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FIR against 21 anti-CAA protesters in Lucknow

LUCKNOW
A total of 21 persons, including 11 women, have been booked for alleged rioting and assault during an anti-CAA protest at Lucknow's Hussainabad Clock Tower. An FIR has been registered against them for raising "provocative" slogans and holding up traffic during the 'Lucknow chalo' event at the protest site on Sunday.

NEWS PAGE 13

JNU violence: teachers write to CP over inaction

NEW DELHI
The JNU Teachers' Association on Monday wrote to Delhi Police Commissioner Amulya Patnaik over inaction regarding the January 5 incident where students and teachers of the university were attacked by a masked mob. They claimed that apart from the initial press meet held by the police, there was no further information on investigation in the matter.

CITY PAGE 2

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Supreme Court upholds changes to SC/ST atrocities law

In exceptional cases, High Courts can quash cases to prevent misuse

KRISHNADAS RAJAGOPAL
NEW DELHI
The Supreme Court on Monday upheld a 2018 amendment which barred persons accused of committing atrocities against those belonging to the Scheduled Castes and the Scheduled Tribes from getting anticipatory bail. But two of the judges on the Bench, Justices Arun Mishra and Vineet Saran, held in their joint opinion that a High Court would also have an "inherent power" to grant anticipatory bail in cases in which *prima facie* an offence under the anti-atrocities law is not made out.

The two judges held that a High Court, in "exceptional cases", could quash cases to prevent the misuse of the anti-atrocities law.

Justice Bhat's caveat
The third judge on the Bench, Justice S. Ravindra Bhat, in his separate opinion, however, added a caveat to what his two companion judges on the Bench said about the use of this "inherent power" by the High Courts.

Justice Bhat stressed that the courts should take care to use this power to grant anticipatory bail "only sparingly and in very exceptional

Strengthening the law

- The SC, in *Dr. Subhash Kashinath Mahajan vs State of Maharashtra*, held on March 20, 2018, No absolute bar against grant of anticipatory bail under the anti-atrocities law if no *prima facie* case is made out or if judicial scrutiny reveals the complaint to be *prima facie mala fide*
- Parliament introduces an amendment in 2018. Inserts Section 18A in the original Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989. Section 18A re-affirms the original legislative intention that Section 438 CrPC (pre-arrest bail) is not applicable to accused booked under the atrocities law

- Prathvi Raj Chouhan and other petitioners challenge the amendments as arbitrary
- February 10, 2020 judgment in Prathvi Raj Chouhan case: Justices Arun Mishra and Vineet Saran uphold Section 18A. However, the judges add that the High Courts will have an "inherent power" to grant anticipatory bail in cases in which *prima facie* an offence under the 1989 law is not made out
- Justice S. Ravindra Bhat adds a caveat about the use of this "inherent power" by courts. He says it should be used "only sparingly and in very exceptional cases". Otherwise, miscarriage of justice may result. The intention of Parliament to protect SCs and STs will be defeated
- "It is important to keep oneself reminded that while sometimes (perhaps mostly in urban areas) false accusations are made, those are not necessarily reflective of the prevailing and wide spread social prejudices against members of these oppressed classes": Justice Bhat



'Review court can refer questions to larger Bench'

Nine-judge SC Bench frames 7 questions on religious rights

LEGAL CORRESPONDENT
NEW DELHI
A nine-judge Constitution Bench of the Supreme Court on Monday upheld the decision of the five-judge Sabarimala Review Bench to refer to a larger Bench questions on the ambit and scope of religious freedom practised by multiple faiths across the country.

The nine-judge Bench, led by Chief Justice of India (CJI) S.A. Bobde, said a Bench engaged in the review of a particular judgment could indeed refer other questions of law to a larger Bench. Arguments on merits would be heard from February 17.

The Bench also framed seven questions of law which it would decide now. These are: what is the scope and ambit of religious freedom under Article 25 of the Constitution? What is the interplay between religious freedom and rights of religious denominations under Article 26 of the Constitution? Whether religious denominations are subject to fundamental rights? What is the meaning of 'morality' used in Articles 25 and 26? What is the ambit and scope of judicial review of Article 25? What is the meaning of 'sections of Hindus' under Article 25 (2)(b)?

Setting the agenda

- The seven questions that the SC Bench will look into:
- What is the scope and ambit of religious freedom under Article 25 of the Constitution?
 - What is the interplay between religious freedom and rights of religious denominations under Article 26?
 - Whether religious denominations are subject to fundamental rights?
 - What is the definition of 'morality' used in Article 25 and Article 26?
 - What is the ambit and scope of judicial review of Article 25?
 - What is the meaning of the phrase "sections of Hindus" under Article 25 (2)(b)?
 - Whether a person not belonging to a religious group can question the practices and beliefs of that group in a PIL petition?

under Article 25 (2)(b)? Whether a person not belonging to a religious group can question the practices, beliefs of that group in a PIL petition?

On the last day of hearing, Chief Justice Bobde had defended the November 14, 2019, reference made by the Review Bench, led by then CJI Ranjan Gogoi. "By making this reference order [on November 14], the Bench [led by Justice Gogoi] has not prejudicially affected anybody's rights. It may be the most innovative idea, but it has not affected any rights," he had said orally.

On November 14 last year, the Gogoi Bench, in a majority judgment, did not decide

the Sabarimala review cases before it. Instead, it went on to frame "larger issues" concerning essential religious practices of various religions. It further clubbed other pending cases on subjects as varied as female genital mutilation among the Dawoodi Bohras to entry of Parsi women who married inter-faith into the fire temple and Muslim women into mosques and referred them all to a larger Bench.

The reference order also asked the larger Bench to consider the rule pertaining to the prohibition of entry to women of menstruating age into the Sabarimala temple.

SC seeks police view on Shaheen Bagh

Protests cannot be carried on indefinitely in a common area, observes court

LEGAL CORRESPONDENT
NEW DELHI
The Supreme Court on Monday gently drew the attention of citizens, mothers and senior citizens agitating against the Citizenship (Amendment) Act (CAA) and the National Register of Citizens (NRC) to the inconvenience caused when protests were held on public thoroughfares for days.

A Bench of Justices Sanjay Kishan Kaul and K.M. Joseph said protests could not be carried on indefinitely in a common area.

The Supreme Court, however, refused to pass any interim directions urgently



No let-up: Women protesting against the new citizenship law at Shaheen Bagh in Delhi. • SHIV KUMAR PUSHPAKAR

in the Public Interest Litigation filed by advocate Amit Sahni seeking the removal of the Shaheen Bagh protesters. "The protests have been going on for over 50 days, you can wait. We like to hear the other side (police)," Justice Kaul said.

The court issued a formal

notice to the Delhi police and listed the case for further hearing on February 17.

The court nudged the protesters about the bother created for ordinary commuters when protests were held on public roads indefinitely.

"There cannot be an indefinite protest in a common area. You have to find an area for protests. If protests are held everywhere, what will happen?" Justice Kaul asked advocate Mehmoond Pracha, appearing for Bhim Army chief Chandrasekhar Azad.

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MORE REPORTS ON PAGE 13

Scuffle breaks out during anti-CAA rally

SHINJINI GHOSH SAURABH TRIVEDI
NEW DELHI
Hundreds of Jamia Millia Islamia students and residents of nearby areas were stopped by the police from taking out a march to Parliament against the Citizenship (Amendment) Act and the National Register of Citizens on Monday, leading to a seven-hour stand-off during which scuffles broke out between the protesters and the security personnel.

The protesters began their march, called by the Jamia Coordination Committee, at noon from the university's gate number 7. The police maintained that the organisers had not been granted permission to hold the rally. The protesters were stopped near Holy Family Hospital.

DETAILS ON PAGE 3

Police register FIR in Gargi College molestation case

Students stage protest on college premises over inaction

SPECIAL CORRESPONDENT
NEW DELHI
The Delhi police on Monday registered an FIR against unknown persons on a complaint filed by the principal of Gargi College alleging molestation of college students by a group of men who had gate-crashed a cultural festival on the premises.

Deputy Commissioner of Police (South) Atul Thakur said the complaint states that on February 6 some persons barged into the college and molested some students during the fest. "On the complaint of the principal, an FIR has been registered under Sections 452 [trespass], 354 [assault or criminal force to woman with intent to outrage her modesty] and 509 [criminal intimidation] at Hauz Khas police station,"



Gargi College students protesting on the campus on Monday. • BIBEK CHETTRI

Earlier in the day, a police team under the supervision of Ms. Khandelwal went to the college to record the statements of students, security guards and teachers. They also scanned the footage of CCTV cameras installed at the main gate.

Gargi College students staged a protest on the campus against the alleged incident and demanded strict action against the intruders. Priya Singh, a witness to the incident, said, "The police and RAF [Rapid Action Force] did nothing to control the situation, while the non-teaching staff turned a blind eye even as some inebriated men intruded the campus. Female students were harassed verbally and physically."

CM SEEKS STRICT ACTION PAGE 2

Curtain CALL

Parasite made Oscar history by becoming the first non-English language film to win Best Picture at the 92nd Academy Awards. The South Korean movie also won in three other categories, including Best Director

Directing | Bong Joon Ho | *Parasite*

Actor in a leading role | Joaquin Phoenix | *Joker*

Actor in a supporting role | Brad Pitt | *Once upon a Time in... Hollywood*

Actress in a supporting role | Laura Dern | *Marriage Story*

Actress in a leading role | Renée Zellweger | *Judy*

Cinematography | Roger Deakins | *1917*

Writing (Adapted Screenplay) | Taika Waititi | *Jojo Rabbit*

Film Editing | Michael McCusker and Andrew Buckland | *Ford v Ferrari*

Music (Original Score) | Hildur Guðnadóttir | *Joker*

Best Visual Effects | Guillaume Rocheron, Greg Butler and Dominic Tuohy | *1917*

Animated Feature Film | *Toy Story 4*

MORE REPORTS ON PAGE 20

Omar's sister challenges his PSA detention

SPECIAL CORRESPONDENT
NEW DELHI
Sara Abdullah Pilot, sister of former Jammu and Kashmir Chief Minister Omar Abdullah, has approached the Supreme Court against the government's move to charge him under the Public Safety Act (PSA).

Ms. Pilot urged for issuance of a writ of *habeas corpus* to the authorities to forthwith produce Mr. Abdullah before the court and set him at liberty.

The petition was mentioned before a Bench led by Justice N.V. Ramana on Monday.

The Bench said it would consider the plea for early listing of the case.

Ms. Pilot said she was gravely concerned about the welfare, safety and security of her brother. He was already under detention from August 5 last — the day the Centre removed the special rights of the Kashmiri people under Article 370 — and the PSA was slapped on him on February 5, 2020.

The PSA dossier served to Mr. Abdullah said that the former Chief Minister was "using politics as a cover for his radical ideology and for planning activities against the Union government" and "his popularity and potential to draw voters to polling booths" posed a threat.

"... Despite the fact that the subject has been a mainstream politician, he has been planning his activities against the Union of India under the guise of politics. And while enjoying the support of gullible masses, he has been successful in execution of such activities," the dossier said.

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