

ITEM NO.53

COURT NO.9

SECTION X

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

Writ Petition(s) (Criminal) No(s). 99/2015

PRADYUMAN BISHT

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR STAY APPLICATION ON IA 10142/2015
FOR GRANT OF INTERIM RELIEF ON IA 10713/2015 and IA
No.67042/2017-CLARIFICATION/DIRECTION)

Date : 14-08-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Gopal Singh, AOR
For Tripura Mr. Rituraj Biswas, Adv.

For Bihar Mr. Gopal Singh, AOR
Mr. Manish Kumar, Adv.

Mr. Maninder Singh, ASG
Mr. Nalin Kohli, Adv.
Col. R. Bala, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Ankit Roy, Adv.
Mrs. Vishakha Ahuja, Adv.
Mr. B. Krishna Prasad, AOR

For Uttarakhand Mr. Rajiv Nanda, AOR

Mr. Mohan Kumar, AOR
Mr. Bobby Anand, Adv.
Ms. Rashmi Singh, Adv.
MR. Rohit Pratap, Adv.

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

1. Heard learned counsel for the parties.

2. Vide order dated 28.03.2017, this Court directed as follows :

"We direct that at least in two districts in every State/Union Territory (with the exception of small states/Union Territories where it may be considered to be difficult to do so by the concerned High Courts) CCTV Cameras (without audio recording) may be installed inside the courts and at such important locations of the Court complexes as may be considered appropriate. Monitor thereof may be in the Chamber of the concerned District and Session Judge. Location of the district courts and any other issues concerning the subject may be decided by the respective High Courts. We make it clear that the footage of the CCTV Camera will not be available under the R.T.I. and will not be supplied to anyone without permission of the concerned High Court. Installation may be completed within three months from today. The report of such experiment be submitted within one month of such installation by the Registrar Generals of the respective High Courts to the Secretary General of this Court who may have it tabulated and placed before the Court."

3. Accordingly, we have received reports from High Courts of Sikkim, Bombay, Andhra Pradesh, Orissa, Meghalaya, Chhattisgarh, Tripura, Punjab and Haryana, Allahabad, Patna, Rajasthan and Gauhati. The CCTV cameras have already been installed in the jurisdiction of the eight High Courts while in the remaining four High Courts installation process is in progress. We have perused the reports/opinions received from the said High Courts. No report appears to have been received with regard to the remaining twelve High Courts.

4. Mr. Maninder Singh, learned Additional Solicitor General appearing for the Union of India has submitted a supplementary note compiling the relevant information. We have also heard

Shri Arun Mohan, Senior Advocate, who on our request assisted the Court in the matter.

5. Learned Additional Solicitor General submitted that reservation has been expressed in some of the reports that CCTV cameras will affect the privacy of judicial officers. He submits that proceedings in Courts being open to all, there was no question of privacy. CCTV cameras are culture of the day and promotes good governance. He referred to the observations of this Court in *Naresh Shridhar Mirajkar Vs. State of Maharashtra (1966) 3 SCR 744* as follows :

"It is well-settled that in general, all cases brought before the Courts, whether civil, criminal, or others, must be heard in open Court. Public trial in open court is undoubtedly essential for the healthy, objective and fair administration of justice. Trial held subject to the public scrutiny and gaze naturally acts as a check against judicial caprice or vagaries, and serves as a powerful instrument for creating confidence of the public in the fairness, objectivity, and impartiality of the administration of justice. Public confidence in the administration of justice is of such great significance that there can be no two opinions on the broad proposition that in discharging their functions as judicial Tribunals, courts must generally hear causes in open and must permit the public admission to the court-room. As Bentham has observed:

"In the darkness of secrecy sinister interest, and evil in every shape, have full swing. Only in proportion as publicity has place can any of the checks applicable to judicial injustice operate. Where there is no publicity there is no justice. Publicity is the very soul of justice. It is the keenest spur to exertion, and surest of all guards against improbity. It keeps the Judge himself while trying under trial (in the sense that) the security of securities is publicity".
(Scott v. Scott)

21. Having thus enunciated the universally accepted proposition in favour of open trials, it is necessary to consider whether this rule admits of any exceptions or not. Cases may occur where the requirement of the administration of justice itself may make it necessary for the court to hold a trial in camera. While emphasizing the importance of public trial, we cannot overlook the fact that the primary function of the Judiciary is to do justice between the parties who bring their causes before it. If a Judge trying a cause is satisfied that the very purpose of finding truth in the case would be retarded, or even defeated if witnesses are required to give evidence subject to public gaze, is it or is it not open to him in exercise of his inherent power to hold the trial in camera either partly or fully? If the primary function of the court is to do justice in causes brought before it, then on principle, it is difficult to accede to the proposition that there can be no exception to the rule that all causes must be tried in open court. If the principle that all trials before courts must be held in public was treated as inflexible and universal and it is held that it admits of no exceptions whatever, cases may arise where by following the principle, justice itself may be defeated. That is why we feel no hesitation in holding that the High Court has inherent jurisdiction to hold a trial in camera if the ends of justice clearly and necessarily require the adoption of such a course. It is hardly necessary to emphasise that this inherent power must be exercised with great caution and it is only if the court is satisfied beyond a doubt that the ends of justice themselves would be defeated if a case is tried in open court that it can pass an order to hold the trial in camera; but to deny the existence of such inherent power to the court would be to ignore the primary object of adjudication itself. The principle underlying the insistence on hearing causes in open court is to protect and assist fair, impartial and objective administration of justice; but if the requirement of justice itself sometimes dictates the necessity of trying the case in camera, it cannot be said that the said requirement should be sacrificed because of the principle that every trial must be held in open court. In this connection it is essential to remember that public trial of causes is a means, though important and

valuable, to ensure fair administration of justice; it is a means, not an end. It is the fair administration of justice which is the end of judicial process, and so, if ever a real conflict arises between fair administration of justice itself on the one hand, and public trial on the other, inevitably, public trial may have to be regulated or controlled in the interest of administration of justice. That, in our opinion, is the rational basis on which the conflict of this kind must be harmoniously resolved....."

6. It is pointed out that there is acknowledged utility of CCTV cameras in recording contemporary events which may be useful for any monitoring authority. By way of illustration, reference was made to orders of this Court directing CCTV cameras to be installed in all Police Stations and prisons in 2015 (8) SCC 744 *Dilip K. Basu Vs. State of West Bengal & Ors.* Similarly to curtail the events of eve-teasing, same direction was given in 2013 (1) SCC 598 *Deputy Inspector General of Police & Anr. Vs. S. Samuthiram.*

7. Some of the High Courts have suggested that audio recording should also be permitted modifying the earlier direction of recording without audio. They have expressed an opinion that installation of CCTV cameras will advance the interest of Justice. Learned ASG and learned amicus curiae point out that as per Article 235 of the Constitution of India, the High Court is to exercise power of superintendence over the subordinate Courts. There are untoward instances which may take place in lower Courts and it may be useful if proceedings in Court are captured on the CCTV camera by audio as well as video. This can assist the

High Courts in exercising the constitutional power under Article 235 of the Constitution of India.

8. We are satisfied, after considering the submissions and perusing the studies which have been brought to our notice that installation of CCTV Cameras will be in the interest of justice. Any apprehension to the contrary needs to be repelled. We have already incorporated safeguards of footage of recording not being given for any purpose other than the purpose for which the High Court considers it appropriate. We have also directed that the R.T.I provisions will not apply to CCTV camera recordings in our Order dated 28.03.2017.

9. We asked learned Additional Solicitor General as to why the Union of India has not so far installed CCTV cameras in Tribunals where open hearing takes place like Court such as ITAT, CESTAT etc. as the tribunals stand on the same footing as far as object of CCTV camera are concerned. He is unable to dispute the utility and requirement of doing so and we see no reason why this should not be done. Recordings will help the constitutional authorities and the High Courts exercising jurisdiction under Articles 226 and 227 of the Constitution over such Tribunals. We, therefore, direct that this aspect may now be taken up by learned Additional Solicitor General with the concerned authorities so that an appropriate direction is issued by the concerned authority for installation of CCTV cameras in Tribunals in same manner as in Courts and an affidavit filed in this

Court.

10. We find from the report that there is a variance about the cost of installation of CCTV cameras and no uniform technical specifications have been prescribed.

11. We direct the Union of India, Ministry of Information and Technology in consultation with E-Committee of this Court to lay down technical specifications and other modelities, including price range and sources of supply for installation of CCTV cameras in Courts. This may be done within a period of one month from today and such information may be provided to all the High Courts. The duration for which audio and video recordings may be retained may normally be three months, unless otherwise directed by any High Court.

12. Though our earlier direction was to install CCTV cameras in two districts in every State/Union Territory, with the experience now gained, it is desirable that CCTV cameras are installed in all subordinate courts in such phased manner as may be considered appropriate by the High Courts. Schedule for the purpose may be laid down within one month and information furnished to this Court within two months. Audio recording may also be done. Similar directions may be issued by the Government for Tribunals.

13. The High Courts which have not yet submitted their reports may do so forthwith. Secretary General of this Court may monitor receipt of such information.

List for further consideration on 21st November, 2017.

(MADHU BALA)
COURT MASTER (SH)

(PARVEEN KUMARI PASRICHA)
COURT MASTER