

Twitter Thread by Bar & Bench



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Delhi High Court to hear today the plea moved by #DishaRavi against media leaks in the Farmers' Protest #ToolkitCase.

The matter is before Justice Prathiba Singh.



Bench assembles.

Yesterday the Court had issued notices to NBSA, [@TimesNow](#) and [@news18dotcom](#)

<https://t.co/nmYXDFKRcP>

Hearing begins. Counsel inform Bench who they are appearing for.

Kunal Tandon for [@TimesNow](#), ASG SV Raju, Advocate Nisha Bhambani for NBSA, Senior Adv Akhil Sibal for #DishaRavi among counsel appearing.

@SibalAkhil informs Court of Prayers sought by #DishaRavi

1. Directions to R1-6 to take down from their online platforms references to the "so-called WhatsApp conversations"
2. They be restrained from disseminating any particulars of the investigation not part of public record
3. That they be directed to strictly comply with programme code in reporting
4. R1-2 be restrained from divulging, sharing with media any material which is part of casefile either by press briefing or otherwise until filing of the charge sheet

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Court: What was the date of registration of FIR?

Sibal: 4th of February... Now this FIR does not mention the name of the petitioner...The public record did not reflect the name of the petitioner.

Court: At that stage, they may not know

Sibal: I agree

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Sibal recounts that #DishaRavi was arrested on 14th, no information is given to family on whether production is going to happen, however, the media is there in large numbers

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He refers @TOIIndiaNews report on what conspires in court, that it is reported that accused broke down in court and said she edited only two lines.

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Sibal recounts that on the same day the Delhi Police put out a tweet saying that #DishaRavi did more than editing two lines, that she collaborated with Khalistani organisation, that she shared tweet with @GretaThunberg

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Sibal says so Delhi Police began to respond to media reports: Something that is not part of FIR, public record, but through Twitter handles, the @DelhiPolice is making their case.

This was retweeted by special cell, he adds

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Sibal says a press briefing was held thereafter, following which the media began discussing WhatsApp chats allegedly by #DishaRavi, attributing it to Police sources, cyber cell

Sibal: "There is a moving banner saying police sources for [@news18dotcom](#)

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Sibal: The person reporting in Hindi goes into detail on what questions were asked by the police, what answers were given - all of that is sought to be discussed.

He adds that media also reported that #DishaRavi coaxed [@GretaThunberg](#) to speak on the case

Sibal refers to an [@OpIndia_com](#) article based on the [@news18dotcom](#) expose.

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Court asks Sibal if he is trying to contend that police had in fact made leaks.

Sibal: They have in fact leaked, that is the only logical inference. The person broadcasting says I have got it from police forces. This is happening while I am being produced before the Magistrate.

He refers to a report by [@IndiaToday](#) "with inbuilt commentary and inferences. "

Sibal: The narrative given is she panicked, she tried to evade, delete - all this based on leaked materials and details.

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Sibal refers to Central Govt circular against rushing to media with press briefings, "half-baked speculation" in ongoing cases

He adds that this circular says that press briefings should be done only at stages of registration, the arrest of accused, chargesheeting.

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Sibal continues reading, reads that press briefings should confine to the facts of the incident and that the investigation has been taken up.

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Sibal referring to News18 report: Journalist is saying from my sources in ED, I believe ED will taking the case... all about what course the investigation might take... all from purported sources from those agencies.

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Sibal reads further from circular that legal privacy, human rights of the accused must not be violated, that court orders must not be violated etc.

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Sibal: Ultimately it is disingenuous to say there isn't any leak...Stage of arrest over, stage of investigation is ongoing, it will culminate in a final report, one way or another.

Where is the need to go to media, he adds.

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Sibal: The nature of the press briefing is contrary to the OM (by Govt), it was not restricted to facts, it had details, particulars, inferences, opinions.

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SV Raju seeks that matter may be kept on Monday

Raju: Till Monday we are not keeping any press conference.

Court asks query on media attributing leaks to police sources while acknowledging a journalist may not divulge sources.

Raju: What media says may not be gospel truth. To hide his source, may say it is the police.

Raju: There are several persons interrogating, somebody may leak it. There may be ten persons interrogating, a peon may leak...

Court asks if this is their stance, that you don't leak and you don't intend to leak

Raju: We don't intend to do anything that is illegal. Leaking is illegal...

Raju adds that there were certain statements made to malign the police

Raju: If we counter that and we hold a press conference, there cannot be any violation of guidelines.

He adds that the bar on leaking should be applicable to both sides.

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Nisha Bhambani, for NBSA, says that the three channels are members of NBA.

She adds that no complaint was received by NBSA and if any complaints had been received, NBSA would have taken action.

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Counsel for Centre says that no complaint was received wrt to any private channel over the leakage of WhatsApp chats.

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Central Govt counsel adds that the petition focuses on tweets and web articles, "in a John Doe" sort of way, not private TV channels

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SV Raju: She is not even sure if it's her WhatsApp message, she says "alleged" in her petition

Raju: This message is from 3rd of Feb.. she herself could have given her mobile to someone from 3rd to 13th... (who may have leaked, he adds)

Raju: She is now defaming, vilifying the police. This is a systematic attempt to put pressure on the police. Somebody would have received it. Why would you blame the police?

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NBSA counsel, Nisha Bhambani says NBSA has jurisdiction has only on broadcasting. If it's on youtube, it has jurisdiction, but no jurisdiction over tweets.

Counsel for News18 seeks some time to file a reply.

Court: There is no doubt that the video is very, very sensational

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Hrishikesh Baruah for @IndiaToday refers to an article: This not a news broadcast at all. This is only digital news online article.. therefore cable TV network act, programming code has no application. Nor does NBSA

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The court notes that the issue raised is the WhatsApp messages being attributed to petitioner. It is right that the petition doesn't say WhatsApp message is false, Judge notes, responding to Baruah.

Sibal points out that "alleged" is mentioned at every stage of the petition

Sibal: This is not the stage of my defence. This is the stage of the sanctity of investigation and the code.

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Baruah queries whether the right to dignity, privacy means that media is barred from putting WhatsApp chats which are not connected to any personal life is protected by Article 21?

Baruah: .. that would not be a position which is correct.

He cites CIC v. Subhash Agarwal.

Baruah argues that the material shown by media was in the public domain by 15th Feb,

Baruah: I did not violate his privacy

Kunal Tandon for Times Now: All information shown is already in the public domain. Haven't seen all the videos, so can't comment on videos.

Raju: If you reveal WhatsApp chats at the stage of charge sheet, there is no violation of privacy. It is in favour of ensuring investigation that it is not revealed at this stage (before chargesheet). It is not in favour of the petitioner but in favour of the investigation.

Central govt counsel: Since they have not approached the Ministry, not taken recourse to laws in place, this petition is premature

Sibal: There is a difference between the public record and the public domain. Merely saying that 'something is wrongfully disseminated in public domain so I must not be restrained' from disseminating it further is wrong.

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Sibal refers to a video where it is said "IndiaToday TV has accessed WhatsApp chats between Greta Thunberg"

Please consider the chats enter the public domain after Ravi is arrested

Sibal: Is it a coincidence? The channel says 'I have got it from police sources.'

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Please argue on maintainability: Court asks

Cable TV network act provides no remedy.. the authorities office has to file a complaint. the argument is you must send representation, then we may act - but there is no remedy, Sibal

Sibal: I have come on urgency, this is highly prejudicial...Office Memo itself speaks of respecting privacy during the investigation.

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Sibal: There is a difference between "public interest" and "interest of the public."

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Sibal: These chats... police say they have not given it, they couldnt have...so they must be taken down

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Sibal: How do we stop this? They say they haven't leaked, media says we got it from the police... they must not disclose anything from the casefile which is not part of public record.

That's the only what to stop it.

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Media is performing a public function, they have to act in the discharge of public duty: Sibal says, refers to case law.

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Delhi High Court dictates interim order. Records submissions of petitioner, #DishaRavi

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Court records that #DishaRavi claims that various messages were leaked by police to media, large number of news bulletins etc. broadcasted that she was associated with unlawful groups. Records Sibal's submissions regarding tweets by @DelhiPolice

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Court records that submissions were made on media restrain when reporting on ongoing cases, that cease and desist notices were issued to media, that petition was filed after media did not respond

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Court records submissions by SV Raju that Delhi Police has not leaked any information, that press briefings were held is not disputed, that there may be various other sources for leak, that conduct of Delhi police would be in acc with law.

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Court records submission by Raju that manner in which writ petition has been filed is to put pressure, malign police, hamper investigation

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Court records Nisha Bhambani's submissions that NBSA has no jurisdiction over tweets, that action would be taken if any complaint was filed, that media outlets impleaded are members of NBA.

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Court records ASG Chetan Sharma's submissions that @MIB_India has constituted an inter-ministerial committee to look into any complaints and no complaints have been received and that petition is premature.

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Court records that @news18dotcom counsel's submissions that he needs to obtain instructions, that there is no content violative of guidelines.

Court records submissions by counsel for IndiaToday and TimesNow.

Court records rejoinder submissions by the petitioner that there is a difference between public record and public domain, on Office memo...

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ORDER: Case raises various issues of public importance. There are 3 aspects:

1. Privacy, the dignity of individual concerned, her right to fair trial.
2. Sovereignty & integrity of the country, reasonable restrictions that can be imposed
3. Free speech & right to public to know

Court says matter requires a detailed hearing, a large number of respondents did not have the opportunity to peruse various material. Time would have to be granted for reply.

Court: However, this court has had the opportunity to view the videos placed on record of @news18dotcom and certain other material... including the tweets by @DelhiPolice and other publications online...

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Court: There is no doubt that the regulation of content has been a very contested issue across the world. India is no exception

While journalists cannot be asked to reveal sources, they need to ensure verifiable, authentic sources...

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Court:in the present case, affidavit of Delhi police reads...

Delhi police has taken the unequivocal position that they were not responsible for leaking investigative material or messages to media... media however ... has claimed to the contrary

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Court: ... would require a detailed exam...reply has to be called...Qn is what should be the interim order

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Court: In order to ensure that all three aspects of petitioner's privacy/ dignity, sovereignty/integrity and free speech are equally protected and balanced...right of the individual has to be balanced with the right of public...

Court: ... media plays a very important role in ensuring no sensationalisation...recent coverage by media shows there is definitely prejudicial, sensation coverage...

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Court: ... Police briefings can be broadcasted, the leaked investigation material ought not to be broadcasted to prejudice investigation pending.

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INTERIM ORDER by #DelhiHighCourt:

1. The @DelhiPolice will strictly abide by affidavit filed today, and Office Memorandum of April 1, 2010, which is in operation. Delhi police would be able to conduct press briefings in accordance with the law (1/n)

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Court: 2. Media shall ensure that telecasts are from verified and authentic sources. Editorial teams to ensure that such broadcast has verified content. Channel editors to ensure proper editorial control so that investigation is not hampered (2/n)

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Court: Once the charge sheet is out, coverage of Chargesheet would not be interdicted in any manner (3/n)

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Court: 3. Petitioner to ensure people connected to petitioner do no indulge in unnecessary/ scandalising messages. This would ensure that the parties do not go on a maligning course during the investigation. (4/n)

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Sibal asks Court record that no such content has been put out by petitioner so far and that there is no intent to put out such content.

Court says it will record undertaking.

Reply within 1 week, rejoinder 1 week. Matter posted for further hearing in March (5/n)

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Court says decision on what order to pass on material already on record will be taken at a later stage.

Hearing over (n/n)

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