

ITEM NO.5

COURT NO.2

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). 113/2016

KAUSHAL KISHOR

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH AND ORS.

Respondent(s)

(with appln. (s) for ad interim orders and bringing on record the additional facts and permission to file additional documents)

Date : 29/03/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR

Mr. Fali S. Nariman, Sr.adv. (AC)
Mr. S.C. Sharma, Adv.

For Petitioner(s) Dr. Kislay Pandey, Adv.
Mr. Ankur Gogia, Adv.
Ms. Manju Jetley, AOR

For Respondent(s) Mr. S. Wasim A. Qadri, Adv.
Mr. Nizam Pasha, Adv.
Mr. Jubair Ahmad Khan, Adv.
Mr. Zaid Ali, Adv.
Mr. Tamim Qadri, Adv.
Mr. Mudasir Nabi, Adv.
Mr. Lakshmi Raman Singh, AOR

Mr. Ravi Prakash Mehrotra, AOR
Mr. Sudeep Kumar, Adv.

Mr. Mukul Rohatgi, AG
Ms. Madhvi Divan, Adv.
Mr. R. Bala, Adv.
Mr. Prakash Gautam, Adv.
Mr. Mukesh Kumar Maroria, Adv.

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

Mr. F.S. Nariman, learned senior counsel (who was appointed as *amicus curiae*) being assisted by Mr. S.C. Sharma submitted that he

requires some more time to think further and formulate the propositions with regard to the balancing of two preferential rights, namely, the right under Article 19(1)(a) and the right under Article 21.

Mr. Mukul Rohatgi, learned Attorney General submitted that there cannot be a criminal prosecution on the ground of decency or morality under Article 19(2). Needless to say, the question of criminal prosecution does not arise in this case.

The core issue, as is projected before us, is whether the right conferred under Article 19(1)(a) is to be controlled singularly by the language employed under Article 19(2) or also the other fundamental right, that is right under Article 21 would have any impact on it.

Mr. Harish Salve, learned senior counsel, who was present in Court, expressed his intention to assist the Court. It is submitted by Mr. Salve that Article 19(2) may be the only controlling provision but the right of freedom of speech and expression as enshrined and spelt out under Article 19(1)(a), has its own inherent contours and it is not boundless.

Let the matter be listed on 20.4.2017 for final hearing.

(Gulshan Kumar Arora)
Court Master

(Madhu Narula)
Court Master