

SUPREME COURT OF INDIA

Mukesh

Vs.

State for NCT of Delhi

SLP(Crl.) No.3119-3120/2014

(Dipak Misra,J., R.Banumathi and Ashok Bhushan,JJ.,)

06.03.2017

ORDER

1. In pursuance of our order dated 3.2.2017, affidavits on behalf of the petitioners have been filed. Mr. A.P. Singh, learned counsel has filed affidavits on behalf of the three accused persons, namely, Pawan Kumar Gupta, Vinay Sharma and Akshay Kumar Singh and Mr. M.L. Sharma, learned counsel has filed the affidavit on behalf of Mukesh. Be it noted, Mr. A.P. Singh, learned counsel has filed the translated version of the affidavits and Mr. Manohar Lal Sharma, learned counsel has filed the original version in Hindi as well as the translated one.

2. At this juncture, Mr. Raju Ramachandran, learned senior counsel who has been appointed as Amicus Curiae to assist the Court, submitted that two aspects are required to be further probed to comply with the order dated 3.2.2017 inasmuch as this Court has taken the burden on itself for compliance of Section 235(2) of the Code of Criminal Procedure. Learned senior counsel would point out that the affidavit filed by Mukesh does not cover many aspects, namely, socio-economic background, criminal antecedents, family particulars, personal habits, education, vocational skills, physical health and his conduct in the prison. Mr. Manohar Lal Sharma, learned counsel submits that a report was asked for from the Superintendent of Jail with regard to the conduct of the accused persons while they are in custody, but the same has not directly been filed by the Superintendent of Jail. Mr. Siddharth Luthra, learned senior counsel for the respondent-State, would, per contra, contend that he has filed the affidavit and the affidavit contains the report of the Superintendent of Jail.

3. In our considered opinion, the Superintendent of Jail should have filed the report with regard to the conduct of the accused persons since they are in custody for almost four years. That would have thrown light on their conduct. Let the report with regard to their conduct be filed by the Superintendent of Jail in a sealed cover in the Court on the next date of hearing. As far as the affidavit filed by Mukesh is concerned, Mr. Sharma, learned counsel stated that he will keep the aspects which are required to be highlighted in mind and file a further affidavit within a week hence.

4. The direction issued on the earlier occasion with regard to the visit of jail by the learned counsel for the parties shall remain in force till the next date of hearing.

5. Let the matter be listed at 2.00 p.m. on 20.3.2017. The report of the Superintendent of Jail, as directed hereinabove, shall be filed in Court on that date.