets/ highways of the city and keep their cool.

f. Direct Union of India to impart and inculcate awareness among people of hazards and consequences of the 'Road Rage'."

2. Having heard the learned counsels for both the parties and having considered the facts and circumstances of the case, it appears that this petition has been preferred for drafting of the law by the order of the Court, especially defining "road rage" and making it non-bailable and cognizable offence with rigorous imprisonment. This is not permissible. By exercising powers under Article 226 of the Constitution of India the Court cannot legislate and make amendment in the Indian Penal Code, 1860 or under any other law making 'road rage' non-bailable and cognizable with rigorous imprisonment.

3. Likewise, this petition is also preferred to make Section 355 of IPC with absolute liability. This is also not permissible while exercising powers under Article 226 of the Constitution of India. Grave provocation should not be accepted as a defence as mentioned in the memo of the writ petition.

4. We see no reason to entertain this writ petition because basically it is for the Legislature to draw a law and the Court is an interpreter of the law. To define 'road rage' and to make it non-bailable and, that too, cognizable with rigorous imprisonment and to make changes in Section 355 of IPC is not permissible by a writ court under Article 226 of the Constitution of India.

5. Hence, we see no reason to entertain this writ petition and the same is dismissed.

CHIEF JUSTICE

C. HARI SHANKAR, J

JULY 04, 2019

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