

16.03.2023

To

Mr. Jogender

Assistant Director

Headquarter Investigation Unit 2(3)(2)

Directorate of Enforcement

Gate no.3 , B Block, Enforcement Directorate,

Parvartan Bhawan,

APJ Abdul Kalam Road, New Delhi – 110011

Subject:

- (i) Summons No. PMLA/Summon/HIU2/2023/1521- in F No. ECIR/HIUII/14/2022 dated 11.03.2023 requiring the undersigned to appear before yourself at your office on 16.03.2023 at 11:30 AM;

AND

- (ii) In respect of proceedings sub-judice before the Hon'ble Supreme Court of India in W.P. (Criminal) 103 of 2023 titled as *Smt. Kalvakuntla Kavitha vs Directorate of Enforcement* scheduled for hearing on 24.03.2023 as directed in mentioning by the bench headed by Hon'ble the Chief Justice of India on 15.03.2023.

Hon'ble Sir

With respect to the subject summons, it is humbly submitted as under:

1. In response to your earlier summons dated 07.03.2023, I had vividly brought to your kind notice, inter alia, that I being a woman and protected by the postulates of law, may not be called to the office of Directorate and that I was always willing and ready to appear through audio/video mode and had also invited the officers at my residence which is as per the mandate of law. However, your good self has denied my request, inter alia, stating as under:



"It is not possible to consider your request of adjournment or recording of the statement at your residence since the confrontation with the person in ED custody is required to be done physically/in person."

2. On account of the aforesaid stand taken by you, despite elucidating the clear position of law in detail and depth, vide my representation dated 08.03.2023, In order to cooperate with the investigation I have appeared before your good office on 11.03.2023 as desired and directed.
3. The proceedings on 11.03.2023 would leave no manner of doubt that I have rendered all due assistance and cooperation within my reach and knowledge. I had furnished all relevant information and answered all queries to the best of my knowledge, ability, and understanding. However, in a manner alien to the settled tenets of law, your good self chose to impound my phone despite there being no directive in the summons that I should bring the phone. Nothing was brought on record as to how my phone was connected with the alleged offence, if any. You have purportedly chosen to exercise powers under 50(5) of the PML Act which I am legally advised to say is completely untenable in law, apart from the phone contents being covered under the law of right to privacy.
4. Further, I was made to sit in your good office even after sunset until around 8:30 PM when I was finally allowed to leave and was handed over the subject summons for on 16.03.2023.
5. A bare glance at the summons issued by your good self for 16.03.2023, I have not been asked to appear *"in person or through authorized representative"*. Since your good self have not chosen to exercise the discretion for calling me *"in person"*, I am thus appearing through authorised representative. Accordingly, I am authorising Shri Soma Bharat Kumar s/o Bhikshamaiah aged about 62 years ,General Secretary of Bharath Rashtra Samithi to appear on my behalf today, to handover this representation and the documents annexed hereunto.



6. Be that as it may, I have absolutely no hesitation in joining the investigation and rendering cooperation with any enquiry/investigation as I have done in the past. However, the adherence to the rule of law is must in all circumstances. The most shocking part in the entire proceedings that occurred on 11.3.2023 in your office is that despite your categoric assertion that my personal/ physical appearance was required for the purpose of confrontation with some arrested accused, no such confrontation took place. When specifically asked about the confrontation which was specific purpose cited by your good self to call me personally on 11.03.2023, I was candidly told by the officer Ms.Bhanupriya Meena concerned, that they have "*change of plans*".
7. I therefore, have reasons to believe and a grave apprehension that the enquiry/investigation being carried out may not have the sanctity of law and my expectation of a free, fair, or impartial inquiry or investigation has been severely impaired.
8. Owing to such compelling circumstances where my fundamental rights have been blatantly infringed and right to avail constitutional remedies itself being fundamental right, I have chosen to knock at the doors of the Honourable Supreme Court of India by preferring petition under Article 32 of the Constitution which is itself concomitant of Part III of the Constitution.
9. In my writ petition, I have sought for the following reliefs;
 - (i) "*Issue appropriate writ(s), order(s) or direction(s) to Quash the Summons dated 07.03.2023, and 11.03.2023 issued by Respondent No. 1 and / or the impugned direction issued by the Respondent No.1 to the Petitioner to personally attend the Office of the Enforcement Directorate, New Delhi while issuing Summons under Section 50 of PMLA as the said direction is contrary to the settled tenets of criminal jurisprudence and thus, wholly unsustainable in law being violative of the Proviso to Section 160 of Cr.P.C;*



- (ii) Issue appropriate writ(s), order(s) or direction(s) to Respondent No.1 in furtherance of the observations; order(s) and direction(s) issued by this Hon'ble Court inter-alia, vide Order dated 02.12.2020 passed in SLP (Cri.) No.3543 of 2020 titled as Paramvir Singh Saini vs. Baljit Singh & Ors as well as directions issues in Vijay Sajnani Versus Union of India 2012 SCC OnLine 1094 & Birendra Kumar Pandey vs. Union of India & Ors. W.P.(Cri.) 28 of 2012 Order dated 16.04.2012 to the effect that in compliance with the letter & spirit of the aforementioned directions, all proceedings carried out by Respondent No.1 including those in relation to the recording of statements etc. in terms of the Notice(s)/ summon(s) issued under Section 50 of PMLA in ECIR/HIU-II/14/2022 to be audio/videographed in the presence of Petitioners' lawyer at a visible distance inter-alia by way of installation of appropriate CCTV cameras;
- (iii) Issue appropriate writ(s), order(s) or direction(s) to quash the Impounding Order dated 11.03.2023 and declare the seizure made thereunder as null and void; and
- (iv) Pass an order tagging the present writ with SLP(Civil) No. 19275-76 of 2018;
- (v) Issue appropriate writ(s), order(s) or direction(s) to the Respondents not to take any coercive action against the Petitioner; and
- (vi) Pass an order passing inter/ad-interim ex-parte order in terms of prayer (i) to (v); and
- (vii) Pass such other or further order as this Hon'ble Court may deem fit and proper in facts and circumstances of the case."

10. In the same writ petition, I have also sought for following interim reliefs:

- (a) Pass an order staying any coercive action against the Petitioner by Respondent No. 1; and



- (b) *Pass an order staying the effect of summons dated 11.03.2023 directing the Petitioner to appear on 16.03.2023 at office of Respondent situated at New Delhi; and*
- (c) *Pass an order staying the effect of summons dated 07.03.2023 directing the Petitioner to appear on 11.03.2023 at office of Respondent situated at New Delhi; and*
- (d) *Pass an order staying the operation of Impounding Order dated 11.03.2023 passed by the Respondent; and*
- (e) *Pass such other or further order as this Hon'ble Court may deem fit and proper in facts in circumstances of the case.*

11. The aforementioned Writ Petition was mentioned before bench headed by Hon'ble Chief Justice of India on 15.03.2023, when the Hon'ble Court directed the listing of the Writ Petition on 24.03.2023.

Humble Request;

12. In the wake of the afore going events, facts and circumstances, I humbly beseech your good self that the proceedings before the Supreme Court being sacred and sacrosanct, the outcome thereof must be awaited before any further proceedings take place with respect to the subject summons;
13. The issue with regard to calling of a woman to the office of Enforcement Directorate is pending before Hon'ble Supreme Court in SLP (Civil) No. 19275-76 of 2018, wherein the agency itself has tendered an undertaking not to insist upon the presence of the Petitioner therein at your office. My case is not at all distinguishable from that case, as regards my status as a woman.
14. I also take this opportunity to emphasise that I have dedicated my life to the society as large and shall always abide by the law of land. As a woman leader of this country and as a citizen, it is my bounden duty and an obligation to ensure that the law of the land is not breached in so far as rights of any woman are concerned. If my own rights are violated, despite



being a lawmaker myself, it would be my onerous obligation to take all necessary steps within my reach to ensure that rule of law prevails and there is no violation by any agency.

15. I once again request your good self that you may please defer the proceedings awaiting appropriate order(s) or directions(s) by the Hon'ble Supreme Court.

16. However, as, inter alia, desired by you on last date of my appearance, I am sending my authorised representative Shri Soma Bharat Kumar , General Secretary, Bharat Rashtra Samiti to handover this representation along with my bank statement(s), personal and business details as sought for. You may take the same on record and if any other document or information is required, you may communicate the same to my authorised representative or apprise me through email on my email id kavitha.telangana@gmail.com. I shall earnestly comply with the same.

Yours sincerely



Kalvakuntla Kavitha