

COMMITTEE OF PRIVILEGES

(FOURTH LOK SABHA)

EIGHTH REPORT

(Presented on the 30th August, 1969)



LOK SABHA SECRETARIAT
NEW DELHI

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1969-70)

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MEMBERS

2. Shri Rajendranath Barua
3. Shri N. C. Chatterjee
4. Shri Surendranath Dwivedy
5. Shri Shri Chand Goyal
6. Shri Hem Raj
7. Shri Thandavan Kiruttinan
8. Shri P. Govinda Menon
9. Shri H. N. Mukerjee
10. Shri Raja Venkatappa Naik
11. Shri G. L. Nanda
12. Shri K. Raghuramaiah
13. Shri P. Ramamurti
14. Chaudhuri Randhir Singh
15. Shri K. Narayana Rao.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

EIGHTH REPORT OF THE COMMITTEE OF PRIVILEGES
(Fourth Lok Sabha)

I. INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, having been authorised to submit the report on their behalf, present this report to the House on the question of privilege raised¹ by Shri Madhu Limaye, M.P., on the 26th November, 1968, and referred² to the Committee by the House on the 20th December, 1968, in regard to his alleged illegal arrest and remand to judicial custody at Lakhisarai (Bihar) on the 6th November, 1968.

2. The Committee held seven sittings. The relevant minutes of these sittings form part of the report.

3. At the first sitting held on the 20th December, 1968, the Committee directed that copies of the relevant documents in the case e.g. judgement of the Supreme Court on the Writ Petition filed by Shri Madhu Limaye, M.P., relevant documents of the case from the Government of Bihar and proceedings in the House on this matter be made available to the Members of the Committee.

4. At the third sitting held on the 5th March, 1969, the Committee considered the documents received by them and the submissions made by Shri Madhu Limaye in the House while raising the question of privilege and decided to frame the following issues for their consideration :

- (1) Whether the arrest of Shri Madhu Limaye, M.P., under Sections 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968 and his subsequent remand and detention constitute a breach of privilege of the House;
- (2) Whether the requisite intimation about the arrest of Shri Madhu Limaye in this case was sent to the Speaker by the competent authority; and
- (3) Whether any information conveyed to the House by the Minister of Home Affairs in this case constitutes a contempt of the House.

¹ L. S. Deb. dt. 26-11-1968, cc. 249-62.

² *Ibid* dt. 20-12-1968, cc. 219-20.

5. At the fourth sitting held on the 7th May, 1969, the Committee considered the letter³ dated the 3rd April, 1969 addressed by Shri Madhu Limaye to the Chairman of the Committee. The Committee also considered the request of Shri Madhu Limaye in that letter and directed that copies of his petition to the Supreme Court dated the 6th November, 1968 and the warrant for his intermediate custody, which were not enclosed by Shri Madhu Limaye with his letter, might be obtained from the authorities concerned, for circulation to the members of the Committee.

6. At the fifth sitting held on the 16th July, 1969, the Committee deliberated on the matter in the light of the judgment⁴ of the Supreme Court releasing Shri Madhu Limaye on the writ of *Habeas Corpus* in the matter, documents⁵ received from the Government of Bihar through the Ministry of Home Affairs and the letter dated the 3rd April, 1969 addressed by Shri Madhu Limaye, M.P., to the Chairman of the Committee together with the documents forwarded by Shri Madhu Limaye, and came to their conclusions.

7. At the sixth and seventh sittings held on the 4th and 26th August, 1969, the Committee considered their draft Report and adopted it.

II. FACTS OF THE CASE

8. Shri Madhu Limaye, M.P., was arrested on the 6th November, 1968 at Lakhisarai Railway Station near Monghyr (Bihar).

9. The following telegram dated the 6th November, 1968, addressed to the Speaker, Lok Sabha, was received on the 7th November, 1968 from the Collector, Monghyr :—

“This morning at 9 A.M. Shri Madhu Limaye, Member, Lok Sabha, along with 44 others arrested at Lakhisarai Railway Station in connection with violation of orders under Section 144 Cr. P.C.”

As the Lok Sabha was not then in session, the above information was published in the Lok Sabha Bulletin Part II dated the 8th November, 1968 (para. 882).

The above telegram was also confirmed by a post copy signed by the District Magistrate, Monghyr.

3 See Appendix I.

4 See Annexure 17 to Appendix I.

5 See Annexure 1 (d) to Appendix I and Appendices II—V.

10. On the 10th November, 1968, the following two telegrams and a wireless message addressed to the Speaker, Lok Sabha, were received :

- (i) "Monghyr 8 STE 116 Speaker, Lok Sabha, New Delhi. I have the honour to inform you that I have found it my duty in the exercise of the powers under Section 151/107 of the Cr.P.C. and 188 IPC to direct that Shri Madhu Limaye, Member of the Lok Sabha, be arrested for violation of prohibitory order under Section 144 Cr.P.C. and apprehension of committing cognizable offences. Shri Madhu Limaye, Member of Lok Sabha was accordingly arrested and taken into custody at Lakhisarai Railway Station on 6th November, 1968 at 9-15 A.M. and is at present lodged in the District Jail, Monghyr in default of bail. K. B. Mathur, Magistrate, 1st Class."
- (ii) "Monghyr 10 STE 23 Speaker, Lok Sabha, New Delhi—Number 2123-C, Shri Madhu Limaye, M.P., transferred from Monghyr District Jail, to Bhagalpur Central Jail—Substrate."
- (iii) "Bhagalpur dated 10th November, 1968. This is to inform the honourable Speaker, Lok Sabha, New Delhi that Shri Madhu Limaye, Member, Lok Sabha, has been received in this jail on the 9th November, 1968 under the warrant for intermediate custody (Section 344 Cr.P.C.) and is charged under Sections 151/107/117(3) Cr.P.C. by the S.D.O., Monghyr. Superintendent, Central Jail, Bhagalpur (Bihar)."

As the information about the arrest of Shri Madhu Limaye had already been published in the Lok Sabha Bulletin Part II dated the 8th November, 1968, the wireless message at (iii) above was published in the Lok Sabha Bulletin Part II dated the 11th November, 1968 (Para. 886), in continuation of the earlier para 882 referred to above.

The telegrams at (i) and (ii) above were also subsequently confirmed by the senders by post copies.

11. Subsequently, the following further communications were also received on the dates indicated against them :

- (i) Letter in Hindi dated the 6th November, 1968 from the Superintendent, District Jail, Monghyr, intimating the admission of Shri Madhu Limaye, M.P., in the jail on that date as an under trial prisoner under Sections 151/107, 117(3) Cr.P.C. (Received on 12th November, 1968).

- (ii) Letter dated 6th November, 1968 from the District Magistrate, Monghyr, forwarding the letter dated the 6th November, 1968, from the Sub-Divisional Officer, Sadar, Monghyr, which was as follows :—

“I have the honour to inform you that the Magistrate on duty has found his duty in the exercise of his powers under sections 151/107 of the Cr.P.C. and 188 I.P.C. to direct that Shri Madhu Limaye, Member of the Lok Sabha be arrested for violation of prohibitory order u/s 144 Cr.P.C. and apprehension of committing cognizable offences. Shri Madhu Limaye, M.P., was accordingly arrested, taken into custody at Lakhisarai today the 6th November, 1968 at 9-15 A.M. and is at present lodged in the District Jail, Monghyr in default of bail.”
(Received on 12th November, 1968).

- (iii) Letter dated the 10th November, 1968, from the Sub-Divisional Officer, Sadar, Monghyr, intimating that Shri Madhu Limaye, M.P., who was lodged in Monghyr District Jail since 6th November, 1968 had been transferred to Bhagalpur Central Jail on 9th November, 1968. (Received on 14th November, 1968).

As the above information had been published in substance in the two paragraphs in the Lok Sabha Bulletin Part—II dated the 8th and 11th November, 1968, on the basis of intimations received earlier, these communications were added to the relevant papers.

12. Sarvashri Rabi Ray and George Fernandes raised the question of arrest of Shri Madhu Limaye in the House on the 12th, 14th and 18th November, 1968 and desired the Minister of Home Affairs to make a statement on the matter.

13. On the 19th November, 1968, the Minister of Home Affairs (Shri Y. B. Chavan) made in the Lok Sabha the following statement⁶ :—

“As regards Shri Madhu Limaye, according to information furnished by the State Government, he was arrested under the direction of a magistrate on duty on November 6, 1968 at Lakhisarai under Sections 151 and 107 Cr.P.C. and Section 188 I.P.C. He was produced before the Sub-Divisional Magistrate, Monghyr the same day, and on his refusal to furnish a bond,

⁶ L. S. Deb. dated 19-11-1968, c. 219.

he was remanded to judicial custody. It is understood that Shri Limaye has filed a *habeas corpus* petition before the Supreme Court."

14. On the 25th November, 1968, Shri George Fernandes sought to raise⁷, in the House a question of privilege alleging that the magistrate and the Minister of Home Affairs had given wrong information to the House (See paras. 9 and 13 above) and desiring that the House order the release of Shri Madhu Limaye. The Speaker, however, said⁸ that he would give notice to the Government, hear facts from them and then give his ruling.

15. On the 26th November, 1968, Shri Madhu Limaye, who had been released from custody on the previous day by the Supreme Court pending hearing of his petition⁹ in that Court for a Writ of *Habeas Corpus*, also sought to raise¹⁰ in the House a question of privilege and desired the matter to be referred to the Committee of Privileges to consider the following issues:—

- "(i) Whether sections 151, 107 and 117(3), under which Shri Madhu Limaye was arrested and remanded, relate to any criminal charge or criminal offence referred to in Rule 229.
- (ii) Whether the arrest and subsequent remands of Shri Madhu Limaye amounted to a breach of the Members' immunity from arrest 40 days before the beginning of the Session.
- (iii) Whether his arrest and remands by the G.R.P.S. in-charge, Kiul, Bihar, and S.D.O. incharge and S.D.O., Sadar, Monghyr, Bihar, constitute a breach of privilege and contempt of the House.
- (iv) Whether the Collector, who was not the committing Magistrate in this case, was required to send any intimation to the Speaker, whether he sent any wrong information to the House and was guilty of contempt.
- (v) Whether S.D.O. incharge and S.D.O., Sadar, Monghyr committed contempt by not sending intimation to the Speaker as required by rule 229.

⁷ *Ibid* 25-11-1968, c.c. 252—60

⁸ *Ibid*.

⁹ Writ Petition No. 355 of 1968 (See Annexures I (a) & (b) to Appendix D).
¹⁰ L.S. Deb. dated 26-11-1968, cc. 249—62.

- (vi) Whether it is not the duty of the Home Minister to ascertain the truth or otherwise of the information relating to Members' arrest and detention, *especially* when the arrest and detentions take place in Union Territories and States which are under President's rule, and whether, in cases of *prima facie* breach of privilege or illegality, he should not intervene to secure Members' release or whether he should be allowed to act merely as a postman.
- (vii) Whether the Home Minister has in this case conveyed any wrong information to the House and has been guilty of contempt."

He also desired that he might be allowed to attend those sittings of the Committee on which the Committee heard evidence.

The Speaker, however, observed¹¹ that the matter might be considered after the Supreme Court gave its judgement on the Writ Petition of Shri Madhu Limaye.

16. The Supreme Court, after hearing the parties, confirmed the release of Shri Madhu Limaye on the 2nd December, 1968 and reserved its detailed judgement which was delivered on the 18th December, 1968.

17. On the 20th December, 1968, the Minister of Home Affairs moved¹², and the House adopted, the following motion :—

"That the question of privilege arising out of Shri Madhu Limaye's arrest on November 6, 1968 and his remand to judicial custody at Lakhisarai (Bihar) be referred to the Committee of Privileges, with instructions to frame such issues as the Committee consider relevant from the point of view of the Privileges of this House and make a report thereon."

III. FINDINGS OF THE COMMITTEE

Return and documents filed in the Supreme Court by the Government of Bihar.

18. The Return filed in the Supreme Court on behalf of the State of Bihar and its officials may be seen at Annexure 1(d) to Appendix I. In that Return, the Government of Bihar stated *inter alia* as follows :—

"That the Sub-Divisional Officer, Monghyr, had received information that the petitioner Madhu Limaye will be re-starting

¹¹ *Ibid.*

¹² L. S. Deb. Part II dt. 20-12-1968, cc. 219—20.

his agitation by squatting on Railway Tracks at Lakhisarai Railway Station on the 5th November, 1968 and there was apprehension of breach of peace on the above occasion and there were sufficient grounds for proceeding under section 144 of the Criminal Procedure Code for preservation of peace and tranquility.

That with a view to maintain law and order the Sub-Divisional Officer, Monghyr, promulgated order on 2nd November, 1968 under Section 144 Cr.P.C. banning assemblage of 5 or more persons and carrying of arms and weapons and also carrying brickbats within the limits of 100 yards of Kiul and Lakhisarai Railway Station of Sadar Sub-Division for a period of one week that is from 5th November, 1968 to 12th November, 1968 both days inclusive.

That from the leaflets circulated by the Lakhisarai Unit of the S.S.P. (Samyukta Socialist Party) on 4th November, 1968, it appeared that the party had decided to hold a public meeting on 5th November, 1968 and to undertake Satyagraha at Lakhisarai on the 6th November, 1968 under the leadership of the petitioner Shri Madhu Limaye.

That on 5th November, 1968 petitioners and others held and addressed a public meeting of about 400 persons at the Railway ground at Lakhisarai in defiance of orders under section 144 Cr.P.C. duly promulgated and used provocative language and exhorted the public to hold Satyagraha at Lakhisarai Station on 6th November, 1968 and to disrupt the Railway communications and obstruct normal functioning of railway offices at Lakhisarai. A prosecution report under section 188 I.P.C. was submitted by the Officer Incharge Kiul G.R.P.S. on 6th November, 1968 against Shri Madhu Limaye, Kapildeo Singh, Kapildeo Shastri and Smt. Champa Limaye for the violation of the prohibitory orders. A case was started being No. 683/M2 of 1968 in which Shri Madhu Limaye, Kapildeo Singh and Kapildeo Shastri have been asked by the S.D.M. Sadar Monghyr on 11th November, 1968 to show cause by 20th November, 1968 as to why action under section 188 I.P.C. should not be taken against them.....

That on 6th November, 1968 a procession of about 200 persons of S.S.P. workers led by the two petitioners came to the main gate of the down platform of Lakhisarai Railway Station where a Magistrate, Inspector of Railway Police, and Officer Incharge of the Kiul G.R.P. were present when these officers found that the petitioners and others in spite of the warning

had forcibly entered the platform pushing the officers and had violated orders under section 144 Cr.P.C. and had formed an unlawful assembly with the object of disrupting the railway communication of and obstructing the normal functioning of the offices of the railway station and further that their action was likely to result in breach of peace and disturbance of public tranquility, the Magistrate on duty namely Shri K. B. Mathur directed the police officers present there to arrest the petitioners and others. Accordingly the Officer Incharge arrested 45 persons including the petitioner and others and forwarded them to the S.D.O. Monghyr. A case was instituted against the petitioners and 144 others being case No. 617 of 1968.

That the petitioners and others were produced before the Sub-Divisional Magistrate Incharge Monghyr at about 1-45 p.m. on 6th November, 1968. The Learned Magistrate remanded them to jail Hajat till 20th November, 1968 as they refused to furnish bail bonds, as ordered by the Sub-Divisional Magistrate.

That on 6th November, 1968 another prosecution report under section 188 I.P.C. was submitted by the Officer Incharge Kiul G.R.P.S. against the petitioners and others for the incidents on 6th November, 1968.

A case was started being case No. 681/M/2 of 1968 in which petitioners and others have been asked on 11th November, 1968 to show cause by 20th November, 1968 as to why action under Section 188 I.P.C. should not be taken against them....

From the facts and circumstances mentioned above it is manifest that the petitioners and others committed offences under section 188 as well as under section 143 I.P.C. (which is cognizable) by violating order under section 144 Cr.P.C. and by forming an unlawful assembly. This being the position both the Magistrate and the Officer Incharge Kiul G.R.P.S. were fully competent under the law to arrest the petitioners and others. While forwarding the petitioners, the Officer Incharge Kiul G.R.P.S. by mistake omitted to mention section 143 I.P.C. The order of remand passed by the Sub-Divisional Magistrate cannot be said to be illegal for the mere omission of section 143 I.P.C. in the order sheet when the police report clearly made out a case under section 143 I.P.C.....

That it is incorrect to say that the petitioners were arrested on 6th November, 1968 while they were participating in a peaceful Satyagraha. It is also incorrect to say that the Officer In-charge G.R.P.S. Kiul has purported to arrest the petitioners under sections 151, 107, 117(3) of the Cr.P.C. only.”

19. Copies of the following documents filed by the Government of Bihar in the Supreme Court were also obtained from the Government of Bihar through the Ministry of Home Affairs :—

- (i) Record of case No. 617-M of 1968 containing *inter alia* copies of Order Sheets, Forwarding Report, Prosecution Report, Proceedings u/s 107 Cr.P.C. and haziri filed (See Appendix II).
- (ii) Record of case No. 681/M2 of 1968 containing *inter alia* Order Sheet, Prosecution Report of Persons, O/C of Police and List of Persons, and SR of Notice u/s 188 IPC and opinion of Senior District Prosecutor (See Appendix III).
- (iii) Record of case No. 683/M2 of 1968 containing *inter alia* Order Sheet, Prosecution Report u/s 188 IPC and O/C of Notice u/s 188 IPC (See Appendix IV).
- (iv) Record of GR case No. 2351 of 1968 u/s 143 IPC and 122, Railways Act containing *inter alia* Order Sheet, F.I.R., Remand Report and Custody Warrant of Shri Madhu Limaye, M.P. (See Appendix V).

Judgement of the Supreme Court

20. The Supreme Court in its judgement (See Annexure 17 to Appendix I) dated the 18th December, 1968 on Shri Madhu Limaye's Writ Petition No. 355 of 1968 stated *inter alia* as follows:

“Madhu Limaye, Member of Lok Sabha, and several other persons were arrested on November 6, 1968 at Lakhisarai Railway Station near Monghyr.....

It is apparent from the documents and papers placed before us that on November 2, 1968, the Sub-Divisional Magistrate, Monghyr, issued an order under section 144, Cr.P.C., prohibiting assemblage of five or more persons within the limits of 100 yards of Kiul and Lakhisarai Railway Stations for a period of one week from November 5, 1968 to November 12, 1968. According to the report submitted by the Sub-Inspector in-charge of the Government Railway Police Station Kiul to the Sub-Divisional Magistrate, Sadar, Madhu Limaye and others had defied the prohibitory orders issued under section 144

Cr.P.C. by holding and addressing a public meeting at the railway ground at Lakhisarai Railway Station between 4-30 P.M. and 6-30 P.M. on November 5, 1968 and some out of them had exhorted the public in provocative language to offer satyagraha at the Railway Station and to disrupt the railway communications as also to obstruct the normal functioning of the railway offices at Lakhisarai. It was prayed that their prosecution be ordered under section 188, Indian Penal Code. Dharamraj Singh Sub-Inspector entered a report (Sanha) No. 109 on November 6, 1968, in the general diary. It was stated *inter alia* that Madhu Limaye and others took out a procession at 3 O'Clock with a flag in violation of the order made under section 144, Cr.P.C. They had entered the Railway Station for launching a strike shouting slogans. This group had been followed by several other groups of persons the last being the 8th group (the names in each group were mentioned). All these persons had been arrested under section 151, Cr.P.C. and had been sent to the Sub-Divisional Magistrate, Sadar, Monghyr. These incidents happened in the presence of Shri Mathur, Magistrate 1st Class, Monghyr, Shri B. N. Singh, Railway Magistrate, Kiul, etc. It was stated that the report was being submitted 'under sections 107 and 117 of the Criminal Procedure Code and under section 188 of the Indian Penal Code.' Admittedly no first information report was formally registered on that date which was done on November 19, 1968 at 23-30 hours. In this report in which the date of occurrence is mentioned as November 6, 1968 it was stated that the accused persons had entered the Railway Station by illegally forming a mob disobeying the order under section 144 Cr.P.C. to disturb the normal functioning of the railways and had committed offences under section 143 I.P.C. and section 122 of the Railways Act.....

Madhu Limaye, who has addressed arguments in person, has raised, *inter alia*, the following main contentions:

1. The arrests on November 6, 1968 were illegal inasmuch as it had been effected by Police Officers for offences which were non-cognizable.
2. There was a violation of the mandatory provisions of Art. 22(1) of the Constitution.
3. The orders for remand were bad and vitiated.
4. The arrests were effected for extraneous considerations and were actuated by *mala fides*.

The entire sequence of events from November 5, 1968 onwards is somewhat unusual and has certain features which have not been explained on behalf of the State. In the first place when the arrests were effected by the Sub-Inspector Incharge of Government Railway Police Station on November 6, 1968 the offences for which the arrests were made were not stated to be cognizable. In the various reports, etc., to which reference has been made the only offence alleged was one under section 188 I.P.C. which is non-cognizable. On November 6, 1968 apart from the allegation of commission of offences under section 188 the police reports disclose a variety of proceedings which were sought to be taken. Section 151 in all likelihood was invoked for effecting the arrests but proceedings were initiated under section 107 which appears in Chapter VIII of the Cr.P.C. Under that section the Magistrate can require a person about whom information has been received that he is likely to commit a breach of peace to show cause why he should not be ordered to execute a bond for a period not exceeding one year, for keeping peace. Under section 117, which was also invoked, the Magistrate makes an enquiry as to the truth of an information. But proceedings under section 107 have to follow the procedure laid down in Chapter VIII and arrest cannot be effected unless a Magistrate issued a warrant for that purpose under section 114. Section 151 which has been repeatedly referred to in various documents is meant for arresting without a warrant and without orders from a Magistrate if a police officer knows of a design to commit any cognizable offence and if it appears to him that the commission of such offence cannot be otherwise prevented.

There can be no manner of doubt, and this position has hardly been controverted by Mr. Chagla for the State, that in all the documents which were prepared before November 19, 1968 there was no mention of an offence under section 143 I.P.C. having been committed by Madhu Limaye and other persons who were arrested on November 6, 1968. It is obviously for that reason that no formal first information report was recorded on November 6, 1968 which would have necessarily been done if the police officers effecting arrests had thought of section 143, Indian Penal Code which is a cognizable offence. No explanation has been furnished on behalf of the State as to why the information which was recorded in the general diary on November 6, 1968 was not recorded as an information in cognizable cases under section 154 of the Cr.P.C. There is force in the suggestion of Madhu Limaye that the first information report came to be recorded formally on November 19,

1968 only because the matter had been brought to this court by way of a petition under Art. 32 of the Constitution and after a *rule nisi* had been issued and a petition under Art. 226 had been filed in the Patna High Court. The authorities then realised that they had been completely oblivious of the true position that arrests could not have been effected for a non-cognizable offence made punishable under section 188, Indian Penal Code or for taking proceedings under section 107, Cr.P.C. Under section 151 Cr.P. Code the police officer could have arrested without a warrant but Mr. Chagla has not sought justification for the arrests under that provision. He has pointed out that a prohibitory order had been issued under section 144 which had been defied by Madhu Limaye and the other persons and therefore an offence had been committed under section 143 I.P.C. The mere omission, he says, to mention a section cannot affect the legality or validity of the proceedings..... It would be legitimate to conclude that the arrest of Madhu Limaye and his companions was effected by the police officers concerned without any specific orders or directions of a Magistrate on November 6, 1968 for the offences and the proceedings mentioned before in the various reports made prior to November 19, 1968.

The submission of Madhu Limaye on the second point has hardly been effectively met on behalf of the State..... It appears that the authorities wanted to invoke all kinds of provisions like sections 151, 107/117 of the Cr.P.C. apart from section 188 of the Indian Penal Code. Since no arrest could be effected for an offence under section 188 by the police officers without proper orders these officers may have been naturally reluctant to comply with the mandatory requirements of Art. 22(1) by giving the necessary information. At any rate, whatever the reasons, it has not been explained even during the course of arguments before us why the arrested persons were not told the reasons for their arrest or of the offences for which they had been taken into custody.....

Once it is shown that the arrests made by the police officers were illegal, it was necessary for the State to establish that at the stage of remand the Magistrate directed detention in jail custody after applying his mind to all relevant matters. This the State has failed to do. The remand orders are patently routine and appear to have been made mechanically..... The orders of remand are not such as would cure the constitutional infirmities. This disposes of the third contention of Madhu Limaye.

We have been pressed to decide the question of *mala fides* which is the fourth contention of Madhu Limaye. Normally such matters are not gone into by this court in these proceedings and can be more appropriately agitated in such other legal action as he may be advised to institute or take. We would like to make it clear that we have ordered the release of Madhu Limaye and the other arrested persons with regard to whom *rule nisi* was issued on the sole ground of violation of the provisions of Art. 22(1) of the Constitution. We desire to express no opinion on the legality or illegality of the arrests made on November 6, 1968 of these persons with reference to the first point, namely that the police officers purported to have effected the arrests for the offences under section 188, Indian Penal Code, and under section 151 as also in respect of proceedings under section 107 of the Cr.P.C., as these matters are *sub-judice*. We may also proceed to add that any expression of opinion or observation in these proceedings shall not affect the course of the enquiry or trial of the arrested persons concerning the occurrences on November 5 and 6, 1968 which may be pending in the courts in the State of Bihar and such proceedings shall be disposed of in accordance with law."

21. In his letter dated the 3rd April, 1969 addressed by Shri Madhu Limaye to the Chairman, Committee of Privileges, Shri Limaye has stated *inter alia* as follows:—

".....my arrest and detention was not on account of any criminal charge or any offence. It was completely violative of my privileges and immunities in terms of the *May* quotation cited above and Rule 229 of our Rules of Procedure. The Police officers and the Magistrate who have been responsible for arresting me and remanding me to jail Hajat have been guilty of violating my immunities and privileges and are, therefore, guilty of committing contempt of Lok Sabha. This arbitrary arrest and detention has not only caused me unspeakable mental worry and torture but has prevented me from serving my constituency and the nation for 15 long days. It is my contention that the Lok Sabha was not only entitled but it was its clear duty to intervene on the basis of the *prima facie* evidence of the remand documents sent by me to the Speaker, and order my release. The House of Commons has exercised its powers to protect members from illegal and arbitrary arrests and detentions on its own without waiting for the intervention of the Court. It is a pity that the House did not do so in my case. May I hope that now that the Supreme Court has upheld my contention and now that I have conclu-

sively proved in this memorandum that my arrest had nothing to do with any criminal charge or commission of any offence, the Privileges Committee will take stern action against the police officers and Magistrates so that they and their ilk will not dare deprive in future ordinary people of their Fundamental Rights and Members of Parliament of their privileges and immunities."

22. The position with regard to the privilege of freedom from arrest and some cases relevant to the issues involved in this matter are given in Appendix VI.

23. The Committee, after giving careful thought to all aspects of this matter, framed the following three issues for their consideration:—

- (1) Whether the arrest of Shri Madhu Limaye, M.P., under Sections 107, 117(3) or 151 of the Code of Criminal Procedure, 1898, at Lakhisarai on the 6th November, 1968, and his subsequent remand and detention constituted a breach of privilege of the House;
- (2) Whether the requisite intimation about the arrest of Shri Madhu Limaye in this case was sent to the Speaker, Lok Sabha, by the competent authority; and
- (3) Whether any information conveyed to the House by the Minister of Home Affairs in this case constituted a contempt of the House.

24. After a detailed examination of the facts of the case and relevant documents made available to the Committee, and a thorough consideration of the law and precedents on the subject of privilege of freedom from arrest enjoyed by Members of Parliament, the Committee have arrived at the following conclusions:—

(1) Though the Committee feel that there were grave breach of the requirements of the law in the procedure adopted by the police and the magistracy in relation to the arrest and remand of Shri Madhu Limaye, M.P., the Committee are of the opinion that Shri Madhu Limaye's arrest under Sections 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968, and his subsequent remand and detention do not constitute a breach of privilege or contempt of the House. Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition) lays down the procedure for sending intimations to the Speaker about the arrest/release, etc., of Members of Lok Sabha. The substantive

privilege of freedom from arrest is governed by the provisions of clause (3) of Article 105 of the Constitution. "The privilege of freedom from arrest is limited to Civil causes, and has not been allowed to interfere with the administration of criminal justice or emergency legislation. . . . The development of privilege has shown a tendency to confine it more narrowly to cases of a civil character and to exclude not only every kind of criminal case, but also cases, which, while not strictly criminal, partake more of a criminal than of a civil character. This development is in conformity with the principle laid down by the Commons in a Conference with the Lords in 1641: 'Privilege of Parliament is granted in regard of the service of the Commonwealth and is not to be used to the danger of the Commonwealth.'" [*May's Parliamentary Practice*, 17th Ed., p. 78] Arrest to prevent offences (Section 151 Cr.P.C.) or arrest for failure to furnish security for keeping the peace (Sections 107 and 117 Cr.P.C.) is an arrest for causes which are of criminal nature.

The Committee are of the view that for the grave breach of the requirements of the law committed by the authorities concerned while arresting or remanding him to custody, the proper forum for Shri Madhu Limaye to seek the remedy for the wrong, if any, done to him is a court of law and not the Committee of Privileges. In the matter of criminal proceedings or proceedings under the relevant provisions of the Code of Criminal Procedure, 1898, all citizens, including Members of Parliament, have to be treated equally in the eyes of law.

The Committee, however, wish to emphasise that all the forms and rules of law must be strictly and scrupulously observed by the police and the magistracy in all cases, more particularly when their conduct results in the deprivation of personal liberty of a citizen. The Committee also deprecate the indiscriminate resort to sections 107, 117 and 151 of the Cr.P.C. by the Police in dealing with respectable citizens, particularly, Members of Parliament and Legislatures.

(2) The Committee are of the opinion that the requisite intimation about the arrest of Shri Madhu Limaye, M.P. in this case was sent to the Speaker by the competent authorities (See paras. 9 to 11 above). In this connection, the Committee observe that although according to Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition), "the committing judge, magistrate or executive authority" should send the requisite intimation to the Speaker, Lok Sabha, regarding the arrest, detention, etc., of a Member, yet intimations received from other authorities, e.g., Police officers, Superintendents of Jails, Registrars or Assistant Registrars of High Courts or Supreme Court, etc., have been received by the Speaker and conveyed to the House and regarded as fulfilling the requirements of the rules.

(3) The Committee are of the view that the information conveyed to the House by the Minister of Home Affairs in this case (See para. 13 above) was not incorrect and does not constitute a contempt of the House.

IV. RECOMMENDATION OF THE COMMITTEE

25. The Committee recommend that no further action be taken by the House in the matter.

NEW DELHI;
The 26th August, 1969.

R. K. KHADILKAR,
Chairman,
Committee of Privileges.

MINUTES

I

First Sitting

New Delhi, Friday, the 20th December, 1968.

The Committee met from 16.00 to 16.50 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*.

MEMBERS

2. Shri Surendra Nath Dwivedy
3. Shri S. M. Joshi
4. Shri Bal Raj Madhok
5. Shri H. N. Mukerjee
6. Shri Anand Narain Mulla
7. Shri G. L. Nanda.
8. Dr. Ram Subhag Singh.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. The Committee considered the question of privilege referred to them by Lok Sabha on the 20th December, 1968 in terms of the following motion adopted by the House:—

“That the question of privilege arising out of Shri Madhu Limaye's arrest on November 6, 1968 and his remand to judicial custody at Lakhisarai (Bihar) be referred to the Committee of Privilege with instructions to frame such issues as the Committee consider relevant from the point of view of the Privileges of this House and make a report thereon.”

3. The Committee directed that copies of the relevant documents in this case e.g. judgement of the Supreme Court on the Writ Petition filed by Shri Madhu Limaye, M.P., relevant documents of the

case from the Government of Bihar and proceedings in the House on this matter be made available to the Members of the Committee.

4. The Committee decided to meet again on the 14th February, 1969 at 11.00 hours to consider the matter further.

The Committee then adjourned.

II

Second Sitting

New Delhi, Friday, the 14th February, 1969.

The Committee met from 11.00 to 11.30 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri Hem Raj
3. Shri S. M. Joshi
4. Shri Bal Raj Madhok
5. Lt. Col. H. H. Maharaja Manabendra Shah of Tehri Garhwal.
6. Shri H. N. Mukerjee
7. Shri Anand Narain Mulla
8. Shri Raja Venkatappa Naik
9. Shri G. L. Nanda
10. Shri Biswanarayan Shastri.

SPECIAL INVITEE

Shri K. Raghuramaiah

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee postponed further consideration of the question of privilege arising out of the arrest of Shri Madhu Limaye, M.P., on the 6th November, 1968 and his remand to judicial custody at Lakhisarai (Bihar) to their sitting to be held on the 4th March, 1969.

The Committee then adjourned.

***Para. 3 relates to another case and will be included in the Minutes of the relevant Report.

III**Third Sitting**

New Delhi, Wednesday, the 5th March, 1969.

The Committee met from 16.00 to 16.55 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri Surendra Nath Dwivedy
3. Shri Hem Raj
4. Shri S. M. Joshi
5. Shri Bal Raj Madhok
6. Lt. Col. H. H. Maharaja Manabendra Shah of Tehri Garhwal
7. Shri H. N. Mukerjee
8. Shri Anand Narain Mulla
9. Shri Raja Venkatappa Naik
10. Shri Biswanarayan Shastri
11. Shri K. Raghuramaiah.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

2. The Committee considered the question of privilege arising out of the arrest of Shri Madhu Limaye, M.P., on the 6th November, 1968 and his subsequent remand at Lakhisarai and decided to frame the following issues for their consideration:

- (1) Whether the arrest of Shri Madhu Limaye, M.P., under Sections 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968 and his subsequent remand and detention constitute a breach of privilege of the House?
- (2) Whether the requisite intimation about the arrest of Shri Madhu Limaye in this case was sent to the Speaker by the competent authority?

- (3) Whether any information conveyed to the House by the Minister of Home Affairs in this case constitutes a contempt of the House?

The Committee then adjourned to meet again on Thursday, the 6th March, 1969 at 16.00 hours.

IV

Fourth Sitting

New Delhi, Wednesday, the 7th May, 1969.

The Committee met from 16.00 to 16.40 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri N. C. Chatterjee
3. Shri Surendranath Dwivedy
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri Thandavan Kiruttinan
7. Shri Raja Venkatappa Naik
8. Shri G. L. Nanda
9. Shri K. Narayana Rao.

SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

4. The Committee then considered the question of privilege arising out of the arrest of Shri Madhu Limaye, M.P., at Lakhisarai on the 6th November, 1968 and his subsequent remand to judicial custody, in the light of the letter dated the 3rd April, 1969 addressed by Shri Madhu Limaye to the Chairman of the Committee. The Committee also considered the request of Shri Madhu Limaye in that letter and directed that copies of his petition to the Supreme Court dated the 6th November, 1968 and the warrant for his intermediate

***Paras. 2, 3 and 5 relate to other cases and will be included in the Minutes of the relevant Reports.

custody, which were not enclosed by Shri Madhu Limaye with his letter, might be obtained from the authorities concerned, for circulation to the members of the Committee.

6. The Committee decided to meet again to consider all these cases on Monday, the 30th June, 1969 at 9.00 hours and, if necessary, also to meet on Tuesday, the 1st July, 1969.

The Committee then adjourned.

V

Fifth Sitting

New Delhi, Wednesday, the 16th July, 1969.

The Committee met from 10.30 to 12.15 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri N. C. Chatterjee
3. Shri Surendranath Dwivedy
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri Thandavan Kiruttinan
7. Shri H. N. Mukerjee
8. Shri Raja Venkatappa Naik
9. Chaudhuri Randhir Singh.

SECRETARIAT

Shri E. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

4. The Committee then considered the question of privilege arising out of the arrest of Shri Madhu Limaye, M.P., at Lakhisarai on

***Paras. 2, 3 and 5 relate to other cases and will be included in the Minutes of the relevant Reports.

the 6th November, 1968, and his subsequent remand to judicial custody, in the light of the judgment of the Supreme Court releasing Shri Madhu Limaye on the writ of *Habeas Corpus* in the matter, documents received from the Government of Bihar through the Ministry of Home Affairs and the letter dated the 3rd April, 1969 addressed by Shri Madhu Limaye, M.P., to the Chairman of the Committee together with the documents forwarded by Shri Madhu Limaye. The Committee decided as follows:—

(1) Although the Committee felt that there were irregularities in the procedure adopted by the police and the magistracy in relation to the arrest and remand of Shri Madhu Limaye, M.P., his arrest under Sections 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968, and his subsequent remand and detention did not constitute a breach of privilege of the House. The Committee were of the opinion that the proper forum for Shri Madhu Limaye to seek the remedy for the wrong, if any, done to him was a court of law and not the Committee of Privileges, and in the matter of criminal proceedings or proceedings under the relevant provisions of the Code of Criminal Procedure, 1898, all citizens, including Members of Parliament had to be treated equally in the eyes of law.

The Committee, however, decided to emphasise that all the forms and rules of law must be strictly and scrupulously observed by the police and the magistracy in all cases, more particularly when their conduct results in the deprivation of personal liberty of a citizen;

(2) The requisite intimation about the arrest of Shri Madhu Limaye, M.P., in this case was sent to the Speaker by the competent authorities; and

(3) The information conveyed to the House by the Minister of Home Affairs in this case was not incorrect and did not constitute a contempt of the House.

The Committee decided to consider their draft report on the matter at a subsequent sitting.

The Committee decided to meet again on Thursday, the 17th July, 1969, at 11-30 hours.

The Committee then adjourned.

VI

Sixth Sitting

New Delhi, Monday, the 4th August, 1969.

The Committee met from 16-00 to 16-50 hours.

PRESENT

Chairman

Shri R. K. Khadilkar.

MEMBERS

2. Shri Rajendranath Barua
3. Shri N. C. Chatterjee
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri H. N. Mukerjee
7. Shri Raja Venkatappa Naik
8. Shri G. L. Nanda
9. Shri P. Ramamurti.

SPECIAL INVITEE

Shri Anand Narain Mulla.

SECRETARIAT

Shri B. K. Mukerjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

5. The Committee then took up consideration of their draft Eighth Report and decided to consider it further on Monday, the 11th August, 1969, at 16-00 hours.

The Committee then adjourned.

VII

Seventh Sitting

New Delhi, Tuesday, the 26th August, 1969.

The Committee sat from 16-00 to 17-00 hours.

***Paras. 2, 3 and 4 relate to another case and have been included in the Minutes of the Seventh Report.

PRESENT*Chairman*

Shri R. K. Khadilkar.

MEMBERS

2. Shri Rajendranath Barua
3. Shri N. C. Chatterjee
4. Shri Hem Raj
5. Shri Thandavan Kiruttinan
6. Shri Raja Venkatappa Naik
7. Shri P. Ramamurti
8. Shri K. Narayana Rao.

SPECIAL INVITEE

Shri Anand Narain Mulla, M.P.

SECRETARIAT

Shri B. K. Mukerjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

2. The Committee considered their draft Eighth Report on the question of privilege arising out of the arrest of Shri Madhu Limaye, M.P., on the 6th November, 1968 and his subsequent remand to judicial custody at Lakhi Sarai (Bihar), and adopted it with the following modification:

Page 709, paragraph 24(1), for the first and second sub-paragraphs, the following shall be substituted:—

“Though the Committee feel that there were grave breach of the requirements of the law in the procedure adopted by the police and the magistracy in relation to the arrest and remand of Shri Madhu Limaye, M.P., the Committee are of the opinion that Shri Madhu Limaye’s arrest under Sections 107, 117(3) or 151 of the Code of Criminal Procedure, 1898 at Lakhisarai on the 6th November, 1968, and his subsequent remand and detention do not constitute a breach of privilege or contempt of the House. Rule 229 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition) lays down the procedure for sending intimations to the Speaker about the arrest/release etc. of Members of Lok Sabha. The substantive privilege of freedom from arrest is governed by the provisions of

clause (3) of Article 105 of the Constitution. "The privilege of freedom from arrest is limited to Civil causes, and has not been allowed to interfere with the administration of criminal justice or emergency legislation..... The development of privilege has shown a tendency to confine it more narrowly to cases of a civil character and to exclude not only every kind of criminal case, but also cases, which, while not strictly criminal, partake more of a criminal than of a civil character. This development is in conformity with the principle laid down by the Commons in a Conference with the Lords in 1641: 'Privilege of Parliament is granted in regard of the service of the Commonwealth and is not to be used to the danger of the Commonwealth'."

[May's Parliamentary Practice, 17th Ed., p. 78].

Arrest to prevent offences (Section 151 Cr.P.C.) or arrest for failure to furnish security for keeping the peace (Sections 107 and 117 Cr.P.C.) is an arrest for causes which are of criminal nature.

The Committee are of the view that for the grave breach of the requirements of the law committed by the authorities concerned while arresting or remanding him to custody, the proper forum for Shri Madhu Limaye to seek the remedy for the wrong, if any, done to him is a court of law and not the Committee of Privileges. In the matter of criminal proceedings or proceedings under the relevant provisions of the Code of Criminal Procedure, 1898, all citizens, including Members of Parliament, have to be treated equally in the eyes of law."

3. The Committee authorised the Chairman and, in his absence, Shri Rajendranath Barua, to present their Eighth Report to the House on the 30th August, 1969.

The Committee then adjourned.

***These paragraphs relate to other cases and will be included in the Minutes of the relevant Report.

APPENDICES

APPENDIX I

(See para. 5 of the Report)

*(Letter dated the 3rd April, 1969 addressed by Shri Madhu Limaye,
M.P. to the Chairman, Committee of Privileges)*

MADHU LIMAYE,
Member of Parliament,
Lok Sabha.

6, Gurudwara Rakabganj Road,
NEW DELHI-1.
April 3, 1969.

The Chairman,
Committee of Privileges,
Lok Sabha,
NEW DELHI

Sir.

On 20th December, 1968, Lok Sabha, on a motion made by the Home Minister, referred the question of breach of privilege and contempt of the House arising out of my arrest and detention to the Committee of Privileges. The Motion said:

“That the question of privilege arising out of Shri Madhu Limaye’s arrest on the 6th November, 1968 and his remand to judicial custody at Lakhisarai (Bihar) be referred to the Committee of Privileges, with instructions to frame such issues as the Committee consider relevant from the point of view of the privileges of this House and make a report thereon.”

2. In this memorandum I wish to give the background as well as the details of the case that I would request the Committee to consider carefully.

3. In all Sovereign Democratic States wherever there are functioning legislative bodies, we find that they are endowed with certain rights, immunities and privileges which are held to be necessary for the proper discharge by them of their important duties. In our own case our Constitution recognizes the fact that such privileges and

immunities are indispensable for the proper functioning of parliamentary institutions. The Constitution makers have devoted one whole Article to these privileges, namely Article 105.

4. Article 105(1) confers on Members of Parliament the privilege of freedom of speech and Article 105(2) gives their actions and utterances in the House immunity from interference by the courts. However, the right to free speech and the immunity from interference by the court can be exercised by Members only if they are in enjoyment of the still more fundamental immunity from arrest, molestation and all other forms outside interference.

5. In England, the immunity from arrest has been considered as one among the four fundamental or basic privileges of Members of Parliament. The immunity from arrest is operative from forty days before the beginning of a session to forty days after its close. During this period arrest and detention of a Member of Parliament is not only regarded as a breach of privilege but is treated as contempt of the whole House.

6. Since Article 105(3) lays down that the rights, privileges and immunities of Members of Parliament "in other respects" shall be the same as the rights, privileges and immunities of the Members of the House of Commons as on the 26th January, 1950, it would be well to take a close look at this particular immunity, namely immunity from arrest.

7. In May's Parliamentary Practice, the matter is discussed in these terms:

"Obstructing members of either House in the discharge of their duty.

Arrest of members

It is a contempt to cause or effect the arrest, save on a criminal charge, of a member of the House of Commons during a session of Parliament or during the forty days preceding, or the forty days following a session.

The privilege of freedom from arrest does not extend to criminal charges and upon the same principle, the internment of a member under regulations enabling the Home Secretary to detain persons in the interests of public safety or the defence of the realm has been held not to constitute a breach of privilege.

Although the privilege of freedom from arrest does not extend to criminal charges, it is the right of each House to receive immediate information of the imprisonment or detention of any member, with the reason for which he is detained. The failure of a judge or magistrate to inform the House of the committal to prison of member on a criminal charge or for a criminal offence would, therefore, constitute a breach of privilege."

(May, pp. 120-21)

8. From the above quotation it will be seen that the immunity enjoyed by members though very important is of a very restricted and limited nature. Members of Parliament are not allowed to put themselves above the criminal law of the land nor are they allowed to claim any special privileges for themselves as members of Parliament, privileges which ordinary citizens do not enjoy. If a member of Parliament commits a murder or any other crime, then his above mentioned immunity does not prevent the authorities from validly effecting his arrest. Similarly, if a member is facing an enquiry or trial and is at its conclusion convicted for some charge and is put in jail, he is not entitled to invoke the privilege of freedom from arrest.

9. In England, there was some controversy during war time about the alleged violation of this immunity in the case of a member detained under a validly enacted law of preventive detention. In England since Parliament is supreme and since its law making power is not restricted or fettered by a written Constitution, laws providing for preventive detention or suspension of *habeas corpus* are always considered valid laws which the courts there are bound to administer. In India, however, the position is slightly different. Here we live under a written Constitution and Article 13 lays down that any law passed by State or Union Legislatures in contravention of Part III of the Constitution, shall be void. Of course, Part III itself provides for prevention detention under certain circumstances. If a member is arrested under a law of preventive detention, which is not in conflict with Article 22 or with any other provisions of Part III of the Constitution, then that Member cannot claim immunity since his detention is authorised by a validly enacted legislation providing for preventive detention.

As has been said above, while privilege cannot be claimed for any indictable offence, "the paramount right of Parliament to the attendance and service of its Members" is well established. Any attempt to detain a Member of Parliament, except on criminal charge

or for an indictable offence or under the law preventive detention and *without the authority of Parliament* is therefore to be regarded as high contempt of Parliament.

10. It is obvious that outside these limitations, if a person is arrested and detained in an illegal manner such an arrest will not only be violative of the members' immunity under Article 105(3) but cannot be sustained in a court of law either. In my own case I have proved before the highest judicial tribunal of the land that my arrest and detention was illegal (See annexure I). In view of this it cannot be urged in my case that what I am demanding is total freedom from the operation of the criminal law of the land or that I am claiming special rights which are denied to an ordinary citizen. Let me make it absolutely clear that I am not claiming any special rights or any special privileges. All that I am claiming is:

- “(a) that my initial arrest itself being arbitrary unjustified, improper, without lawful authority and *malafide* and a flagrant abuse and colourable exercise of powers conferred on the Police under Section 151 Cr.P.C.;
- (b) that my remand and detention in jail custody under orders of the Sub-Divisional Officer in charge, Monghyr, Bihar, under Section 344 Cr.P.C. from 6th November, 1968 onwards was also arbitrary, without jurisdiction, illegal and *malafide*; and
- (c) that my subsequent remand by the Sub-Divisional Officer, Monghyr, Bihar, at around 9-45 P.M.—for which I was taken all the way from Patna and brought back the same night—on 20th November, 1968 was also not only without jurisdiction, improper and illegal but, what is more important, not even *prima facie*, on the face of the record, even an order for remand to custody; that from 20th November, 1968 onwards since there was absolutely no order as to remand, I was and I am entirely justified in claiming that my rights and immunities were wantonly violated by the Bihar Police and Magistracy as well as the Centre which is ultimately responsible for all this in view of, the President's Rule in the State at the time.”

11. In view of this unambiguous position the Privileges Committee is, I believe, bound to consider the question whether my arrest and detention did or did not involve breach of the immunities conferred on me by Article 105 (apart from my fundamental rights as a citizen under Articles 21 and 22 of the Constitution of India).

12. Under our own procedure a provision has been made under Rule 229 for ascertaining, independently of the High Courts and Supreme Court, whether the arrest is under the permissible limitations and restrictions or outside it. Rule 229 is as under:

“When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out in the Third Schedule.”

13. The Book of Rules also includes the Schedules, and the Third Schedule mentioned in the above Rule is quoted below:

“I have the honour to inform you that I have found it my duty, in the exercise of my powers under Section..... of the..... (Act) to direct that Shri..... Member of the Lok Sabha, be arrested/detained for..... (reasons for the arrest or detention, as the case may be). Shri..... M.P., was accordingly arrested/taken into custody at..... (time) on..... date and is at present lodged in the..... Jail..... (place).”

14. From this schedule it will become clear that the reasons for the arrest and detention, as the case may be, have to be given. This is to ensure that in complying with the mandatory provisions of the Rules, the magistrates concerned apply their mind to the reasons of the arrest and detention of members and take into consideration all the circumstances of the case before authorising the further detention of that member in jail or police custody. The provision with regard to reasons is nothing extraordinary. In fact these provisions find mention in the Criminal Procedure Code of this land (Sections 67 and 68) as well as Article 22 of the Constitution.

Article 22 lays down that:

“22. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate with a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.”

15. Sections 117(3) and 344 of the Cr.P.C. also lays down that the magistrate passing the remand order shall state the reasons for doing so. *All these are salutary provisions of the law of the land and these as well as the Rules of Procedure of Parliament enjoin on the magistrate that he treat the remand proceeding as a judicial proceeding, apply his judicial mind to the case before him and satisfy himself that there are sufficient grounds or reasons for authorising the continued detention of the person arrested and produced before him.* If the magistrate had complied with all these provisions, applied his mind to all the aspects of my case, he would have realised that there was no ground at all, no reason at all for remanding me to jail custody, in which case, it would be reasonable to infer, he would have refused to accede, mechanically and *mala fide*, to the request of the Police Officer concerned that I be remanded to jail for fifteen days.

16. From Annexure 4, attached to this memorandum—this is the Forwarding Report of the Officer in charge, G.R.P.S. Kiul—it will appear that the arrest was effected by him under Sections 151/107/117(3) Cr.P.C. The Report says that we “may kindly be remanded in Jail *hajat* for a fortnight by which time Report under Section 107/117(3) Cr.P.C. and 188 IPC will be submitted through proper channel”. *So at the time when we were produced before the magistrate there was no Report even under Section 107 and Section 188 Cr.P.C. and I.P.C. respectively, leave alone any F.I.R. relating to a cognizable offence.*

17. Even if a Report under Section 188 IPC had been enclosed with the Forwarding Report, the essential illegality of the procedure would not have diminished in any way. Offence under Section 118 IPC, as will become clear from a look at the Table attached to the Criminal Procedure Code, is a non-cognizable offence. No Police officer can use his power under Section 151 Cr.P.C. for effecting arrest for any non-cognizable offence *without an order of the magistrate.* It is also well to remember that cases under Section 188 IPC are summons cases and *even a magistrate cannot issue* any order for the arrest of any person charge with an offence under Section 188 IPC. All that a magistrate, *authorised to act*, can do is to issue a show-cause notice as to why the person concerned should not be prosecuted. In my own case, as the documents conclusively establish, the magistrate, at the point of time when he remanded me to custody, did not have before him even a Report under Section 107 Cr. P.C. nor a report under Section 188 IPC. The Police officer had intimated to the magistrate that these Reports would be submitted through proper channel and would reach him *within a fortnight.*

18. It is amazing that although the magistrate was aware that I and my colleagues had been "arrested and forwarded under custody u/s 151/107/117(3) Cr.P.C. by the Officer-in-Charge, C.R.P. Kiul Camp Lakhisarai, Monghyr" (Annexure 5), he did not hesitate to accept the directions of the Police officer contained in his forwarding Report and remanded us to "jail hajat till 20th November, 1968 i/d bail of Rs. 1,000 (Rupees one thousand) each with two sureties of the like amount." The mandatory direction of Article 22 of the Constitution was thrown overboard and greater importance was given to blind compliance with the wishes of the Police officer concerned and/or the inner intention of the Government to prevent me from attending the winter session of Parliament. Nothing illustrates more vividly the evils flowing from the failure to separate the judiciary from the executive than my blatantly illegal arrest and detention in Bihar.

19. Now I will first discuss the nature of the power granted to the Police under Section 151:

- (a) Patna High Court (AIR 1968 Patna 22) has held that is a *special power* conferred on Police officers to arrest people;
- (b) According to the Orissa High Court (1950 Orissa 107) it is *an exceptional power*;
- (c) And the Lahore High Court has held (AIR 1930 Lahore 348) that where *an emergency has not been shown to have existed* the attempt to arrest (even for a cognizable offence) on the part of a Police officer is unjustifiable and illegal.

20. Having analysed the nature of this Police Power let me now define the scope of this power:

The question is: does it authorise the Police Officers to arrest a person even without apprehension or knowledge of a design to commit a non-cognizable offence? The answer is an emphatic "no". Just as Parliament cannot be allowed in the name of exercising its legislative powers under Articles 245 and 246 to re-write the Constitution, similarly I have no manner of doubt that the Committee cannot and will not allow the executive to re-write the statute—in this case the Cr.P.C.—in the name of interpreting or stretching the meaning of Section 151 of the Cr.P.C. The executive cannot be allowed to substitute "non-cognizable" in place of "cognizable" in Section 151.

Abuse of 151: No exceptional circumstances, etc. shown

In my case the Forwarding Report of the Police Officer and the remand documents:

- (a) do not give any special reasons for using the special power under Section 151 Cr.P.C.;
- (b) nor do they show the exceptional circumstances that justify their arresting me under this exceptional power;
- (c) nor, again, do these documents reveal any emergency which required the Police Officer to invoke Section 151.

The arrest was, therefore, unjustifiable and illegal and an abuse of the powers under Section 151 Cr.P.C. The Supreme Court makes this clear beyond doubt.

21. Do the Forwarding Report, the Order sheet or the Warrant for Intermediate Custody—the only relevant documents in this case, refer to any cognizable offence committed or likely to be committed by us and do they mention any section of any statute which deals with cognizable offences? This answer is, again, a clear “no”.

22. The Police have abused the power under Section 151 Cr.P.C. to deprive me of my fundamental and sacred rights, my immunities and privileges and prevent me from obeying the summons of the President of the Republic issued under Article 85 of the Constitution of India.

23. It has been held by the Courts that the procedure established by law must be strictly followed where deprivation of personal liberty is concerned. Our Lok Sabha has also held that the procedure laid down in Rule 229 and the Third Schedule to our Rules of Procedure must be strictly followed and that no departure should be allowed to the disadvantage of the member affected. It is the duty of the Privileges Committee, where members' immunities and privileges are involved, to ensure that these immunities and guarantees are not rendered illusory or meaningless by police and magisterial tactics. In fact the Supreme Court has treated some of our privileges as on par with Fundamental Rights in order to enable legislatures and their members to discharge their functions and duties properly.

24. In this connection I consider it my duty to caution the Committee about the testimony that is likely to be given by the Police Officers and the Magistrates concerned before this Committee. I hope the Committee will agree with me that there is no scope for a presumption being pressed into service or a verbal assertion being relied on in order to justify an arrest and detention which, on the

basis of the records, is absolutely unjustified. A mere assertion by the police that I had committed offence under Section 143 or Section 188 of the Indian Penal Code would not do when the remand order does not show that the arrest and remand had in fact been effected under these two Sections of the Indian Penal Code. All that the Magistrate's remand order mentions is that I was arrested under Sections 151/107/117(3) Cr.P.C. and that I was being remanded to 15 days jail *hajat*. Nor will the mere assertion that the arrest was effected in the presence of a Magistrate on duty and *by the order of that Magistrate* without any supporting documents can cut any ice. In my own case the arrest was actually effected by the police officer and not by the Magistrate, Mr. Mathur. The story about the arrest by a Magistrate is an afterthought [after I sent petitions to the Supreme Court on 6th and 7th November, 1968 from the Sub-Divisional (Second) Officer's Court and Monghyr District Jail respectively] and a concoction designed to cover up the patent illegality of my arrest and detention. The police officers and Magistrates cannot now be allowed to produce bogus documents— which were not produced by them before the Patna High Court or the Supreme Court—with a view to making up the deficiencies, regularising the irregularities or legalising the whole series of illegal proceedings in this case. The Privileges Committee will, I am sure, like the Supreme Court and High Court, take a decision on the basis of the remand documents and the Warrant for Intermediary Custody.

25. Mr. Suresh Chandra Prasad, Magistrate, First Class, Monghyr, who was the deponent and who filed the return on behalf of the Government in the Supreme Court and Mr. Dharamraj Singh, Officer Incharge G.R.P.S., Kiul (Eastern Railway), who was the deponent in the petition before the Patna High Court have both made a false statement on sworn affidavit that the order to arrest me was given by and the actual arrest effected at the instance or direction of the Magistrate on duty! Having realised that the police had no power to effect any arrest under Section 151 of the Cr.P.C. for a non-cognizable offence or *for no offence at all* the two deponents have sought to clothe the illegal arrest with a certain legality by saying that it was the Magistrate who, acting under Section 64 of the Criminal Procedure Code, had asked the police to make the arrest. The affidavits filed by the Bihar Government in the High Court and Supreme Court themselves admit that this statement is not based on nor supported by any records of the case filed before the Court. Even in the police report in the annexure to the return in the Supreme Court, which I contend was inserted afterwards, the Magistrate is merely cited as a witness and the relevant column mentions that we were arrested by the police under Section 151 and not at the instance of the Magistrate under Section 64 of the Cr.P.C.

26. With regard to the alternative story fabricated by the Government that I was actually arrested for having committed an offence under Section 143 I.P.C. I must say that also is a pure fabrication. The deponent in para. 10 of his return to the Supreme Court has admitted that Section 143 I.P.C. was not mentioned in the police report but tries to explain it away as a mere omission and mistake. It is simply shocking that even in matters involving citizens' liberties and legislators' privileges the police administration should make such false assertions with complete levity. The Supreme Court has rejected both these fabrications. They have said that it is surprising that the Magistrate on duty who is supposed to have directed the police officer to arrest me should have failed to swear an affidavit before the Court. They have also not accepted the plea of the Bihar Government that the failure of the police to list 143 I.P.C. as one of the Sections attracted in my case was an over-sight or an omission. I had argued before the Court that the story about Section 143 as a mere over-sight or omission is disproved by the fact that the police had not complied with the provisions of Section 154, Section 167 and Section 172 of the Criminal Procedure Code as they were bound to do in a proceeding involving arrest by and production before the Magistrate under Section 151 Criminal Procedure Code read with Section 143 of the I.P.C. It is interesting to note that an application was subsequently filed before the Sub-Divisional Magistrate (First Officer), Monghyr praying that the police be allowed to include Section 143 I.P.C. in the documents filed by them postponed on account of the petition that came up for hearing before the Supreme Court on 25th November, 1968.

27. In the course of his argument before the Supreme Court, the learned counsel for the Government of Bihar, Mr. M. C. Chagla, conceded at a later stage that the arrest was unjustified and illegal but requested the Court that they should not go into the legality of the remand orders of the Magistrate which, he contended, were judicial orders. In a *habeas corpus* writ proceedings, in his opinion, the Supreme Court's jurisdiction does not extend to challenging the orders passed by the Magistrates in their judicial capacity. I immediately rose to rebut these contentions and said that if the Supreme Court were to be debarred from going into the legality or otherwise of remand orders the Fundamental Rights, relating to personal liberties and personal freedoms, such as those mentioned in Article 19, Article 21, Article 22 and Article 32 in Part III of the Constitution, would be reduced to mockery. The Supreme Court in its wisdom took the view that the initial arrest itself was illegal on the ground of non-compliance with Article 22, and since the illegality

of the initial arrest had not been cured by the subsequent remands they held that alone on this ground I was entitled to be set at liberty. They did not, therefore, feel called upon to go into the legality or otherwise of the two remand orders passed against me by the Sub-Divisional Magistrate.

28. However may I say that in spite of this nothing prevents the Privileges Committee from deciding the question of the legality or otherwise of my detention under the remand orders passed by the Magistrate. In the relevant passage from *May* which I have quoted at the beginning, and our Rule 229 which is based on this passage, it has been said that arresting, obstructing or molesting a Member of Parliament in the discharge of his parliamentary duties except on a criminal charge or for a criminal offence or under a valid law of preventive detention, is contempt of Parliament. Now I am prepared to concede for the sake of argument that had there been a criminal charge pending against me or had I been accused of having committed any offence then the question of privilege would not arise even if this arrest and subsequent detention had been found to be illegal for *any other* reason. But in this case my contention is that there was no charge against me and that I had not been accused of having committed any offence, whether cognisable or non-cognisable, and yet the Magistrate in exercise of his co-called powers under Section 344 of the Criminal Procedure Code remanded me to jail custody (as will be clear from the warrant of Intermediate Custody and from the correct and detailed message sent by the Superintendent of Bhagalpur Central Jail that both the remand orders were under this Section). Now as far as I can see a Magistrate is entitled to remand a person to custody under 3 sections of the Criminal Procedure Code, namely, Sections 167, 344 and 117(3). There is a vital difference between the remands effected under each of these Sections. I do not dispute that remand under section 167 is almost automatic provided the police officers send the F.I.R. and diary entries etc., and take the plea that investigation cannot be completed within 24 hours. The Magistrate would seem to be powerless to refuse remand unless he suspects *mala fide* and feels that the police have not even made out a *prima facie* case on the basis of F.I.R. and other documents. In fact in my case the F.I.R. was recorded only *after* my petition came up for hearing before the Patna High Court. This was never mentioned in the High Court Proceedings. I came to know of it only in the Supreme Court on 2nd December 1968 when the State Government produced it at the direction of the Court! Under Section 344 the Magistrate is required to record his reason in writing and so he can not only prove but must prove into the reasonableness or otherwise of the police request for remand.

The Patna High Court has held that when a police officer produces before a magistrate a person whom he has arrested because to the "knowledge" of that officer the arrested person has a "design to commit a cognizable offence", that magistrate cannot send that arrested person to jail custody in purported exercise of the power under Section 151 "unless a case is instituted by the police, FIR is drawn up or an investigation is started" and, further, the arrested person is sent to jail custody "during the pendency of the investigation" under Section 167 of the Criminal Procedure Code.—AIR 1968 Patna 22.

When in the course of a police investigation any inculpatory offence against the accused has come to light but the case is not in a state for submission to the Magistrate having jurisdiction, the accused are forwarded under Section 167 to the nearest Magistrate for the purposes of remand. Along with the FIR, a copy of the entries in the diary directed to be kept under Section 172 has also to be forwarded at the same time.

From the omission to send the F.I.R. and the copies of the diary with the remand report, it has been held by the Court, it can be reasonably inferred that the entries in the police diary had not come into existence by that time.

With regard to Section 344 the learned counsel for Government, Mr. M. C. Chagla, admitted that remands under Section 344 are ordinarily given when investigations have been completed and the case has begun. He frankly conceded that the order of the Magistrate under Section 344 would seem to be illegal, his only contention being that the Supreme Court was not entitled to go into the matter and set aside the judicial orders of the Magistrate in a writ petition.

29. It seems to me that while Section 167 Cr. P.C. deals with investigation, and Section 344 comes into operation only after the Magistrate has taken cognisance whether under Section 170 or under Section 190. In this particular case there was no F.I.R. under Section 154 when I was produced before the Magistrate and no case had been instituted on the day we were produced before the Magistrate i.e., on the 6th of November, 1968, as was falsely claimed in para 6 of the affidavit. In fact it was contemplated in the forwarding report of the police that only reports pertaining to Section 107 Cr. P.C. and 188 I.P.C. will be sent by the 20th November, 1968. There was no cognisance by the Magistrate and so there could be no order under Section 344. There was no complaint by the public servant concerned in existence and even if there had been a report under 188 no cognisance could have

been taken, under Section 195(1) (a) Cr. P.C. without the necessary complaint, by a Magistrate who had no jurisdiction to do that. The show cause notice served on us on 14th November under Section 188 I.P.C. was also incompetent, invalid and *mala fide*. The only person who could have filed a complaint was the Magistrate who is alleged to have issued an order under Section 144 banning an assembly of five or more in the area of the Lakhisarai Station. As to the entries in annexure C, D and E to the return it would be reasonable to infer from the statement in the forwarding report that reports under 107 Cr. P.C. and 188 I.P.C. would be despatched within a fortnight that these entries and reports in these annexures were not in existence at the time we were produced before the Magistrate but were inserted later. The so-called reports and entries must therefore be completely ignored.

—A.I.R. 1957 AP 56;

—I.L.R. 1959 AP 797

The so-called report of the police officer under Section 188 I.P.C. was without authority and no notice could have been taken of it in my case any way. Section 155 of the Criminal Procedure Code forbids a police officer from investigating a non-cognizable offence such as the one under Section 188 I.P.C. without an order from a competent Magistrate. In this case no such orders existed. The Bihar Government have not produced any document to show that such an order from a competent Magistrate was in existence. The show-cause notice under Section 188 I.P.C. served on me by the Sub-Divisional Officer, Monghyr, in Bhagalpur Jail is also incompetent and without jurisdiction. He could have been and should have been the complainant assuming that an order under Section 144 had been issued by him properly and that Section 188 was attracted. There is another lacuna in the remand order under Section 344. Under this Section, as pointed earlier, the Magistrate has to record his reasons in writing for passing the remand order. From the order, in my case, it is clear that this important and salutary provision of the statute has been violated by both the Magistrates. If either had complied with this provision he would have been compelled to apply his mind to the reasons for my arrest as also for remand and the illegality of the whole procedure would have become apparent to the Magistrate. He could have put the police officer in the box and could have decided to release us instantly. By violating this essential and valuable safeguard against arbitrary police demands for detention and remand, the Magistrate reduced the whole remand proceedings to a farce. With regard to the second remand order of 20th November, 1968, I submit that it is not a remand order at all. All that the Magistrate has said is that such and such a person should be produced before the Magis-

trate on such and such date. There is no order as to remand. Such orders have been held to be illegal and incompetent by the Punjab High Court in a case involving myself some 10 years ago.

In my 1959 case the Punjab High Court held that mere direction that the case may come up on a certain date was not proper compliance of Section 344 of the Cr. P.C. and that if "there is no legal order remanding the accused to police custody, the detention obviously would be questionable".

—AIR 1959 Punjab 506.

The then Chief Justice of the Supreme Court, Mr. Patanjali Shastri, has, in a not very dissimilar case, struck down an incomplete remand order. Speaking for the Court he said:—

"the first order of remand, even assuming that it was a valid one, expired on 9th March and is no longer in force. As regards the order of remand alleged to have been made by the trying Magistrate on 9th March, the position is as follows:—

The trying Magistrate was obviously proceeding at that stage under S. 344, Criminal Procedure Code, which requires him if he chooses to adjourn the case pending before him "to remand by warrant the accused, if in custody", and it goes on to provide: Every Order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate. The order of the Magistrate under this section was produced before us in compliance with an order of this Court made on 10th March, which directed the production in this Court as early as possible of the records before the Additional District Magistrate and the trying Magistrate together with the remand papers for inspection by counsel for the petitioner. The order produced merely directs the adjournment of the case till 11th March and contains no direction for remand.....

This Court has often reiterated before that those who feel called upon to deprive other persons of their personal liberty in the discharge of what they conceive to be their duty, must strictly and scrupulously observe the forms and rules of the law. That has not been done in this case. The petitioners now before us are, therefore, entitled to be released and they are set at liberty forthwith."

—1953 SC (278).

30. Here I shall turn to the most vital issue in these privilege proceedings. This question is whether I was, as a matter of fact, arrested on a criminal charge or for a criminal offence mentioned in the *May* passage or in our Rule 229.

The remand order and the Warrant for Intermediate Custody mentions Sections 151, 107 and 117 (3) of the Cr. P.C. only.

Let us, therefore, understand the nature of the proceedings under Chapter VIII of the Criminal Procedure Code and the meaning of the terms "Charge" and "offence".

I shall first cite the opinion of the recognised commentator on this Code, then decisions of the various courts, the Government of India Act, 1935 and General Clauses Act, definitions in Ballentine law dictionary, and finally the definition in the Criminal Procedure Code itself.

In Chitale (V edition, Vol. I) at page 293 it is said :

"This section is preventive and not punitive.....In other words, this section is not for the punishment of past offences"

"The institution of proceeding under section is not an accusation of an offence...."

A person proceeded against under Sections 107—117 Cr. P.C. is not accused of an offence. Therefore, in such a case there cannot be an acquittal or conviction.

—1949 AIJ 413

Proceedings under this section are not trials for offences committed nor the imprisonment in default of furnishing security punishment or conviction.

—AIR 1952 TC 556

Now what constitutes a charge? "A charge is a precise formulation of the specific accusation made against a person who is entitled to know its nature at the earliest stage.

—ILR 28 Cal. 434 (437)

—Waroo Vs. Emperor AIR 1948

Sind 40.

Under Section 240 of the Government of India Act, 1935 also "charge" has been defined as "an accusation". And in the General Clauses Act, 1897, too, it has been stated in Section 3(38) as under :

"In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

* * * *

(38) "offence" shall mean any act or omission made punishable by any law for the time being in force."

And then, I come to the legal definitions of the terms "offence" and "crime" and "criminal charge" and "accusation":

Offence: The words "crime" and "offence" are not necessarily synonymous. All crimes are offences, but some offences are not crimes. However, it has been held that the word "offences" as used in a constitution empowering the governor to grant pardons after conviction for all save certain specified offences is equivalent to "crimes".

[Ballentine; Law Dictionary with Pronunciations
(Second Edition), p. 900.]

Crime: A wrong considered of a public character because it possesses elements of evil which affect the public as a whole and not merely the person whose rights of property or person have been invaded. The word include both felonies and misdemeanors.

An act committed or omitted in violation of a public law, either forbidding or commanding it.

(Ballentine; p. 309)

Criminal

charge: A charge which, strictly speaking, exists only when a formal written complaint has been made against the accused and a prosecution initiated. The popular understanding of the word is "accusation", and it is freely so used in conversation and in the newspapers, but in legal phraseology it is properly limited to such accusations as have taken shape in a prosecution. In the eye of the law, a person is charged with crime only when he is called in a legal proceeding to answer to such a charge.

(Ballentine; p. 311)

Accusation: A complaint; a written statement made under oath before a magistrate by one person charging another with the commission of a crime. It is called by different names, such as affidavit, deposition, complaint, or information, depending on the jurisdiction.

The ordinary meaning of the word is a mere declaration of statement that another person is guilty of some offence or misconduct; but the word is often used as signifying a charge made in legal form by means of a complaint preferred before a magistrate.

(Ballentine; p. 16)

Finally, the Criminal Procedure Code has itself defined the term "offence" as "any act or omission made punishable by any law for the time being in force".

From the foregoing discussion, it will become clear that all legal and judicial authorities are unanimous in holding that proceedings under Chapter VIII do not involve any criminal charge or offence. That is the reason why in the Patna High Court when I, after arguing the point that there was no criminal charge against me and that I had not committed any offence, proceeded to give the definition of these two terms, the Judge stopped me and said 'Mr. Madhu Limaye this is unnecessary. Why are you labouring the obvious? You must assume that we know this much law'. This exchange will show that what I am saying here has always been patent not only to judges and advocates of the courts but to all students of law and the Constitution.

- Hazarimal V. Mawan Lal 16 P.R. 1893;
- Queen Emp. V. Imen Manda ILR 27 Cal. 662.
- Chathenrai V. Niranjanrai ILR 20 Cal. 729
- AWN 206, In re. Govind Hanemant IIR Bom. 48.

31. In my original petition before the Supreme Court, I had contended that the grounds for my arrest had not been communicated to me and that my remand was illegal in several respects. In this petition, because the necessary documents were not before me, I had not made any written submission about the *mala fide*. However, for the purpose of this privilege proceedings, if I succeed in proving the *mala fide*, it would be easier for the Committee to take stern action against those who wilfully and deliberately violated my privileges and committed contempt of Parliament.

In developing my point about the *mala fide* I would like to rely on certain Indian judicial decisions as well as a decision of the House of Lords. In 1914 A.C. (House of Lords) 808 Lord Haldane has drawn distinction between malice in law and malice in fact. Says he :

"Between 'malice in fact' and 'malice in law' there is a broad distinction which is not peculiar to any system of jurisprudence. The person who inflicts a wrong or an injury upon any person in contravention of the law is not allowed to say that he did so with an innocent mind. He is taken to know the law and can only act within the law. He may, therefore, be guilty of 'malice in law', although, so far as the state of his mind was concerned he acted ignorantly, and in that sense-

innocently. 'Malice in fact' is a different thing. It means an actual malicious intention on the part of the person who has done the wrongful act".

—1914 AC (House of Lords) 804 (808).

While the Supreme Court decisions speak of *mala fide* use of power, these decisions do not touch on the vital distinction made by Haldane. However, Mr. Vivian Bose, Judge of the Nagpur High Court (as he then was) had in a decision discussed the Haldane doctrine. The judge's contention was that "If a person exercises power conferred on him in bad faith, or for a collateral purpose, it is an abuse of the power and a fraud upon the statute and is not really an exercise of the power at all, and a Court can interfere with such colourable exercise of the power; and when the issue is raised that any particular order has been made in bad faith or for a collateral purpose and therefore not made in exercise of the power, the Court is bound to enquire into the facts".

—AIR 1945 Nagpur 8(23).

Chief Justice M. C. Chagla of the Bombay High Court also had made use of the Haldane concept and stated as under :

"When we speak of an order being *mala fide* it does not mean that we attribute to the detaining authority any improper motive. An order is made *mala fide* when there is malice in law although there may be no malice in fact; and the malice in law is to be inferred when an order is made contrary to the objects and purposes of the Security Act or when the detaining authority permits itself to be influenced by considerations which it ought not to permit."

—AIR 1950 Bombay 202 (204).

I accuse the police officers and the magistrates of using the various provisions of the Criminal Procedure Code *mala fide* and for the collateral purposes of detaining me in jail indefinitely and preventing me, somehow or other, from attending the session of Parliament. Thus the Police officers used Section 151 and Sub-divisional Magistrate (Second Officer) Monghyr used Section 344 as if they were provisions authorising my preventive detention for an indefinite period. Malice in fact as well as in law is proved by the Magistrate's refusal to state the reasons for my remand.

The order of the Sub-Divisional Magistrate (First Officer) Monghyr on 20th November, 1968, that is after the first order had expired, and the reply to the 'Show Cause' notice issued by the Supreme Court will reveal that the remand order was passed with

the collateral purposes of buying time for pushing through a petition requesting the Magistrate that we be charged under Section 143 IPC also. Since this provision related to a cognizable offences, this was done, obviously, with a view to giving the arrest and detention the veneer of legality and preventing me from fulfilling my parliamentary duties. In fact, I can and do charge the Sub-Divisional Magistrate (First Officer) Monghyr with the malicious intentions of keeping me in detention indefinitely on the following two grounds :

First, inspite of my written warning to him that he had no power and jurisdiction to remand me to a further period in jail custody and that his doing so would be against the law, he disregarded this warning and passed his so-called remand order.

The malicious intention of the magistrate is also proved by the letter which was written by him to the SDO, Bhagalpur in which he not only illegally asked for our production before the Bhagalpur SDO, who had no jurisdiction because Bhagalpur is outside Monghyr District, but went to the extent of directing him to remand us to jail hajat periodically. The letter clearly shows that the SDO, Monghyr was determined to keep us in jail and had, therefore, deliberately thrown over board the letter and spirit of the judicial proceedings of remand under which every magistrate acting under Section 344 or Section 117(3) has to apply his mind to the facts of each case and also to state the reasons for remand in writing. I loudly protested against this illegal direction of the SDO, Monghyr (First Officer) before the Bhagalpur Jail authorities who conveyed my strong feelings to the Bhagalpur SDO. It must be said to the credit of the Bhagalpur SDO that he realised that he had not jurisdiction to ask for our production before him or to remand us and that his obeying the directions of the SDO (First Officer) Monghyr, would be without lawful authority and so he refused to agree to our production before him for "periodical remand". However, this does not absolve the SDM (First Officer) Monghyr, from the charge of committing malice in law (his remand of 20th November, 1968) as well as malice in fact (his letter to the Bhagalpur SDO).

32. Coming to the errors, breaches and lapses committed by the Magistrates and the Government which are of an allegedly technical nature I state as follows :

(i) When I was arrested and detained there was no popular Government in Bihar. The President had assumed to himself all the functions of the Government of the State and all the powers of the Governor under Article 356(1)(a) of the Constitution. The legislative powers had been assumed by Parliament. However, the Pre-

sident in exercise of all his powers is always guided by the advice of his Council of Ministers. So the Central Government was fully responsible for what happened in Bihar. It would not do for the Home Minister to say that he only transmitted the information given by the Bihar Administration to Parliament, that he was merely acting as a postman. As the Home Minister of the Central Government, it was his duty to investigate the facts of the case and make a truthful report to the House. As I said in my speech in the House on 26th November, 1968 the Home Minister has been guilty of making three incorrect and untruthful statements in two or three sentences! Similarly, the information given by the Magistrate has been not only false but misleading. I am quoting below the points, most of which I mentioned in my letter to the Speaker and repeated in my speech, on which I would like the Committee to give its considered opinion and findings :

1. Whether Sections 151, 107 and 117(3), under which Mr. Madhu Limaye was arrested and remanded, relate to any criminal charge or criminal offence referred to in Rule 229;
2. Whether the arrest and subsequent remands of Mr. Madhur Limaye amounted to a breach of the members' immunity from arrest 40 days before the beginning of the Session;
3. Whether his arrest and remands by G.R.P.S. in-charge, Kiul, Bihar, and S.D.O. in-charge and S.D.O., Sadar Monghyr, Bihar constitute a breach of privilege and contempt of the House;
4. Whether the Collector, who was not the committing Magistrate in this case, was required to send any intimation to the Speaker and whether he sent any wrong information to the House and was guilty of contempt;
5. Whether S.D.O. in-charge and S.D.O., Sadar Monghyr committed contempt, by not sending intimation to the Speaker as required by Rule 229;
6. Whether it is not the duty of the Home Minister to ascertain the truth or otherwise of the information relating to members' arrest and detention, especially when the arrest and detentions take place in Union Territories and States which are under President's Rule and whether, in cases of *prima facie* breach of privilege or illegality, he should not intervene to secure members' release or whether he should be allowed to act merely as a Postman;

7. Whether the Home Minister has in this case conveyed any wrong information to the House and has been guilty of contempt;
8. The Committee may also be pleased to make recommendations with regard to penal action, if any, against those held guilty of contempt;
9. The Committee may also be requested to make suggestions in respect of changes in the procedure in relation to sending of intimation of arrest etc. if necessary.

33. Let me finally state it that I am not claiming for members of legislatures any immunity from the operation of the criminal law of the land. I have no desire to put myself above the law. If lawful action had been taken against me there would have been no occasion for me to write to the Speaker about violation of my privileges and immunities nor would there have been any occasion for me to file petitions before the Supreme Court and Patna High Court under Article 32 and Article 226 respectively. I believe in the rule of law; also in the violation of unjust laws by peaceful means to rouse public opinion against them as also the conscience of thinking men and women in the country. But Mahatmaji has taught us that for the deliberate violation of the laws one should be prepared to undergo any punishment that the Courts and the Magistrates might mete out. I was prepared to adhere to this principle. But as I have shown above what the police officers and the Magistrates did was to violate not only the ordinary laws of the land but the Fundamental Rights guaranteed to our citizens as well as the privileges and immunities conferred on Members of Parliament by the Constitution. The rule of law does not mean that the police officers are free to arrest citizens without any lawful authority, even without the citizens' having committed any offence, cognizable or otherwise. It does not entitle the Magistrates to abuse their power to remand people illegally "under the Criminal Procedure Code" as the Sub-Divisional Magistrate (Second Officer), Monghyr, did on 6th of November, 1968. It does not empower the Magistrate to keep a person in jail even without passing a real remand order as the Sub-Divisional Magistrate (First Officer), Monghyr, tried to do in my case on 20th of November, 1968.

34. My earnest request to the Committee, therefore, is that it should be pleased to treat this as a test case, as a case involving the principle of the rule of law, citizens' freedom from arbitrary arrest and detention, and finally as a case impinging on the immunities and privileges of members and the dignity and prestige of Parliament.

35. To sum up, my arrest and detention was not on account of any criminal charge or any offence. It was completely violative of my privileges and immunities in terms of the *May* quotation cited above and Rule 229 of our Rules of Procedure. The police officers and the Magistrate who have been responsible for arresting me and remanding me to jail Hajat have been guilty of violating my immunities and privileges and are, therefore, guilty of committing contempt of Lok Sabha. This arbitrary arrest and detention has not only caused me unspeakable mental worry and torture but has prevented me from serving my constituency and the nation for 15 long days. It is my contention that the Lok Sabha was not only entitled but it was its clear duty to intervene on the basis of the *prima facie* evidence of the remand documents sent by me to the Speaker, and order my release. The House of Commons has exercised its powers to protect members from illegal and arbitrary arrests and detentions on its own without waiting for the intervention of the Court. It is a pity that the House did not do so in my case. May I hope that now that the Supreme Court has upheld my contention and now that I have conclusively proved in this memorandum that my arrest had nothing to do with any criminal charge or commission of any offence, the Privileges Committee will take stern action against the police officers and Magistrates so that they and their ilk will not dare deprive in future ordinary people of their Fundamental Rights and Members of Parliament of their privileges and immunities.

May I finally state that if the Committee wants further clarification on any of the points in my memorandum I shall be only too pleased to appear before the Committee personally. In fact I would welcome such an opportunity.

I trust the Committee will append to its report this memorandum as well as the oral evidence that I may be called upon to give.

I am enclosing herewith a list of the documents and the documents connected with this case which are in my possession. Copies of my first petition to the Supreme Court, of the F.I.R. recorded at a later stage by the Police and the Warrant for Intermediate Custody may kindly be obtained from the Registrar, Supreme Court, the Bihar Government and Delhi Tihar Jail authorities respectively.

Thanks.

Yours sincerely,

Sd./- MADHU LIMAYE

Encls.: I list of Document.

II 17 Annexures.

**LIST OF ANNEXURES TO MY STATEMENT ON BREACH
OF PRIVILEGE**

1. Supreme Court and High Court Petitions :

- (a) My Petition to the Supreme Court dated the 6th November, 1968;

(I have no copy; may kindly be procured* from the Supreme Court Registrar)

- (b) My second Petition to the Supreme Court dated the 7th November, 1968;
- (c) Rule issued by the Supreme Court;
- (d) Return by the Bihar Government to the Supreme Court;
- (e) Petition before the High Court;
- (f) Bihar Government's Return before the High Court;
2. Letter to the Speaker, Lok Sabha, in regard to breach of Privilege of 9th November, 1968;
3. Remand Report by Police Officer in-charge, G.R.P.S., Kiul;
4. (a) Order Sheet—Remand Order by S.D.M. (Second Officer), Monghyr;
- (b) Warrant for Intermediate custody; (may be obtained* from the Government of Bihar or the Delhi Tihar Jail authorities.)
5. My letter to the Speaker, Lok Sabha, of 16th November, 1968;
6. My letter to the Secretary, Lok Sabha, of 21st November, 1968;
7. My letter to the Secretary, Lok Sabha, of 22nd November, 1968;
8. Order Sheet—Second 'Remand' Order by S.D.M. (First Officer), Monghyr, of 20th November, 1968;
9. Monghyr S.D.O.'s letter to Bhagalpur S.D.O.;
10. My written Note of 20th November, 1968 to S.D.O. (First Officer), Monghyr, before he passed the "Remand" Order;
11. Show Cause Notice served on me under Section 107 Cr. P.C. in Bhagalpur Jail;

*Obtained through the Ministry of Home Affairs.

12. Show Cause Notice served on me under Section 144 I.P.C.;
13. Another Show Cause Notice served on me under Section 144 I.P.C.;
14. INTIMATIONS :
 - (a) Lok Sabha Bulletin, Part II, of 8th November, 1968;
 - (b) Lok Sabha Bulletin, Part II, of 11th November, 1968;
(Other information may be asked for from the Lok Sabha Secretariat).
15. Home Minister's Statement on my arrest before the House;
16. Supreme Court's Interim Order of Release of 25th November, 1968;
17. Judgement of the Supreme Court.

ANNEXURE 1(a) TO APPENDIX I

(See para 15 of report)

Writ Petition of Shri Madhu Limaye, M.P.

**MEMBER OF PARLIAMENT
LOK SABHA.**

**Monghyr.
6th November, 1968.**

**Chief Justice and brother Justices
of the Supreme Court, Delhi.**

UNDER ARTICLE 32.

May it please your Lordships I, Madhu Limaye, Member of Parliament, along with 44 of my colleagues were stopped at the gate of the Luckeesarai station and prevented from entering it.

When we pushed forward we were told we had been placed under arrest. This was at around 9-30 a.m. today.

We were put on board a special train and taken to Monghyr and were produced before Sub-divisional Magistrate in charge, Monghyr Fort.

We were not communicated the reason grounds for our arrest. We were merely told that we have been arrested under sections which areailable.

We refused bail.

We were thereafter put under custody.

Our arrest and detention is illegal. I pray that the Hon'ble court be pleased to issue a Writ of *Habeas Corpus* or any other appropriate Writ/Direction/Order and restore to me and my colleagues our personal liberty.

Yours faithfully,

Sd./- MADHU LIMAYE

ANNEXURE 1(b) TO APPENDIX I

(See para 15 of Report)

Monghyr Jail

7.11.68

Writ Petition of Shri Madhu Limaye, M.P.

SUPREME COURT PETITION

The Chief Justice and companion Justices of the Supreme Court of India.

Sub.: Petition under Article 32 of the Constitution of India.

May it please your Lordships:

That I, Madhu Limaye, Member of Parliament, Shri Kapildeo Singh, former Food and Supply Minister, Bihar, and 44 others were stopped at the gate of the Lakhisarai Station (Eastern Railway) around 9-30 A.M. yesterday and immediately thereafter put under arrest.

We were taken to Monghyr by a special train and produced before the Sub-Divisional Magistrate in charge. He offered to set us free on bail. We, however, refused bail. Then he remanded us to custody upto 20th November, 1968.

The reasons/grounds for our arrest and detention have not been communicated to us till now. The remand order passed by the Magistrate is defective and illegal in several respects (copy enclosed).

My detention and the detention of our colleagues is illegal and improper.

Prayer

I pray that the Supreme Court be pleased to issue a writ of *habeas corpus* or any other appropriate writ/order/direction so that I am produced before the Hon'ble Court and I and my colleagues are set at liberty and our fundamental right is restored to us.

Yours sincerely,

Sd/- MADHU LIMAYE.

Post script:

During the time we were in police custody, that is, from 9.30 A.M. to 3 P.M. we were not given any food nor even a cup of tea. Only at 4-30 P.M. did the jail authorities give us something to eat. As to the other batch of 71 persons—who were arrested subsequent to our arrest—they were kept during the night in the SDO, Monghyr's Court and were not given any food till they were brought to this jail at 4-30 A.M. today!

ANNEXURE 1(c) to APPENDIX I

IN THE SUPREME COURT OF INDIA ORIGINAL JURISDICTION
WRIT PETITION NO. 355 OF 1968.

(Under Article 32 of the Constitution for a writ in the nature of
Habeas Corpus)

Madhu Limaye and 47 others.

Petitioners.

12th November, 1968.

ORDER

Hon'ble the Chief Justice¹

Hon'ble Mr. Justice G. K. Mitter.

Petition received from Jail

WHEREAS the *habeas corpus* Petitions above-mentioned of the Petitioners dated the 6th and 7th November, 1968 are called on for direction before this Court on the 12th day of November, 1968 UPON perusing the petition and accompanying document THIS COURT DOTH ORDER that a Rule be issued to the Government of Bihar and Superintendent, Dist. Jail, Monghyr to show cause why a writ in the nature of *habeas corpus* should not be issued directing them to produce Detenus Shri Madhu Limaye and his 47 colleagues mentioned in the enclosed writ petition for being set at liberty.

NOW, THEREFORE, TAKE NOTICE that the Petition above-mentioned is fixed for hearing and final disposal before this Court on the 25th day of November, 1968 and will be taken up by the Court on that day at 10-30 O'clock in the forenoon or so soon thereafter as may be convenient to the Court.

YOU ARE REQUIRED TO file your affidavit in opposition to the petition as required by rule 10(1) Order XXXV, Supreme Court Rules 1966 on or before the 20th day of November, 1968 and appear before this court in person or through an Advocate of this Court duly instructed by you on the said date of hearing and show cause why an order as sought for by the petitioner should not be issued.

YOU ARE FURTHER DIRECTED by this court to produce the detenus Shri Madhu Limaye and 47 others mentioned in the enclosed Writ Petition who are at present detained in District Jail, Monghyr before this court on the 25th day of November, 1968 at 10-00 O'clock in the forenoon to be dealt with according to law.

WITNESS the Hon'ble Mr. Mohammād Hidayatullah, Chief Justice of India at the Supreme Court, New Delhi, this the 12th day of November, 1968.

Sd/- Illegible

Deputy Registrar..

To

1. The Law Secretary to the Government of Bihar, Patna.
2. The Superintendent, District Jail, Monghyr. The petitioners above named should also be informed accordingly. Their signatures should be taken on the duplicate copy of the Rule Nisi and the same should be returned to this office immediately. They should be produced before this Court on the 25th day of November, 1968 at 10.00 O'clock in the forenoon.

ANNEXURE 1(d) TO APPENDIX 1

(See Para. 18 of Report)

Return filed by Govt. of Bihar

IN THE SUPREME COURT OF INDIA

(CRIMINAL ORIGINAL JURISDICTION)

IN THE MATTER OF.

CRIMINAL WRIT PETITION NO. 355 OF 1968.

MADHU LIMAYE AND ORS. PETITIONERS.

VERSUS

THE STATE OF BIHAR. RESPONDENTS.

The Hon'ble Shri M. Hidayatullah, Chief Justice of Supreme Court of India and his companion Justices of the said court.

The humble petition of show cause on behalf of the State of Bihar and its Officials.

Respectfully SHEWETH.

That the Subdivisional Officer, Monghyr, had received information that the petitioner Madhu Limaye will be re-starting his agitation by squatting on Railway Tracks at Lakhisarai Railway Station on the 5th November, 1968 and there was apprehension of breach of peace on the above occasion and there were sufficient grounds for proceeding under section 144 of the Criminal Procedure Code for preservation of peace and tranquility.

2. That with a view to maintain law and order the Sub-Divisional Officer, Monghyr promulgated order on 2-11-68 under section 144 Cr. P. C. banning assemblage of 5 or more persons and carrying of arms and weapons and also carrying brickbats within the limits of 100 yds. of Kiul and Lakhisarai Railway Station of Sadar Sub-Division for a period of one week that is from 5-11-68 to 12-11-68 both days inclusive [a copy of this order is enclosed herewith and marked as enclosure (1)] 1968 to this affidavit.

3. That from the leaflets circulated by the Lakhisarai Unit of the SSP (Samyukta Socialist Party) on 4-11-68 it appeared that the party had decided to hold a public meeting on 5th November, 1968

and to undertake Satyagraha at Lakhisarai on the 6th November, 1968 under the leadership of the petitioner Shri Madhu Limaye a copy of which is enclosed herewith as enclosure (2).

4. That on 5th November, 1968 petitioners and others held and addressed a public meeting of about 400 persons at the Railway ground at Lakhisarai in defiance of orders under section 144 Cr. P. C. duly promulgated and used provocative language and exhorted the public to hold Satyagraha at Lakhisarai Station on 6th November, 1968 and to disrupt the Railway communications and obstruct normal functioning of railway offices at Lakhisarai. A prosecution report under section 188 I.P.C. was submitted by the Officer Incharge, Kiul G.R.P.S. on 6-11-68 against (Shri Madhu Limaye) Kapildeo Singh, Kapil Deo Shastri and Smt. Champa Limaye for the violation of the prohibitory orders. A copy of the report is annexed herewith as enclosure (3). A case was started being No. 683/M/2 of 1968 in which Shri Madhu Limaye, Kapildeo Singh and Kapildeo Shastri have been asked by the S.D.M. Sadar Monghyr on 11-11-68 to show cause by 20-11-68 as to why action under section 188 I.P.C. should not be taken against them.

5. That officers were deputed with a section of armed force to be present at Lakhisarai Railway Station on 6-11-68 to maintain law and order and to prevent breach of peace.

6. That on 6-11-68 a procession of about 200 persons of S.S.P. workers led by the two petitioners came to the main gate of the down platform of Lakhisarai Railway Station where a Magistrate, Inspector of Railway Police, and Officer Incharge of the Kiul G.R.P. were present when these officers found that the petitioners and others in spite of the warning had forcibly entered the platform pushing the officers and had violated orders under section 144 Cr. P. C. and had formed an unlawful assembly with the object of disrupting the railway communication of and obstructing the normal functioning of the offices of the railway station and further that their action was likely to result in breach of peace and disturbance of public tranquility, the Magistrate on duty namely Shri K. B. Mathur directed the police officers present there to arrest the petitioners and others. According to the Officer Incharge arrested 45 persons including the petitioner and others and forwarded them to the S.D.O., Monghyr. A case was instituted against the petitioners and 144 others being case No. 617 of 1968. A copy of report of S. I. GRPS is enclosure (4).

7. That the petitioners and others were produced before the Sub-divisional Magistrate, Incharge, Monghyr at about 1.45 p.m. on 6-11-68. The Learned Magistrate remanded them to jail Hajat till 20th

November, 1968 as they refused the furnished bail bonds, as ordered by the Sub-divisional Magistrate.

8. That on 6-11-68 another prosecution report under section 188 I. P. C. was submitted by the Officer Incharge Kiul G.R.P.S. against the petitioners and others for the incidents on 6-11-68. A copy of the report is annexed herewith as enclosure (5).

A case was started being case no. 681/M/2 of 1968 in which petitioners and others have been asked on 11-11-68 to show cause by 20th November 1968 as to why action under section 188 I.P.C. should not be taken against them.

9. That in case no. 607 M of 1968 the Sub-divisional Magistrate has passed the following orders:—

Persued the report of the Officer Incharge G.R.P.S. Kiul which has been received through I.R.P.I.J.A.S. Kiul Monghyr for taking action u/s 188 I.P.C. against the Opposite parties Shri Madhu Limaye, MP and other 115 persons (as detailed in police report).

Issued notice to the O.Ps. directing them to show cause by 20-11-68 at 10-30 A.M. as to why an action under section 188 I.P.C. should not be taken against them. Dictated and corrected.

Sd./- P. P. N. SAHI.

Sd./- P. P. N. Sahi.

11th November, 1968.

S.D.M.

S.D.M., Monghyr.

From the facts and circumstances mentioned above is manifest that the petitioners and others committed offences under section 188— as well as under section 143 I.P.C. (which is cognizable) by violating order under section 144 Cr. P.C. and by forming an unlawful assembly. This being the position both the Magistrate and the Officer Incharge, Kiul G.R.P.S. were fully competent under the law to arrest the petitioners and others. While forwarding the petitioners, the Officer Incharge Kiul G.R.P.S. by mistake omitted to mention section 143 I.P.C. The order of remand passed by the Sub-divisional Magistrate cannot be said to be illegal for the mere omission of section 143 I.P.C. in the order sheet when the police report clearly made out a case under section 143 I.P.C. [A copy of the letter forwarding the accused in custody is enclosure (6)].

11. That the petitioners did commit offences under section 143 and 188 I.P.C. for which their arrest and subsequent remand were perfectly valid and fully justified.

12. That it is incorrect to say that the petitioners were arrested on 6th Nov. 1968 while they were participating in a peaceful Satyagraha. It is also incorrect to say that the officer Incharge G.R.P.S. Kiul has purported to arrest the petitioners under section 151, 107, 117(3) of the Cr. P. C. only.

13. That it is submitted that the petitioners and others have been detained legally and not without Jurisdiction.

It is, therefore, prayed that your Lordship may be placed to dismiss the application filed by the petitioners and discharge the rule or pass such other order or orders as Your Lordships deem fit and proper.

and for this the State of Bihar shall ever pray.

DRAWN AND FILED BY

D. GOBURDHUN,

Advocate.

Dated, 20-11-68.

IN THE SUPREME COURT OF INDIA
(CRIMINAL ORIGINAL JURISDICTION)

IN THE MATTER OF.

CRIMINAL WRIT PETITION NO. 355 OF 1968.

MADHU LIMAYE AND OTHERS.....PETITIONERS.

VERSUS

THE STATE OF BIHAR... .. RESPONDENT.

AFFIDAVIT

Shri S. C. Prasad, Magistrate First Class Monghyr, about 35 years old, residing at Monghyr, now in New Delhi, solemnly affirm and says as follows:

1. That I am the Magistrate First Class, Monghyr and fully conversant with the facts of the case.

2. That I have read the contents of this show cause and understood them and the contents of paragraphs 1, 2, 3, 7, 9 are true to my knowledge derived from the records of the case, and those contained in paragraphs 4, 5, 6, 8, 10 are true to my knowledge the rest are submissions to this Hon'ble Supreme Court.

3. That the Annexures A to F attached to the petition of show cause are true copies of the original.

Dated, 20-11-68.

DEPONENT

Enclosure (1)

ORDER

Whereas I am satisfied from the information received that Shri Madhu Limaye, M.P. will be re-starting his agitation by a squatting on Railway tracks at Lakhisarai Railway Station on 5th November, 1968 and that there is apprehension of breach of peace on the above occasion and there are sufficient grounds for proceeding u/s 144 Cr. P.C. for preservation of peace and tranquility, I, P. P. N. Sahi, Sub-divisional Magistrate, Sadar in exercise of the powers vested in me u/s 144 Cr. P.C. prohibit the assemblage of 5 (five) or more persons.

and carrying of arms and weapons including lethal weapons and also carrying brick-bats within the limits of 100 yards of Kiul and Lakhisarai Railway Station of Sadar Sub-division for a period of one week i.e. from 5-11-68 to 12-11-68 both days inclusive.

The above orders shall not apply to marriage and funeral processions and carrying of Kirpans by members of Sikh community.

As the case is one of emergency the above order shall be promulgated at once:—

1. By beat of drum,
2. Through loudspeakers, and
3. By affixing on Sub-divisional and Thana Notice Boards within Sub-division of Monghyr district.

Sd./- P. P. N. SAHI.

Sub-divisional Magistrate, Sadar.

Memo no. 2060 C, dated, Monghyr, the 2nd Nov., 1968.

Copy forwarded to the District Magistrate, Monghyr, Supdt. of Police, Monghyr/B.D.O. Lakhisarai/Railway Magistrate, Kiul/D.I. of Police, Lakhisarai/Officer incharge, Lakhisarai INS./Officer incharge, G.R.P.S. Kiul for favour of information (and wide publicity).

Not for D.M./S.P.

Sd./- P. P. N. SAHI.

2/11/68

*Sub-divisional Magistrate, Sadar
Monghyr.*

**KILLING OF INNOCENT CHILDREN—SACRIFICE OF AGED
HUMAN BEINGS—SLAUGHTER OF YOUNG BOYS AND GIRLS—
MURDER OF INNOCENT PERSONS—WHO THE REAL CULPRITS
ARE—JUDGMENT OF—**

Speech of Shri Madhu Limaye in public meeting on Tuesday the 5th November—Demanding Judicial enquiry for getting adequate compensation to the families of the victims—for withdrawal of false court proceedings against innocent social workers—

Satyagrah on Wednesday the 6th November, at Lakhisarai Station under the own leadership.

Dear Brothers,

The story of victims in the railway accident soon one after the other at Lakhisarai Station is undiscribly barbarous and inhuman or devillish. The cruel act of the Railway Minister to conduct a departmental enquiry instead of a judicial enquiry only to lay the blame on the shoulders of those persons who have suffered in the railway accident, is brutally heart-rending. Above all to keep quiet, after hearing insulting remarks and after pocketing bitter pill of improper conduct, is to make our cowardice feel shy—Thanks to our endurance and forbearance.

The second accident is the natural consequence of judicial enquiry not having been conducted at the time of first accident. To brand innocent people culprits, instead of real offenders through a departmental enquiry is Government's brutality and a challenge to our self reliance. Depending upon the good intention of the Government and believing false assurance of Minister of State for Railway Shri Parimal Ghosh our patience in keeping quiet, till now, is cowardice in the eyes of Government. That is why the youths who came forward and who served and helped the wounded and made them reach the hospital, out of them, each one was picked up and implicated in false cases. Why has this happened? Because the God of Railway Minister is as deaf as a stone, who does not hear the painful cries of sufferers—who hears the challenge of the strong—who does not give alms of mercy and justice to those who ask for it with hands stretched—Gives rights submissively to those who are ready to strike. Who does not understand the language of extreme courtesy but understands the language of agitation.

Therefore, the Sansopa invites (welcomes) all of you, particularly the youths, students, to participate in Satyagrah on Wednesday the 6th November in large number.

Enclosure (3)

To

The Sub-divisional Officer,
Sadar Monghyr.

Ref:—Kiul G.R.P.S. S.D.E. no. 156, dated 5-11-68.

Sub:—Report u/s 188 I.P.S.

Sir,

I beg to report that S.D.O. Sadar Monghyr issued Prohibitory orders u/s 144 Cr. P.C. prohibiting assemblage of 5 or more persons within the limit of 100 yards of Kiul and Lakhisarai Railway Station for a period of one week i.e. from 5-11-68 to 12-11-68 both days inclusive *vide* memo no. 2060, dated Monghyr the 2nd November 1968, which was duly promulgated *vide* Kiul G.R.P.S. S.D.E. no. 154, dated 5-11-68.

That the persons noted below knowingly disobeyed the lawful orders of competent authorities by holding and addressing a public meeting at the Railway ground at Lakhisarai between 16-30 Hours and 18-30 Hours on 5-11-68 in defiance of promulgation of section 144 Cr. P.C., in provocation languages and exhorted the public to offer Satyagrah at Lakhisarai Railway Station and to disrupt the Railway Communication and obstruct normal functioning of Railway Offices at Lakhisarai.

I, therefore, pray that persons noted below may kindly be prosecuted u/s 188 I.P.C. List of P.Ws is noted overleaf.

Accused persons:

(1) Shri Kapil Deo Shastri s/o Sh. Rup Narain Singh of Rampur, P.S. Surajgarha, district Monghyr.

(2) Sh. Kapildeo Singh s/o Sh. Lakhn Singh of Barhiya, P.S. Barhiya, District Monghyr.

(3) Smt. Champa Limaye w/o Sh. Madhu Limaye (M.P.)

(4) Shri Madhu Limaye (M.P.)

Yours faithfully,

Sd./- Illegible, S.I.

6-11-68.

G.R.P.S. Kiul.

List of P.Ws:

1. Sh. K. B. Mathur, Magistrate, 1st Class Monghyr.
2. Sh. B. N. Singh, Railway Magistrate, Kiul.
3. Sh. D. N. Pandey, I.A.P., Jhajha.
4. Sh. Kameshwar Prasad, D.I. Lakhisarai.
5. Sh Md. Taha Malik O/C Lakhisarai P.S.
6. Sh. A.S.I. S. B. Panday, G.R.P.S., Kiul.
7. Sh. S.I. D. R. Singh O/C G.R.P.S., Kiul.
8. Sh. C/660 Surya Nath Chaudhary, G.R.P.S., Kiul.

Enclosure (4)

Report u/s 107(3) Cr. P. C. Kiul G. R. P. S. Non FIR No. 1/68 and Kiul G.R.P.S. S. D. No. 1798, dt. 6-11-68.

Name of disputing party	Subject matter of dispute	Parties to be bound down	Name of witnesses	Brief history of the case
1 State Through S. I. D. R. Singh, o/c G.R.P.S. Kiul. Vs. Shri Madhu Limaye (MP) and 115 others (vide list attached) V. O. S. Sd. P. I. N. Sahi S.D.O. Sadar Monghyr. 11-11-68.	2 Launching satyagrah at Lakhisarai Rly. Station to disrupt Rly. com- munication, etc.	3 Shri Madhu Limaye (MP) and 115 others <i>vide</i> list attached.	4 1. Sii K. B. Mathur Magt. 1st Class, Mon- ghyr. 2. Sri B. N. Singh Railway Magt. Kiul. 3. Sri B. N. Bhatt B.D.O. Lakhisarai. 4. S. I. R. K. Singh G.R.P.S. Kiul. 5. S. I. Md. Taha Malik o/c Lakhisarai PS. 6. Sri R. P. Kumar Y. M. Kiul. 7. S.I.D.R. Singh G.R.P.S. Kiul.	5 On 6-11-68 between 0915 hrs. and 1630 hrs. the members in col. 3 formed an unlawful assembly in spite of prohi- bitory order duly promulgat- ed u/s 144 Cr. P.C. entered into Lakhisarai Rly. Station in procession in eight batches with a view to disrupt the Rly. communication and obstructed the normal func- tioning of Booking Office, and other offices at Lakhisarai Rly. Station. Their actions were likely to commit breach of the peace and disrupt public tranquility and as such they were arrested u/s 151 Cr. P. C. and forwarded to S.D.O. Sadar Monghyr in custody. Besides they were to continue their Satya- grah at Lakhisarai Rly. Sta- tion and shouted like "Suru Hua Hai Jang Hamara" etc.

Forwarded to S.D.O. Sadar, Monghyr, Action u/s 107/117
(3) Cr. P.C. may be taken against the persons noted in
Col. 3.

(Sd.) Illegible.
6-11-68

(Sd.) Illegible.
6-11-68
O/C. Q.R.P.S. Kiul.

Enclosure (5)

To

The Sub-divisional Officer, Monghyr.

Ref.:—Kiul G.R.Ps. S.D.E. No. 179, dated 6-11-68.

SUBJECT:—Report u/s 188 I.P.C.

Sir,

I have the honour to report that S.D.O. Sadar, Monghyr issued Prohibitory orders u/s 144 Cr.P.C. prohibiting assemblage of 5 or more persons within the limits of 100 yards of Kiul and Lakhisarai Railway Stations for a period of one week i.e. from 5-11-68 to 12-11-68 both days inclusive vide Memo No. 2060C, dated Monghyr the 2nd November, 68 which was duly promulgated vide Kiul G.R.Ps. S.D.E. No. 154, dated 5-11-68.

That the persons noted in the list attached knowingly disobeyed the orders of competent authority by entering into Lakhisarai Railway Station premises in processions in eight batches between 0915 hours to 1630 hours on 6th November, 1968, for disrupting the Railway communication and obstruct the normal functioning of station offices, which tended to cause obstruction, annoyance injury to the Railway employees and the Railway passengers.

I, therefore, pray that the persons vide list attached may kindly be prosecuted u/s 188 I.P.C. List of P.Ws. noted overleaf.

Yours faithfully,

(Sd.)/- D. R. Singh.

6-11-68 O/C

G.R.Ps., Kiul.

Enclosure (6)

To

The Sub-divisional Officer,
Sadar Monghyr.

SUB:—*Satyagrah at Lakhisarai Railway Station.*

Sir,

I am forwarding herewith the following accused persons (list attached herewith) in custody as they have been arrested u/s 151/107/117 (3) Cr.P.C. They may kindly be remanded in Jail Hazat for a fortnight by which time report u/s 107/117(3) Cr.P.C. and 188 I.P.C. be routed through proper channel.

Yours faithfully,
Sd./- Illegible.
6-11-68.

(Accd as per list attached)

G.R.Ps. Kiul Camp, Lakhisarai.

ANNEXURE 1(e) TO APPENDIX I

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Criminal Writ Jurisdiction)

Cr.W.J.C. No. 52 of 1968

In the matter of an application under section 491 of the Code of Criminal Procedure and Article 226 of the Constitution

And

In the matter of

- 1. Madhu Limaye,
Member of Parliament,
residing at Rakabganj Gurudwara Road, New Delhi, and**
- 2. Kapildeo Singh, son of Shri Lakhan Singh,
resident of village and P.S. Barhsiya, District Monghyr
.....Petitioners.**

Versus

- 1. The State of Bihar.**
- 2. The Sub-divisional Officer, Sadar,
Monghyr
.....Respondents.**

To

The Hon'ble Shri S. C. Misra, Chief Justice of the High Court of Judicature at Patna, and his companion Justices of the said Hon'ble Court.

The humble petition on behalf of the above-named petitioners.

Most respectfully showeth :

1. That the petitioners, in the morning of the 6th November, 1968, along with 44 others, were arrested by the Officer-in-charge, G.R.P., Kiul, camping at Lakhisarai, while they were participating in a peaceful satyagraha, and the said officer-in-charge forwarded the petitioners, along with 44 others, in custody to the Sub-divisional Officer, Sadar, Monghyr. A certified copy of the letter dated the 6th November, 1968, addressed to the Sub-divisional Officer, Sadar, Monghyr, by the Officer-in-charge, G.R.P., Kiul, Camp Lakhisarai, forwarding the petitioners is hereto annexed marked "1".

2. That from the said letter it will appear that the Officer-in-charge, G.R.P., Kiul, has purported to arrest the petitioners under sections 151/107/117(3) of the Code of Criminal Procedure.

3. That the learned Sub-divisional Officer, Sadar, Monghyr, on the 6th November, 1968, was pleased to remand the petitioners, along with others, to jail till the 20th November, 1968. A certified copy of the order passed by the learned Sub-divisional Officer remanding the petitioners to jail till the 20th November, 1968, is hereto annexed marked "2".

4. That the petitioners submit that the arrest of the petitioners under section 151 Cr.P.C. is illegal and without jurisdiction. The said Officer-in-Charge had no authority to arrest the petitioners without warrants of arrest issued by a Magistrate.

5. That the petitioners submit that their detention in jail is without any authority of law and amounts to an invasion on the fundamental rights of the petitioners.

6. That the petitioners have no other alternative, efficacious and equally beneficent and effective legal remedy and the remedy applied for will be complete.

7. That the petitioners have never filed any writ application before this Hon'ble Court against the impugned order (Annexure '2' hereof).

The petitioners, therefore, pray

- (a) that a Rule Nisi in the nature of *Habeas Corpus* be issued commanding the respondents to show cause as to under what authority of law the petitioners have been detained and why the petitioners should not be set at liberty immediately;
- (b) That the Rule Nisi be made absolute if no sufficient cause is shown by the Respondents;
- (c) That any other appropriate writ, order or directions be issued or passed as your Lordships may deem fit and proper.

And for this act of kindness the petitioners shall ever pray.

AFFIDAVIT

I, Abhimanyu Mandal, son of Dr. G. K. Mandal, resident of village Tatia, P.S. Sangrampur, district Monghyr do hereby solemnly affirm and say as follows:

1. That I am the pairvikar of the petitioners and I am fully acquainted with the facts and circumstances of the case.

2. That the statements made in the petition have been read by me and I have understood the same and I say that the statements made in paragraphs 1 and 7 are true to my knowledge, those made in paras 2 and 3 are based on the records of the case, which I believe to be true and those made in paras 4 to 6 are by way of submissions to this Hon'ble Court based on the advice received from the counsel which I believe to be true.

ANNEXURE 1(f) TO APPENDIX I

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

Cr.W.J.C. No. 52 of 1968.

Madhu Limaye and another

Petitioners.

Versus

The State of Bihar

.. Opp. Party.

To

The Hon'ble Shri S. C. Mishra, Chief Justice of the High Court of Judicature at Patna and his Companion Justices of the said Hon'ble High Court.

The humble petition of show cause on behalf of Opposite party, Most respectfully sheweth :

1. That the Sub-divisional Officer, Monghyr, had received information that the petitioner Madhu Limaye will be re-starting his agitation by Squatting on Railway Tracks at Lakhisarai Railway Station on the 5th November, 1968 and there was apprehension of breach of peace on the above occasion and there were sufficient grounds for proceeding under section 144 Criminal Procedure Code for preservation of peace and tranquility.

2. That with a view to maintain law and order the Sub-divisional Officer, Monghyr, promulgated order on 2nd November, 1968 under section 144 Cr.P.C. banning assemblage of 5 or more persons and carrying of arms and weapons including lethal weapons and also carrying brickbats within the limits of 100 yards of Kiul and Lakhisarai Railway Station of Sadar Sub-Division for a period of one week, that is from 5th November, 1968 to 12th November, 1968 both days inclusive (a copy of this order is enclosed herewith and marked as enclosure "A" to this affidavit.

3. That from the leaflets circulated by the Lakhisarai Unit of the S.S.P. (Samyukta Socialist Party) on 4th November, 1968 it appeared that the party had decided to hold a public meeting on the 5th

November, 1968 and to undertake Satyagrah at Lakhisarai on the 6th November, 1968 under the leadership of the petitioner Shri Madhu Limaye a copy of which is enclosed herewith as enclosure "B".

4. That on 5th November, 1968 petitioners and others held and addressed a public meeting of about 400 persons at the Railway grounds at Lakhisarai in defiance of orders under section 144 Cr.P.C. duly promulgated and used provocative language and exhorted the public to hold Satyagrah at Lakhisarai Station on 6th November, 1968 and to disrupt the railway communications and obstruct normal functioning of railway offices at Lakhisarai. A prosecution report under section 188 I.P.C. was submitted by the Officer In-charge, Kiul, G.R.P.S. on 6th November, 1968 against the two petitioners and Kapildeo Shastri and Smt. Champa Limaye for the violation of the prohibitory orders. A copy of the report is annexed herewith as enclosure 'C'. A case was started being case No. 683/M/2 of 1968 in which petitioners and Kapildeo Shastri have been asked by the S.D.M. Sadar, Monghyr on 11th November, 1968 to show cause by 20th November, 1968 as to why action under Section 188 I.P.C. should not be taken against them.

5. That officers were deputed with a section of armed force to be present at Lakhisarai Railway Station on 6th November, 1968 to maintain law and order and to prevent breach of peace.

6. That on 6th November, 1968 a procession of about 200 persons of S.S.P. workers led by the two petitioners came to the main gate of the down platform of Lakhisarai Railway Station where a Magistrate, Inspector of Railway Police, and officer Incharge of the Kiul G.R.P. were present when these officers found that the petitioners and others in spite of the warning had forcibly entered the platform pushing the officers and had violated orders under section 144 Cr.P.C. and had formed an unlawful assembly with the object of disrupting the railway communication and obstructing the normal functioning of the offices of the railway station and further that their action was likely to result in breach of peace and disturbance of public tranquility, the Magistrate on duty namely Shri K. B. Mathur directed the police officers present there to arrest the petitioners and others. Accordingly the Officer Incharge arrested 46 persons including the petitioners and others and forwarded them to the S.D.O., Monghyr. A case was instituted against the petitioners and 114 others being case No. 617 of 1968. A copy of report of S.I. Kiul G.R.P.S. is enclosure 'D'.

7. That the petitioners and others were produced before the Sub-divisional Magistrate Incharge, Monghyr at about 1.45 P.M. on 6th

November, 1968. The Learned Magistrate remanded them to jail Hajat till 20th November, 1968 as the opposite party refused to furnish bail bonds as ordered by the Sub-Divisional Magistrate.

8. That on 6th November, 1968 another prosecution report under section 188 I.P.C. was submitted by the Officer Incharge, Kiul G.R.P.S. against the petitioners and 114 others for the incidents on 6th November, 1968. A copy of the report is annexed herewith as enclosure 'E'.

A case was started being case No. 681/M/2 of 1968 in which petitioners and 114 others have been asked on 11th November, 1968 to show cause by 20th November, 1968 as to why action under section 188 I.P.C. should not be taken against them.

9. That in case No. 617 M of 1968 the Sub-divisional Magistrate has passed the following orders:—

“Perused the report of the Officer Incharge G.R.P.S.

Kiul which has been received through I.R.P.I.J.A.S., Kiul, Monghyr, for taking action u/s 188 I.P.C. against the Opposite parties Shri Madhu Limaye, M.P. and others 115 persons (as detailed in Police report).

Issue notice to the O.Ps. directing them to show cause by 20th November, 1968 to 10-30 A.M. as to why an action under section 188 I.P.C. should not be taken against them.”

Dictated and corrected.

(Sd.) P. P. N. Sahi.

11-11-1968.

S.D.M.

(Sd.) P. P. N. SAHI,

S.D.M., Monghyr.

11-11-1968.

10. From the facts and circumstances mentioned above it is manifest that the petitioners and others committed offences under section 188 as well as under section 143 I.P.C. (which is cognizable) by violating order under section 144 Cr.P.C. and by forming an unlawful assembly. This being the position both the Magistrate and the Officer Incharge, Kiul G.R.P.S. were fully competent under the law to arrest the petitioners and others. While forwarding the petitioners, the Officer Incharge, Kiul G.R.P.S. by mistake omitted to mention section 143 I.P.C. The order of remand passed by the Sub-Divisional Magistrate cannot be said to be illegal from the mere omission of section 143 I.P.C. in the order sheet when the police report clearly made out a case under section 143 I.P.C. vide enclosure 'D'.

11. That the petitioners did commit offences under sections 143 and 188 I.P.C. for which their arrest and subsequent remand were perfectly valid and fully justified.

12. That it is incorrect to say that the petitioners were arrested on 6th November, 1968 while they were participating in a peaceful Satyagrah. It is also incorrect to say that the Officer Incharge G.R.P.S. Kiul has purported to arrest the petitioners under sections 151, 107, 117(3) of the Cr.P.C. only.

13. That it is submitted that the petitioners and others have been detained legally and not without jurisdiction.

It is, therefore, prayed that Your Lordships may be pleased to dismiss the application filed by the petitioners and discharge the rule or pass such other order or orders as Your Lordships deem fit and proper.

And for this the State of Bihar shall ever pray.

AFFIDAVIT

I, Dharamraj Singh, son of Shri Radha Singh of Village Barka Lauhar, P.S. Barahra, Dist. Shahabad at present residing at Kiul G.R.P.S., Distt. Monghyr do hereby solemnly affirm and say as follows:—

1. That I am Officer Incharge G.R.P.S. Kiul and fully conversant with the facts of this case.

2. That I have read the contents of this show cause and understood them and the contents of paragraphs 1, 2, 3, 7, 9 are true to my knowledge derived from the records of the case, and those contained in paragraphs 4, 5, 6, 8 and 10 are true to my knowledge and the rest are submission to this Hon'ble High Court.

Enclosure—A

ORDER

Whereas I am satisfied from the information received that Shri Madhu Limaye, M.P., will be re-starting his agitation by squatting on Railway tracks at Lakhisarai Rly. Station on 5th November, 1968 and that there is apprehension of breach of peace on the above occasion and there are sufficient grounds for proceeding u/s 144 Cr.P.C. for preservation of peace and tranquility. I, P.P.N. Sahi Sub-divisional Magistrate, Sadar, in exercise of the powers vested in me u/s 144 Cr.P.C. prohibit the assemblage of 5 (five) or more persons and carrying of arms and weapons including lethal weapons and also

carrying brickbats within the limits of 100 yards of Kiul and Lakhisarai Railway Stations of Sadar Sub-division for a period of one week, i.e., from 5th November, 1968 to 12th November, 1968 both days inclusive.

The above orders shall not apply to marriage and funeral processions and carrying of kirpans by members of Sikh community.

As the case is one of emergency the above order shall be promulgated at once:—

1. by beat of drum;
2. through loud speakers; and
3. by affixing on sub-divisional and Thana Notice Boards within Sadar Sub-division of Monghyr district.

(Sd.) P. P. N. SAHI,

Sub-divisional Magistrate,
Sadar.

Memo No. 2060 C dated, Monghyr, the 2nd November, 1968. Copy forwarded to the District Magistrate, Monghyr/Superintendent of Police, Monghyr/B.D.O. Lakhisarai/Rly. Magistrate, Kiul/D.I. of Police, Lakhisarai/Officer Incharge, Lakhisarai/Officer Incharge G.R.P.S., Kiul for favour of information (and wide publicity).

(Sd.) D. R. Singh,

Sub-divisional Magistrate,
Sadar, Monghyr.

2-11-1968.

Enclosure B

मास बरषों की हत्या
बूढ़े बूढ़ियों का मरमेध

युवक-युवतियों का रक्तपात
बेकसूर इंसानों के खून

के असली अपराधी कौन का फैसला

न्यायिक जांच द्वारा बरवाने के लिये पीड़ितों के परिदार को उचित मुआवजा दिलाने के लिये निर्दोष स्वयं संदेकों पर से झूठे सबूत उठाने के लिये

दिनांक 5 नवम्बर रोज मंगलवार को ग्राम सभा में

श्री मधु लिये का भाषण

दिनांक 6 नवम्बर, रोज बुधवार को उन्हीं के नेतृत्व में

लखी सराय स्टेशन पर हरयाग्रह

प्यारे भाइयो,

लखीसराय स्टेशन पर तीस्र क्रम में एक के बाद दूसरी रेल दुर्घटना की भ्रमानुषिक बर्बरता नर्शंसता अकथनीय है। रेल मंत्री द्वारा न्यायिक जांच के बदले विभागीय जांच कर दुर्घटना के शिकार व्यक्तियों को ही दोषी करार देने की निष्ठुरता हृदयविदारक है और सबके ऊपर ऐसे अपमान, ध्यंय और अनाचार की कड़वी घुट्टी पी कर मौन साध कर कायरता को लजाने वाली हमारी सहिष्णुता भी धन्य है।

पहली दुर्घटना के बाद दूसरी दुर्घटना न्यायिक जांच नहीं होने का अनिवार्य परिणाम है। विभागीय जांच द्वारा असली अपराधियों के बदले निर्दोषियों को दोषी बताने की सरकारी निष्ठुरता हमारे पुरुषार्थ को चुनौती है और सरकार की नेक नीयती तथा रेल राज्य मंत्री श्री परिमल घोष द्वारा दिये गये झूठे आश्वासनों में विश्वास करके अब तक चुप बंटे रहने का हमारा धैर्य सरकार की नजर में कायरता है। तभी तो, जो नौजवान लाशों को अगोरे रहे तथा जिन्होंने घायलों की सेवा सुश्रुषा की और उन्हें अस्पताल पहुंचाया उनमें से एक एक को चुन कर झूठे मुकदमों में फंसा दिया गया। ऐसा क्यों हुआ ? इसलिये कि रेल मंत्रालय का देवता बहरा पाषाण है जो पीड़ितों की करुण पुकार नहीं सुनता। पुरुषार्थियों की ललकार सुनता है। जो हाथ पसार कर मांगने वालों को दया तथा न्याय की भीख नहीं देता। हाथ उठाने वालों को विनम्रतापूर्वक अधिकार सौंपता है, जो अनुनय विनय की भाषा नहीं, आंदोलन की भाषा समझता है।

अतः संतोषा प्राप्त लोगों से खासकर नौजवान छात्रों से दिनांक 6 नवम्बर, रोज बुधवार को सत्याग्रह में अधिक से अधिक संख्या में भाग लेने के लिये आह्वाहन करती हैं।

निवेदकः—

संयुक्त सोशलिस्ट पार्टी, लखीसराय
समाजवादी युवजन सभा, लखीसराय।

Enclosure C

Kiul G.R.P.S.
No. F.I.R. 2/68.
U/S 188 I.P.C.

To

The S.D.O. Sadar, Monghyr.
Ref: Kiul G.R.P.S., S.D.E. No. 156 dated 5-11-1968.
Sub: Report under section 188 I.P.C.

Sir,

I beg to report that S.D.O. Sadar, Monghyr, issued prohibitory orders u/s 144 Cr.P.C. prohibiting assemblage of 5 or more persons within the limits of 100 yards Kiul and Lakhisarai Railway Stations for a period of one week, i.e., from 5th November 1968 to 12th November 1968 both days inclusive *vide* Memo No. 2060C dated Monghyr, 2nd November, 1968 which was duly promulgated *vide* Kiul G.R.P.S.S.D.E. No. 154 dated 5th November 1968.

That the persons noted below knowingly disobeyed the lawful orders of competent authorities by holding and addressing a public meeting at the Railway Grounds at Lakhisarai between 16-30 hours and 18-30 hours on 5th November 1968 in defiance of promulgation of section 144 Cr.P.C. in provocative languages and exhorted the public to offer Satyagrah at Lakhisarai Railway Station and to disrupt the Railway Communication and obstruct normal functioning of Railway Offices at Lakhisarai.

I therefore pray that persons noted below may kindly be prosecuted under section 188 I.P.C. List of P.Ws. noted overleaf.

- Accused persons:*
1. Shri Kapil Deo Shastri, son of Sri Rup Narayan Shastri of Rampur, P.S. Suryagarha, Dist. Monghyr.
 2. Sri Kapildeo Singh, son of Shri Lakhan Singh of Barahiya, Dist. Monghyr.
 3. Smt. Champa Limaye, w/o Shri Madhu Limaye, M.P.
 4. Shri Madhu Limaye, M.P.

Yours faithfully,
(Sd.) D. R. SINGH,
O.C. G.R.P.S. Kiul.
6-11-1968.

- List of P.Ws:**
1. Shri K. B. Mathur, Magt. 1st Class, Monghyr.
 2. Shri B. N. Singh, Railway Magt., Kiul.
 3. Shri D. N. Pandey, I.R.P., Jhajha.
 4. Shri Kameshwar Pd., D.I. Police, Lakhisarai.
 5. Shri Md. Taha Malik, O/C Lakhisarai P.S.
 6. A.S.I., S. B. Pandey, G.R.P.S., Kiul,
 7. S.I., D. R. Singh O/C G.R.P.S. Kiul, and
 8. C/660, Surya Narain Choudhary, G.R.P.S., Kiul.

(Sd.) D. R. SINGH,
S.I. G.R.P.S. Kiul,
6-11-1968.

Enclosure D

Report u/s 107/117(3) Cr.P.C. Kiul G.R.P.S. Non F.I.R. No. 1/68 Kiul
G.R.P.S. No. S.D.E. No. 179, dated 6-11-68

Name of disputing party.	Subject matter of dispute.	Parties to be bound down	Name of witnesses.	Brief history of the case.
1	2	3	4	5
<p>State through S.I.D.R. Singh O.C. G.R.P.S. Kiul.</p> <p style="text-align: center;">Vs.</p> <p>Shri Madhu Limaye M.P. and 115 others <i>vide</i> list attached.</p>	<p>Launching satyagrah at Lakhisarai Rly. Station to disrupt Rly. Communication, etc.</p>	<p>Shri Madhu Limaye, M.P. and 115 others <i>vide</i> list attached.</p>	<ol style="list-style-type: none"> 1. Shri K. B. Mathur, Mag. 1st Class Monghyr. 2. Sri B. N. Singh, Rly. Magt, Kiul. 3. Sri B. N. Bhatt, B.D.O. Lakhisarai. 4. S.I.R.K. Singh, G.R. P. S., Kiul. 5. S. I. Taha Malik, C. C., Lakhisarai P.S. 6. Sri R. P. Kumar Y.M. Kiul. 7. S.I.D.R. Singh, O.C.G.R. P. S., Kiul. 	<p>On 6-11-68 between 0915 hrs. and 1630 hours the members noted in col. 3 formed an unlawful assembly in spite of prohibitory order duly promulgated u/s 144 Cr. P.C. entered into Lakhisarai Rly. Station in processions in eight batches with a view to disrupt the Rly. Communication and obstruct the normal functioning of booking office Cabin, and other offices at Lakhisarai Rly. Station. Their actions were likely to commit breach of the peace and disturb the public tranquillity and as such they were arrested u/s 151 Cr. P. C. and forwarded to S.D.O. Sadar Monghyr in custody. Besides they decided to continue their Satyagrah at Lakhisarai Rly. Station and shouted slogans like "SURU HUA HAI JANG HAMARA", etc. and as such breach of peace is apprehended at their hands.</p>

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Under the above circumstances I pray that they may kindly be bound down u/s 107 Cr. P. C. with an order to furnish an ad interim bond u/s 117 (3) Cr.P.C.

(Sd.) D. R. Singh,
O/C G.R.P.S., Kiul.
6-11-1968.

Forwarded to S.D.O. Sadar¹ Monghyr.
Action u/s 107/117 (3) Cr. P.C. may be taken
against the persons noted in col. 3.

(Sd.) D. N. Pandey.
I. R. P. Jaja.
6-11-68.

Enclosure E

Kiul G.R.P.S. Non. F.I.R. 1/68 u/s 188 I.P.C.

To

The S.D.O. Sadar Monghyr,

REF:—Kiul G.R.P.S. S.D.E. No. 179, dated 6-11-68.

Sub:—Report u/s 188 I.P.C.

Sir,

I have the honour to report that S.D.O. Sadar Monghyr issued prohibitory orders under section 144 Cr. P.C. prohibiting assemblage of 5 or more persons within the limits of 100 yards of Kiul and Lakhisarai Railway Stations for a period of one week i.e. 5-11-68 to 12-11-68 both days inclusive vide Memo No. 2060C, dated Monghyr the 2nd November, 1968 which was duly promulgated vide Kiul G.R.P.S. S.D.E. No. 154, dated 5-11-68.

That the persons noted in the list attached knowingly disobeyed the orders of competent authorities by entering into Lakhisarai Railway Station premises in processions in eight batches between 09.15 hours to 16.30 hours on 6-11-68 shouting anti-Railway slogan with a view to disrupt the Railway communication and obstruct the normal functioning of Station Offices, which tended to cause obstruction, annoyance, injury to the Railway employees and the Railway passengers.

I further pray that the persons vide list attached may kindly be prosecuted under section 188 I.P.C. List of P.Ws noted overleaf.

Yours faithfully,

(Sd.) D. R. SINGH, O.C.

G.R.P.S., Kiul,
6-11-1968.

List of witnesses.

1. Shri K. B. Mathur, Magt. 1st Class, Monghyr.
2. Shri B. N. Singh, Rly. Magt., Kiul.
3. Shri B. N. Bhatta, B.D.O. Lakhisarai.
4. S. I. R. K. Singh, G.R.P.S., Kiul.
5. S. I. Md. Taha Malik, O/C Lakhisarai P.S.
6. Sri R. P. Kumar, Y. M. Kiul, and
7. S. I., D. R. Singh, O/C G.R.P.S., Kiul.

(Sd.) D. R. SINGH,

G.R.P.S. Kiul.

6-11-1968.

ANNEXURE 2 TO APPENDIX I

Monghyr Jail,
9th November, 1968.

Letter to the Speaker
(Privileges)

The Speaker,
Lok Sabha.
Sir,

SUBJECT:—*Notice regarding breach of Privilege and contempt committed by the G.R.P.S. Kiul, Sub-Divisional Magistrate in charge, Monghyr, Jail Superintendent, Chief Secretary, Bihar and Central Home Minister, Mr. Y. B. Chavan under rule 222—224.*

I charge the persons above-named with causing molestation, obstruction and interference in the performance by me of my Parliamentary duties by holding me in illegal and improper detention/custody since the morning of 6th November, 1968.

The sole object of these illegal proceedings and wrongful confinement is to prevent me from attending the winter session of Parliament. This constitutes a flagrant encroachment on my Parliamentary privileges and a contempt of Lok Sabha.

I demand that my case be referred to the Committee of Privileges and the Committee be requested to summon the above named persons to answer to the charges of breach of privilege and contempt and also to demand by immediate production before the Committee.

While, I agree that the Lok Sabha/Committee of Privileges is not a Court of Law, these bodies cannot remain indifferent when the sacred privileges of members of Parliament are being wilfully violated by the Executive. Of course, I am taking such action as is open to me under Articles 32 and 226 as a citizen. But I want our House to start proceedings in defence of members' privileges also. The scope and object of these two proceedings is entirely different.

In *May* and our own Procedure, these Privileges have been defined. I don't have these books with me here and so I cannot quote the page numbers etc.

My case is briefly as follows:—

After my arrest (and that of my colleagues) at Lakhisarai (Eastern Railway) on 6th November, we were produced before the S.D.O. in charge Monghyr, who, mechanically and at the dictation of the police, as will be evident from the enclosed copies of the relevant document, remanded us to Jail Custody upto 20th November, 1968.

Now it is *prima facie* clear that our remand to Jail Custody is illegal.

There was no order under section 112 of Cr. P.C. as is mandatory in any proceeding under section 107 of the same Act. And so the S.D.O. could not take any action under 117(3) since the above prior condition was not fulfilled.

The Magistrate has no power to remand me under 344 of Cr. P.C., as he has done in the case, since there is as yet no enquiry or trial or proceeding mentioned in that section.

The power to send the persons arrested under section 151 is to be found in section 167 of the Code and this power cannot be exercised unless a case has been instituted by the Police, F.I.R. drawn up or an investigation started. Our remand in the first place, is not under 167 and, secondly, even assuming that it is under 167, the Magistrate cannot authorise our detention in Jail Custody under sub-section (2) of 167 unless the police officer has sent to him a copy of the entries in the diary relating to the case as is required under sub-section (1) of the said section 167. In this case the Police Officer himself says that he "will send the report under 188 I.P.C. through proper channel" in about a fortnight.

From this it is obvious that the whole series of actions of the Police Officers, Magistrate and Jail Officers concerned and their superiors have been illegal from A to Z, the sole object in this is to prevent my participation in the important debates and the proceedings of the Lok Sabha in the first crucial weeks of the Winter Session.

I, therefore, appeal to you to protect my rights by having the matter investigated by the Privileges Committee. If such arbitrary and illegal proceedings are allowed to go on the specious plea that the Lok Sabha is not a Court of Law, Parliament's prestige and members' privileges will be completely destroyed by the executive.

I, therefore, pray for speedy action by you, the Committee of Privileges or the House in the matter.

Yours sincerely,
(Sd.)/- MADHU LIMAYE.

ANNEXURE 3 TO APPENDIX I

To

The Sub-divisional Officer,
Sadar, Monghyr.

SUB:—*Satyagrah at Lakhisarai Railway Station.*

Sir,

I am forwarding herewith the following accused persons (list attached herewith) in custody as they have been arrested u/s 151/107/117(3) Cr. P.C. This may kindly be remanded in Jail Hazat for a fortnight by which time report u/s 107/177(3) Cr. P.C. and 183 I.P.C. will be routed through proper channel.

(Accd. as per list attached).

Yours faithfully,

(Sd.) Illegible.

6-11-68.

O.C.

G. R. P. S. KIUL.
Camp Lakhisarai.

ANNEXURE 4(a) TO APPENDIX I

Satyagrahi at Lakhisarai Railway Station

ORDER SHEET

(See Rule 129 of the Records Manual 1941)

Order sheet, dated from.....to

District

No. 617M of 1968

Nature of the case: —

State Versus, Madhulimaye, M.P. and others.

Under Section 151/107/117 (3)

Serial No. and date of order	Order and signature of officer	Note of action taken on order with date
1	2	3

6-11-1968.

The following persons have been arrested and forwarded under custody u/s 151/107/117 (3) Cr. P.C. by the Officer Incharge G.R.P.S. Kiul, Camp Lakhisarai, Monghyr.

They do not complain any ill treatment against the escorting party.

They are remained to jail Hajat till 20-11-68 in default bail of Rs. 1,000/- (one thousand) each with two sureties of the like amount.

The O.Ps. have refused furnishing bail bonds.

(1) Shri Madhu Limaye, M.P.

* * * * *
* * * * *

Dictated & corrected.

(Sd.) S. C. Prasad.

S.D.M.

(Sd.)/- S. C. PRASAD.

S. D. M.

ANNEXURE 4(b) TO APPENDIX I

COURT OF SUBDIVISIONAL MAGISTRATE
MONGHYR

Schedule XLIII-High Court (M) (Old C.P. 43)

WARRANT FOR INTERMEDIATE CUSTODY

(Section 344 of the Criminal Procedure Code).

To

OFFICER, INCHARGE JAIL, MONGHYR.

Whereas Shri Madhu Limaye, M.P.

Son of

Vill.

P.S.

Dist.

is charged u/s 151/107/117(3) Cr.P.C. and has been rendered to custody until the 20-11-68. You are hereby required to receive the said accused into your custody and produce him on the said day at 10-30 A.M. dated the 6th day of Nov. 1968.

(Sd.)/- Illegible

Sub-Divisional Magistrate,

Sadar, Monghyr.

6-11-68.

121/106/116(3)

श्री मधु लोमये एम० पी०

प्र० तिथि 6-11-68

उ० ति० 20-11-68

केन्द्रीय कारागार भागलपुर स्थानान्तरित

हस्ता० (अपाठ्य)

अधीक्षक

कारागार मुंगेर

9-11-68.

Received from District Jail, Monghyr.

(Sd.)/- Illegible

9-11-68.

18-11-68

Transferred to Patna Central Jail *vide* Prison No. 15526, dated 16th November, 1968 for his production before the Hon'ble High Court on 19th November, 1968. His production before the S.D.O. Monghyr on 20-11-68 may also be insured *vide* S.D.O. Monghyr wireless message No. 2163/C, dated 17-11-68.

(Sd.)/- Illegible,

Supdt. Central Jail, Bhagalpur.

Dated 18-11-68.

18-11-68 from

Cl. Jail Bhagalpur.

(Sd.)/- Illegible

Shri Madhu Limaye, M.P. is being returned through the same escort party to produce him before Hon'ble High Court, Patna on 21st Nov. 1968 and this court on 28-11-68.

(Sd.)/- Illegible,

S.D.O.

20-11-68.

Transferred to Tihar Central Jail for production in the Supreme Court of India on 25-11-68.

(Sd.)

Supdt. Central Jail, Patna.

22-11-68.

**COURT OF SUBDIVISIONAL MAGISTRATE
MONGHYR.**

Schedule XLIII—High Court (M) 69 (Old C.P. 43)

WARRANT FOR INTERMEDIATE CUSTODY

(Section 344 of the Criminal Procedure Code.)

GRP's Kiul P.S. Case No. 6 (11) 68.

To

OFFICER INCHARGE JAIL, MONGHYR

Whereas Sri Madhu Limaye, M.P.

Son of

Vill.

P.S.

Dist.

is charged u/s 143 IPC, and 122 Railway Act, and has been rendered to custody until the 25-11-68. You are hereby required to receive the said accused into your custody and produce him on the said day at 10-30 A.M. dated the 25th day of November, 1968.

(Sd.) Illegible,
Sub-Divisional Magistrate.
Sadar, Monghyr.
25-11-1968.

ANNEXURE 5 TO APPENDIX I

BHAGALPUR CENTRAL JAIL

Dated, 16th November, 1968.

To

The Secretary,
Lok Sabha, New Delhi.

SUBJECT: My *privilege motion* of 9th November, 1968.

Sir,

On 9th November, 1968 I sent to the Speaker from Monghyr District Jail a letter complaining about the breach of my privileges and contempt of parliament, along with a copy of the Forwarding Report of the Kiul G.R.P.S. and the order of the Sub-Divisional Officer Incharge, Monghyr Sadar.

On the same day we were transferred to Bhagalpur Central Jail. From this jail I requested the Jail authorities to insert their wireless message to the Speaker the following message which they were good enough to do on 10th November, 1968.

“Speaker, Lok Sabha, New Delhi.

No criminal charge or offence Detention illegal Privilege violated Pray my production before House/Committee.

—Madhu Limaye”.

On the same day I sent an express telegram on the same line both to the Speaker as well as S. M. Joshi, M.P.

The Speaker must have by now received both my letter as well as the wireless message and telegram.

I expected some quick and effective action on your part in defence of the rights and privileges of members and also the powers and dignity of Parliament.

I am surprised and I confess that I am a little angry that neither the Speaker nor House has thought it fit to invoke the extraordinary power of Parliament in the matter. It appears that the issue has

not even been referred to the Committee of Privileges. At least nothing has been published in the newspapers about it. The Speaker himself has the power to refer to the Committee, on his own initiative, such matter under Rule No. 227. Then, what is the reason for Parliament's inaction and indifference?

From the Radio News and commentary I find that a lot has been said about the maintenance of decorum and dignity during the proceedings of Parliament. "The whole world is watching us", the Speaker is reported to have said. Yes, the world is watching us. And what has it seen? It has seen that Parliament has failed to take action even after being informed that the Police and the Magistracy in Bihar—which is under President's Rule—have been guilty of blatant violation of legality, Citizen's rights and Parliament members' privileges. Parliament and its members are being kicked in the pants by the Bihar Magistracy, its prestige has been trampled under foot by it and yet we go on talking merrily about dignity and decorum in Parliament.

When a member of Parliament asserts that he has been deprived of his personal liberty and that his basic privilege of freedom from arrest, except on a criminal charge, for an offence under a law providing for preventive detention, has been violated and sends documentary proof in support of this assertion, I cannot for the life of me understand how Lok Sabha can ignore this challenge to the authority of Parliament.

Let me reiterate that we were arrested under 107, 117(3) and 151 Cr. P. C. That a complaint under 107 Cr. P. C. neither amounts to an offence nor a charge nor an accusation. There are clear decisions of the Judicial authorities on this question. In my case, the Sub-Divisional Officer, when he gave remand, did not even have before him a complaint under 107 Cr.P.C. but only the Police statement that they would send the report within a fortnight. 117 Cr.P.C. does not contain any of these things.

And as to 151 Cr. P. C. it is not a provision of law providing for preventive detention. Its operation comes to an end after 24 hours any way.

Is it not, then, abundantly clear that the privilege of freedom from arrest is attracted in this case?

Let me state that the decision in my Writ in the High Court and Supreme Court—both have admitted the petition has nothing to do with my complaint about the violation of privileges. It is obvious

that the Supreme Court is not the forum where I can secure enforcement of my constitutional rights and parliamentary privileges (under Article 105) and that too in a proceeding under article 32 of the constitution.

Nor do I think will the High Court pass any order for the enforcement of my parliamentary privileges. This Lok Sabha and its Speaker alone can and must do.

I am worked up about these illegalities not because I am afraid of Jail. I have undergone long terms of imprisonment and in 1955, the Portugese Military Tribunal in Goa had sentenced me to 12 years. And yet I defied them to do their worst. So that is not the point. I am angry because, although we live under constitution and there is supposed to be rule of law, I find that the Police and the Magistracy are running amuck in Bihar.

Under 107 Cr. P. C. the period of bond is one year and under 110 Cr. P. C. three years. But I saw a number of prisoners in the Monghyr District Jail, who have already spent more than one year and three years in Jails and still there is no sign of the proceedings being completed in the near future.

I speak for all these thousands of helpless victims of Magisterial and Police brutality. To me Writ petition before our tribunals and privileges motions are but an instrument in my struggle against injustice. I want our courts and our Parliament to uphold the constitution and law.

If and when I am released, I therefore give notice, I will fight and will not rest till this matter has been settled in accordance with the law of Parliament and complete justice has been done to me.

I need not state that this is not a party matter but a matter which concerns the whole House and all its members, no matter whether they belong to the opposition or the ruling party.

Yours sincerely,

Sd./- MADHU LIMAYE,
Member of Parliament.

ANNEXURE 6 TO APPENDIX I

Shri Madhu Limaye,
Member of Parliament.

Central Jail, Patna.
21-11-1968.

To

The Secretary,
Lok Sabha, New Delhi.

SUBJECT: *My privilege motion in regard to my arrest and detention
in Bihar.*

Sir,

You must have received by now the following:

- (a) My wireless message along with the official intimation from Bhagalpur Central Jail.
- (b) My express telegram.
- (c) My notice of privilege.
- (d) My reminder and further elucidation.

I am amazed and pained that the Lok Sabha Secretariat has not shown the elementary decency of acknowledging the communications from a member unjustly kept under restraint, let alone intimating him the action taken thereon.

Am I an outlaw? Have I been declared beyond the pale, an untouchable?

You must have received the first intimation under Rule 229 from the S. D. O. and later from the Superintendents, Monghyr District and Bhagalpur Central Jails. What was the point of having this blasted rule? Was it not designed to enable you to decide whether the arrest and detention related to any offence or criminal charge or was under a valid law providing for preventive detention and whether the rights, immunities and privileges enumerated in 105(3) and 105(1) were attracted?

You have co-authored with Kaul a tome on the law of Parliament. People often call this the Erskine May of India. Why have you failed to give proper advice to the Speaker? I have no books on

parliamentary practice here. That is all the more reason why you should have helped me out. Do not misunderstand me. I do not wish to be sarcastic but my anguish forces me to speak.

Your secretariat knows where I am lodged. Why did they not send an extra copy of my parliamentary papers for perusal in Jail? There is no bar; detenue's right to receive his papers has been upheld by the courts.

Yours sincerely,

Sd./- MADHU LIMAYE,

Member of Parliament.

ANNEXURE 7 TO APPENDIX I

Shri Madhu Limaye,
Member of Parliament.

Patna Central Jail,
Patna.
22-11-68.

To

Shri Shakdher,
Secretary,
Lok Sabha.

SUBJECT: *My privilege notice.*

Sir,

The period of my remand ended on 20-11-68, I was produced before the S.D.O., Monghyr around 9-45 P.M. the same day. He passed the enclosed order—the so called Remand order.

My detention under this order is a blatant violation of the mandatory provisions of the Cr. P. C. 344. Please consult Cr. P. C. 344.

The order of 20-11-68 is illegal on these three grounds.

(1) Without taking cognizance, no remand order can be passed under 344. No cognizance of any case, whether pertaining to a cognizable or a non-cognizable offence, has been taken in my matter.

(2) The provision with regard to "stating the reasons in writing" for adjournment in sub-section (1A) has not been complied with.

3. There is no order as to remand to Jail custody at all. All that is there is a direction to the Superintendent, Patna Jail that I be produced before him that is the S.D.O., on 28-11-68. There is absolutely no order for my remand to custody. Thus there is no lawful authority for my present detention. Please refer to my own case, AIR 1959 Punjab 506. I continue to be deprived of my rights, immunities and privileges illegally and without cause. Not only has the Magistrate acted illegally himself; but he revealed his malice by earlier asking the Bhagalpur S.D.O. to remand us to "periodical custody from time to time" the letter, which accidentally fell in my hands, (copy enclosed) discloses an attempt to commit three illegalities as well the intention to keep me in Jail for a long period by hook or by crook.

(a) The S.D.O., Bhagalpur is not subordinate to the S.D.O., Monghyr nor within his territorial jurisdiction. The District also is different. He had no jurisdiction under 192 to do this.

(b) The transfer of a case even if a case existed—which in this instance does not exist for a limited purpose is not permissible.

(c) And what is most important is the shocking request that we be produced before him (S.D.O.), Bhagalpur for “periodical remand from time to time”. Remand is a judicial proceeding, the Magistrate must apply his mind and not mechanically remand *suo motu* or endorse a request for remand, that he must state the reasons for this in writing, and, on the facts and merits of the matter, he may even refuse to remand. The Monghyr S.D.O. sought to prejudice and influence the Bhagalpur S.D.O. in a most objectionable manner, thus revealing his real intention and malice. Because I raised an objection and when at my instance the attention of Bhagalpur S.D.O. was drawn to this illegality, he refused to ask Bhagalpur Central Jail Superintendent to produce us before him and ultimately I was produced before the S.D.O. Monghyr himself, who inspite of my written warning (copy enclosed), passed the new order which has been dissected by me above. Will the heartless Lok Sabha Secretariat move at least now?

Yours sincerely,

Sd./- MADHU LIMAYE,
Member of Lok Sabha.

P. S. The original arrest and remand as well as the new so-called remand order and detention under it have been used for collateral purposes and as a substitute for preventive detention under a valid law.

Sd./- MADHU LIMAYE,

Encl. 1. The order of 20-11-68.

2. The letter from S.D.O. Monghyr to S.D.O. Bhagalpur.

3. My letter to S.D.O. Monghyr before he passed order of 20-11-68.

ANNEXURE 8 TO APPENDIX I

True copy of the so-called "Remand" order passed by S.D.O., Monghyr on 20th November, 1968.

"Shri Madhu Limaye, M.P., has been brought under escort. He has filed a petition that he has to appear again before the High Court on 21st November, 1968 at p.m. A letter to this effect has been sent by Superintendent, Central Jail, Patna under his No. 3714, dated 20th November, 1968. He is allowed to appear before the High Court on 21st November, 1968. A further prayer has been made by the Superintendent, Central Jail, Patna to send him back to Patna by the same escort. Prayer is allowed.

One petition has been filed by Shri Kapildeo Singh, Ex-M.L.A. that he also wants to appear before the High Court. His prayer is also allowed. Intimate Superintendent, Monghyr Jail to send Kapildeo Singh through the same escort.

Superintendent, Central Jail, Patna may be asked to produce Shri Limaye on 28th November, 1968 at 10-30 A.M. before this Court. Send back Kapildeo Singh to Monghyr Jail on 23rd November, 1968."

I affirm from my personal knowledge that this is a true copy of the "Remand" order as given to me by the S.D.O. on 20th November, 1968 at Monghyr.

(Sd.) MADHU LIMAYE,

22-11-1968.

ANNEXURE 9 TO APPENDIX I

(True Copy)

P.B. No. dt.

From

Shri P. P. N. Sahi,
Sadar Sub-divisional Magistrate, Monghyr.

To

The Sub-Divisional Magistrate,
Bhagalpur.

Dated, Monghyr, the Nov., 1968.

SUBJECT: *Periodical remand of under-trial prisoners arrested in connection with case Nos. 617M of 1968 and*

Sir,

With reference to the above subject I have to inform that Shri Madhu Limaye and 144 other accused persons have been remanded to Bhagalpur Central Jail now. It will entail enormous Jail expenditure and other difficulties in bringing these under-trial prisoners from Bhagalpur to Monghyr for their appearance from time to time.

I am, therefore, to request you to please issue directions to the Superintendent, Central Jail, Bhagalpur to produce these under-trial prisoners before you for their periodical remand to Jail from time to time.

Copies of the supplementary order sheet of the concerned case records are sent herewith for your convenience.

The next date for appearance of the accused persons in these cases is 20th November, 1968.

Yours faithfully,

(Sd.) Illegible,

*Sub-Divisional Magistrate,
Sadar, Monghyr.*

I authenticate its veracity.

(Sd.) Madhu Limaye.

ANNEXURE 10 TO APPENDIX I

Monghyr

22-11-1968.

Time 9-45 P.M.

To

The SDO

Monghyr Sadar, Monghyr.

Sir,

Before you take any decision about remand for which to have been brought before you, I beg to submit as follow:

That when, SDO in charge remanded us to custody on 6th November, 1968, I was neither told under what provision of law the Police Officer had arrested us nor under what provision he had remanded us to custody, nor were we informed of the grounds of our arrest and detention.

I saw the warrant for intermediate custody in Monghyr District Jail.

Our arrest, without there being any criminal charge or offence, in purported, exercise of the powers under section 151 Cr.P.C. and S.D.O. Incharge remand order under 344 Cr.P.C. was illegal.

Without FIR, instituting of a case and without cognisance being taken, the SDO incharge's remand order was illegal. The S.D.O. did not comply with the provisions of Cr.P.C. 344. His remand order was illegal; and if the SDO remands us again, detention under the new order, too, will be illegal.

The SDO should not again violate Cr.P.C. 344 and Articles 21, 22 and 105 of the Constitution.

May I point out that the SDO's wrongful unjustifiable, capricious and illegal remand order will make him liable to be hauled up before Parliament/Privilege Committee. They will also make him liable to charge of "malice in law".

May I refer you to a Privy Council decision Appeal cases 1914 at page 804, I have brought the book, and you may read it, if you like.

I think it my duty to tell you all this in advance so that you may not later on claim that you acted innocently and did not know the position in law. And let me also state that your letter to Bhagalpur SDO—asking him to order our “periodical remand from time to time”—without jurisdiction—throws light on your intention?

Yours sincerely,
(Sd.) MADHU LIMAYE.

ANNEXURE 11 TO APPENDIX I

Notice under section 107 Cr.P.C.

In the court of the Sadar Sub-Divisional Magistrate, Monghyr, Case No. 617 of 1968 Proceeding u/s 107 Cr.P.C.

Whereas I am satisfied from the report of the Police G.R.P. Kiul, P.S. dated 6th November, 1968 that Shri Madhu Limaye, M.P., 2. Kapildeo Singh, s/o Lakhan Singh of Barhaiya, P.S. Barahaiya, 3. Ramakant Singh, s/o Ramautar Pd. of Chandarpur, P.S. Lakhisarai, Balmiki Shastri, s/o Gore Pd. Singh of Kaithma, P.S. Ariari Dist., Monghyr, 5. Dhanoo Yadav, s/o Shankar Yadav of Chowk Lakhisarai, 6. Yugal Yadav, s/o Tilakdhari Yadav of Singhochak, P.S. Lakhisarai, 7. Bindeshwari Modi, s/o Sri Ganga Modi of Lakhisarai, 8. Sri Rajendra Singh, s/o Sri Bhiso Singh of Baohangama, P.S. Lakhisarai, 9. Sri Bano Manjhi, s/o Sri Kartik Manjhi of Amahra, P.S. Lakhisarai, 10. Sri Kishori Pd. Verma, s/o Ram Pd. Verma of Mano Chak, P.S. Lakhisarai, 11. Sri Saudagar Sah, s/o Sri Kali Sah of Tikakhar, P.S. Lakhisarai, 12. Sri Dargahi Yadav, s/o Sri Mangal Yadav of Purani Bazar, Lakhisarai P.S., 13. Ramdeo Singh Yadav, s/o Sri Govind Singh Yadav of Khoja Bazar, Town P.S., 14. Sri Allauddin Badsah, s/o Sri Md. Jn. of Guhia Pokhar, P.S. Town, Monghyr, 15. Sri Rajniti Pd., s/o Sri Bind Pd. of Gardanibagh, Patna, 16. Sri Parmanand Pd., s/o Sri Bindeshwari Pd. Singh of Pateshwar, P.S. Lakhisarai. 17. Sri Gurucharan Singh, s/o Sri Bhuneshwar Singh of Patneshear, P.S. Lakhisarai, 18. Sri Umakant Singh, s/o Sri Chandrika Singh of Babhangama, P.S. Lakhisarai, 19. Sri Ramkhelawan Singh, s/o Sri Chotan Yadav of Mano, P.S. Surajgarha, 20. Sri Maheshwari Pd. Singh, s/o Sri Rajan Singh of Sarari, P.S. Sheikhpura, 21. Sri Ram Pd. Drollia, s/o Sri Prosuttamdar Drollia of Lakhisarai, 22. Sri Rajendra Pd. Khetan, s/o Sri Hanuman Pd. Khetan, 23. Sri Rabindra Kumar Drollia, s/o Sri Ghani Ram Drollia of Puranibazar, Lakhisarai, 24. Kishori Pd. Ghaurasia, s/o Tilak Mahton of Panapur, P.S. Lakhisarai, 25. Sri Jugal Kishore Singh, s/o Sri Huro Singh of Bahadurpur, P.S. Barhaiya, 26. Sri Shyam Sundar Singh, s/o Sri Bindeshwari Singh of Lodia, P.S. Lakhisarai, 27. Sri Kapildeo Pd. Singh, s/o Sri Dwarika Singh of Lodia, P.S. Lakhisarai, 28. Sri Kamleshwari Pd. Singh, s/o Sri Ramadhin Singh of Sulamanchak, P.S. Lakhisarai, 29. Sri Ramautar Singh, s/o Sri Sundar Singh of Rampur, P.S. Surajgarha, 30. Sri Md. Abbas, s/o Sri Fakir Pd. of Balgudar, P.S. Lakhisarai,

31. Sri Jadubansh Singh, s/o Sri Sarjug Pd. Singh of Patner, P.S. Lakhisarai, 32. Sri Jugeshwar Pd., s/o Sri Basudeo Singh of Patner, P.S. Lakhisarai, 33. Sri Nageshwar Singh, s/o Sri Lakhan Singh of Patner, P.S. Lakhisarai, 34. Sri Ganesh Pd., s/o Sri Baldeo Ram of Kiul, P.S. Lakhisarai, 35. Sri Rupan Manjhi, s/o Sri Saukhi of village Patner, P.S. Lakhisarai, 36. Sri Rito Bhuiyan, s/o Sri Ghari Bhuiyan of Patner, P.S. Lakhisarai, 37. Sri Naresh Singh, s/o Sri Kunjo Singh of Lodia, P.S. Lakhisarai, 38. Sri Siñheshwar Pandey, s/o Sri Jagat Narain of village Rampur, P.S. Surajgarha, 39. Sri Krishnandan Singh, s/o Sri Bhagwat Singh of Rahna, P.S. Lakhisarai, 40. Sri Chunchun Singh, s/o Sri Bhagwat Singh, village Lodia, P.S. Lakhisarai, 41. Sri Jairam Singh, s/o Sri Rumrup Singh of P.S. Lakhisarai, 42. Sri Ramsharan Yadav, s/o Sri Balo Yadav of Rahna, P.S. Lakhisarai, 43. Sri Ram Das, s/o Sri Nawrang Sao of Chakandra, P.S. Ariari, 44. Sri Chandrika Singh, s/o Sri Jago Singh of Salauna Chak, P.S. Lakhisarai, 45. Sri Surendra Singh, s/o Sri Deonath Singh of Patner, P.S. Lakhisarai, 46. Sri Ramautar Mandal, s/o Sri Khopar Mandal of Kiul, P.S. Lakhisarai, 47. Sri Anil Kumar, s/o Sri Anirudh Pd. Singh of Barhaiya, P.S. Barhaiya, 48. Sri Sahdeo Pd. Singh, s/o Sri Harbans Pd. of Piparia, P.S. Barhaiya, 49. Sri Siya Ram Yadav, s/o Sri Kailu Yadav of Barhaiya, P.S. Barhaiya, 50. Sri Jainarain Singh, s/o Sri Ram Krishna Pd. Singh of Babhangama, P.S. Lakhisarai, 51. Sri Kailu Yadav, s/o Sri Garho Yadav of Jainagar Kawaiya Nayabazar, P.S. Lakhisarai, 52. Sri Bhola Manjhi, s/o Sri Bhado Manjhi of Sansarpokhar, P.S. Lakhisarai, 53. Sri Balmiki Manjhi, s/o Sri Narayan Manjhi of P.S. Lakhisarai, 54. Sri Kamlu Manjhi, s/o Sri Asho Manjhi of P.S. Lakhisarai, 55. Sri Keshar Mandal, s/o Sri Barho Mandal of Naya Tola, Puranibazar, P.S. Lakhisarai, 56. Sri Balmiki Singh, s/o Ramgulam Singh of Rajauna Chanlai, P.S. Lakhisarai, 57. Sri Ganesh Pd., s/o Sri Sita Ram of Naya Bazar, P.S. Lakhisarai, 58. Sri Mahesh Kumar, s/o Sri Mahadeo Pd. of Naya Bazar, P.S. Lakhisarai, 59. Sri Sarjug Singh, s/o Sri Lakhan Singh of Babhangama, P.S. Lakhisarai, 60. Sri Surendra Pd. Singh, s/o Sri Nawal Kishore Singh of Lakhisarai Kabaiya, 61. Sri Jai Kumar Pd., s/o Sri Lakshmi Pd. of Naya Bazar, P.S. Lakhisarai, 62. Sri Shankar Pd., s/o Sri Kameshwar Pd. of Naya Bazar, P.S. Lakhisarai, 63. Sri Shankar Paswan, s/o Sri Ramdhani Paswan of Lakhisarai, 64. Sri Sheo Manjhi, s/o Sri Barho Manjhi of Sansar Pokhar, P.S. Lakhisarai, 65. Sri Uttam Pd., s/o Sri Khakhar Sao of village Kharra, P.S. Surajgarha, 66. Sri Sarjug Pd. Modi, s/o Sri Gobardhan Modi of village Arma, P.S. Surajgarha, 67. Sri Ramashray Singh, s/o Sri Kameshwar Pd. Singh of Khuthar, P.S. Barhaiya, 68. Sri Rambalak Singh, s/o Bishwanath Singh of Khuthar, P.S. Barhaiya, 69. Sri Radhe Shyam Singh, s/o Sri Jwalamukhi Singh of Rahna, P.S. Lakhisarai, 70. Sri Gita Pd. Singh, s/o Sri Ayodhya Singh

of Raha, P.S. Lakhisarai, 71. Sri Mahabir Pd. Arya, s/o Sri Bonshi Ram of Naya Bazar, Lakhisarai, 72. Sri Jagdish Pd., s/o Sri Prabhu Sao of Jainagar, P.S. Lakhisarai, 73. Sri Siru Yadav, s/o Sri Rohan Yadav of Jainagar, P.S. Lakhisarai, 74. Sri Dwarika Pd. Mishra, s/o Sri Rameshwar Pd. Mishra, P.S. Lakhisarai, 75. Sri Baiju Sahu, s/o Karu Sao of Shangar Pokhar, Lakhisarai, 76. Sri Ganesh Pd., s/o Ram Charan, Arya Samaj, Lakhisarai, 77. Sri Dayanand Kumar Sao, s/o Ramrup Sao of village Kishunpur, P.S. Surajgarha, 78. Sri Ram Naresh Pd. Singh, s/o Raghunandan Pd. Singh of Salikpur, Lakhisarai, 79. Sri Bechan Singh, s/o Sivashin of Rehu, P.S. Lakhisarai, 80. Sri Balmiki Singh, s/o Kuldip Singh of Rahu, P.S. Lakhisarai, 81. Sri Garib Sao, s/o Gulab Sao of Rehu, P.S. Lakhisarai, 82. Sri Kapildeo Shastri, s/o Rupnarain Sah of Rampur, P.S. Surajgarha, 83. Sri Rambahadur Singh, s/o Sitasaran of Rampur, P.S. Surajgarh, 85. Sri Sheo Narain Singh, s/o Firangi Singh of Rampur, P.S. Surajgarh, 85. Sri Sheo Narain Singh, s/o Lallu Hari Singh of Chitoura, P.S. Sheikhpura, 86. Sri Chadrama Yadav, s/o Laljee Yadav of village Gohri, P.S. Lakhisarai, 87. Sri Indrajit Pd., s/o Shashidhar Pal of Lakhisarai, 88. Sri Sukhdeo Yadav, s/o Ram Sewak Yadav of village Gorhi, P.S. Lakhisarai, 89. Ram Nandan Singh, s/o Ramrup Singh of Kiul, P.S. Lakhisarai, 90. Sri Krishnadeo Mandal, s/o Kokai Mandal of Kiul, P.S. Lakhisarai, 91. Sri Indradeo Yadav, s/o Ramrup Yadav of Lohri, P.S. Lakhisarai, 92. Sri Deo Prakash Ram, s/o Ram Pd. Ram of Lohri, P.S. Lakhisarai, 93. Baijnath Tamoli, s/o Gaya Tamoli of Kiul, P.S. Lakhisarai, 94. Bachu Sardar, s/o Khartar Mandal of Kiul, P.S. Lakhisarai, 95. Prabhudutt Sahu, s/o Jalim Sao of Damodarpur, P.S. Lakhisarai, 96. Jugal Kishor Pandey, s/o Hardeo Pandey of Lodia, P.S. Lakhisarai, 97. Sri Kokai Paswan, s/o Datan Paswan of Lodia, P.S. Lakhisarai, 98. Rajaram Gupta, s/o Bhajo Sao of village Naya Bazar, Lakhisarai, 99. Sri Diwendra Pd. Sao, s/o Andhi Sao, r/o Nayabasti Kawaiya, P.S. Lakhisarai, 100. Hansraj Paswan, s/o Barho Paswan of village Kawaiya, P.S. Lakhisarai, 101. Rajdeo Yadav, s/o Chhotu Yadav of Lakhisarai, 102. Sri Doman Pd., s/o Jaso Mahton of Lakhisarai, 103. Sri Ram Chandra Yadav, s/o Sri Bharoshi Yadav, Lakhisarai, 104. Sri Krishna Manjhi, s/o Dwarka Manjhi of Sansarpokhar, P.S. Lakhisarai, 105. Sri Lalo Mandal, s/o Mato Mandal of Kawaiya, P.S. Lakhisarai, 106. Piyare Yadav, s/o Natho Yadav of P.S. Lakhisarai, 107. Kito Manjhi, s/o Meghu Manjhi of Sansar Pokhar, P.S. Lakhisarai, 108. Sri Niranjan Kumar Verma, s/o Mathura Pd. Verma of Puranibazar, Lakhisarai, 109. Sri Surendra Pd., s/o Sri Dayanand of English, P.S. Lakhisarai, 110. Sri Udai Paswan, s/o Sri Sito Paswan of P.S. Lakhisarai, 111. Surendra Pd., s/o Deokinandan of Nayabazar, P.S. Lakhisarai, 112. Sri Medni Paswan, s/o Jhimal Paswan of Gohri Tola, P.S. Lakhisarai, 113. Sri Dasrath Pd. Mathuri, s/o Banwari Ram

Mathuri of Sheikhpura, 114. Sri Sailendra Pd., s/o Baldeo Pd. of Puranibazar, Lakhisarai, 115. Sri Brahmdeo Choudhary, s/o Kishun Choudhary of Lakhisarai, and 116. Sri Sundar Yadav, s/o Prayag Pd. Yadav of village Gohri, P.S. Lakhisarai, Dist. Monghyr, are likely to commit breach of the peace and thereby disturb the public tranquillity by forming an unlawful assembly in spite of prohibitory orders u/s 144 Cr.P.C. promulgated and launching Satyagrah at Lakhisarai Railway Station to disrupt Railway communication etc. and are indulging in other overt etc. which may lead to serious breach of the peace within the limit of my jurisdiction.

I, therefore, u/s 107 Cr.P.C., do hereby order the above named Sri Madhu Limaye (M.P.) and 115 others to appear before me on 20th November, 1968 at 10-30 A.M. in person and to show cause as to why each of them should not be ordered to execute a bond of Rs. 1,000 with two surities of the like amount each to keep peace for a period of one year.

Given under my signature
and seal of this court.

11-11-1968.

(Sd.) Illegible.
11-11-1968.

*Sub-Divisional Magistrate,
Sadar, Monghyr.*

SEAL

आज 14-11-68 को सबेरे

10.45 को प्राप्त हुआ।

—मधु लिमये

अभिप्रमाणित

ह०

सहायक कारापाल

केन्द्रीय कारा,

भागलपुर ।

ANNEXURE 12 TO APPENDIX I

Show cause under 144 I.P.C.

In the court of Sub-Divisional Magistrate, Monghyr, Case No. 681M2 of 1968 State Vs. Sri Madhu Limaye, M.P. and others.

Whereas it appears from the report of officer Incharge, G.R.P.S., Kiul that there was a lawfully promulgated prohibitory order u/s 144 Cr.P.C. prohibiting assembly of five or more persons within the limits 100 yards of Kiul and Lakhisarai Rly. Stations for a period of one week commencing from 5th November 1968 but in defiance of the said prohibitory order, you Sri Madhu Limaye (M.P.), entered into Lakhisarai Rly. Station premises in a batch of procession between 09-15 hours to 16-30 hours on 6th November, 1968 shouting anti-Rly. slogans with a view to disrupt the Rly. communication and the normal functioning of the Rlys. thereby causing obstruction, annoyance and injury to the Rly. employees and the Rly. passengers.

You, therefore, are called upon to show cause by 20th November 1968 at 10-30 A.M. in my court as to why you should not be prosecuted u/s 188 I.P.C.

(Sd.) Illegible.

11-11-1968.

*Sub-Divisional Magistrate,
Sadar, Monghyr.*

SEAL

आज 14-11-68 को सबेरे 10.45
को प्राप्त हुआ ।

—मधु लिमये

अभिप्रमाणित

ह०-सहायक कारापाल

केन्द्रीय कारा, भागलपुर ।

ANNXURE 13 TO APPENDIX I

Show Cause under 144.

In the court of Sub-Divisional Magistrate, Sadar, Monghyr. Case No. 683M2 of 1968. u/s 188 I.P.C. State Vs. Kapildeo Shastri and others.

Whereas it appears from the report of the officer Incharge, G.R.P.S. Kiul that there was a lawfully promulgated prohibitory order u/s 144 Cr.P.C. prohibiting assemblage of five or more persons within the limits of 100 yards of Kiul or Lakhisarai Railway Stations for a period of one week commencing from 5th November, 1968 but in defiance of the said prohibitory order, you Shri Kapildeo Shastri, s/o Rup Narayan Singh of Rampur, P.S. Suryagarha, (2) Kapildeo Singh, s/o Shri Lakhan Singh of Barahiya, P.S. Barahiya, (3) Shri Madhu Limaye, M.P. knowingly held and addressed a public meeting at the Railway Ground at Lakhisarai within the prohibited area between 16-30 hours and 18-30 hours on 5th November, 1968 in a provocative language and exhorted the public to offer satyagraha at Lakhisarai Railway Station and to disrupt the Railway communication and obstruction or normal functioning of the Railways at Lakhisarai.

You, therefore, are called upon to show cause by 20th November 1968 at 10-30 A.M. in my court as to why you should not be prosecuted u/s 188 I.P.C.

(Sd.) Illegible.

Sadar, Sub-Divisional Magistrate,
Monghyr.

Seal of the
Court.

आज १४-११-६८ को सबेरे

१०.४५ को प्राप्त हुआ ।

—मधु लिमये

ANNEXURE 14(a) TO APPENDIX I

LOK SABHA

BULLETIN—PART II

◀General Information relating to Parliamentary and other matters)

Friday, November 8, 1968/Kartika 17, 1890 (Saka)

No. 882

Arrest of Shri Madhu Limaye

The following telegram, addressed to the Speaker, Lok Sabha, was received on the 7th November, 1968:—

“Monghyr,

Dated the 6th November, 1968.

This morning at 9 A.M. Shri Madhu Limaye, Member, Lok Sabha, along with 44 others arrested at Lakhisarai Railway Station in connection with violation of orders under Section 144 Cr. P.C.

Collector.”

S. L. SHAKDHER,
Secretary.

ANNEXURE 14(b) TO APPENDIX I

LOK SABHA

BULLETIN—PART II

(General Information relating to Parliamentary and other matters)

Monday, November 11, 1968/Kartika 20, 1890 (Saka)

No. 886

Custody of Shri Madhu Limaye

The following wireless message, addressed to the Speaker, Lok Sabha, was received on the 10th November, 1968:—

“Bhagalpur,

Dated the 10th November, 1968.

This is to inform the honourable Speaker, Lok Sabha, New Delhi that Shri Madhu Limaye, Member, Lok Sabha, has been received in this Jail on the 9th November, 1968 under the warrant for intermediate custody (Section 344 Cr. P.C.) and is charged under Section 151/107/117 (3) Cr. P.C., by the S.D.O., Monghyr.

Superintendent, Central Jail,

Bhagalpur (Bihar).”

S. L. SHAKDHER,

Secretary.

ANNEXURE 15 TO APPENDIX I

Statement on the detention of Shri Madhu Limaye and Shri Arjun Singh Bhadoria.

Mr. Speaker, Sir,

The State Government of Uttar Pradesh have reported that Shri Arjun Singh Bhadoria was arrested on September 12, 1968 in connection with the incidents arising out of the demonstration in front of the Bakewar Police Station in District Etawah. A case under sections 147/148/149/307/437/326/332 I.P.C. was registered and he was remanded to judicial custody. He moved an application for bail in the Court of Additional District Magistrate (Judicial), Etawah, which was rejected. A revision petition was moved in the Court of Sessions Judge which had already been rejected. It is understood that Shri Bhadoria has moved the High Court in connection with his bail application. No orders are reported to have been passed so far.

As regards Shri Madhu Limaye, according to information furnished by the State Government, he was arrested under the direction of a magistrate on duty on November 6, 1968 at Lakhisarai under Section 151/107, Cr. P.C. and Section 188, I.P.C. He was produced before the Sub-Divisional Magistrate, Monghyr the same day, and on his refusal to furnish a bond, he was remanded to judicial custody. It is understood that Shri Limaye has filed a *habeas corpus* petition before the Supreme Court.

ANNEXURE 16 TO APPENDIX I

No. D5043/68/SCCR

SUPREME COURT

INDIA

From

Shri R. Narasimhan, B.Sc., LL.B.,
Assistant Registrar,
Supreme Court of India.

To

The Law Secretary
to the Government of Bihar,
Patna.

Dated, New Delhi, the November 25, 1968.

In the matter of:

WRIT PETITION NO. 355 OF 1968

(Under Article 32 of the Constitution of India)

Madhu Limaye and others

Petitioners.

Sir,

I am directed to forward a certified copy of the Order of this Court dated the 25th day of November, 1968 in the Writ Petition above-mentioned.

Please acknowledge receipt.

Yours faithfully,

(Sd.)/- R. Narasimhan.
Assistant Registrar.

Encl: 1.

Copy with a certified copy of Order to:

1. Shri Madhu Limaye, 6, Rakabganj Road, New Delhi.
2. Shri Jadubans Singh, c/o Shri Madhu Limaye, 6, Rakabganj Road, New Delhi.

Encl: 1.

Copy to:

Shri D. Goburdhan, Advocate, Supreme Court, New Delhi.

(Sd.)/- R.K.

R.G. 25/11/68.

Assistant Registrar.

IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION

Certified to be a true
copy

(Sd.)/-

Assistant Registrar (Judl).

25-11-68

Supreme Court of India.

WRIT PETITION NO. 355 of 1968

(Petition under Article 32 of the
Constitution)

In the matter of:

MADHU LIMAYE AND 47 OTHERS

Petitioners

25th day of November, 1968.

Coram:

Hon'ble Mr. Justice J. C. Shah.

Hon'ble Mr. Justice V. Ramaswami.

Hon'ble Mr. Justice A. N. Grover.

M/s Madhu Limaye and Jadubans Singh Petitioners present *in person*.

For the State of Bihar:

Mr. Lal Narayan Sinha,
Advocate General for the
State of Bihar
(Mr. D. Goburdhan,
Advocate with him)

THE WRIT PETITION above-mentioned being called on for hearing before this court on the 25th day of November, 1968 UPON hearing M/s Madhu Limaye and Jadubans Singh petitioners in person and counsel for the State of Bihar and on M/s Madhu Limaye and Jadubans Singh petitioners undertaking to the Court to remain present on Monday the 2nd December, 1968 at 10-30 A.M. THIS COURT DOTH RECORD the said undertaking and doth release them from custody for the present AND THIS COURT DOTH MAKE THE FOLLOWING FURTHER ORDER:

'On Mr. Limaye and Mr. Jadubans Singh giving an undertaking to this Court to remain present on Monday next, 2nd day of December, 1968 at 10-30 A.M. the proceedings to remain adjourned till 2nd December, 1968. The Advocate-General for the State of Bihar undertakes to produce the relevant documents in connection with recording of the first information report, the investigation made, the report made to the Magistrate and the order sheet of the Magistrate and any orders which the Magistrate may have passed for further remand of the two petitioners on the 20th November, 1968. The Advocate-General to get the original records also.'

AND THIS COURT DOTH FURTHER ORDER THAT THIS ORDER BE punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Mr. Mohammad Hidayatullah, Chief Justice of India at the Supreme Court, New Delhi this the 25th day of November, 1968.

(Sd.)/- M. P. Saxena,
Deputy Registrar.

SUPREME COURT

ORIGINAL JURISDICTION

Seal

WRIT PETITION NO. 355 OF 1968

(Under Article 32 of the Constitution)

Madhu Limaye and other Petitioners.

Versus

Order releasing Madhu Limaye and Jadubans Singh for the present and adjourning the matter dated this the 25th day of November, 1968.

Shri D. Goburdhan,

Advocate on Record for the State of Bihar

Shri

Advocate for

Engrossed by R.G. 25/11/68

Examined by

Compared with

No. of folios

ANNEXURE 17 to APPENDIX I

(See paras 6 and 20 of Report)

Supreme Court Judgement

IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION
WRIT PETITION No. 355 OF 1968.

In the matter of

Madhu Limaye and others.....Petitioners.

Certified to be a true copy

Sd./-

Assistant Registrar (Judh)
19th December, 1968.

Supreme Court of India.

Judgement

GROVER, J.

Madhu Limaye, Member of Lok Sabha, and several other persons were arrested on November 6, 1968 at Lakhisarai Railway Station near Monghyr. On the same date Madhu Limaye addressed a petition in the form of a letter to this Court under Article 32 of the Constitution mentioning that he along with his companions had been arrested but had not been communicated the reasons or the grounds for arrest. It was stated that the arrested persons had been merely told that the arrests had been made "under sections which were bailable". It was prayed that a writ of *Habeas Corpus* be issued for restoring liberty as the arrest and detention were illegal. On November 7, 1968, a similar petition was sent from Monghyr jail. The additional fact given was that the arrested persons had been produced before the Sub-Divisional Magistrate who had offered to release them on bail but they had refused to furnish bail. The Magistrate had, thereupon, remanded them to custody upto November 20, 1968. This court issued a *rule nisi* to the Government of Bihar and Supdt. District Jail, Monghyr to produce Madhu Limaye and others whose names were given in the order dated November 12, 1968 on November 25, 1968.

The State of Bihar filed a return but on November 25, 1968 the Court directed the Advocate General of Bihar to produce the relevant documents in connection with the recording of the first infor-

mation report, the investigation made, the report to the Magistrate and order sheet etc. The hearing was adjourned to December 2, 1968.

It is apparent from the documents and papers placed before us that on November 2, 1968, the Sub-Divisional Magistrate Monghyr issued an order under section 144, Cr. P.C. prohibiting assemblage of five or more persons within the limits of 100 yards of Kiul and Lakhisarai Railway Stations for a period of one week from November 5, 1968 to November 12, 1968. According to the report submitted by the Sub-Inspector in-charge of the Government Railway Police Station Kiul to the Sub-Divisional Magistrate, Sadar, Madhu Limaye and others had defied the prohibitory orders issued under section 144 Cr. P.C., by holding and addressing a public meeting at the railway ground at Lakhisarai Railway Station between 4-30 p.m. and 6-30 p.m. on November 5, 1968 and some out of them had exhorted the public in provocative language to offer satyagraha at the Railway Station and to disrupt the railway communications as also to obstruct the normal functioning of the railway offices at Lakhisarai. It was prayed that their prosecution be ordered under section 188, Indian Penal Code. Dharamraj Singh Sub-Inspector entered a report (Sanha) No. 109 on November 6, 1968, in the general diary. It was stated *inter alia* that Madhu Limaye and others took out a procession at 3 O'clock with a flag in violation of the order made under section 144, Cr. P.C. They had entered the Railway Station for launching a strike shouting slogans. This group had been followed by several other groups of persons the last being the 8th group (the names in each group were mentioned). All these persons had been arrested under section 151, Cr. P.C. and had been sent to the Sub-Divisional Magistrate, Sadar, Monghyr. These incidents happened in the presence of Shri Mathur, Magistrate 1st Class, Monghyr, Shri B. N. Singh, Railway Magistrate Kiul etc. It was stated that the report was being submitted "under sections 107 and 117 of the Criminal Procedure Code and under section 188 of the Indian Penal Code". Admittedly no first information report was formally registered on that date which was done on November 19, 1968 at 23.20 hrs. In this report in which the date of occurrence is mentioned as November 6, 1968 it was stated that the accused persons had entered the Railway Station by illegally forming a mob disobeying the order under section 144, Cr. P.C. to disturb the normal functioning of the railways and had committed offences under section 143, I.P.C. and section 122 of the Railways Act.

The State of Bihar has filed a return according to which the circumstances in which the prohibitory order was promulgated under 9—1535 LS

section 144, Cr. P.C., are set out. It was stated that from the leaflets circulated by the Lakhisarai unit of the Samyukta Socialist Party on November 4, 1968, it appeared that the party had decided to hold a public meeting on November 5, 1968 and to launch satyagraha at Lakhisarai on November 6, under the leadership of Madhu Limaye. On November 5, Madhu Limaye and others held a public meeting of about 400 persons at the railway ground in defiance of the order under section 144, Cr. P.C. and exhorted the public to hold satyagraha at Lakhisarai Railway Station on November 6, etc. A report was submitted by the officer-in-charge of the Kiul Government Railway Police Station on November 6, on which the Sub-Divisional Magistrate, Sadar, made an order on November 11, 1968 directing show cause notices to be issued to Madhu Limaye and others as to why action under section 188, Indian Penal Code, should not be taken against them. On November 6, 1968, a procession of about 200 persons of Samyukta Socialist Party led by Madhu Limaye and others came to the main gate of the platform of Lakhisarai Railway Station where a Magistrate, Inspector of Railway Police and Officer-in-charge of Kiul Government Railway Police Station were present. When these persons, in spite of the warning, forcibly entered the platform and violated the order under section 144, Cr. P.C., the Magistrate on duty, Shri K. B. Mathur, directed the police officers present to arrest them. Madhu Limaye and others were arrested and a case was instituted against them. They were produced before the Sub-Divisional Magistrate who, on November 6, remanded them to jail custody till November 20, as they refused to furnish bail bonds. On November 6, another report was submitted by the officer-in-charge, Kiul Government Railway Police Station for the incidents which happened on November 6, 1968. A case had been started on that report and show cause notices had been issued for November 20, 1968 as to why action should not be taken under section 188, I.P.C. It was claimed that Madhu Limaye and others had committed offences under section 188 and under section 143 Penal Code (which is cognizable) by violating the orders made under section 144 Cr. P.C., and by forming unlawful assembly. It was explained that while forwarding the arrested persons the officer-in-charge, by mistake, omitted to mention section 143. It was asserted that the order of remand passed by the Sub-Divisional Magistrate could not be said to be illegal merely because of omission of section 143, Indian Penal Code, in the order sheet when the police report clearly made out a case under that section. It was affirmed that Madhu Limaye and others had not been arrested on November 6, while they were participating in a peaceful satyagraha or that the office-in-charge Kiul purported to arrest all these persons only under sections 151, 107 and 117 of the Cr. P.C.

The annexures attached to the return filed by the State and the documents contained in the original records which were sent for have revealed the following state of affairs. On November 6, the officer-in-charge, Government Railway Police Station Kiul made what is called report (annexure-D) under section 107(3), Cr. P.C. This contained a prayer that Madhu Limaye and 115 others, *vide* list attached, should be bound over under section 107 with an order to furnish *ad-interim* bonds. It was stated under column No. 5 (brief history of the case) that as their acts on November 6, 1968 between 09.15 hrs. and 16.30 hrs. on the Lakhisarai Railway Station were likely to lead to breach of peace and disturb public tranquillity they had been arrested under section 151, Cr. P.C. The same police officer addressed a letter to the Sub-Divisional Magistrate, Sadar, to the following effect :

“I am forwarding herewith the following accused persons (list attached herewith) in custody as they have been arrested u/s 151/107/117(3), Cr. P.C. They may kindly be remanded in jail Hazat for a fortnight by which time report u/s 107/117(3) Cr. P.C. and 188 I.P.C. be routed through proper channel.”

As stated in the return two show cause notices were issued by the Sub-Divisional Magistrate Shri P. P. N. Sahi on November 11, 1968 relating to the incidents on November 5, 1968 and the following day. Madhu Limaye and others were asked to show cause why action should not be taken against them under section 188. On November 19, 1968 another order was made by a different Sub-Divisional Magistrate Shri K. K. Pathak saying that a petition had been filed on behalf of the State in which it was alleged that the accused persons had committed offence under sections 143/448 I.P.C., by forming unlawful assembly with the common object of committing criminal trespass in violation of the duly promulgated order under section 144 Cr. P.C. It was prayed that these persons be summoned for being tried for offences under the aforesaid sections. A show cause notice appears to have been issued on or about November 20, 1968. The remand orders which were passed on November 6 and 20, 1968 were made on the basis that the accused persons had been “arrested and forwarded under custody under sections 151/107/117 Cr. P.C. by Sub-Inspector, Government Railway Police Station, Kiul”.

Madhu Limaye, who has addressed arguments in person, has raised, *inter alia*, the following main contentions:

1. The arrests on November 6, 1968 were illegal inasmuch as it had been effected by Police Officers for offences which were non-cognizable.

2. There was a violation of the mandatory provisions of Art. 22(1) of the Constitution.
3. The orders for remand were bad and vitiated.
4. The arrests were effected for extraneous considerations and were actuated by *mala fides*.

The entire sequence of events from November 5, 1968 onwards is somewhat unusual and has certain features which have not been explained on behalf of the State. In the first place when the arrests were effected by the Sub-Inspector In-charge of Government Railway Police Station on November 6, 1968 the offences for which the arrests were made were not stated to be cognizable. In the various reports etc., to which reference has been made the only offence alleged was one under section 188 I.P.C. which is non-cognizable. On November 6, 1968 apart from the allegation of commission of offences under section 188 the police reports disclose a variety of proceedings which were sought to be taken. Section 151 in all likelihood was invoked for effecting the arrests but proceedings were initiated under section 107 which appears in Chapter VIII of the Cr. P.C. Under that section the Magistrate can require a person about whom information has been received that he is likely to commit a breach of peace, to show cause why he should not be ordered to execute a bond for a period not exceeding one year, for keeping peace. Under section 117, which was also invoked, the Magistrate makes an enquiry as to the truth of an information. But proceedings under section 107 have to follow the procedure laid down in Chapter VIII and arrest cannot be effected unless a Magistrate issued a warrant for that purpose under section 114. Section 151 which has been repeatedly referred to in various documents is meant for arresting without a warrant and without orders from a Magistrate if a police officer knows of a design to commit any cognizable offence and if it appears to him that the commission of such offence cannot be otherwise prevented.

There can be no manner of doubt, and this position has hardly been controverted by Mr. Chagla for the State, that in all the documents which were prepared before November 19, 1968 there was no mention of an offence under section 143 I.P.C. having been committed by Madhu Limaye and other persons who were arrested on November 6, 1968. It is obviously for that reason that no formal first information report was recorded on November 6, 1968 which would have necessarily been done if the police officers effecting arrests had thought of section 143, Indian Penal Code which is a cognizable

offence. No explanation has been furnished on behalf of the State as to why the information which was recorded in the general diary on November 6, was not recorded as an information in cognizable cases under section 154 of the Cr. P.C. There is force in the suggestion of Madhu Limaye that the first information report came to be recorded formally on November 19, 1968 only because the matter had been brought to this court by way of a petition under Article 32 of the Constitution and after a *rule nisi* had been issued and a petition under Article 226 had been filed in the Patna High Court. The authorities then realised that they had been completely oblivious of the true position that arrests could not have been effected for a non-cognizable offence made punishable under section 188, Indian Penal Code or for taking proceedings under section 107, Cr. P.C. Under section 151 Cr. P. Code the police officer could have arrested without a warrant but Mr. Chagla has not sought justification for the arrests under that provision. He had pointed out that a prohibitory, order had been issued under section 144 which had been defied by Madhu Limaye and the other persons and therefore an offence had been committed under section 143 I.P.C. The mere omission, he says, to mention a section cannot affect the legality or validity of the proceedings. Mr. Chagla has also laid a great deal of emphasis on the statement in the return that when Madhu Limaye and others were arrested they had violated the orders under section 144, Cr. P.C. and the Magistrate on duty Shri K. B. Mathur directed the police officers present to arrest them. The return is supported by an affidavit of Shri S. C. Prasad, Magistrate Ist Class, Monghyr according to whom the contents of para. 6 in which this statement occurs were true to his knowledge. It is somewhat surprising that the affidavit of Shri K. B. Mathur has not been filed who would have deposed to all that happened in his presence and the reasons for ordering the arrests. It is most unusual and extraordinary that in spite of arrests having been ordered by the Magistrate there is not one word in any of the papers or documents which have been produced relating to this fact. The least that was expected was that there would have been some mention of the order in the detailed statement entered in the General Diary by the Sub-Inspector in-charge Kiul Police Station on November 6, on the basis of which a formal first information report was registered on November 19, 1968. There, however, only the presence of certain officers and other persons including Shri Mathur is noted. It would be legitimate to conclude that the arrest of Madhu Limaye and his companions was effected by the police officers concerned without any specific orders or directions of a Magistrate on November 6, 1968 for the offences and the proceedings mentioned before in the various reports made prior to November 19, 1968.

The submission of Madhu Limaye on the second point has hardly been effectively met on behalf of the State. Article 22(1) provides that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and be defended by a legal practitioner of his choice. Madhu Limaye had, in his petitions addressed to this court, made a positive assertion that he and his companions had not been informed of the grounds for their arrest. In the return filed by the State this assertion has neither been controverted nor has anything been stated with reference to it. It appears that the authorities wanted to invoke all kinds of provisions like sections 151, 107/117 of the Cr. P.C. apart from section 188 of the Indian Penal Code. Since no arrest could be effected for an offence under section 188 by the police officers without proper orders these officers may have been naturally reluctant to comply with the mandatory requirements of Article 22(1) by giving the necessary information. At any rate, whatever the reasons, it has not been explained even during the course of arguments before us why the arrested persons were not told the reasons for their arrest or of the offences for which they had been taken into custody.

Art. 22(1) embodies a rule which has always been regarded as vital and fundamental for safeguarding personal liberty in all legal systems where the Rule of Law prevails. For example, the 6th Amendment to the Constitution of the United States of America contains similar provisions and so does Art. XXXIV of the Japanese Constitution of 1946. In England whenever an arrest is made without a warrant, the arrested person has a right to be informed not only that he is being arrested but also of the reasons or grounds for the arrest. The House of Lords in *Christie & Another¹ v. Leachinsky* went into the origin and development of this rule. In the words of Viscount Simon if a policeman who entertained a reasonable suspicion that X had committed a felony were at liberty to arrest him and march him off to a police station without giving any explanation of why he was doing this, the *prima facie* right of personal liberty would be gravely infringed. Viscount Simon laid down several propositions which were not meant to be exhaustive. For our purposes we may refer to the first and the third:

1. If a policeman arrests without warrant upon reasonable suspicion of felony, or of other crime of a sort which does not require a warrant he must in ordinary circumstances inform the person arrested of the true ground of arrest. He is not entitled to keep the reason to himself or to give a

1. (1947) 1 All. E.L.R. 567.

reason which is not the true reason. In other words, a citizen is entitled to know on what charge or on suspicion of what crime he is seized.

2.

3. The requirement that the person arrested should be informed of the reason why he is seized naturally does not exist if the circumstances are such that he must know the general nature of the alleged offence for which he is detained."

Lord Simonds gave an illustration of the circumstances where the accused must know why he is being arrested:

"There is no need to explain the reasons of arrest if the arrested man is caught red-handed and the crime is patent to high Heaven."

The two requirements of clause (1) of Art. 22 are meant to afford the earliest opportunity to the arrested person to remove any mistake, misapprehension or misunderstanding in the minds of the arresting authority and, also, to know exactly what the accusation against him is so that he can exercise the second right, namely, of consulting a legal practitioner of his choice and to be defended by him. Clause (2) of Art. 22 provides the next and most material safeguard that the arrested person must be produced before a Magistrate within 24 hours of such, arrest so that an independent authority exercising judicial powers may without delay apply its mind to his case. The Criminal Procedure Code contains analogous provisions in sections 60 and 340 but our Constitution makers were anxious to make these safeguards an integral part of fundamental rights. This is what Dr. B. R. Ambedkar said while moving for insertion of Article 15A (as numbered in the draft Bill of the Constitution) which corresponded to present Art. 22:

"Article 15A merely lifts from the provisions of the Criminal Procedure Code two of the most fundamental principles which every civilised country follows as principles of international justice. It is quite true that these two provisions contained in clause (1) and clause (2) are already to be found in the Criminal Procedure Code and thereby probably it might be said that we are really not making any very fundamental change. But we are, as I contend, making a fundamental change because what we are doing by the introduction of article 15A is to put a limitation upon the authority both of Parliament as well as

of the Provincial Legislature not to abrogate these two provisions, because they are now introduced in our Constitution itself."

As stated in *Ram Narayan Singh*² v. *State of Delhi and others* this court has often reiterated that those who feel called upon to deprive other persons of liberty in the discharge of what they conceive to be their duty must, strictly and scrupulously, observe the forms and rules of law. Whenever that is not done the petitioner would be entitled to a writ of *Habeas Corpus* directing his release.

It remains to be seen whether any proper cause has been shown in the return for declining the prayer of Madhu Limaye and other arrested persons for releasing them on the ground that there was non-compliance with the provisions of Art. 22(1) of the Constitution. In *Ram Narayan Singh's*² case it was laid down that the court must have regard to the legality or otherwise of the detention at the time of the return. In the present case the return dated November 20, 1968 was filed before the date of the first hearing after the *rule nisi* had been issued. The return, as already observed, does not contain any information as to when and by whom Madhu Limaye and other arrested persons were informed of the grounds for their arrest. It has not been contended on behalf of the State that the circumstances were such that the arrested persons must have known the general nature of the alleged offences for which they had been arrested; *vide* proposition No. 3 in *Christie & Another*¹ v. *Leachinsky*. Nor has it been suggested that the show cause notices which were issued on November 11, 1968 satisfied the constitutional requirement. Madhu Limaye and others are, therefore, entitled to be released on this ground alone.

Once it is shown that the arrests made by the police officers were illegal, it was necessary for the State to establish that at the stage of remand the Magistrate directed detention in jail custody after applying his mind to all relevant matters. This the State has failed to do. The remand orders are patently routine and appear to have been made mechanically. All that Mr. Chagla has said is that if the arrested persons wanted to challenge their legality the High Court should have been moved under appropriate provisions of the Criminal Procedure Code. But it must be remembered that Madhu Limaye and others have, by moving this court under Art. 32 of the Constitution, complained of detention or confinement in jail without compliance with the constitutional and legal provisions. If their detention in custody could not continue after their arrest because of

¹ E.L.R. 567.

² A.I.R. (1953) S.C. 277.

the violation of Art. 22(1) of the Constitution they were entitled to be released forthwith. The orders of remand are not such as would cure the constitutional infirmities. This disposes of the third contention of Madhu Limaye.

We have been pressed to decide the question of *mala fides* which is the fourth contention of Madhu Limaye. Normally such matters are not gone into by this court in these proceedings and can be more appropriately agitated in such other legal action as he may be advised to institute or take.

We would like to make it clear that we have ordered the release of Madhu Limaye and the other arrested persons with regard to whom *rule nisi* was issued on the sole ground of violation of the provisions of Art. 22(1) of the Constitution. We desire to express no opinion on the legality or illegality of the arrests made on November 6, 1968 of these persons with reference to the first point, namely, that the police officers purported to have effected the arrests for the offences under section 188, Indian Penal Code, and under section 151 as also in respect of proceedings under section 107 of the Cr.P.C., as these matters are *sub-judice*. We may also proceed to add that any expression of opinion or observation in these proceedings shall not affect the course of the enquiry or trial of the arrested persons concerning the occurrences on November 5 and 6, 1968 which may be pending in the courts in the State of Bihar and such proceedings shall be disposed of in accordance with law.

Madhu Limaye and other arrested persons have already been ordered to be released by this Court, and no further directions are necessary in the matter of their being set at liberty.

(Sd.) J. C. SHAH.

(Sd.) V. RAMASWAMI.

(Sd.) A. N. GROVER.

December 18, 1968.

itd.
19/12

(SEAL)

APPENDIX II

(See para 19 of the Report)

(Record of case No. 617M of 1968)

Supplementary Case record.

20-11-1968.

(To be preserved permanently.)

COMBINED TITLE PAGE & FLY-LEAF.

(See Rule 127 of the records Manual, 1911.)

**DEPARTMENT ANUMANDAL DANDADHIKARI,
SADAR MONGHYR.**

Case No. <u>617</u>		of year 1968		of Register no.		
Estate <u>M</u>		Pargana.		Tauzi no.		
Petitioner State.		{ Opposite Party Sri Madhu Limaye and others.				
Under Act <u>151/107</u> Cr. P.C.				of the year.		
<u>117 (3)</u>						
Date of Decision.			Date of receipt in Record room.			
Sl. No.	Description of paper	Date of filing	No. of sheets	Value of stamps	Class of paper	Remarks
1	2	3	4	5	6	7
	Ordgr Sheets .		7 + 1 = 8			
8—	Forwarding Report.		9			
17—19	Prosecution Report		3			
20	Proceeding u/s 107 Cr. P.C.		1			
4	Bail bond .		1			
22—23	Petition and Power .		2	1.50		
24—26	Bail bonds .		3	..		
27	Power		1	1.50		
28	Hazri		1			
29	Letter of Central Jail, Monghyr .		1			
30	Letter of Sub-divisional Officer, Monghyr		1			

1	2	3	4	5	6	7
31	Letter of Supdt. Central Jail, Bha- galpur		1			
32—34	Letters of Sub-divisio- nal Magistrate, Sadar Monghyr.		3			
35	Letter of Supdt. Jail, Monghyr .		1			
36	Receipt		1			
37	S/Roy Proceeding u/s 107 Cr. P. C,		1			
37+1 =38			37+1 =38	3.00		

Supplementary Case record.

(To be preserved permanently.)

COMBINED TITLE PAGE AND FLY LEAF.

(See Rule 127 of the records Manual, 1911.)

Department S.D.M. Sadar, Monghyr.

GRPS KiuI

16 (11) 68.

u/s 143 IPC
122 Rly. Act.

Case No. 617 M	of year 1968	of Register no.
Estate	Pargana	Tauzi no.
Petitioner	Opposite Party.	
State	Sri Madhu Limaye and 115 others.	

Under Act 151/107/117(3) Cr. P. C. of the year

Date of Decision.

Date of receipt in Record Room.

Sl. No.	Description of paper	Date of filing	No. of sheets	Value of stamps	Class of paper	Remarks
1	2	3	4	5	6	7
1—7 8—	Order Sheets .		7			

ORDER SHEET

Case No. 617 M of 1968.

State Vs. Madhu Limaye, M.P., and others.

6-11-68.

The following persons have been arrested and forwarded under custody u/s 151/107/117 (3), Cr. P.C. by the Officer Incharge G.R.P.S. Kiul, Camp, Lakhisarai, Monghyr.

They do not complain any ill treatment against the escorting party.

They are remained to jail hajat till 20-11-68 in default bail of Rs. 1,000/- (one thousand) each with two sureties of the like amount.

The O.Ps. have refused furnishing bail bonds.

1. Sri Madhu Limaye, M.P.
2. Sri Kapildeo Singh, s/o Lakhan Singh of Barhaiya.
3. Sri Ramakant Singh, s/o Ramautar Pd. Singh of Chandanpur, P.S. Lakhisarai.
4. Sri Balmiki Saksti, s/o Gora Lal Singh of Kaithama, P.S. Ariai.
5. Sri Dhanu Yadav, s/o Shankar Yadav of Lakhochak, PS Lakhisarai.
6. Sri Jugal Yadav, s/o Tilakdhari Yadav of Singhchak, PS Lakhisarai.
7. Sri Bindeshwari Modi, s/o Ganga Modi of Lakhochak, PS Lakhisarai.
8. Sri Rajendra Singh, s/o Bhisoo Singh of Bhabhangawa, PS Lakhisarai.
9. Sri Bamo Manjhi, s/o Sri Kartik Manjhi of Amahra, Lakhisarai.
10. Sri Kishori Pd. Verma, s/o Rama Prasad Verma of Mansorchak.
11. Sri Saudagar Sah, s/o Kali Sah of Tilokhar, PS Lakhisarai.
12. Sri Dargahi Yadav, s/o Mangal Yadav of Puranibazar.
13. Sri Ramdeo Singh Yadav, s/o Govind Singh Yadav of Khoja Bazar, PS Town, Monghyr.
14. Sri Alsuddin Badsah, s/o Md. Jan of Gulzarpokhar, Monghyr.
15. Sri Rajniti Pd., s/o Govind Pd. of Garden Bazar, Monghyr.

16. Sri Parmanand Pd. Singh, s/o Bindeshwari Pd. Singh of Patner, PS Lakhisarai.
17. Sri Gurucharan Singh, s/o Bhubneshwar Pd. Singh of Patner, PS Lakhisarai.
18. Sri Umakant Singh, s/o Chandrika Pd. Singh of Bhhhangawa.
19. Sri Ram Khelawan Yadav, s/o Chetan Yadav of Marms.
20. Sri Maheshwari Pd. Singh, s/o Rajan Singh of Sirari, PS Sheikhpura.
21. Sri Ram Pd. Drolia, s/o Parshottam Das Drolia of Purani Bazar, Lakhisarai.
22. Sri Rajendra Pd. Khetan, s/o Hanuman Pd. Khetan of Purani Bazar.
23. Sri Rabindra Kumar Drollia, s/o Ghani Ram Drollia of Purani Bazar, Lakhisarai.
24. Sri Kishori Pd. Chaurasia, s/o Bhola Mahton of Tarapur.
25. Sri Jugal Kishore Singh, s/o Huro Singh of Mahabirpur, PS Barhaiya.
26. Sri Shayam Sundar Singh, s/o Bindeshwari Singh of Lodia, PS Lakhisarai.
27. Sri Kapildeo Singh, s/o Dwarika Singh of Keshopur, Lakhisarai.
28. Sri Kamaleshwari Pd. Singh, s/o Ramdhan Singh of Salauna Choukhi.
29. Sri Ramautar Singh, s/o Suader Singh of Rampur, PS Surajgarha.
30. Sri M. Alam, s/o Fakir Mohammad of Balgudar PS Lakhisarai.
31. Sri Jadubans Singh, s/o Sarjug Pd. Singh of Petner, PS Lakhisarai.
32. Sri Jageshwar Pd. Singh, s/o Badudeo Singh of Petner, PS Lakhisarai.
33. Sri Nageshwar Singh, s/o Lakhan Singh of Pataura, PS Lakhisarai.
34. Sri Ganesh Pd., s/o Baldeo Ram of Kiul, PS Lakhisarai.
35. Sri Rupan Manjhi, s/o Saukhi Manjhi of Patner, PS Lakhisarai.
36. Sri Rito Bhuiya, s/o Jhari Bhuiya of Patner, PS Lakhisarai.
37. Sri Naresh Singh, s/o Kunjo Singh of Lidsi, PS Lakhisarai.
38. Sri Sidheshwar Pandey, s/o Jagat Narain Pandey of Rampur, PS Surajgarha.
39. Sri Krishnandan Singh, s/o Bhojal Singh of Rehwa, PS Lakhisarai.

40. Sri Chanchum Singh, s/o Bhagwat Singh of Lodia, PS Lakhisarai.
41. Sri Jai Ram Singh, s/o Ramrup Singh of Lodia, PS Lakhisarai.
42. Sri Ram Saran Yadav, s/o Balo Yadav of Rahua, PS Lakhisarai.
43. Sri Ram Das, s/o Sri Naurangi Sao of Chakandra, PS Ariari.
44. Sri Chendrika Singh, s/o Jago Singh of Saleuna Chak, PS Lakhisarai.
45. Sri Surendra Singh, s/o Deo Nath Singh of Patner, PS Lakhisarai, Monghyr.
46. Sri Ramautar Mandal, s/o Khopri Mandal of Kiul Basti, PS Lakhisarai.

Dictated & corrected.

(Sd.)/-S. C. Prasad.

S.D.M.

(Sd.)/- S. C. PRASAD.

S.D.M.

6-11-68

7-11-68

4 A.M.

The following persons have been arrested and forwarded under custody u/s 151/107/117(3), Cr. P.C. by the S.I.G.R.P. Kiul Camp., Lakhisarai, Monghyr.

They do not complain of any ill treatment against the escorting party.

They are remanded to jail hajat till 20-11-68 in default of bail of Rs. 1,000/- each with two surities of the total amount each of by which them the report u/s 107/117(3), Cr. P.C. and 188 I.P.C. are expected.

1. Sri Anil Kumar, s/o Anirudh Pd. Singh at & PS Barhaiya, Monghyr.
2. Sri Sahdeo Pd. Singh, s/o Haribansh Pd. Singh of Barhaiya, PS Barhaiya.
3. Sri Siya Ram Yadav, s/o Kailu Yadav of village Barhaiya, Monghyr.
4. Sri Jai Narain Singh, s/o Ram Kishun Singh of Babhangama, PS Lakhisarai.
5. Sri Kailu Yadav, s/o Garho Yadav Jainagar Kabaiya Naya Bazar, Lakhisarai.

6. Sri Bhola Manjhi, s/o Bhodo Manjhi of Sansar Pokhar, PS Lakhisarai.
7. Sri Balmiki Manjhi, s/o Narayan Manjhi of Sansar Pokhar PS Lakhisarai.
8. Sri Kailu Manjhi, s/o Asho Manjhi of Sansar Pokhar, PS Lakhisarai.
9. Sri Kesar Mandal, s/o Barho Mandal of Naya Tola, Purani Bazar, Lakhisarai.
10. Sri Balmiki Singh, s/o Ram Gulam Singh of Rajanra Chaukhi, PS Lakhisarai.
11. Sri Ganesh Prasad, s/o Sita Ram of Naya Bazar, PS Lakhisarai.
12. Sri Mahesh Kumar, s/o Mahendra Pd. of Naya Bazar, PS Lakhisarai.
13. Sri Sarjug Singh, s/o Lakhan Singh of Babhangama PS Lakhisarai.
14. Sri Surendra Pd. Singh, s/o Nand Kishore Singh of Lakhisarai Kabaiya, PS Lakhisarai.
15. Sri Jai Kumar Pd., s/o Lakshmi Pd. of Naya Bazar, Lakhisarai.
16. Sri Shanker Pd., s/o Kameshwar Pd. of Naya Bazar, Lakhisarai.
17. Sri Shanker Paswan, s/o Kamdhani Paswan of Lakhisarai English.
18. Sri Shiv Manjhi, s/o Barbo Manjhi of Sansar Pokhar, Lakhisarai.
19. Sri Uttam Pd. Sao, s/o Khabhar Sao of Kharra, PS Surajgarha.
20. Sri Sarjug Pd. Modi, s/o Garho Modi of Arma, PS Surajgarha.
21. Sri Ramshray Singh, s/o Kameshwar Pd. Singh of Khutaha, PS Barhaiya.
22. Sri Ram Balak Singh, s/o Bishwanath Singh of Khutaha, PS Barhaiya.
23. Sri Radhey Shyam Singh, s/o Jagdambi Singh of Rahua, PS Lakhisarai.
24. Sri Gita Pd. Singh, s/o Ajodhya Singh of Rahua, PS Lakhisarai.
25. Sri Mahabir Pd. Arya, s/o Banshi Ram of Naya Bazar, Lakhisarai.
26. Sri Jagdish Pd. Singh, s/o Parbhu Sao of Jainagar Kabaiya, PS Lakhisarai.
27. Sri Sonu Yadav, s/o Rohan Yadav of Jainagar Kawaiya, PS Lakhisarai.
28. Sri Dwarika Pd. Mishra, s/o Rameshwar Pd. Mishra of Jainagar Kabaiya, PS Lakhisarai.

29. Sri Baiju Sah, s/o Karu Sah of Sansar Pokhar, Lakhisarai.
30. Sri Ganesh Pd., s/o Ramchandra of Aryasamaj Mohalla, Lakhisarai.
31. Sri Dayanand Kumar Sao, s/o Ramrup Sao of Kishanpur, PS Surajgarha.
32. Sri Ram Naresh Pd. Singh, s/o Raghunandan Pd. Singh of Sadikpur, Lakhisarai.
33. Sri Bachan Singh, s/o Sheo Singh of Rehua, PS Lakhisarai.
34. Sri Balmiki Singh, s/o Kuldip Singh of Rehua, PS Lakhisarai.
35. Sri Garib Sao, s/o Gulab Sao of Rehua, PS Lakhisarai.
36. Sri Kapildeo Shastri, s/o Rup Narayan Singh of Rampur, PS Surajgarha.
37. Sri Ram Bahadur Singh, s/o Sita Saran Singh of Rampur, PS Surajgarha.
38. Sri Harinandan Singh, s/o Firangi Singh of Khojagachi, PS Barbiga.
39. Sri Sri Sheo Nandan Singh, s/o Lal Bihari Singh of Chitaura, PS Sheikhpura.
40. Sri Chandramani Yadav, s/o Lalji Yadav of Gohri, PS Lakhisarai.
41. Sri Indrajit Pal, s/o Sashidhar Pal of Lakhisarai.
42. Sri Brahmdeo Choudhary, s/o Kishun Choudhary of Lakhisarai.
43. Sri Surendra Yadav, s/o Prayag Pd. Yadav of Gorhi, PS Lakhisarai.
44. Sri Sukhdeo Yadav, s/o Ramsewak Yadav of Gorhi, PS Lakhisarai.
45. Sri Ram Nandan Singh, s/o Ramrup Singh of Kiul, PS Lakhisarai.
46. Sri Krishnadeo Mandal, s/o Kosaik Mandal of Kiul, PS Lakhisarai.
47. Sri Indradeo Yadav, s/o Ramrup Yadav of Gorhi, PS Lakhisarai.
48. Sri Deo Prakash Ram, s/o Ram Prasad Ram of Gorhi, PS Lakhisarai.
49. Sri Baijnath Tamoli, s/o Gaya Tamoli of Kiul, PS Lakhisarai.
50. Sri Bachho Sardar, s/o Khartar Mandal of Kiul, PS Lakhisarai.
51. Sri Prabhu Datt Sahu, s/o Jalim Sao of Damodarpur, PS Lakhisarai.
52. Sri Jugal Kishor Pandey, s/o Hardeo Pande of Lodia, PS Lakhisarai.

53. Sri Kokai Paswan, s/o Lattan Paswan of Lodia, PS Lakhisarai.
54. Sri Raja Ram Gupta, s/o Bhado Sao of Naya Bazar, PS Lakhisarai.
55. Sri Davendra Pd. Sao, s/o Anandi Sao of Naya Bazar, PS Lakhisarai.
56. Sri Hansraj Paswan, s/o Barho Paswan of Makuna, PS Lakhisarai.
57. Sri Ramdeo Yadav, s/o Chottu Yadav of Kabaiya, PS Lakhisarai.
58. Sri Doman Pd., s/o Jago Mahton of Kabaiya, PS Lakhisarai.
59. Sri Ramchandra Yadav, s/o Bharosi Yadav of Kabaiya, PS Lakhisarai.
60. Sri Kishun Manjhi, s/o Dwarika Manjhi of Sansar Pokhar, PS Lakhisarai.
61. Sri Lalo Mandal, s/o Mahto Mandal of Kabaiya, PS Lakhisarai.
62. Sri Payare Yadav, s/o Mahto Yadav of Kabaiya, PS Lakhisarai.
63. Sri Kilo Manjhi, s/o Meghu Manjhi of Sansar Pokhar, PS Lakhisarai.
64. Sri Niranjan Kumar Verma, s/o Mathura Pd. Verma of Purani Bazar, Lakhisarai.
65. Sri Sailendra Pd., s/o Baldeo Pd. of Purani Bazar, Lakhisarai.
66. Sri Surendra Prasad, s/o Dayanand of English, Lakhisarai.
67. Sri Udai Paswan, s/o Sito Paswan of English, Lakhisarai.
68. Sri Surendra Pd., s/o Deoki Nandan of Naya Bazar, Lakhisarai.
69. Sri Medni Paswan, s/o Jhisal Paswan of Gartola, PS Lakhisarai.
70. Sri Dasrath Pd., s/o Banwari Ram of Mathuri, PS Sheikhpura.

Dictated & corrected

(Sd.) S. C. Prasad.

S.D.M.

(Sd.)/- S. C. PRAŚAD.

S.D.M.

7-11-68

8-11-68.

Bail bond on behalf of Chandrika Singh has been filed which is accepted.

Issue R.O.

(Sd.)/- S. C. PRASAD.

8-11-68.

S.D.M.

9-11-68.

The Jail Supdt., Monghyr has sent a letter requesting therein permission for sending the persons arrested in the case and lodged in the district jail to Bhagalpur Special central and central jail for the sake of convenience, health and security in the jail as it is overcrowded. The Jail Supdt. has obtained the permission of the Asstt. I.G. of Prisons. The permission for transfer is given.

As regard trans. vehicle the Depot Supdt. B.R.S.T.C., Mongh should be requested to reserve three buses for 9-11-68.

(Sd.)/- S. C. PRASAD.

9-11-68.

S.D.M.

11th November, 1968.

Perused the report of the officer incharge, G.R.P.S. Kuil, which has been received through I.R.P.J.A.J. for taking action u/s 107 Cr.P.C. 117(iii) Cr.P.C. against the members of the second parties.

I am satisfied that there is apprehension of the breach of the peace at the hands of the members of the second parties.

I, therefore, draw up proceeding u/s 107 Cr.P.C. against the members of the second parties.

Members of the second parties are directed to appear in this court on 20th November, 1968 at 10-30 A.M. and file show cause as to why they should not be ordered to execute a bond of Rs. 1,000 (Rupees one thousand) each with two surities of the like amount each to keep peace for the period of one year.

Dictated and corrected

(Sd.)/- P. P. N. SAHI.

11-11-1968.

S.D.M.

(Sd.)/- P. P. N. SAHI.

11-11-1968.

S.D.M.

13th November, 1968.

Bail Bonds have been furnished on behalf of following accused persons: —

1. Kamleshwar Singh.
2. Kapildeo Singh, s/o Dwarika Singh.
3. Yugal Kishore Pandey.

Bail bonds are accepted. Issue R.O. through special messenger.

(Sd.)/- K. K. PATHAK,

13-11-1968.

S.D.M.

13th November, 1968.

Perused letter No. 2000 dated 13th November, 1968 of Supdt. District Jail, Monghyr regarding periodical remand of under-trial prisoners before S.D.O., Sadar, Bhagalpur.

Start supplementary record and send it to the S.D.M., Sadar, Bhagalpur, with a request to direct Supdt. of Central Jail, Bhagalpur to produce 115 U.T. prisoners before his on the date fixed for periodical remand.

Dictated and corrected

(Sd.)/- P. P. N. SAHI.

(Sd.)/- P. P. N. SAHI.

13-11-1968.

13-11-1968.

S.D.M.

S.D.M.

17th November, 1968.

Perused wireless No. 5184, dated 16th November, 1968 from Supdt. Central Jail, Bhagalpur seeking instructions therein regarding production of Shri Madhu Limaye, M.P. before High Court, Patna since Sri Limaye wants to organe his case there. Since the Supdt. has sought instruction by wireless, send the same directing therein that Sri Limaye be produced before High Court on 19th November, 1968. The Supdt. be further directed to ensure his production before S.D.M., Monghyr on 20th November, 1968.

Put up in this date.

(Sd.)/- Illegible.

17-11-1968.

S.D.M.

18th November, 1968.

Bail bond has been furnished on behalf of accused Indradeo Prasad Yadav which is accepted. Issue R.O. through Special messenger at once.

(Sd.)/- Illegible.

18-11-1968.

20th November, 1968.

One hundred and ten accused persons produced from Central Jail, Bhagalpur, 5 P.M. are on bail who file hajri. S/R of proceeding received after proper service.

A petition has been filed on behalf of all ops. that a humble time may be allowed to file show-cause. Time allowed for a week. Put up on 28th November, 1968. Another petition filed on behalf of Yadubans Singh, Kapildeo Singh and Harinandan Singh for providing higher class. They are allowed to be free in B Division. Inform Jail Supdt. Accused persons are remanded as before.

(Sd.)/- Illegible.

20-11-1968.

20th November, 1968.

Bail bonds of Rs. 1,000 each with two surities of the like amount each have been furnished on behalf of following ops.

1. Ram Khelawan Yadav.
2. Naresh Prasad Singh.
3. Dashrath Prasad Maheri.
4. Shiv Nandan Singh.
5. Ram Das.
6. Dayanand Sah.
7. Ram Naresh Singh.
8. Prabhu Datta Sao.
9. Anil Kumar.
10. Sri Rito Bheriyar.
11. Ramautar Mandal.
12. Radhey Shyam Singh.
13. Hansraj Paswan.
14. Krishna Mandal.

15. Surendra Yadav.
16. Sukhdeo Yadav.
17. Shyam Sunder Pd. Singh.
18. Krishna Manjhi.
19. Rupan Manjhi.
20. Rabindra Drolia.
21. Ram Prasad Drolia.
22. Rajendra Pd. Khetan.
23. Kailu Manjhi.
24. Balmiki Singh.
25. Balmiki Manjhi.
26. Chun Chun Singh.
27. Mahabir Pd. Arya.
28. Krishna Nand Singh.
29. Nageshwar Singh.
30. Koiya Paswan.
31. Udai Paswan.
32. Jgeshwar Singh.
33. Uttam Pd. Sao.
34. Ram Nandan Singh.
35. Ramautar Singh.
36. Indrajeet Pal.
37. Ram Bahadur Singh.
38. Singheshwar Pandey.
39. Ramakant Singh.
40. Sonu Yadav.
41. Deo Prakash Ram.
42. Nindeshwari Modi.
43. Jugal Yadav.
44. Dhannu Yadav.
45. Chandra Mani Yadav.
46. Garib Sao.
47. Siya Ram Yadav.
48. Bachhan Singh.
49. Ram Sharan Yadav.
50. Balmiki Shastri.

51. Ramashray Singh.
52. Sahdeo Singh.
53. Ram Balak Singh.
54. Ganesh Prasad.
55. Saudagar Sah.
56. Ganesh Prasad, s/o Baldeo Singh.
57. Shibu Manjhi.
58. Surendra Singh.
59. Ram Chandra Yadav.
60. Maheshwari Pd. Singh.
61. Pramanand Singh.
62. Jai Ram Singh.
63. Rajendra Singh.
64. Keshar Mandal.
65. Darbahi Yadav.
66. Shankar Paswan.
67. Jai Kumar Prasad.
68. Kishori Pd. Verma.
69. Bholi Manjhi.
70. Bachhu Sardar.
71. Pyare Yadav.
72. Ramdeo Yadav.
73. Surendra Prasad.
74. Doman Prasad.
75. Jagdish Prasad.
76. Ramdeo Yadav.
77. Alla-uddin Badshah.
78. Raja Ram Gupta.

Bail bonds are accepted.

Issue R.O.

(Sd.)/- Illegible.

S.D.M.

20-11-1968.

Later 9-45 P.M.

Sri Madhu Limaye, M.P., has been brought under escort. He has filed a petition that he has to appear again before the High Court on 21st November 1968 at 2 P.M. A letter to this effect has been sent by Superintendent, Central Jail, Patna under his No. 3714, dated 20th November 1968. He is allowed to appear before the High Court on 21st November 1968. A further prayer has been made by the Superintendent, Central Jail, Patna to send him back to Patna by the same escort party. Prayer is allowed.

One petition has been filed by Shri Kapildeo Singh, Ex-M.L.A. that he also wants to appear before the High Court on 21st November 1968. His prayer is also allowed. Intimate Superintendent, Central Jail, Patna accordingly. He may be asked to produce Sri Limaye on 28th November 1968 before his Court at 10-30 A.M. and send back Sri Kapildeo Singh to Monghyr Jail on 23rd November 1968. Accused as before.

(Sd.)/- Illegible.

20-11-1968.

21st November, 1968.

Bail Bonds of Rs. 1,000 each with two surities of the like amount each have been furnished on behalf of the following OPs.

1. Kishori Prasad Chaurasia.
2. Guru Charan Singh.
3. Rajenti Prasad.
4. Sarjug Prasad Modi.
5. Sailendra Prasad.
6. Jai Narain Singh.
7. Uma Kant Singh.
8. Bano Manjhi.
9. Shanker Prasad.
10. Brahmdeo Choudhary.
11. Md. Abbash (M. Alam).
12. Sarjug Prasad Singh.
13. Kilo Manjhi.
14. Mudani Paswan.
15. Brajnath Thamoli.

16. Dwarika Pd. Mishra.
17. Sita Prasad Singh.
18. Baiju Sah.
19. Surendra Prasad.
20. Niranjan Kumar.
21. Ganesh Prasad.
22. Mahesh Kumar.
23. Lalo Mandal.
24. Devendra Prasad.
25. Surendra Prasad.
26. Kailu Yadav.
27. Balmiki Singh.
28. Jugal Kishore Singh.

Bail bonds are accepted.

Issue R.O.

(Sd.)/- K. K. PATHAK.

21-11-1968.

S.D.M.

21st November, 1968.

The Supdt. of Central Jail, Bhagalpur has intimated by wireless message No. 5232, dated 20th November 1968 that Sri Madhu Limaye and others be produced before the Hon'ble Supreme Court of India, New Delhi on 25th November, 1968 at 10 A.M.

Send wireless to the Central Jail, Patna, District Jail, Monghyr to take immediate action for the production of Sri Madhu Limaye, M.P. and others before the Hon'ble Supreme Court of India, New Delhi on 25th November 1968. Positively also inform the Registrar Supreme Court of India accordingly.

Dictated and corrected.

(Sd.)/- K. K. PATHAK.

S.D.M.

(Sd.)/- K. K. PATHAK.

21-11-1968.

S.D.M.

Later

The Advocate General, Bihar, Patna has desired on a telephone call regarding the remand order passed on 20-11-68 in this case.

Send an extract of order sheet dated 20-11-68 through special messenger today positively.

Sd/- K. K. PATHAK,
S.D.M.

Dictated & corrected.

Sd/- K. K. PATHAK.
S.D.M.

22nd November, 1968.

Seen memo No. 5206 dated 18th November, 1968 received from Supdt. of Central Jail, Bhagalpur for production of under-trial prisoners namely (1) Sri Chandrika Singh (2) Kapildeo Singh (3) Kamleshwari Prasad Singh and (4) Sri Jadubans Singh before the Hon'ble Supreme Court of India, New Delhi on 25-11-68 at 10 A.M. The date fixed for hearing on their writ petition No. 355/68.

From perusal of record it appears that Sri Jadubans Singh is in custody (Monghyr Jail).

Write to Supdt. Dist. Jail Monghyr to arrange for escort party to produce Sri Jadubans Singh before the Hon'ble Supreme Court, New Delhi on 25-11-68 at 10 A.M. positively.

As regards the other three ops, issue notice through Spl. messenger directing the ops. to appear before the Hon'ble Supreme Court of New Delhi on 25th Nov. 1968 at 10 A.M.

Dictated & Corrected.

Sd/- K. K. PATHAK.
S.D.M.

Sd/- K. K. PATHAK.
22-11-68.
S.D.M.

23rd November, 1968.

Bail bond has been furnished on behalf of op. Sri Kapildeo Singh which is accepted.

Issue R.O.

Sd/- K. K. PATHAK.
23-11-68.
S.D.M.

To

The Subdivisional Officer,
Sadar, Monghyr.

SUB:—*Satyagrah at Lakhisarai Rly. Station.*

Sir,

I am forwarding herewith the following accused persons (list attached herewith) in custody as they have been arrested u/s 151/107/117(3) Cr. P. C. This may kindly be remanded in Jail Hazat for a fortnight by which time report u/s 107/117(3) Cr. P. C. and 103 I. P. C. will be routed through proper channel.

(Accd. as per list attached).

Yours faithfully,

Sd./- Illegible.

6-11-66.

O.C.

G. R. P. S. Kiul.
Camp Lakhisarai.

Report u/s 107/117 (iii) Cr. P.C. Kūl G. R. Ps. Non-F.I.R. No. 1/68 and Kūl G. R. P. S. D. N. 1794, dated 6-11-1968.

Name of disputing party	Subject matter of dispute	Parties to be bound down	Name of witnesses	Bf. of history of the case
State Through S. I. D. R. Singh O/C, G.R.P.S. Kūl Vrs. Shri Madhu Limaye (MP) and 115 others (vide list attached)	Launching Satyagrah at Lakhisarai Rly. Station to disrupt Rly. Com- munication etc.	Sri Madhu Limaye (MP) and 115 others vide list attached.	1. Sri B. Mathur 1st Class Mgr. 2. Sri B. N. Singh Rly. Magistrate Kūl. 3. Sri B. N. Bhatta B.D.O. Lakhisarai. 4. S. I. R. K. Singh, G.R.P.S. Kūl. 5. S. I. Md. Ibba Malik O/C LKR P.S. 6. Sri M. P. Kumar, Y. M. Kūl. 7. S. I. D. R. Singh O/C G.R.P.S. Kūl.	On 6-11-1968 between 0915 hrs. and 1630 hrs. the members noted in col. 3 formed an un- lawful assembly in spite of pro- hibitory order duly pro- mulgated u/s 144 Cr. P. C. entered into Lakhisarai Rly. station in procession in eight batches with a view to disrupt the Rly. communication and obstruct the normal functioning of Booking office, Cabin and other offices at Lakhisarai Rly. Station. Their actions were likely to commit breach of the peace and disturb the public tranquillity and as they were arrested u/s 151 Cr. P. C. and forwarded to S.D.O., Sadar Monghyr in custody. Besides they de- cided to continue their Satyagrah at Lakhisarai Rly. Station and shouted slogan like "Suru hua hai jang hamara, etc." and as such breach of peace is appre- hended at their hands.
V. O. S. Sd. P. P. N. Sabi S.D.O. Sadar Mgr 11-11-68.				Under this above circumstances, I pray that they may kindly be bound down u/s 107 Cr. P. C. with an order to furnish an interim bonds u/s 17 (3) Cr. P. C.
				(Sd.) Illegible. 6-11-68 O/C G.R.P. S., Kūl.

To

The S.D.O. Sadar, Monghyr.

SUB:—*Satyagraha at Lakhisarai Rly. Station.*

Sir,

I am forwarding herewith the below noted accused persons (*vide* list attached in custody, who have been arrested u/s 151/107/117(3) Cr. P.C.

They may kindly be remanded to jail custody for a fortnight by which time report u/s 107/117(3) Cr. P.C. and 188 I.P.C. will be routed through proper channel.

Accused persons.

1. Group D.	10
2. —do— E.	8
3. —do— F.	6
4. —do— G.	11
5. —do— H.	35

70

Yours faithfully,

(Sd.)/- Illegible.

6-11-68.

G.R.P.S. KIUL.

Camp Lakhisarai.

GROUP D

1. Anil Kumar, s/o Anirudh Pd. Singh of Barhaiya, Monghyr.
2. Sri Sahdeo Prasad Singh, s/o Haribans Pd. Singh of Barhaiya, Monghyr.
3. Sri Sia Ram Yadav, s/o Kailu Yadav of Barhaiya, Monghyr.
4. Sri Jainarain Singh, s/o Ram Krishna Singh, vill. Babhangama, P.S. Lakhisarai.

5. Kailu Yadav, s/o Garho Yadav vill. Jainarain Kawaiya, Naya Bazar, Lakhisarai.
6. Bhola Manjhi, s/o Bhado Manjhi of Sansarpokhar, Kiul, PS Lakhisarai.
7. Balmiki Manjhi, s/o Narain Manjhi.
8. Kamlu Manjhi, s/o Aso Manjhi of Samsarpokhar, Lakhisarai.
9. Eshar Mandal, s/o Barho Mandal of Naya Tola, Purani Bazar, Lakhisarai.
10. Balmiki Singh, s/o Ramgulam Singh, Rajsuna Chouki, PS Lakhisarai.

(Sd.)/- Illegible.

6-11-68.

G.R.P.S. KIUL.

Camp Lakhisarai.

GROUP E

13-45 hours.

1. Ganesh Prasad, s/o Sita Ram of Naya Bazar, Lakhisarai.
2. Mahesh Kumar, s/o Mahadeo Prasad of Naya Bazar, Lakhisarai.
3. Sarjug Singh, s/o Lakhan Singh of Babhangama, PS Lakhisarai.
4. Surendra Pd. Singh, s/o Nand Kishore Singh of Lakhisarai Kabaiya.
5. Jai Kumar Pd., s/o Lachhami Pd. of Naya Bazar, Lakhisarai.
6. Shankar Prasad, s/o Kameshwar Pd., Naya Bazar, Lakhisarai.
7. Shankar Paswan, s/o Ramdhani Paswan, Lakhisarai English, PS Lakhisarai.
8. Shiva Manjhi, s/o Binha Manjhi, Sansar Pokhar, Lakhisarai.

(Sd.)/- Illegible.

6-11-68.

G.R.P.S. KIUL.

Camp Lakhisarai.

GROUP F

1. Uttam Prasad Sao, s/o Khakhar Sao, vill. Khoja, PS Surajgarha.
2. Sarju Prasad Modi, s/o Garbhu Modi, vill. Arma, PS Surajgarha.

3. Ramashray Singh, s/o Kameshwar Pd. Singh, vill. Khutaha Barhaiya.
4. Rambalak Singh, s/o Bishwanath Singh of vill. Khutaha Barhaiya.
5. Radheshyam Singh, s/o Jagdambi Singh, vill. Rahua, PS Lakhisarai.
6. Gita Prasad Singh, s/o Ayodhya Singh of vill. Rahua, PS Lakhisarai.

(Sd.)/- Illegible.

6-11-68.

G.R.P.S. KIUL.

Camp Lakhisarai.

GROUP G

1. Sri Mahabir Prasad Arya, s/o Banshi Ram, vill. Naya Bazar, Lakhisarai.
2. Sri Jagdish Prasad, s/o Prabhu Sao, vill. Jainagar Kawaiya PS Lakhisarai.
3. Sonu Yadav, s/o Roshan Yadav of Jainagar Kawaiya, PS Lakhisarai.
4. Dwarika Pd. Mishra, s/o Rameshwar Pd. Mishra of Jainagar Kawaiya, PS Lakhisarai.
5. Baiju Sahu, s/o Karu Sao, Sansarpokhar, Lakhisarai.
6. Ganesh Prasad, s/o Ram Chandra Arya Samaj Moh., Lakhisarai.
7. Dayanand Kumar Sao, s/o Ramrup Sao, vill. Kishunpur, PS Surajgarha.
8. Ram Naresh Pd. Singh, s/o Raghunandan Prasad Singh, vill. Sebikpur, Lakhisarai.
9. Bachan Singh, s/o Shiva Singh of Rahua, PS Lakhisarai.
10. Balmiki Singh, s/o Kuldip Singh of Rahua, PS Lakhisarai.
11. Garib Sao, s/o Gulab Sao of Rahua, PS Lakhisarai.

(Sd.)/- Illegible.

6-11-68.

G.R.P.S. KIUL.

Camp Lakhisarai.

GROUP B

1. Sri Kapildeo Shastri, s/o Ram Narain Singh of Rampur, PS Surajgarha.
2. Ram Bahadur Singh, s/o Sita Soran Singh of Rampur, PS Surajgarha.
3. Sri Harinandan Singh, s/o Firangi Singh of Barbigha, PS vill. Khojagachi.
4. Sri Shivnandan Singh, s/o Lal Bihari Singh of Chitma, PS Sheikhpura.
5. Sri Chandra Mani Yadav, s/o Lalji Yadav of Gohari, PS Lakhisarai.
6. Sri Indrajit Pal, s/o Shashidhar Pal of Lakhisarai.
7. Sri Brahmdeo Choudhary, s/o Kishun Choudhary of Lakhisarai.
8. Sri Surendra Yadav, s/o Prayag Yadav of Gohari, PS Lakhisarai.
9. Sri Sukhdeo Yadav, s/o Ramsewak Yadav of Gohari, PS Lakhisarai.
10. Sri Ramnandan Singh, s/o Ramrup Singh of Kiul, PS Lakhisarai.
11. Sri Krishnadeo Mandal, s/o Kokai Mandal of Kiul, PS Lakhisarai.
12. Sri Indradeo Yadav, s/o Ramrup Yadav of Gohari, PS Lakhisarai.
13. Sri Deo Prakash Ram, s/o Ram Pd. Ram of Gohari, PS Lakhisarai.
14. Sri Baijnath Tamoli, s/o Gaya Tamoli, vill. Kiul, PS Lakhisarai.
15. Sri Bachu Sardar, s/o Khartar Mandal of vill. Kiul, PS Lakhisarai.
16. Sri Prabhu Dutta Sahu, s/o Jalim Sahu, vill. Damodarpur, PS Lakhisarai.
17. Sri Jugal Kishore Pandey, s/o Hardeo Pandey, vill. Lodia, PS Lakhisarai.
18. Sri Kokai Paswan, s/o Lutan Paswan of vill. Lodia, PS Lakhisarai.
19. Sri Rajaram Gupta, s/o Bhoju Sao of Nayabazar, Lakhisarai.
20. Sri Davendra Pd. Sao, s/o Andhi Sao of Nayabasti Kabaiya, PS Lakhisarai.
21. Sri Hansraj Paswan, s/o Barho Paswan of Makuna, PS Lakhisarai.

22. Sri Ramdeo Yadav, s/o Chhotu Yadav of Kabaiya, PS Lakhisarai.
23. Sri Doman Pd., s/o Jago Mahton of Kabaiya, PS Lakhisarai.
24. Sri Ramchandra Yadav, s/o Bharoso Yadav of Kabaiya, PS Lakhisarai.
25. Sri Krishna Manjhi, s/o Dwarika Manjhi of Sansarpokhar, Lakhisarai.
26. Sri Lalo Mandal, s/o Mato Mandal of Kabaiya, Lakhisarai.
27. Sri Pyaro Yadav, s/o Natho Yadav of Kabaiya, Lakhisarai.
28. Sri Kito Manjhi, s/o Meghu Manjhi, vill. Sansarpokhar, Lakhisarai.
29. Sri Niranjan Kumar Verma, s/o Mathura Pd. Verma of Purani Bazar, Lakhisarai.
30. Sri Sailendra Pd., s/o Baldeo Prasad of Purani Bazar, Lakhisarai.
31. Sri Surendra Pd. s/o Dayanand of English Lakhisarai.
32. Sri Udai Paswan, s/o Sito Paswan of English Lakhisarai.
33. Sri Surendra Pd., s/o Deoki Nandan of Nayabazar, Lakhisarai.
34. Sri Medni Paswan, s/o Jhimal Paswan, vill. Garhtola, PS Barhaiya.
35. Sri Dasrath Pd. Mathuri, s/o Banwari Ram Mathuri of Sheikhpura, PS Sheikhpura.

(Sd.)/- Illegible.

6-11-68.

G.R.P.S. KIUL.

Camp Lakhisarai.

श्रीमान्

एस० डी० ओ० सदर,
मुंगेर ।

बनाम—राज्य बनाम
श्री मधुलिमये

वाव संख्या—617 एम, 107 सी० आर० पी० सी०

श्री मधु लिमये एम० पी० वगैरह

के निवासी हैं । ऊपर लिखे मोकदमे की उचित कार्यवाही के लिए हमें विधिज्ञ नियुक्त कराने हैं अतएव मैं / हम स्वेच्छा से नीचे लिखे विद्यज्ञों स्वीकार कर उन्हें अधिकार देते हैं कि वे विद्यज्ञ या उनमें से कोई हमारी ओर से आवेदन, निवेदन, भागण तथा वाद की यथोचित पैरवी करें, और हमारे नाम पर आवश्यक कागजों पर हस्ताक्षर बनावें तथा न्यायालय से हमारे रुपये रसीद या भाउचर द्वारा ग्रहण करें एवं हमारी ओर से डिग्री निलाम ई० के रुपये जमा करें । त्रुटिपूर्ण वाद को व पस ले लें या हमारी ओर से वाद में समझौता () करें या आवश्यकतानुसार अपने हस्ताक्षर से मुकदमों को पंचायत में भेजवा दें । मोकदमे के पुनर्विचार के आवेदन पत्र अपने हस्ताक्षर से दें तथा सबूत के कागज दें या वापस लें । मोकदमे के रेकार्ड निरीक्षण करें । इन नियुक्त वकीलों के लिए सभी काम हमें स्वीकार हैं और होंगे । इनके पारिश्रमिक का प्रश्न आपस में तय किया हुआ है । इसलिए यह नियुक्ति पत्र लिख दिया कि आवश्यक समय पर प्रमाण होंगे ।

एडवोकेट तथा वकीलों का नाम वगैरह

1.—कपिलदेव सिंह

2.—यदुवंश सिंह

3.—राजेंद्र प्र० पांडेय

वगैरह

ह०—खबीरूल हक

बिन्देश्वरी प्रसाद सिंह

रामजी प्रसाद

20-11-68

वगैरह

Monghyr.

20-11-68.

Time 9:45 P.M.

To

The S.D.O.

Monghyr Sadar, Monghyr.

Sir,

Before you take any decision about remand for which to have been brought before you, I beg to submit as follow:

11—1535 LS

That when, S.D.O. in charge remanded us to custody on 6th November, 1968 I was neither told under what provision of law. The Police Officer had arrested us nor under what provision he had remanded us to custody, nor were we informed of the grounds of our arrest and detention.

I saw the warrant for intermediate custody in Monghyr District Jail.

Our arrest, without there being any criminal charge or offence, in purported, exercise of the powers under section 151 Cr. P.C. and S.D.O. Incharge remand order under 344 Cr. P.C. was illegal.

Without FIR, instituting of a case and without cognizance being taken, the S.D.O. incharge remand order was illegal. The S.D.O. did not comply with the provisions of Cr. P.C. 344. His remand order was illegal; and if the S.D.O. remands us again, detention under the new order, too, will be illegal.

The S.D.O. should not again violate Cr. P.C. 344 and Articles 22, 22 and 105 of the Constitution.

May I point out that the S.D.O.'s wrongful unjustifiable, capricious and illegal remand order will make him liable to be hauled up before Parliament/Privilege Committee. They will also make him liable to charge of "malice in law".

May I refer you to a Privy Council decision Appeal cases 1914 at page 804? I have brought the book, and you may read it, if you like.

I think it my duty to tell you all this in advance so that you may not later on claim that you acted innocently and did not know the position in law. And let me also state that your letter to Bhagalpur S.D.O. **asking him to order our periodical remand from "time to time"** without jurisdiction throws light on your intentions?

Yours sincerely,

(Sd.)/- MADHU LIMAYE.

No. 3714

From

The Superintendent, Central Jail, Patna.

To

The Sub-divisional Officer, Monghyr.

Patna, dated the 20th Nov. 1968.

Sir,

In continuation of this office memo No. 3699, dated the 19th November, 1968 I am to intimate that on my prayer the High Court has

adjourned the hearing of Writ petition in the nature of *Habeas Corpus* of Shri Madhu Limaye M.P. for today after lunch only to enable me to produce him before you for remand. He has to be again presented in the High Court on the 21st November, 1968 positively at 2 P.M.

He is being sent to you through special escort. If he is further remanded by you, he may be sent back through the same escort so that he may be produced in the High Court positively at 2 P.M. on the 21st November, 1968. Intermediate custody warrant is being sent for giving the date of remand.

Yours faithfully,

(Sd.)/- Illegible.

Supdt., Central Jail, Patna.

IN THE COURT OF SUB-DIVISIONAL MAGISTRATE, SADR,
MONGHYR.

Memo No. 2491

Dated 20th November, 1968.

To

The Superintendent, Central Jail, Patna.

SUBJECT:—*Production of Shri Madhu Limaye, M.P., and Shri Kapildeo Singh, O.Ps. in the High Court, Patna.*

Ref.: Your letter No. 3714 dated 20th November, 1968.

On the prayer of Shri Madhu Limaye, M.P., and Shri Kapildeo Singh, O.Ps. are being returned through the same escort Party to enable them to appear before the Hon'ble High Court, Patna on 21st November, 1968.

You are therefore requested to arrange for their production before the Hon'ble High Court on 21st November, 1968 and this Court on 28th November, 1968. Production of Limaye in Supreme Court on 25th November, 1968 may also be ensured.

The intermediate custody warrants are being sent herewith.

(Sd.) Illegible.

Sub-Divisional Magistrate,

Sadr, Monghyr.

20-11-1968.

श्रीमान् एस० डी० घो०
सदर, मुंगेर ।

महोदय,

मेरा मुकदमा भी पटना उच्च-न्यायालय में विचाराधीन है । कल भी उसकी सुनवाई होने वाली है । अतः मुझे भी वहां उपस्थित होने की सुविधा पटना भेज कर करें ।

आपका,
ह०—कपिलदेव सिंह
20-11-68.

EXPRESS STATE

SUBSTRATE

MONGHYR

REFERENCE YOUR WIRELESS SHRI MADHU LIMAYE IS BEING PRODUCED IN HIGH COURT THEREAFTER HE IS TO BE PRODUCED BEFORE SUPREME COURT ON TWENTY FIFTH NOVEMBER NOT POSSIBLE TO PRODUCE HIM ON TWENTEETH. IN YOUR COURT PLEASE FIX ANOTHER DATE

JAIL

Memo No. 3699

Dated 19th November 1968:

Copy by post in confirmation forwarded to the S.D.O., Sadr, Monghyr. Shri Madhu Limaye has been produced in the Hon'ble High Court today and it is not known when he will be free from theré. He is also wanted by the Supreme Court at Delhi on the 25th November, 1968. As such he will have to be sent to Delhi after his appearance is not required in the High Court, Patna. It is therefore requested some other date may be fixed for his appearance in your court.

(Sd.) Illegible.

Superintendent,.

Central Jail, Patna..

Memo No. 2490

Dated the 20th November, 1968.

To

The Superintendent,
Monghyr Jail.

SUBJECT:—Production of Shri Kapildeo Pd. Singh O.P. in the High Court, Patna.

Shri Kapildeo Singh, O.P. (Under-trial prisoner) remanded to your jail has filed a petition that he has to appear before Hon'ble High Court, Patna on 21st November 1968. You are, therefore, requested to take necessary action to send him to Bankipore Jail for production before Hon'ble High Court on 21st November, 1968 and return to Monghyr Jail by 23rd November 1968.

(Sd.) Illegible.

S.D.O., Sadar.

20-11-1968.

बाइजलास

एस० डी० ओ०,

सदर मंगेर ।

केस नं०—617 एम० सन् 1968

राज्य

बनाम

श्री मधु लिये वगैरह—बदालहुम

दरखास्त मिनजानिब

मुदालय श्री यदुवंश प्र० सिंह, कपिलदेव शास्त्री तथा

हरिनन्दन प्र० सिंह ।

सविनय निवेदन ग्रह है कि प्रार्थीगण अखिल दर्जे के नागरिक तथा राजनैतिक कार्य-कर्त्ता हैं। प्रार्थीगण को अभी तक जेल में तृतीय श्रेणी के कैदी में रखा गया है अतः प्रार्थना है कि ऊपर लिखे प्रार्थीगण को ए डिभिजन में रखा जाय ।

ह०—यदुवंश सिंह

हरिनन्दन सिंह

कपिलदेव शास्त्री ।

(जेल में)

बाइजलास एस० डी० प्रो०,
सदर मुंगेर ।

केस नं०—617 एम सन 1968

राज्य
बनाम

श्री मधु लिमये वगैरह—मुदालय—

दफा 107 जपो फौजदारी दरखास्त मिनजानिब सभी मुदालहुम ।

सविनय निवेदन है मुदालहुम को नाहक परेशान करने के लिये पुलिस ने झूठा मोकदमा कायम किया है । मुदालहुम जेल में बन्द रहने के कारण अभी तक अपने वकील से कानूनी सलाह नहीं लेने के कारण सोरीज तैयार नहीं कर सके हैं । इसलिए प्रार्थना है कि सोरीज तैयार करने के लिये 1 महीने का समय दिया जाय ।

प्रार्थना है कि सोरीज के लिये
1 महीना का समय दिया जाय ।

No. 6506 dated 21st November 1968.

From

Sri P. P. N. Sahi,
Sub-Divisional Magistrate,
Sadar, Monghyr.

To

The Advocate General,
Bihar, Patna.

SUBJECT:—Remand order passed in Sri Madhu Limaye and others:
case No. 617 M/68 u/s 107/117.

Sir,

As desired, I have to inform you that Sri Madhu Limaye, M.P., and others have been remanded to jail custody till 28th November 1968. They are to be produced in this Court on 28th November 1968 at 10-30 A.M. according to the order passed on 20th November 1968 by this Court. A copy of the order is enclosed herewith.

This is for your kind information.

Yours faithfully,

(Sd.) P. P. N. SAHI,
Sub-Divisional Magistrate,
Sadar, Monghyr.
21-11-1968.

From

**The Court of Sub-Divisional Magistrate,
Sadar, Monghyr.**

Case No. 617 M/68.

State

Vs.

Sri Madhu Limaye and others.

[u/s 151/107/117(3) Cr.P.C.]

Ext. of order—20-11-1968.

One hundred and ten accused persons produced from Central Jail, Bhagalpur. 5 ops are on bail who file hazari. S/R of proceeding received after proper service.

A petition has been filed on behalf of all ops. that a month's time may be allowed to file show cause. Time allowed for a week put up on 25th November 1968. Another petition filed on behalf of Yadubans Singh, Kapildeo Shastri and Hari Nandan Singh for providing higher class. They are allowed to be put in 'B' Division. Inform Jail Supdt. Accused persons are remanded as before.

(Sd.) P. P. N. SAHI,

S.D.M.

Later

Bail bonds of Rs. 1,000 each with two securities of the like amount each have been furnished on behalf of ops. Ram Khelawan Yadav and 77 others which are accepted. Issue R.O.

(Sd.) P. P. N. SAHI,

S.D.M.,

Sadar, Monghyr.

Later 9-45 P.M.

Sri Madhu Limaye, M.P., has been brought under escort. He has filed a petition that he has to appear again before the High Court on 21st November 1968 at 2 P.M. A letter to this effect has been sent by Supdt., Central Jail, Patna under his No. 3714 dated 20th November 1968. He is allowed to appear before the High Court on 21st November 1968. A further prayer has been made by the Supdt., Central Jail, Patna to send him back to Patna by the same escort party. Prays is allowed.

One petition has been filed by Sri Kapildeo Singh, Ex-M.L.A. that he also wants to appear before the High Court on 21st November 1968. His prayer is also allowed. Intimate Supdt., Central Jail, Patna, accordingly. He may be asked to produce Sri Limaye on 28th November 1968 before this court at 10-30 A.M. and send back Sri Kapildeo Singh to Monghyr Jail on 23rd November 1968. Accd. as before.

(Sd.) P. P. N. SAHI,

S.D.M.

Copy of wireless message No. 5232/ADM dated 20th November 1968 from Superintendent, Central Jail, Bhagalpur to Superintendent, District Jail, Monghyr/Substrate, Monghyr/Superintendent, Central Jail, Patna/Prisons, Patna/Deputy Legal remembrance, Bihar, Patna.

Reference writ petition No. 355 of 1968 of Shri Madhu Limaye and others to be heard in the Supreme Court of India, New Delhi on 25th November 1968 at 10-00 O'Clock (.) All under trials in the above case have been transferred to District Jail, Monghyr for production before S.D.O., Monghyr on 20th November 1968. Except Shri Limaye transferred to Patna Central Jail on 18th November 1968 for appearance before the honourable High Court, Patna on 19th November 1968 (.) Actions may please be taken by the respective Jails to arrange production of the prisoners concerned including Shri Limaye before the honourable Supreme Court of India, New Delhi on 25th November 1968 at 10-00 A.M. as directed by the said Court (.) This has also references to Bhagalpur Central Jail letter No. 5206 dated 18th November 1968 and Deputy Legal Remembrance Bihar/Patna No. 3580 dated 18th November 1968 (.) Steps taken in this regard may please be intimated to Registrar, Supreme Court of India, New Delhi under intimation to the undersigned (.)

From

The Superintendent of Bhagalpur Central Jail.

To

The Registrar,
Hon'ble Supreme Court of India,
New Delhi.

Bhagalpur, the November, 1968.

SUBJECT:—Writ Peition No. 355 of 1968.

Sir,

I am to enclose herewith the duplicate copy of the *Rule Nisi* of the Hon'ble Supreme Court of India, New Delhi, dated the 12th November, 1968 duly served on Sri Madhu Limaye and 42 others after obtaining their signature, as desired by you. The said orders have been received in this office through the Superintendent of Monghyr District Jail, letter No. 2025, dated the 15th November, 1968. Out of 46 prisoners, prisoner Chandrika Singh has been released from Monghyr District Jail on 8th November 1968 and prisoners Kamleshwari Pd. Singh and Kapildeo Pd. Singh were released on bail from this jail on 14th November 1968.

All the prisoners are lodged in this jail as under-trial prisoners charged u/s 151/107/117(3) Cr.P.C. under the Custody warrants issued by the S.D.O., Sadar, Monghyr and have been received in this jail on transfer from Monghyr District Jail on 9th November 1968 under orders of S.D.O., Sadar, Monghyr. Their next date of appearance has been fixed for 20th November 1968.

Encl:—As above.

Yours faithfully,
(Sd.) A. P. PODDAR,
Superintendent,
Bhagalpur Central Jail.

Registered Memo No. 5206/Bhagalpur, the 18th November, 1968

Copy forwarded to:—

1. The S.D.O., Monghyr.
2. The S.D.O., Bhagalpur.
3. The Supdt., District Jail, Monghyr.

for information and necessary action. The prisoners in question are to be produced before the Supreme Court of India, New Delhi on the 25th November 1968 at 10-00 O'clock as directed by the said court.

(Sd.) A. P. PODDAR,
Superintendent.
 Bhagalpur Central Jail.

No. _____ /

From

The Superintendent of Bhagalpur Central Jail.

To

The Inspector General of Prisons, Bihar, Patna.

Bhagalpur, the November, 1968.

SUBJECT:—*Transfer of Shri Madhu Limaye, M.P., to Patna Central Jail.*

Sir,

With reference to your letter No. 15526/JL dated the 16th November, 1968, on the subject noted above, I am to inform you that under-trial prisoner Shri Madhu Limaye, M.P., has been transferred to Patna Central Jail today, i.e., the 18th November, 1968 for his production in Hon'ble High Court, Patna, for arguing his case personally, on 19th November, 1968.

Shri Limaye is to be produced before the S.D.O., Sadar, Monghyr, on 20th November, 1968 *vide* his wireless message No. 2162/C dated 17th November, 1968.

Yours faithfully,
 (Sd.) A. P. PODDAR,
Superintendent,
 Bhagalpur Central Jail.

Registered Memo No. 5208—Bhagalpur, the 18th November, 1968.

Copy forwarded to:—

1. The Supdt., Patna Central Jail.
2. The S.D.O., Sadr, Monghyr.

for information and necessary action. Shri Madhu Limaye, M.P., is to be produced before the Hon'ble Supreme Court of India, New Delhi on 25th November, 1968 at 10-00 O'clock in connection with his Writ Petition No. 355 of 1968, as desired by the said court.

(Sd.) A. P. PODDAR,
Superintendent.
Bhagalpur Central Jail.

BIHAR POLICE
WIRELESS MESSAGE

TO

SUPERINTENDENT OF JAIL, NEW DELHI REPEAT REGISTRAR SUPREME COURT OF INDIA, NEW DELHI/ SPECIAL SECTION PATNA/ADVOCATE GENERAL BIHAR PATNA/ SUPERINTENDENT CENTRAL JAIL PATNA.

FROM:

SUBSTRATE MONGHYR
NO. 6328-S DATED 23-11-1968.

REFERENCE ARREST OF SHRI MADHU LIMAYE M.P. AND OTHERS (.) A BAIL PETITION ON BEHALF OF SHRI KAPILDEO SINGH EX-M.L.A. WAS MOVED IN THIS COURT TODAY WHICH HAS BEEN ACCEPTED (.) PLEASE RELEASE SHRI KAPILDEO SINGH EX-M.L.A. IMMEDIATELY UNDER INTIMATION TO THE UNDERSIGNED (.) ADDRESSED TO SUPERINTENDENT OF JAIL NEW DELHI FOR NECESSARY ACTION AND REPEATED OTHERS FOR INFORMATION.

ORIGINATOR'S SIGNATURE

(Sd.) K. K. PATHAK.
Substrate Monghyr.

ORIGINATOR'S INSTRUCTION

CRASH.

TIME OF ORIGIN.

Memo No. 6328S dated, Monghyr, the 23rd November, 1968.

Copy forwarded to the District Magistrate, Monghyr for favour of information.

*Sub-Divisional Officer,
Sadar, Monghyr.*

Copy of wireless message No. nil, dated nil from Supdt. Central Jail, Patna to Substrate Monghyr/Supdt. District Jail, Monghyr.

"Sri Madhu Limaye M.P. transferred to Tihar Central Jail Delhi by 7 UP on 22nd November 1968 for production before Supreme Court of India on 26th November, 1968 at 1000 hrs. Sri Kapildeo Singh ex-Minister of Bihar filed petition before the Supreme Court of India intimation that he does not desire to appear in person in Supreme Court of India nor he had requested for his personal appearance before that Court (.) His petition was forwarded to Deputy Registrar Supreme Court Delhi vide patna Central Jail No. 3724 dated 22nd November, 1968 (.) Hence he has not been transferred to Delhi (.) He is being returned to Monghyr Jail on 23rd November 1968 (.) His presence not more required in Patna Central Jail (.)"

In the court of the Sadar Subdivisional Magistrate, Monghyr, Case No. 617 of 1968 Proceeding u/s 107 Cr. P.C.

Whereas I am satisfied from the report of the Police G.R.P. Kiul P.S. dated 6th November, 1968 that Sri Madhu Limaye, M.P. 2. Kapildeo Singh, s/o Lakhan Singh of Barhaiya, P.S. Barhaiya, 3. Ramakant Singh, s/o Ramautar Pd. of Chandarpur, P.S. Lakhisarai, r/o Balmiki Shastri, s/o Gore Pd. Singh of Kaithma, P.S. Ariari Dist. Monghyr, 5. Dhanno Yadav, s/o Shankar Yadav of Chowk Lakhisarai, 6. Yugal Yadav, s/o Tilakdhari Yadav of Singhochak. P.S. Lakhisarai, 7. Bindeshwari Modi, s/o Sri Ganga Modi of Lakhisarai, 8. Sri Rajendra Singh, s/o Sri Bhisu Singh of Babhangama, P.S. Lakhisarai, 9. Sri Bano Manjhi, s/o Sri Kartik Manjhi of Amahra, P.S. Lakhisarai, 10. Sri Kishori Pd. Verma, s/o Ram Pd. Verma of Mano Chak, P.S. Lakhisarai, 11. Sri Saudagar Sah, s/o Kali Sah of Tikakhar, P.S. Lakhisarai, 12. Sri Dargahi Yadav, s/o Sri Mangal Yadav of Purani Bazar, Lakhisarai P.S., 13. Ranideo Singh Yadav, s/o Sri Govind Singh Yadav of Khoja Bazar,

Town P.S., 14. Sri Allauddin Badsah, s/o Sri Md. Jn of Buhia Pokhar, P.S. Town, Monghyr, 15. Sri Rajniti Pd., s/o Sri Bind Pd. of Gardanibagh, Patna, 16. Sri Parmanand Pd., s/o Sri Bindeshwari Pd. Singh of Pateshwar, P.S. Lakhisarai, 17. Sri Gurucharan Singh, s/o Sri Bhuneshwar Singh of Patneshwar, P.S. Lakhisarai, 18. Sri Umakant Singh, s/o Sri Chandrika Singh of Babhangama, P.S. Lakhisarai, 19. Sri Ramkhelawan Singh, s/o Sri Chotan Yadav of Mano, P.S. Surajgarha, 20. Sri Maheswari Pd. Singh, s/o Sri Rajan Singh of Sarari, P.S. Sheikhpura, 21. Sri Ram Pd. Dolia, s/o Sri Prosuttamdar Drollia of Lakhisarai, 22. Sri Rajendra Pd. Khetan, s/o Sri Hanuman Pd. Khetan, 23. Sri Rabindra Kumar Drollia, s/o Sri Ghani Ram Drollia of Puranibazar, Lakhisarai, 24. Kishori Pd. Chaurasia, s/o Tilak Mahton of Panapur, P.S. Lakhisarai, 25. Sri Jugal Kishore Singh, s/o Sri Huro Singh of Bahadurpur, P.S. Barhaiya, 26. Sri Shyam Sundar Singh, s/o Sri Bindeshwari Singh of Lodia, P.S. Lakhisarai, 27. Sri Kapildeo Pd. Singh, s/o Sri Dwarika Singh of Lodia P.S. Lakhisarai, 28. Sri Kamleshwari Pd. Singh, s/o Sri Ramadhin Singh of Sulamanchak, P.S. Lakhisarai, 29. Sri Ramautar Singh, s/o Sri Sundar Singh of Rampur, P.S. Surajgarha, 30. Sri Md. Abbas, s/o Sri Fakir Pd. of Balgudar, P.S. Lakhisarai, 31. Sri Jadubansh Singh, s/o Sri Sarjug Pd. Singh of Patner, P.S. Lakhisarai, 32. Sri Jugeshwar Pd., s/o Sri Basudeo Singh of Patner, P.S. Lakhisarai, 33. Sri Nageshwar Singh, s/o Sri Lakhan Singh of Patner, P.S. Lakhisarai, 34. Sri Ganesh Pd., s/o Sri Baldeo Ram of Kiul, P.S. Lakhisarai, 35. Sri Rupan Manjhi, s/o Sri Saukhi of village Patner, P.S. Lakhisarai, 36. Sri Rito Bhuian, s/o Sri Ghari Bhuian of Patner, P.S. Lakhisarai, 37. Sri Naresh Singh, s/o Sri Kunjo Singh of Lodia, P.S. Lakhisarai, 38. Sri Sidheshwar Pandey, s/o Sri Jagat Narain of village Rampur, P.S. Surajgarha, 39. Sri Krishnandan Singh, s/o Sri Bhagwat Singh of Rahna, P.S. Lakhisarai, 40. Sri Chunchun Singh, s/o Sri Bhagwat Singh, village Lodia, P.S. Lakhisarai, 41. Sri Jairam Singh, s/o Sri Ramrup Singh, of village Lodia, P.S. Lakhisarai, 42. Sri Ramsharan Yadav, s/o Sri Balo Yadav of Rahna, P.S. Lakhisarai, 43. Sri Ram Das, s/o Sri Nawrang Sao of Chakandra, P.S. Ariari, 44. Sri Chandrika Singh, s/o Sri Jago Singh of Salauna Chak, P.S. Lakhisarai, 45. Sri Surendra Singh, s/o Sri Deonath Singh of Patner, P.S. Lakhisarai, 46. Sri Ramautar Mandal, s/o Sri Khopar Mandal of Kiul, P.S. Lakhisarai, 47. Sri Anil Kumar, s/o Sri Anirudh Pd. Singh of Barhaiya, P.S. Barhaiya, 48. Sri Sahdeo Pd. Singh s/o Sri Harbang Pd. of Piparia, P.S. Barhaiya, 49. Sri Siya Ram Yadav, s/o Sri Kailu Yadav of Barhaiya, P.S. Barhaiya, 50. Sri Jainarain Singh, s/o Sri Ram Krishna Pd. Singh of Babhangama, P.S. Lakhisarai, 51. Sri Kailu Yadav, s/o Sri Garho Yadav of Jainagar Kawaiya Nayabazar, P.S. Lakhisarai, 52. Sri Bhola Manjhi, s/o Sri Bhado Manjhi of Sansarpokhar, P.S. Lakhisarai, 53. Sri Bal-

miki Manjhi, s/o Sri Narayan Manjhi of Sansarpokhar, P.S. Lakhisarai, 54. Sri Kamlu Manjhi, s/o Sri Asho Manjhi of Sansarpokhar, P.S. Lakhisarai, 55. Sri Keshwar Mandal, s/o Sri Barho Mandal of Naya Tola, Puranibazar, P.S. Lakhisarai, 56. Sri Balmiki Singh, s/o Ramgulam Singh of Rajauna Chanlai, P.S. Lakhisarai, 57. Sri Ganesh Pd., s/o Sri Sita Ram of Naya Bazar, P.S. Lakhisarai, 58. Sri Mahesh Kumar, s/o Sri Mahadeo Pd. of Naya Bazar, P.S. Lakhisarai, 59. Sri Sarjug Singh, s/o Sri Lakhan Singh of Babhangama, P.S. Lakhisarai, 60. Sri Surendra Pd. Singh, s/o Sri Nawal Kishore Singh of Lakhisarai Kabaiya, 61. Sri Jai Kumar Pd., s/o Sri Lakshmi Pd. of Naya-bazar, Lakhisarai, 62. Sri Shankar Pd., s/o Sri Kameshwar Pd. of Nayabazar, Lakhisarai, 63. Sri Shankar Paswan, s/o Sri Ramdhani Paswan of Lakhisarai, English, 64. Sri Sheo Manjhi, s/o Sri Barho Manjhi of Sansar Pokhar, P.S. Lakhisarai, 65. Sri Uttam Pd., s/o Sri Khakhar Sao of village Kharra, P.S. Surajgarha, 66. Sri Sarjug Pd. Modi, s/o Sri Gobardhan Modi of village Arma, P.S. Surajgarha, 67. Sri Ramashray Singh, s/o Sri Kameshwar Pd. Singh of Khuthar, P.S. Barhaiya, 68. Sri Rambalak Singh, s/o Bishwanath Singh of Khuthar, P.S. Barhaiya, 69. Sri Radhe Shyam Singh, s/o Sri Jwalamukhi Singh of Rahna, P.S. Lakhisarai, 70. Sri Gita Pd. Singh, s/o Sri Ayodhya Singh of Rahna, P.S. Lakhisarai, 71. Sri Mahabir Pd. Arya, s/o Sri Bonshi Ram of Naya Bazar, Lakhisarai, 72. Sri Jagdish Pd., s/o Sri Prabhu Sao of Jainagar, P.S. Lakhisarai, 73. Sri Siru Yadav, s/o Rohan Yadav of Jainagar, P.S. Lakhisarai, 74. Sri Dwarika Pd. Mishra, s/o Sri Rameshwar Pd. Mishra Jainasar, P.S. Lakhisarai, 75. Sri Baiju Sahu, s/o Karu Sao of Shansar Pokhar, Lakhisarai, 76. Sri Ganesh Pd., s/o Ram Charan, Arya Samaj, Lakhisarai, 77. Sri Dayanand Kumar Sao, s/o Ramrup Sao of village Kishunpur, P.S. Surajgarha, 78. Sri Ram Naresh Pd. Singh, s/o Raghunandan Pd. Singh of Salikpur, Lakhisarai, 79. Sri Bechan Singh s/o Sivashin of Rehu, P.S. Lakhisarai, 80. Sri Balmiki Singh, s/o Kuldip Singh of Rehu, P.S. Lakhisarai, 81. Sri Garib Sao, s/o Gulab Sao of Rehu, P.S. Lakhisarai, 82. Sri Kapildeo Shastri, s/o Rupnarain Sah of Rampur, P.S. Surajgarha, 83. Sri Rambahadur Singh, s/o Sita-saran of Rampur, P.S. Surajgarha, 84. Sri Harinandan Singh, s/o Firangi Singh of Rampur, P.S. Surajgarha, 85. Sri Sheo Narain Singh, s/o Lallu Hari Singh of Chitoura, P.S. Sheikhpura, 86. Sri Chadrama Yadav, s/o Laljee Yadav of village Gohri, P.S. Lakhisarai, 87. Sri Indrajit Pd., s/o Shashidhar Pal of Lakhisarai, 88. Sri Sukhdeo Yadav, s/o Ram Sewak Yadav of village Gorhi, P.S. Lakhisarai, 89. Ram Nandan Singh, s/o Ramrup Singh of Kiul, P.S. Lakhisarai, 90. Sri Krishnadeo Mandal, s/o Kokai Mandal of Kiul, P.S. Lakhisarai, 91. Sri Indradeo Yadav, s/o Ramrup Yadav of Lohri, P.S. Lakhisarai, 92. Sri Deo Prakash Ram, s/o Ram Pd. Ram of Lohri, P.S. Lakhisarai, 93. Sri Baijnath Tamoli, s/o Gaya

Tamoli of Kiul, P.S. Lakhisarai, 94. Bachu Sardar, s/o Khartar Mandal of Kiul, P.S. Lakhisarai, 95. Prabhudutt Sahu, s/o Jalim Sao of Damodarpur, P.S. Lakhisarai, 96. Jugal Kishor Pandey, s/o Hardeo Pandey of Lodia, P.S. Lakhisarai, 97. Sri Kokai Paswan, s/o Datan Paswan of Lodia, P.S. Lakhisarai, 98. Sri Rajaram Gupta, s/o Bhajo Sao of village Naya Bazar, Lakhisarai, 99. Sri Diwendra Pd. Sao, s/o Andhi Sao, r/o Nayabasti Kawaiya, P.S. Lakhisarai, 100. Hansraj Paswan, s/o Barho Paswan of village Kawaiya, P.S. Lakhisarai, 101. Rajdeo Yadav, s/o Chhotu Yadav of village Kawaiya, P.S. Lakhisarai, 102. Sri Doman Pd., s/o Jaso Mahton of village Kawaiya, P.S. Lakhisarai, 103. Sri Ram Chandra Yadav, s/o Sri Bharoshi Yadav, village Kawaiya, P.S. Lakhisarai, 104. Sri Krishna Manjhi, s/o Dwarka Manjhi of Sansarpokhar, P.S. Lakhisarai, 105. Sri Lalo Mandal, s/o Mato Mandal of Kawaiya, P.S. Lakhisarai, 106. Sri Piyare Yadav, s/o Natho Yadav of village Kawaiya, P.S. Lakhisarai, 107. Sri Kito Manjhi, s/o Meghu Manjhi of Sansar Pokhar, P.S. Lakhisarai, 108. Sri Niranjan Kumar Verma, s/o Mathura Pd. Verma of Puranibazar, Lakhisarai, 109. Sri Surendra Pd., s/o Sri Dayanand of English, P.S. Lakhisarai, 110. Sri Uday Paswan, s/o Sri Sito Paswan of English, P.S. Lakhisarai, 111. Surendra Pd., s/o Deokinandan of Nayabazar, P.S. Lakhisarai, 112. Sri Medni Paswan, s/o Jhimal Paswan of Gorhi Tola, P.S. Lakhisarai, 113. Sri Dasrath Pd. Mathuri, s/o Banwari Ram Mathuri of Sheikhpura, 114. Sri Sailendra Pd., s/o Baldeo Pd. of Puranibazar, Lakhisarai, 115. Sri Brahmdeo Choudhary, s/o Kishun Choudhary of Lakhisarai, and 116. Sri Sundar Yadav, s/o Prayag Pd. Yadav of village Gorhi, P.S. Lakhisarai, Dist. Monghyr, are likely to commit breach of the peace and thereby disturb the public tranquility by forming an unlawful assembly in spite of prohibitory orders u/s 144 Cr.P.C. promulgated and launching Satyagrah at Lakhisarai Railway Station to disturb Railway communication, etc., and are indulging in other overt, etc., which may lead to serious breach of the peace within the limit of my jurisdiction.

I, therefore, u/s 107 Cr.P.C. do hereby order the above-named Sri Madhu Limaye (M.P.) and 115 others to appear before me on 20th November 1968 at 10-30 A.M. in person and to show cause as to why each of them should not be ordered to execute a bond of Rs. 1,000/- with two securities of the like amount each to keep peace for a period of one year.

Given under my signature
and seal of this court.

11th November, 1968.

Sd./- ILLEGIBLE,

*Sub-Divisional Magistrate,
Sadar, Monghyr.*
11th November, 1968.

बहजलास एस०डी०ओ०,
सदर, मुंगेर ।

मुकदमा नं० जी०आर० 617 एम०68

राज्य	मुदय
बनाम	
मधु लिमये	मुदालय

हाजरी जानिब मुदालय के तरफ से पैरवी

- | | |
|--------------------|-----|
| (1) कमलेश्वरी सिंह | } 3 |
| (2) कपिलदेव सिंह | |
| (3) चन्द्रिका सिंह | |

ह०—अस्पष्ट

20-11-68

बहजलास एस०डी०ओ०,
सदर, मुंगेर ।

सी० नं० 68 एम 2 सन् 1968
दफा 107 सी०आर०पी०सी०

राज्य	प्रथम पत्र
बनाम	
मधु लिमये तथा वगैरह]	द्वितीय पत्र
हाजरी मिनजानिब	द्वितीय पत्र

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| (1) युगल किशोर सिंह | . | . | 1 |
| (2) इन्द्रदेव सिंह | . | . | 1 |
| | | | <hr/> 2 |

ह०—अस्पष्ट

20-11-68

APPENDIX III

(See para. 19 of the Report)

(Record of Case No. 681/M2 of 1968)

Supplementary records

Satyagrah at Lakhisarai Rly. Station.

Department of Subdivisional Officer, Sadar, Monghyr.

Case No. 681/M2 of 1968

State Vs. Shri Madhu Limaye, M.P. and 115 others.

Sl. No.	Description of paper	No. of sheets
1	Order sheet	1
2-4	Prosecution report of persons	3
5-6	O/C of Police and list of persons	2
7-8	SR of notice u/s 188 IPC	2
9	Opinion of Senior District Prosecutor, Monghyr	1

Copy of order sheet of case No. 681/M2 of 1968 State Vs. Madhu Limaye (M.P.) and others

11th November, 1968.

Perused the report of the officer incharge G.R.P.S. Kiul which has been received through I.R.P. Jhajha Kiul Monghyr for taking action u/s 188 I.P.C. against the O. Ps. Sri Madhu Limaye, M.P. and other 115 persons (as detailed in police report).

Issue notice to the O.Ps. directing them to show cause by 20th November 1968 at 10.30 a.m. as to why an action u/s 188 I.P.C. should not be taken against them.

Dictated & corrected

Sd/- P. P. N. Sahi

11-11-68.

S.D.M.

Sd/- P. P. N. SAHI,

11-11-68.

Sub-divisional Magistrate.

19th November, 1968.

A petition has been filed by the S. D. P. Monghyr on behalf of the state today. The A.D.P. in his petition has stated that the accused persons have also committed offence u/s 143/448 I. P. C. by forming unlawful assembly with the common object of committing Criminal trespass in violation of duly promulgated order u/s 144 Cr. P.C. and thereby causing dislocation of the normal functioning of the Rlys. The A.D.P. has prayed for summoning the accused persons to stand trial u/s 143/448 I.P.C.

Put up tomorrow for hearing on this petition.

Sd/- K. K. Pathak,
19.11.68.
S.D.M.

20th November, 1968.

S. R. of show-cause notice received after proper service.

A petition has been filed on behalf of all O.Ps. except O.P. Sri Madhu Limaye and Sri Kapildeo Narain Singh that 15 days' time may be given to file show cause.

Heard A.D.P. in connection with petition filed by S.D.P. on 19th November, 1968. Ask the O/C, G.R.P.S. Kiul to lodge F.I.R. u/s 143 I.P.C. Since it is a cognizable offence, and submit F.F. by 28th November, 1968.

Put up on this date.

Sd/- P. P. N. Sahi,
S.D.M.

Kiul G.R.P.S. S.D.E. F.I.R. No 1/68 u/s 188 IPC

To

The S.D.O. Sadar Monghyr.

Ref. :—Kiul GRPS SDE No. 179 dated 6th November, 1968.

SUBJECT:—*Report u/s 188 I.P.C.*

Sir,

I have the honour to report that S.D.O. Sadar Monghyr issued prohibitory orders u/s 144 Cr. P. C. prohibiting assemblage of 5 or more persons within the limits of 100 yards of Kiul and Lakhisarai Rly. stations for a period of one week i.e. from 5-11-68 both inclusive *vide* memo. No. 2060 C dated Monghyr the 2nd November 1968 which was duly promulgated *vide* Kiul GRPS SDE No. 154 dated 5-11-68.

That the persons noted in the list attached knowingly disobeyed the orders of competent authority by entering into Lakhisarai Rly. station premises in procession in eight batches between 0915 hrs. to 16-30 hrs. on 6-11-68, shouting anti Rly. slogans with a view to disrupt the Rly. communication and obstruct the normal functioning of station offices which tended to cause obstruction, annoyance, injury to the Rly. employees and the Rly. passengers.

I therefore pray that the persons *vide* list attached may kindly be prosecuted u/s 188 I.P.C.

List of P.W.s noted overleaf. Accd. persons *vide* list attached.
(116 persons)

Yours faithfully,
Sd/- Illegible,
S. D.
6-11-68.
O/c.
GRPS, Kiul.

List of witnesses

1. Sri K. B. Mathur, Magistrate 1st Class, Monghyr.
2. Sri B. N. Singh, Rly. Magistrate, Kiul.
3. Sri B. N. Bhatta, B.D.O. Lakhisarai.
4. S. I. R. K. Singh, G.R. P. S. Kiul.
5. S. I. Md. Taha Mallik o/c Lakhisarai P.S.
6. Sri R. K. Kumar, Y. M. Kiul.
7. S. I. D. R. Singh, O/C G.R.P.S. Kiul.

Sd/- Illegible,
6-11-68.

O/C GRPS, Kiul.

In the court of the Sadar Sub-divisional Magistrate, Monghyr, Case No. 617 of 1968. Proceeding u/s 107 Cr. P.C.

Whereas I am satisfied from the report of the Police G.R.P. Kiul P.S. dated 6-11-68 that Sri Madhu Limaye, M.P., 2. Kapildeo Singh s/o Lakhansingh of Barhaiya, P.S. Barhaiya, 3. Ramakant Singh s/o Ramautar Pd. of Chandarpur, P.S. Lakhisarai, 4. Balmiki Shastri s/o Gore Pd. Singh of Kaithma, P.S. Ariari Dist. Monghyr,

5. Dhanoo Yadav s/o Shankar Yadav of Chowk Lakhisarai, 6. Yugal Yadav s/o Tilakdhari Yadav of Singhochak, P.S. Lakhisarai, 7. Bindeshwari Modi s/o Sri Ganga Modi of Lakhisarai, 8. Sri Rajendra Singh s/o Sri Bhiso Singh of Badhangama, P. S. Lakhisarai, 9. Sri Bano Manjhi son of Sri Kartik Manjhi of Amahra, P. S. Lakhisarai, 10. Sri Kishori Pd. Verma s/o Sri Ram Pd. Verma of Mano Chak, P.S. Lakhisarai, 11. Sri Saudagar Sah s/o Sri Kali Sah of Tikakhar P. S. Lakhisarai, 12. Sri Dargahi Yadav s/o Sri Mangal Yadav of Purani Bazar, Lakhisarai P.S., 13. Ramdeo Singh Yadav s/o Sri Govind Singh Yadav of Khoja Bazar, Town P. S., 14. Sri Allauddin Badsah s/o Sri Md. Jn of Guhia Pokhar, P. S. Town, Monghyr, 15. Sri Rajniti Pd. s/o Sri Bind Pd. of Gardanibagh, Patna, 16. Sri Parmanand Pd. s/o Sri Bindeshwari Pd. Singh of Pateshwar, P.S. Lakhisarai, 17. Sri Gurucharan Singh s/o Sri Bhuneshwar Singh of Patneshwar, P. S. Lakhisarai, 18. Sri Umakant Singh s/o Sri Chandrika Singh of Babhangama, P. S. Lakhisarai, 19. Sri Ramkhelawan Singh s/o Sri Chhotan Yadav of Mano, P. S. Surajgarha, 20. Sri Maheshwari Pd. Singh s/o Sri Rajan Singh of Sarari, P.S. Sheikhpura, 21. Sri Ram Pd. Drollia s/o Sri Prosuttamdas Drollia of Lakhisarai, 22. Sri Rajendra Pd. Khetan s/o Sri Hanuman Pd. Khetan, 23. Sri Rabindra Kumar Drollia s/o Sri Ghani Ram Drollia of Puranibazar, Lakhisarai, 24. Kishori Pd. Ghaurasia s/o Tilak Mahton of Panapur, P. S. Lakhisarai, 25. Sri Jugal Kishore Singh s/o Sri Huro Singh of Bahadurpur, P.S. Barhaiya, 26. Sri Shyam Sundar Singh s/o Sri Bindeshwari Singh of Lodia, P.S. Lakhisarai, 27. Sri Kapildeo Pd. Singh s/o Sri Dwarika Singh of Lodia P. S. Lakhisarai, 28. Sri Kamleshwari Pd. Singh s/o Sri Ramadhin Singh of Sulamanchak, P. S. Lakhisarai, 29. Sri Ramautar Singh s/o Sri Sundar Singh of Rampur, P.S. Surajgarha, 30. Sri Md. Abbas s/o Sri Fakir Pd. of Balgudar, P. S. Lakhisarai, 31. Sri Jadubansh Singh s/o Sri Sarjug Pd. Singh of Patner, P.S. Lakhisarai, 32. Sri Jugeshwar Pd. s/o Sri Basudeo Singh of Patner, P. S. Lakhisarai, 33. Sri Nageshwar Singh s/o Sri Lakhan Singh of Patner, P.S. Lakhisarai, 34 Sri Ganesh Pd. s/o Sri Baldeo Ram of Kiul, P.S. Lakhisarai, 35. Sri Rupan Manjhi s/o Sri Saukhi of village Patner, P.S. Lakhisarai, 36. Sri Rito Bhuian s/o Sri Ghari Bhuian of Patner, P.S. Lakhisarai, 37. Sri Naresh Singh s/o Sri Kunjo Singh of Lodia P. S. Lakhisarai, 38. Sri Sidheshwar Pandey s/o Sri Jagat Narain of village Rampur, P.S. Surajgarha, 39. Sri Krishnandan Singh s/o Sri Bhagwat Singh of Rahna, P.S. Lakhisarai, 40. Sri Chunchun Singh s/o Sri Bhagwat Singh village Lodia, P. S. Lakhisarai, 41. Sri Jairam Singh s/o Sri Ramrup Singh of village Lodia, P.S. Lakhisarai, 42. Sri Ramsharan Yadav s/o Sri Balo Yadav of Rahna P. S. Lakhisarai, 43. Sri Ram Das s/o Sri Nawrang Sao of Chakandra, P. S. Ariari, 44. Sri Chandrika Singh s/o Sri Jago Singh of Salauna Chak, P. S. Lakhisarai, 45. Sri Surendra Singh s/o

Sri Deonath Singh of Patner, P.S. Lakhisarai, 46. Sri Ramautar Mandal s/o Sri Khopar Mandal of Kiul, P.S. Lakhisarai, 47. Sri Anil Kumar s/o Sri Anirudh Pd. Singh of Barhaiya, P.S. Barhaiya, 48. Sri Sahdeo Pd. Singh s/o Sri Harbans Pd. of Piparia, P.S. Barhaiya, 49. Sri Siya Ram Yadav s/o Sri Kailu Yadav of Barhaiya, P.S. Barhaiya, 50. Sri Jainarain Singh s/o Sri Ram Krishna Pd. Singh of Babhangama, P. S. Lakhisarai, 51. Sri Kailu Yadav s/o Sri Garho Yadav of Jainagar Kawaiya Nayabazar, P. S. Lakhisarai, 52. Sri Bhola Manjhi s/o Sri Bhado Manjhi of Sansarpokhar, P.S. Lakhisarai, 53. Sri Balmiki Manjhi s/o Sri Narayan Manjhi of Sansarpokhar, P. S. Lakhisarai, 54. Sri Kamlu Manjhi s/o Sri Asho Manjhi Sansarpokhar, P.S. Lakhisarai, 55. Sri Keshwar Mandal s/o Sri Barho Mandal of Naya Tola, Purani Bazar, P.S. Lakhisarai, 56. Sri Balmiki Singh s/o Ramgulam Singh of Rajauna Chanlai, P.S. Lakhisarai, 57. Sri Ganesh Pd. s/o Sri Sita Ram of Naya Bazar, P.S. Lakhisarai, 58. Sri Mahesh Kumar s/o Sri Mahadeo Pd. of Naya Bazar, P.S. Lakhisarai, 59. Sri Sarjug Singh s/o Sri Lakhan Singh of Babhangama, P.S. Lakhisarai, 60. Sri Surendra Pd. Singh s/o Sri Nawal Kishore Singh of Lakhisarai Kabaiya, 61. Sri Jai Kumar Pd. s/o Sri Lakshmi Pd. of Nayabazar, Lakhisarai, 62. Sri Shankar Pd. s/o Sri Kameshwar Pd. Nayabazar, Lakhisarai, 63. Sri Shankar Paswan s/o Sri Ramdhani Paswan of Lakhisarai, English, 64. Sri Sheo Manjhi s/o Sri Barho Manjhi of Sansar Pokhar, P.S. Lakhisarai, 65. Sri Uttam Pd. s/o Sri Khakhar Sao of village Kharra, P.S. Surajgarha, 66. Sri Sarjug Pd. Modi s/o Sri Gobardhan Modi of village Arma, P.S. Surajgarha, 67. Sri Ramashray Singh s/o Sri Kamleshwar Pd. Singh of Khuthar, P.S. Barhaiya, 68. Sri Rambalak Singh s/o Sri Bishwanath Singh of Khuthar, P.S. Barhaiya, 69. Sri Radhe Shyam Singh s/o Sri Jwalamukhi Singh of Rahna, P.S. Lakhisarai, 70. Sri Gita Pd. Singh s/o Sri Ayodhya Singh of Rahna, P.S. Lakhisarai, 71. Sri Mahabir Pd. Arya s/o Sri Bonshi Ram of Naya Bazar, Lakhisarai, 72. Sri Jagdish Pd. s/o Sri Prabhu Sao of Jainagar, P.S. Lakhisarai, 73. Sri Siru Yadav s/o Sri Rohan Yadav of Jainagar, P.S. Lakhisarai, 74. Sri Dwarika Pd. Mishra s/o Sri Rameswar Pd. Mishra of Jainagar P.S. Lakhisarai, 75. Sri Baiju Sahu s/o Karu Sao of Shangar Pokhar, Lakhisarai, 76. Sri Ganesh Pd. s/o Ram Charan Arya Samaj, Lakhisarai, 77. Sri Dayanand Kumar Sao s/o Ramrup Sao of village Kishunpur, P.S. Surajgarha, 78. Sri Ram Naresh Pd. Singh s/o Raghunandan Pd. Singh of Salikpur, Lakhisarai, 79. Sri Bechan Singh s/o Sivashin of Rehu, P.S. Lakhisarai, 80. Sri Balmiki Singh s/o Kuldip Singh of Rehu, P.S. Lakhisarai, 81. Sri Garib Sao s/o Gulab Sao of Rehu, P.S. Lakhisarai, 82. Sri Kapildeo Shastri s/o Rupnarain Sah of Rampur, P.S. Surajgarha, 83. Sri Rambahadur Singh s/o Sitasaran of Rampur, P.S. Surajgraha, 84. Sri Harinandan Singh s/o Firangi Singh of Rampur, P.S. Surajgarha, 85. Sri Sheo Narain

Singh s/o Lallu Hari Singh of Chitoura, P.S. Sheikhpura, 86. Sri Chadrama Yadav s/o Laljee Yadav of village Gohri P.S. Lakhisarai, 87. Sri Indrajit Pd. s/o Shashidhar Pal of Lakhisarai, 88. Sri Sukhdeo Yadav s/o Ram Sewak Yadav of village Gorhi, P.S. Lakhisarai, 89. Ram Nandan Singh s/o Ramrup Singh of Kiul, P.S. Lakhisarai, 90. Sri Krishnadeo Mandal s/o Kokai Mandal of Kiul, P.S. Lakhisarai, 91. Sri Indradeo Yadav s/o Ramrup Yadav of Lohri, P.S. Lakhisarai, 92. Sri Deo Prakash Ram s/o Ram Pd. Ram of Lohri, P.S. Lakhisarai, 93. Baijnath Tamoli s/o Gaya Tamoli of Kiul, P.S. Lakhisarai, 94. Bachu Sardar s/o Khartar Mandal of Kiul, P.S. Lakhisarai, 95. Prabhu-dutt Sahu s/o Jalim Sao of Damodarpur, P.S. Lakhisarai, 96. Jugal Kishor Pandey s/o Hardeo Pandey of Lodia, P.S. Lakhisarai, 97. Sri Kokai Paswan s/o Datan Paswan of Lodia P.S. Lakhisarai, 98. Rajaram Gupta s/o Bhajo Sao of village Nayabazar, Lakhisari, 99. Sri Diwendra Pd. Sao s/o Andhi, Sao Nayabasti Kawaiya, P.S. Lakhisarai, 100. Hansraj Paswan s/o Barho Paswan of village Kawaiya, P.S. Lakhisarai, 101. Rajdeo Yadav s/o Chhotu Yadav of village Kawaiya, P.S. Lakhisarai, 102. Sri Doman Pd. s/o Jaso Mah-ton of village Kawaiya, P.S. Lakhisarai, 103. Sri Ram Chandra Yadav s/o Sri Bharoshi Yadav of village Kawaiya, P.S. Lakhisarai, 104. Sri Krishna Manjhi s/o Dwarka Manjhi of Sansarpokhar, P.S. Lakhisarai, 105. Sri Lalo Mandal s/o Mato Mandal of Kawaiya, P.S. Lakhisarai, 106. Sri Piyare Yadav s/o Natho Yadav of Kawaiya, P.S. Lakhisarai, 107. Kito Manjhi s/o Meghu Manjhi of Sansar Pokhar, P.S. Lakhisarai, 108. Sri Niranjan Kumar Verma s/o Mathura Pd. verma of Purani Bazar, Lakhisarai, 109. Sri Surendra Pd. s/o Sri Dayanand of English, P.S. Lakhisarai, 110. Sri Udai Paswan s/o Sri Sito Paswan of English, P.S. Lakhisarai, 111. Surendra Pd. s/o Deokinandan of Naya Bazar, P.S. Lakhisarai, 112. Sri Medni Paswan s/o Jhimal Paswan of Gorhi Tola, P.S. Lakhisarai, 113. Sri Dasrath Pd. Mathuri s/o Banwari Ram Mathuri of Sheikhpura, 114. Sri Sailendra Pd. s/o Baldeo Pd. of Purani Bazar, Lakhisarai, 115. Sri Brahmdeo Choudhary s/o Kishun Choudhary of Lakhisarai, and 116. Sri Sundar Yadav s/o Prayag Pd. Yadav of village Gorhi, P.S. Lakhisarai, Dist. Monghyr, are likely to commit breach of the peace and thereby disturb the public transquillity by forming an unlawful assembly in spite of prohibitory orders u/s 144 Cr. P.C. promulgated and launching Satyagrah at Lakhisarai Railway Station to disturb Railway communication, etc., and are indulging in other overt, etc., which may lead to serious breach of the peace within the limit of my jurisdiction.

I, therefore, u/s 107 Cr. P. C. do hereby order the above named Sri Madhu Limaye (M.P.) and 115 others to appear before me on 20-11-68 at 10-30 A.M. in person and to show cause as to why each of them should not be ordered to execute a bond of Rs. 1000/- with two

securities of the like amount each to keep peace for a period of one year.

Given under my signature and seal of this court.

11-11-68.

Sd/- Illegible, 11-11-68.

Subdivisional Magistrate
Sadar, Monghyr.

In the court of Subdivisional Magistrate, Monghyr. Case No. 681m2 of 1968 State *vrs.* Sri Madhu Limaye, M.P. and others.

Whereas it appears from the report of officer Incharge G.R.P.S., Kiul that there was a lawfully promulgated prohibitory order u/s 144 Cr. P.C. prohibiting assembly of five or more persons within the limits 100 yards of Kuil and Lakhisarai Rly. Station for a period of one week commencing from 5-11-68 but in defiance of the said prohibitory order one Sri Madhu Limaye and others as per list attached entered into Lakhisarai Rly. Station premises in a batch of procession between 09.15 hrs. to 16.30 hrs. On 6-11-68 shouting anti-Rly. slogans with a view to disrupt the Rly. communication and the normal functioning of the Rlys. thereby causing obstruction, annoyance and injury to the Rly. employees and the Rly. passengers.

You, therefore, are called upon to show cause by 20-11-68 at 10.30 A.M. in my court as to why you should not be prosecuted u/s 188 I. P. C.

Sd/- Illegible, 11-11-68.

Subdivisional Magistrate
Sadar, Monghyr.

In the Court of S.D.O.

Monghyr.

Ref:—State *v/s* Sri Madhu Limaye and others u/s 188 I.P.C.

(681 M2/68)

Sir,

I beg to state that in the above noted case the police report discloses that the accused person had formed an unlawful assembly with the common object of committing criminal trespass in violation of duly promulgated order u/s 144 Cr. P.C. and thus causing dislocation of the normal functioning of the railways. They have thus made themselves liable also for prosecution u/s 143/448 I.P.C.

It is therefore prayed that the accused persons be also summoned to stand trial for the offences u/s 143/448 I.P.C.

Sd/- Illegible, 19-11-68.
Senior District Prosecutor,
Monghyr.

श्रीमान् एस० डी० ओ० सदर मुंगेर के न्यायालय म, मुंगेर
बनाम

बाब संख्या—681 एम2 सन 1968 ई०

पिता का नाम

वादी

मैं/हम

राज्य बनाम मधुलिमये एम० ी० वगैरह

प्रतिवादी ।

के निवासी हैं । ऊपर लिखे मोकदमें की उचित कार्यवाही के लिए हमें विधिज्ञ नियुक्त कराने हैं अतएव मैं/हम स्वेच्छा से नीचे लिखे विधिज्ञों की नियुक्ति स्वीकार कर उन्हें अधिकार देते हैं कि वे विधिज्ञ या उनमें से कोई हमारी ओर से आवेदन, निवेदन, भाषण तथा इस वाद को यथोचित पैरवी करें और हमारे नाम पर आवश्यक कागजों पर हस्ताक्षर बनावें तथा न्यायालय से हमारे रुपये रसीद या भाउचर द्वारा ग्रहण करें एवं हमारी ओर से डिप्री निलाम ई० के रुपये जमा करें । नुटिपूर्ण वाद को वापस ले लें या हमारी ओर से वाद में समझौता करें या आवश्यकतानुसार अपने हस्ताक्षर से मुकदमों को पंचायत में भेजवा दें । मोकदमे के पुनर्विचार के आवेदन पत्र अपने हस्ता र से दें तथा सबूत के कागज दें या वापस लें । मोकदमे के रेकार्ड निरीक्षण करें । इन नियुक्त वकीलों के लिए सभी काम हमें स्वीकार हैं और होंगे । इनके पारिश्रमिक का प्रश्न आपस में तय किया हुआ है । इसलिए यह नियुक्ति पथ लिख दिया कि आवश्यक समय पर प्रमाण होंगे ।

एडवोकेट तथा वकीलों का नाम

1:—नवल किशोर प्रसाद वगैरह

Received from Kapildeo Narain Singh—Client and I am satisfied that has been previously authorised.

Verbally to give me this Vakalatnama and I certified that under Mokhtarnama dated I do not appear nor hold brief for the opposite party Accepted.

Sd./- Nawal Kishore Pd.

Advocate.

20th November, 1968.

(जेल में)

बाइजलास—एस० ी०ओ०,
सदर मुंगेर ।

मो० नं०—68 एम2—1968

राज्य

बनाम

मधु लिमये वगैरह—विपक्षीण

681 दफा 188 आई०पी०सी०

दरखास्त मिनजानिब मुदालहुम

116 व्यक्ति मधु लिमये और कपिलदेव नारा.ण सिंह
को छोड़ कर ।

सविनय निवेदन यह है कि प्रार्थीगण जेल में हैं इसलिये अपने वकील से कानूनी सलाह सोकीज बनाने के लिये नहीं ले सके, इसलिये आज सोकीज तैयार नहीं है । पुलिस ने परेशान करने के लिए यह झूठा मोकदमा किया है । इसलिये सोकीज दाखिल करने के लिए 15 दिन का समय दिया जाय ।

प्रार्थना है कि सोकीज के लिये
15 दिन का समय दिया जाय ।

ह०—कपिलदेव सिंह

Sri Madhu Limaye, M.P., 2. Kapildeo Singh, s/o Lakhn Singh of Barhaiya, P.S. Barhaiya, 3. Ramakant Singh, s/o Ramautar Pd. of Chandarpur, P.S. Lakhisarai, 4. Balmiki Shastri, s/o Gore Pd. Singh of Kaithma, P.S. Ariari Dist. Monghyr, 5. Dhanoo Yadav, s/o Shankar Yadav of Chowk Lakhisarai, 6. Yugal Yadav, s/o Tilakdhari Yadav of Singhochak P.S. Lakhisarai, 7. Sri Bindeshwari Modi, s/o Sri Ganga Modi of Lakhisarai, 8. Sri Rajendra Singh, s/o Sri Bhisoo Singh of Babhangama, P.S. Lakhisarai, 9. Sri Bano Manjhi s/o Sri Kartik Manjhi of Amahra, P.S. Lakhisarai, 10. Sri Kishori Pd. Verma, s/o Sri Ram Pd. Verma of Mano Chak, P.S. Lakhisarai, 11. Sri Saudagar Sah, s/o Sri Kali Sah of Tikakkhar P. S. Lakhisarai, 12. Sri Dargahi Yadav, s/o Sri Mangal Yadav of Purani Bazar, Lakhisarai P.S., 13. Ramdeo Singh Yadav, s/o Sri Govind Singh Yadav of Khoja Bazar, Town P.S., 14. Sri Allauddin Badsah, s/o Sri Md. Jn of Guhia Pokhar, P.S. Town, Monghyr, 15. Sri Rajniti Pd., s/o Sri Bind Pd. of Gardanibagh, Patna, 16. Sri Parmanand Pd., s/o Sri Bindeshwari Pd. Singh of Pateshwar P.S. Lakhisarai, 17. Sri Gurucharan Singh, s/o Sri Bhuneshwar Singh of Patneshwar, P.S. Lakhisarai, 18. Sri Umakant Singh, s/o Sri

Chandrika Singh of Babhangama, P.S. Lakhisarai, 19. Sri Ramkhelawan Singh, s/o Sri Chotan Yadav of Mano, P.S. Surajgarha, 20. Sri Maheshwari Pd. Singh, s/o Sri Rajan Singh of Sarari P.S. Sheikhpura, 21. Sri Ram Pd. Drolia, s/o Sri Prosuttamdar Drolia of Lakhisarai, 22. Sri Rajendra Pd. Khetan, s/o Sri Hanuman Pd. Khetan, 23. Sri Rabindra Kumar Drollia, s/o Sri Ghani Ram Drollia of Puranibazar, Lakhisarai, 24. Kishori Pd. Chaurasia, s/o Tilak Mahton of Panapur, P.S. Lakhisarai, 25. Sri Jugal Kishore Singh, s/o Sri Huro Singh of Bahadurpur P.S. Barhaiya. 26. Sri Shyam Sundar Singh, s/o Sri Bindeshwari Singh of Lodia, P.S. Lakhisarai, 27. Sri Kapildeo Pd. Singh, s/o Sri Dwarika Singh of Lodia P.S. Lakhisarai, 28. Sri Kamleshwari Pd. Singh, s/o Sri Ramadhin Singh of Sulemanchak, P.S. Lakhisarai, 29. Sri Ramautar Singh, s/o Sri Sundar Singh of Rampur P.S. Surajgarha, 30. Sri Md. Abbas, s/o Sri Fakir Pd. of Balgudar, P.S. Lakhisarai 31. Sri Jadubansh Singh, s/o Sri Sarjug Pd. Singh of Patner P.S. Lakhisarai, 32. Sri Jugeshwar Pd., s/o Sri Basudeo Singh of Patner, P.S. Lakhisarai, 33. Sri Nageshwar Singh, s/o Sri Lakhan Singh of Patner P.S. Lakhisarai, 34. Sri Ganesh Pd. s/o Baldeo Ram of Kiul P.S. Lakhisarai, 35. Sri Rupan Manjhi, s/o Sri Saukhi of village Patner P.S. Lakhisarai, 36. Sri Rito Bhuian, s/o Sri Ghari Bhuian of Patner P.S. Lakhisarai, 37. Sri Naresh Singh, s/o Sri Kunjo Singh of Lodia P.S. Lakhisarai, 38. Sri Sidheshwar Pandey, s/o Sri Jagat Narain of village Rampur P.S. Surajgarha, 39. Sri Krishnandan Singh, s/o Sri Bhagwat Singh of Rahna P.S. Lakhisarai, 40. Sri Chunchun Singh, s/o Sri Bhagwat Singh village Lodia P.S. Lakhisarai, 41. Sri Jairam Singh, s/o Sri Ramrup Singh of Lakhisarai, 42. Sri Ramesharan Yadav, s/o Sri Balo Yadav of Rohna P.S. Lakhisarai, 43. Sri Ram Das, s/o Sri Nawrang Sao of Chakandra, P.S. Ariari, 44. Sri Chandrika Singh, s/o Sri Jago Singh of Salauna Chak, P.S. Lakhisarai, 45. Sri Surendra Singh s/o Deonath Singh of Pather, P.S. Lakhisarai, 46. Sri Ramautar Mandal, s/o Sri Khoper Mandal of Kiul P.S. Lakhisarai, 47. Sri Anil Kumar, s/o Sri Anirudh Pd. Singh of Barhaiya P.S. Barhaiya, 48. Sri Sahdeo Pd. Singh, s/o Sri Harbans Pd. of Piparia, P.S. Barhaiya, 49. Sri Siya Ram Yadav, s/o Sri Kailu Yadav of Barhaiya, P.S. Barhaiya, 50. Sri Jainarain Singh, s/o Sri Ram Krishna Pd. Singh of Babhangama, P.S. Lakhisarai, 51. Sri Kailu Yadav, s/o Sri Garho Yadav of Jainagar Kawaiya Nayabazar, P.S. Lakhisari, 52. Sri Bholu Manjhi, s/o Sri Bhado Manjhi of Sansarpokhar, P.S. Lakhisarai, 53. Sri Balmiki Manjhi, s/o Sri Narayan Manjhi of Sansarpokar, P.S. Lakhisarai, 54. Sri Kamlu Manjhi, s/o Sri Asho Manjhi of Sansarpokhar, P.S. Lakhisarai, 55. Sri Keshar Mandal, s/o Sri Barho Mandal of Naya Tola Puranibazar, P.S. Lakhisarai, 56. Sri Balmiki Singh s/o Ramgulam Singh of Raj-

auna Chanlai, P.S. Lakhisarai, 57. Sri Ganesh Pd., s/o Sri Sita Ram of Naya Bazar, P.S. Lakhisarai. 58. Sri Mahesh Kumar, s/o Sri Mahadeo Pd. of Naya Bazar, P.S. Lakhisarai, 59. Sri Sarjug Singh, s/o Sri Lakhan Singh of Babhangama P.S. Lakhisarai, 60. Sri Surendra Pd. Singh, s/o Sri Nawal Kishore Singh of Lakhisarai Kabaiya, 61. Sri Jai Kumar Pd., s/o Sri Lakshmi Pd. of Naya Bazar Lakhisarai, 62. Sri Shankar Pd., s/o Sri Kameshwar Pd. of Naya Bazar Lakhisarai, 63. Sri Shankar Paswan, s/o Ramdhani Paswan of Lakhisarai English, 64. Sri Sheo Manjhi, s/o Sri Barho Manjhi of Sansar Pokhar, P.S. Lakhisarai, 65. Sri Uttam Pd., s/o Sri Khakhar Sao of village Kharra, P.S. Surajgarha, 66. Sri Sarjug Pd. Modi, s/o Sri Gobardhan Modi of village Arma, P.S. Surajgarha, 67. Sri Ramashraya Singh, s/o Sri Mameshwar Pd. Singh of Khuthar, P.S. Barhaiya, 68. Sri Rambalak Singh, s/o Bishwanath Singh of Khuthar, P.S. Barhaiya, 69. Sri Radhe Shyam Singh, s/o Sri Jwalamukhi Singh of Rahna, P.S. Lakhisarai, 70. Sri Gita Pd. Singh, s/o Sri Ayodhya Singh of Rahna, P.S. Lakhisarai, 71. Sri Mahabir Pd. Arya, s/o Sri Bonshi Ram of Naya Bazar Lakhisarai, 72. Sri Jagdish Pd., s/o Sri Prabhu Sao of Jainagar, P.S. Lakhisarai, 73. Sri Siru Yadav, s/o Sri Rohan Yadav of Jainagar, P.S. Lakhisarai 74. Sri Dwarika Pd. Mishra, s/o Sri Rameshwar Pd. Mishra Jainagar, P.S. Lakhisarai, 75. Sri Baiju Sahu, s/o Karu Sao of Shanger Pokhar, Lakhisarai, 76. Sri Ganesh Pd., s/o Ram Charan Arya Samaj Lakhisarai, 77. Sri Dayanand Kumar Sao, s/o Ramrup Sao of village Kishunpur, P.S. Surajgarha, 78. Sri Ram Naresh Pd. Singh, s/o Raghunandan Singh of Salikpur Lakhisarai, 79. Sri Bechan Singh, s/o Siveshin of Rehua P.S. Lakhisarai, 80. Sri Balmiki Singh, s/o Kuldeep Singh of Rehua, P.S. Lakhisarai, 81. Sri Garib Sao, s/o Gulab Sao of Rehua, P.S. Lakhisarai, 82. Sri Kapildeo Shastri, s/o Rupnarain Sah of Rampur, P.S. Surajgarha, 83. Sri Rambahadur Singh, s/o Sitasaran of Rampur, P.S. Surajgarha, 84. Sri Harinandan Singh, s/o Firangi Singh Rampur, P.S. Surajgarha, 85. Sri Sheo Nandan Singh, s/o Lallu Hari Singh of Chitaura, P.S. Sheikhpura, 86. Sri Chandrama Yadav, s/o Laljee Yadav of village Gohri P.S. Lakhisarai, 87. Sri Indrajit Pal, s/o Sri Shashidhar Pal of Lakhisarai, 88. Sri Sukhdeo Yadav, s/o Ram Sewak Yadav of village Gorhi, P.S. Lakhisarai 89. Ram Nandan Singh, s/o Ramrup Singh of Kiul, P.S. Lakhisarai, 90. Sri Krisnadeo Mandal, s/o Kokai Mandal of Kiul, P.S. Lakhisarai, 91. Sri Indradeo Yadav, s/o Ramrup Yadav of Lohri, P.S. Lakhisarai, 92. Sri Deo Prakash Ram, s/o Ram Pd. Ram of Lohri, P.S. Lakhisarai, 93. Baijnath Tamoli, s/o Gaya Tamoli of Kiul, P.S. Lakhisarai, 94. Bachu Sardar, s/o Khartar Mandal of Kiul, P.S. Lakhisarai, 95. Prabhudutt Sahu, s/o Jalim Sao of Damodarpur, P.S. Lakhisarai, 96. Jugal Kishore Pandey, s/o Hardeo Pandey of Lodia, P.S. Lakhisarai.

sarai, 97. Sri Kokai Paswan, s/o Latan Paswan of Lodia, P.S. Lakhisarai, 98. Rajaram Gupta, s/o Bhajo Sao of village Nayabazar, Lakhisarai, 99. Sri Diwendra Pd. Sao, s/o Andhi Sao, r/o Nayabasti Kewaiya, P.S. Lakhisarai, 100. Hansraj Paswan, s/o Barho Paswan of village Kawaiya P.S. Lakhisarai, 101. Rajdeo Yadav, s/o Chhotu Yadav of village Kawaiya, P.S. Lakhisarai, 102. Sri Deman Pd. s/o Jaso Mahton of village Kawaiya, P.S. Lakhisarai, 103. Sri Ram Chandra Yadav, s/o Sri Bharoshi Yadav village Kawaiya, P.S. Lakhisarai, 104. Sri Krishna Manjhi, s/o Dwarka Manjhi of Sansarpokhar. P.S. Lakhisarai, 105. Sri Lalo Mandal, s/o Mato Mandal of Kawaiya, P.S. Lakhisarai, 106. Piyare Yadav, s/o Natho Yadav of Kawaiya, P.S. Lakhisarai, 107. Kito Manjhi, s/o Meghu Manjhi of Sansar Pokhar, P.S. Lakhisarai, 108. Sri Niranjan Kumar Verma, s/o Mathura Pd. Verma of Puranibazar, Lakhisarai, 109. Sri Surendra Pd., s/o Dayanand of English, P.S. Lakhisarai, 110. Sri Udai Paswan s/o Sri Sito Paswan of Lakhisarai, 111. Surendra Pd., s/o Deokinandan of Nayabazar, P.S. Lakhisarai, 112. Sri Medni Paswan, s/o Jhimal Paswan of Gorhi Tola P.S. Lakhisarai, 113. Sri Dasrath Pd. Mathuri, s/o Banwari Ram Mathuri of SheiKhpura, 114. Sri Sailendra Pd., s/o Baldeo Pd. of Puranibazar, Lakisarai, 115. Sri Brahmdeo Choudhary, s/o Kishun Choudhary of Lakhisarai and 116. Sri Sundar Yadav, s/o Prayag Pd. Yadav.

Sd./- Illegible,

6-11-68.

O/C

G.R.P.S. Kiul.

In the Court of Subdivisional Magistrate,
Monghyr.

Case No. 681/M2 of 1968 State *vs.* Sri Madhu Limaye, M.P. and others.

Whereas it appears from the report of officer Incharge G.R.P.S. Kiul that there was a lawfully promulgated prohibitory order u/s 144 Cr. P.C. prohibiting assembly of five or more persons within the limits 100 yards of Kiul and Lakhisarai Railway Station for a period of one week commencing from 5th November, 1968 but in defiance of the said prohibitory order you Sri Madhu Limaye, M.P. and 115 others entered into Lakhisarai Railway Station premises in a batch of procession between 09.15 hrs. to 16.30 hrs. On 6th November, 1968 shouting anti Railway slogans with a view to dis-

rupt the Railway communication and the normal functioning of the Railways, thereby causing obstruction, annoyance and injury to the Railway employees and the Railway passengers.

YOU, therefore, are called upon to show cause by 20th November, 1968 at 10.30 a.m. in my court as to why you should not be prosecuted u/s 188 I.P.C.

Sd./- P. P. N. SAHI,
11th November, 1968.
Subdivisional Magistrate,
Sadar, Monghyr.

APPENDIX IV

(See para 19 of the Report)

(Record of case No. 683/M2 of 1968)

Supplementary Case record

Satyagraha at Lakhisarai Rly. Station.

Deptt. of Sub-divisional Officer, Sadar, Monghyr

Case No. 683/M2 of 1968

State

Vs.

Shri Kapildeo Shastri and others.

Under Act 188 IPC.

Sl. No.	Description of paper	No. of sheets.
1.	Ordersheet	1
2.	Prosecution report U/s 188 IPC	1
3.	O/C of notice U/s 188 IPC	1
4.	S. R. of notice	1

Case No. 683/M2, 1968. State Vs. Sri Kapildeo Shastri and others
Sub-Div. Magistrate.

ORDER SHEET

11-11-68—

Perused the report of the S.I. of Police G.R.Ps. Kiul which has been received through I.R.P.I. JAS Kiul, Monghyr for taking action u/s 188, IPC against the Ops. (1) Sri Kapildeo Shastri, s/o Sri Rup Narain Singh of Rampur, P.S. Surajgarha, (2) Sri Kapildeo Singh s/o Sri Lakhnan Singh of Barhaiya, (3) Sri Madhu Limaye, M.P.

Issue notice to the ops. directing them to show cause by 20-11-68 at 10.30 A.M. as to why an action u/s 188 IPC should not be taken against them.

Dictated & corrected

(Sd.)/- P. P. N. Sahi.

11-11-68.

Sub-Div. Magistrate.

(Sd.)/- P. P. N. SAHI.

11-11-68.

Sub-Div. Magistrate.

20-11-68—

S/R of show-cause notice received back after proper service.

A petition has been filed on behalf of ops. for 15 days time to file show-cause. One week's time allowed. Put up on 28-11-68.

(Sd.)/- Illegible.

20-11-68.

Kiul G.R.P.S.

Non. F.I.R. No. 2/68

u/s 188 I.P.C.

To

The S.D.O. Sadar, Monghyr.

REF:—Kiul G.R.P.S. S.D.E. No. 156, dated 5-11-68.

SUB:—Report u/s 188, I.P.C.

Sir,

I beg to report that S.D.O. Sadar, Monghyr issued prohibitory orders u/s 144 Cr. P.C. prohibiting assemblage of 5 or more persons within the limits of 100 yards of Kiul and Lakhisarai Rly. Stations for a period of one week i.e. from 5-11-68 to 12-11-68, both days inclusive under memo. No. 2060C, dated Monghyr, the 2nd November 1968, which was duly promulgated vide Kiul GRPS SDE No. 154, dated 5-11-68.

1566/68

That the persons noted below knowingly violated the lawful orders of competent authorities by holding and addressing a public meeting at the Rly. grounds at Lakhisarai between 16.30 hours and 18.30 hours in defiance of promulgation of section 144 Cr. P.C. in provocative languages and exhorted the public to offer Satyagrah at Lakhisarai Railway Station and to disrupt the Railway communication and obstruct normal functioning of Railway Offices at Lakhisarai.

I, therefore pray that persons noted below may kindly be prosecuted u/s 188 I.P.C. List of P.Ws. is noted below.

Accused persons:—

1. Sri Kalildeo Shastri s/o Rup Narain Singh of Rampur, P.S. Surajgarha, Distt. Monghyr.
2. Sri Kapildeo Singh s/o Sri Lakhan Singh of Barhiya, Monghyr.
3. Smt. Champa Limaye, w/o Sri Madhu Limaye (M.P.).
4. Sri Madhu Limaye (M.P.).

Yours faithfully,

(Sd.)/- Illegible,

S.I. 6-11-68.

G.R.P.S. Kiul.

List of PWS

- (1) Sri K. B. Mathur, Magistrate, 1st Class, Monghyr.
- (2) Sri B. N. Singh, Railway Magistrate, Kiul.
- (3) Sri D. N. Pandey, I.R.P., Jhajha.
- (4) Sri Kameshwar Prasad, D.I., Lakhisarai.
- (5) Sri Md. Taha Malik, O/C Lakhisarai P.S.

- (6) A.S.I. S. B. Pandey, G.R.Ps., Kiul.
 (7) S.I. D. R. Singh, o/c G.R.Ps., Kiul.
 (8) c/660 Surya Nath Chaudhary, G.R.P.S., Kiul.

(Sd.)/- D. R. SINGH,

S.I.

6-11-68.

G.R.P.S., Kiul.

Forwarded to S.D.M., Sadar, Monghyr.

The accused sl. No. 1, 2 and 4 persons may be prosecuted u/s 188 I.P.C.

(Sd.)/- D.R.P.I. Jhajha.

7-11-68.

In the court of Sub-divisional Magistrate, Sadar, Monghyr.

Case No. 683 M2 of 1968 u/s 188 I.P.C.

State Vs. Kapildeo Shastri and others.

Whereas it appears from the report of the officer Incharge, G.R.P.S. Kiul that there was a lawfully promulgated prohibitory order u/s 144 Cr. P. C. Prohibiting assemblage of five or more persons within the limits of 100 yards of Kiul or Lakhisarai Railway Station for a period of one week commencing from 5-11-68 but in defiance of the said prohibitory order you Sri (1) Kapildeo Shastri s/o Rup Narain Singh of Rampur, P.S. Surajgarha, (2) Kapildeo Singh s/o Lakhn Singh of Barahiya, (3) Madhu Limaye M.P. knowingly held and addressed a public meeting at the Railway Ground at Lakhisarai within the prohibited area between 16-30 hours and 18-30 hours, on 5-11-68 in a provocative language and exhorted the public to offer satyagraha at Lakhisarai Railway Station and to disrupt the Railway communication and obstruct a normal functioning of the Railways at Lakhisarai.

You, therefore, are called upon to show cause by 20-11-68 at 10-30 A.M. in my court as to why you should not be prosecuted u/s 188 I.P.C.

(Sd.)/- P. P. N. SAHI.

11-11-68.

Sadar Sub-Div. Magistrate, Monghyr.

S. R. attached in original record sent to standing council H.C.

श्रीमान एच०डी०घो०

बनाम साहब

के न्यायालय में

मुंबई

बाब संख्या 683 एम 2

पिता का नाम

सन् 1968

मैं/हम

राज्य बनाम कपिलदेव शास्त्री वगैरह

बायी

कपिलदेव शास्त्री पु० रूप नारायण सिंह ग्राम

प्रतिवादी

रामपुर थाना सूर्यगढ़ा, मुंगेर ।

१९६८-६९ १११

के निवासी हैं। ऊपर लिखे मुकदमे की उचित कार्यवाही के लिए हम विविध नियुक्त कराने हैं अतएव मैं/हम स्वेच्छा से नीचे लिखे विधियों की नियुक्ति स्वीकार कर उन्हें अधिकार देते हैं कि वे विविध या उनमें से कोई हमारी ओर से आवेदन, निवेदन, भाषण तथा इस बाद को यथोचित पेश करें और हमारे नाम पर आवश्यक कागजों पर हस्ताक्षर बनावें तथा न्यायालय से हमारे रुपये रसीद या भाउचर द्वारा ग्रहण करें एवं हमारी ओर से द्विती निलाम ई० के रुपये जमा करें। त्रुटिपूर्ण वाद को वापस ले लें या हमारी ओर से वाद में समझौता (Compromise) करें या आवश्यकतानुसार अपने हस्ताक्षर से मुकदमों को पंचायत में भेजवा दें। मुकदमों के पुनर्विचार के आवेदन पत्र अपने हस्ताक्षर से दें तथा सबूत के कागज दें या वापस लें। मुकदमे के रेकार्ड निरीक्षण करें। इन नियुक्त वकीलों के लिए सभी काम हमें स्वीकार हैं और होंगे। इनके पारिश्रमिक का प्रश्न आपस में तय किया हुआ है। इसलिए यह नियुक्ति पत्र लिख दिया कि आवश्यक समय पर प्रमाण होंगे।

एडवोकेट तथा वकीलों का नाम

श्री खबीरुल हक

श्री बिन्देश्वरी प्रसाद सिंह

श्री पं० श्रीकृष्ण मिश्र

श्री मकेश्वर प्रसाद

वगैरह वगैरह वगैरह

वगैरह वगैरह वगैरह

ह०—

श्री नवल किशोर प्रसाद

Received from Sri Kapildeo Shastri Client and I am satisfied that has been previously authorised verbally to give me this Vakalatnama and I certified that under Mokhtanama dated I do not appear nor hold brief for the opposite party Accepted.

(Sd.)/- NAWAL KISHOR PD.

Pleader.

20-11-68.

(जेल में)

बाइजलास एस० डी० प्रो०,
सदर मंगेर

मो० न० 683 एम 2 सन 1968

राज्य

बनाम

श्री कपिलदेव शास्त्रा वगरह

मुदालय

हस्ब दफा 188 पेनल कोड

दरखास्त भिनजानिब

श्री कपिलदेव शास्त्री,

कपिलदेव सिंह तथा मधु लिमये ।

सविनय निवेदन है कि पुलिस ने नाहक परेशान करने के लिए गलत मोकदमा किया है, प्रार्थीगण जेल में रहने के कारण अभी अपने वकील से कानूनी सलाह शो कौज तैयार करने के लिये नहीं ले सके हैं, इसलिये प्रार्थना है कि 15 दिन का समय दिया जाय ।

प्रार्थना है कि शो कौज के लिये
15 दिन का समय दिया जाय ।

ह०—कपिलदेव शास्त्री

20-11-68

Case No. 683 M2/1968.

State Vs. Sri Kapildeo Shastri and others.

11-11-68.

U/s 188, I.P.C.

Perused the report of the S.I. of Police G.R.P.S. Kiul which has been received through I.R.P.L Jhajha, Kiul, Monghyr for taking action u/s 188, I.P.C. against the O.Ps. (1) Sri Kapildeo Shastri, s/o Sri Rup Narain Singh of Rampur, P.S. Surajgarha. (2) Sri Kapildeo Singh, s/o Sri Lakhan Singh of Barhaiya and Sri Madhu Limaye, M.P.

Issue notice to the O.Ps. directing them to show cause by 20-11-68 at 10-30 A.M. as to why an action u/s 188, I.P.C. should not be taken against them.

Dictated and corrected.

(Sd.) P. P. N. SAHI,
S.D.M.
11-11-68.

(Sd.)/- P. P. N. SAHI,
11-11-68.

Sub-Div. Magistrate.

20-11-68.

S.R. of show cause notice received back after proper service.

A petition has been filed on behalf of O.Ps. for 15 days time to file show cause. One week's time allowed. Put up on 28-11-68.

(Sd.)/- P. P. N. SAHI.
20-11-68.

Kiul GRPs.
Non-FIR No. 2/68.
u/s 188, I.P.C.

To

The S.D.O., Sadar, Monghyr.

REF:—Kiul GRPS SD case No. 156, dated 5-11-68.

SUB:—Report u/s 188, I.P.C.

Sir,

I beg to report that S.D.O. Sadar, Monghyr issued prohibitory orders u/s 144 CRPC, prohibitory assembling of 5 or more persons within the limits of 100 yards of Kiul and Lakhisarai Railway Stations for a period of one week i.e. from 5-11-68 to 12-11-68 both days inclusive under memo No. 2060C, dated Monghyr, the 2nd November, 1968 which was duly promulgated vide Kiul GRPs SDE No. 154, dated 5-11-68.

That the persons noted below knowingly violated the lawful orders of competent authorities by holding and addressing a public meeting at the Railway grounds at Lakhisarai between 16-30 hours and 18-30 hours in defiance of promulgation of section 144 Cr. P.C., in provocative language and exhorted the public to offer *satyagrah*.

at Lakhisarai Railway Station and to disrupt the Railway Communication and obstruct normal functioning of Railway offices at Lakhisarai.

I, therefore pray that persons noted below may kindly be prosecuted u/s 188 IPC. List of P.Ws. is noted below.

Accused Persons:—

- (1) Sri Kapildeo Shastri, s/o Sri Rup Narain Singh of Rampur, PS Surajgarha, Distt. Monghyr.
- (2) Sri Kapildeo Singh, s/o Sri Lakhan Singh of Barhaiya, Monghyr.
- (3) Smt. Champa Limaye, w/o Sri Madhu Limaye (M.P.)
- (4) Sri Madhu Limaye (M.P.).

Yours faithfully,

(Sd.)/-

S.I. 6-11-68.

GRPS, Kiul.

List of PWs.

1. Sri K. B. Mathur, Magistrate, 1st class, Monghyr.
2. Sri B. N. Singh, Rly. Magistrate, Kiul.
3. Shri D. N. Pandey, I.R.P., Jhajha.
4. Sri Kameshwar Prasad, D.I., Lakhisarai.
5. Sri Md. Taha Malik, c/o Lakhisarai P.S.
6. A.S.I. S. B. Pandey, G.R.P.S, Kiul.
7. S.I.D. R. Singh, O/C G.R.P.S., Kiul.
8. C/660 Surya Nath Choudhary, G.R.P.S., Kiul.

(Sd.) D. R. SINGH,

S.I.

6-11-1968.

G.R.P.S., Kiul.

Forwarded to S.D.M., Sadar, Monkhyr.

The accused sl. No. 1, 2 and 4 persons may be prosecuted u/s 188 IPC.

(Sd.)

I.R.P.IJA.

7-11-1968.

In the court of Sub-Divisional Magistrate, Monghyr, Case No. 689M2 of 1968 State Vs. Sri Madhu Limaye, M.P., and others.

Whereas it appears from the report of officer Incharge, G.R.P.S., Kuil that there was a lawfully promulgated prohibitory order u/s 144 Cr.P.C. prohibiting assembly of five or more persons within the limits 100 yards of Kuil or Lakhisarai Rly. Station for a period of one week commencing from 5th November 1968 but in defiance of the said prohibitory order, you Sri Kapildeo Shastri and others knowingly held and addressed a public meeting at the Rly. ground within the prohibited area in provocative language and between 16-30 hours and 18-30 hours on 5th November 1968 exhorted the public to offer Satyagraha at Lakhisarai Rly. Station and to disrupt the Rly. communication and obstruct normal functioning of the Rly. at Lakhisarai.

You, therefore, are called upon to show cause by 20th November 1968 at 10-30 A.M. in my court as to why you should not be prosecuted u/s 188 I.P.C.

(Sd.) P. P. N. SAHI.

11-11-1968

Sub-Divisional Magistrate,
Sadar, Monghyr.

APPENDIX V

(See para 19 of the Report)

(Record of case No. 2351 of 1968)

Kind G.R.P.'s case No. 6 (II) 68, u/s 143 IPC and 122 Rly. Act.)

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**

DEPARTMENT S.D.O. Sadar Monghyr

G. R. Case No. 2351 of year 68

**

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Petitioner State	Opposite Party Vs. Sri Madhu Limaye, M.P. and 115 others.			
Under Act Date of Decision	of the year. Date of receipt in Record Room.			
Serial No.	Description of paper.	*	*	*
1	2			3
1 to 3	Order sheet.			
4 to 6	F. I. R.			
7 to 9	Remand report along with name of the accused persons.			
10.	Requisition for recording statement u/s 164 Cr. P. C.			
11.	Statement u/s 164 Cr. P. C. of Shri Gaya Prasad Mishra.			
12.	Statement u/s 164 Cr. P. C. of Shri Shyam Bihar Pandey.			
13 to 14.	Custody warrant of Shri Madhu Limaye, M.P. and Shri Jadubans Singh.			
15.	Letter No. 2074 dated 27-11-1968 of Supd. of Jail, Monghyr.			
16.	Requisition for recording Statement u/s 164 Cr. P.C.			
17.	Statement u/s 164 Cr. P. C. of Shri Bijoy Bahadur Singh.			
18.	Statement u/s 164 Cr. P.C. of Shri Awadh Bihari Singh.			

8 pages.

(Sd.) Illegible.
B. C.

Kiul G.R.P.S. Case No. 6 (11) 68, u/s 143 IPC/122 Rly. Act.

ORDER SHEET

No. GR-2351/68.

Nature of the case

State

Shri Madhu Limaye, M.P. and 115 others

S. No. &
date of
orders

Order and signature of officer

Note of action
taken on order
with date

1
21-11-68

Seen F.I.R. of G.R.P. Kiul case No. 6 (11) 68 u/s 143 I.P.C. and 122 Rly. Act. Enter in General register and put up with F.F. on 28-11-68.

Sd. K. K. Pathak,
21-11-68.

2
25-11-68

Perused case record No. 6/67 of 1968. From perusal of this record it appears that all the OPS except Shri Madhu Limaye, M.P., Shri Kapildeo Shastri, Shri Harinandan Singh and Sri Yadubansh Singh have been released on bail bonds. Perused policy report praying for remand. The above named O.Ps. are remanded to custody in this case also. Issue custody warrants. Regarding other O. Ps. who have been released on bail, inform the police for necessary action.

Further from perusal of the F.I.R. it appears that the case was instituted on 6-11-68, but from the forwarding report it appears that the case was instituted on 19-11-68. Again from column 3 of the F.I.R. it appears that the F.I.R. was despatched on 20-11-68. The O/C G.R.P.S. Kiul is directed to submit his explanation by 5-12-68. A copy of the order sheet may be sent to S.R.P. Parna for necessary action.

Put up on 28-11-68.

(Sd.) Illegible.
25-11-68.

Later The statements of Shri Gaya Pd. Mishra and Shri Shyam Bihar Pandey, both T.C.S. recorded by Shri R. N. N. Sahai, Magistrate, u/s 164 Cr. P. C. have been received.

Put up in record.

(Sd.) Illegible.
25-11-68.

3
26-11-68

Custody warrants of accused Shri Madhu Limaye, M.P. (2) Sri Kapildeo Shastri (3) Shri Hari Nandan Singh and (4) Shri Jadubans Singh were sent to the Superintendent of Jail, Monghyr, but he accepted except custody warrants of accused (1) Shri Madhu Limaye, M.P. and (2) Shri Jadubans Singh and return without any endorsement.

1

2

3

Call for a report from the Superintendent of Jail, Monghyr in this connection by 27-11-68 and put up on the date fixed.

Sd. Illegible.

26-11-68.

4

27-11-68 Letter No. 2874 dated 27-11-68 received from the Supdt. District Jail, Monghyr. It has been submitted by the Supdt. District Jail, Monghyr that the I/C warrants for Sri Kapildeo Shastri and Shri Harinandan Singh were brought for delivery to jail and they were accepted there by the jail-clerk. As regards the two other I. C. warrants for Sri Madhu Limaye, M.P. and Shri Jadubans Singh were not taken delivery of as both the under trial prisoners were lodged in Delhi Central Jail for production before the Hon'ble Supreme Court of India, New Delhi on 25-11-68 in connection with the hearing of their writ petition No. 355 of 1968. It has been further submitted that for the reasons discussed above it was considered unnecessary by them to accept the two I/C warrants in question unless Shri Limaye and Shri J. Singh were transferred to this Jail for custody. The Supdt. has submitted that there was no mala fide motive on the part of the Jail Clerk in returning the two I/C warrants referred to above. Put up before the S.D.O. Sadar, Monghyr, for considering the explanations furnished by the Supdt. Distt. Jail, Monghyr.

Sd. K. K. Pathak,

27-11-68.

S.D.M.

Later

As directed by S.D.O. Sadar, Monghyr recorded the statements of Sri Awadh Bihari Singh P.W. and Sri Vijay Bahadur Singh P.W. u/s 164 Cr. P.C.

(Sd) K. K. Pathak.

27-11-1968.

S.D.M.

FIRST INFORMATION REPORT

Information of cognisable crime reported under section 154, Criminal Procedure Code at Police Station :— जी०भार०पी० किउल ।

Sul-division :- सदर मुंगेर District :— मुंगेर

No. 6 date and hour of occurrence तारीख 6-11-68 को 9/15 बजे दिन से 16/25 तक ।

Date and hour when reported.	Place of occurrence and distance direction from Police Station.	Date of despatch from Police Station
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6-11-68 सनहा 179 केस 19-11-68 22-30 बजे ।	लखीसराय रेलवे स्टेशन से 1 मील पश्चिम	20-11-68
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Name and residence of informant and complainant.	Name and residence of accused.	Brief description of offence with section and of property carried off, if any.	Steps taken regarding investigation explanation of delay in recording information.
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3

4

एस०आई० धर्म राज सिंह, जी०भार०पी० किउल	(1) श्री मधु लिमये एम०पी० एवं 115 अन्य । (सूची संलग्न)	नाजायज जत्था बांधकर 144 धारा सी० भार०पी० को उल्लंघन करते हुये स्टेशन पर आकर प्लैटफार्म बर्गरह पर नाजायज तरीके से रेलवे के	रेलवे भारसी अधीक्षक पटना के आदेशानुसार सनहा नं० 179 दिनांक 6-11-68 के आधारे पर अपराध अंकित किया अनुसंधान में स्वयं रखा ।
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4

काम में बावा बालने,
की नीयत से प्रवेश
किया ।
धारा 143-आई०पी०
सी०/122 रेलवे
ऐक्ट ।

ह०—
आ० नि०
रेलवे थाना किउल
19-11-68

सनहा न० 179 दिनांक 6-11-68 का नकल

मैं थानेदार धर्मराज सिंह सामिल आरक्षी निरीक्षक राजकुमार सिंह के थाना आधे और डायरी का चार्ज लिया साथ लखीसराय प्रोसेशन में सत्याग्रह से सम्बन्धित एस०एस०पी० का झंडा एकजीबीट में लाये ? लेखनीय है कि आज करीब 9.15 बजे (1) श्री मधु लिमये, (2) श्री कपिलदेव सिंह, (3) रामाकान्त सिंह, (4) श्री बाल्मीकी मिश्र, (5) श्री धनु यादव, (6) श्री युगल यादव, (7) श्री विन्देश्वरी मोदी, (8) श्री राजीन्दर सिंह, (9) श्री बानों मांझी, (10) किशोरी प्रसाद वर्मा, (11) सौदागर साह, (12) दरगाही यादव, (13) रामदेव सिंह यादव, (14) अलाउद्दीन बादशाह, (15) राजनीति प्रसाद, (16) परमानंद प्रसाद, (17) गुरुचरण सिंह, (18) उमाकान्त सिंह, (19) रामखेलावन सिंह, (20) महेश्वरी साद सिंह, (21) राम प्रसाद डोलिया, (22) राजीन्द्र प्रसाद खेतान, (23) रवीन्द्र कुमार, (24) किशोरी प्रसाद चौरसिया, (25) युगल विशोर सिंह, (26) श्याम सुन्दर सिंह, (27) कपिलदेव प्रसाद सिंह, (28) कमलेश्वरी प्र० सिंह, (29) रामोत्तार सिंह, (30) मो० अम्बास, वगैरह के धारा 144 सी०आर०पी०सी० के उलंघन करते हुए जुलूस में शामिल होकर नारा "संयुक्त सोशलिस्ट पार्टी जिन्दाबाद इनक्लाब जिन्दाबाद, हमारी मांगें पूरी करो, रेल बोर्ड बरखास्त करो, रेल मंत्री मुर्दाबाद, जो हमसे टकरायगा, चूर-चूर हो जायेगा, आदि नारा लगाते हुए लखीसराय स्टेशन झंडा लिये हुए लखीसराय प्लेटफार्म पर बार-बार मना करने के बावजूद भी सत्याग्रह करने के लिए प्रवेश किये । अतः उन्हें धारा 151 सी०आर०पी०सी० के अन्तर्गत गिरफ्तार किया गया । पुनः करीब 10 बजे नाजायब जुलूस का एक दूसरा जत्था, 1-जदुवंश सिंह, 2-जागेश्वर प्र०, 3-नागेश्वर सिंह, 4-गणेश प्र०, 5-रूपन मांझी, 6-रीतो भुइयां, 7-नरेश सिंह'—वगैरह के बही नारा लगाते हुए नाजायब जुलूस में सामिल होकर रेलवे हाते में होते हुए धारा 144 सी०आर०पी० का उलंघन करते हुए लखीसराय पश्चिम केबिन के पास बार बार मना करने पर भी केबिन पर चढ़ने को सत्याग्रह करने की कोशिश कर रहे थे । अतः उन्हें धारा 151 सी०आर०पी०सी० के अन्तर्गत गिरफ्तार किया । पुनः करीब 10-30 बजे सत्याग्रहियों का एक तीसरा जत्था, 1-श्री सिधेश्वर साह, 2-श्री कृष्ण नरैन सिंह, 3-श्री चुनचुन सिंह, 4-श्री सुरेन्द्र सिंह, 5-श्री रामोत्तार मंडल

वगैरह के उपरोक्त नारा लगाते हुए झंडा लिये नाजायज जुलूस में सामिल होकर लखीसराय स्टेशन के बुकिंग ऑफिस (टिकट घर) के सामने सत्याग्रह करने के लिये प्रवेश किया अतः 151 सी०आर०पी०सी० के अन्तर्गत गिरफ्तार किये गये । पुनः करीब 12-15 बजे सत्याग्रहियों का एक चौथा जत्था जो 1-श्री अनील कुमार, 2-श्री सहदेव प्रसाद सिंह, 3-श्री सियाराम यादव, 4-जयनारायण सिंह, 5-श्री कैलाश यादव, 6-श्री भोला मांझी, 7-श्री बालमीकी मांझी, 8-श्री कमल मांझी, 9-श्री केशर मंडल, 10-श्री बाल्मीकि सिंह, के नाजायज जुलूस में सामिल होकर झंडा लिये हुए नारा लगाते हुए लखीसराय स्टेशन प्लेटफार्म पर प्रवेश किये अतः उन्हें धारा 151 सी०आर०पी०सी० में गिरफ्तार किया गया । पुनः करीब 13-45 बजे सत्याग्रहियों का पांचवां जत्था सब० श्री 1-गणेश प्रसाद सांजिल 2-महेश कुमार 3-सरयुग सिंह, 4-सुरेन्द्र प्रसाद सिंह, 5-जयकुमार प्रसाद, 6-शंकर प्रसाद, 7-शंकर पासवान, 8-शिव मांझी वगैरह के जुलूस में झंडा लिये नारा लगाते लखीसराय रेलवे डाउन प्लेटफार्म पर प्रवेश किया अतः धारा 151 सी०आर०पी०सी० के अन्तर्गत गिरफ्तार किया । पुनः करीब 14-10 बजे जुलूस का एक छठा जत्था सर्वश्री 1-उत्तम प्रसाद साव, सामिल 2-सरयुग प्रसाद मोदी, 3-रामाश्रय सिंह, 4-रामबालक सिंह, 5-राधेश्याम सिंह, 6-गीता प्रसाद सिंह वगैरह के नाजायज जुलूस में शामिल होकर झंडा लिये नारा लगाते लखीसराय डाउन प्लेटफार्म पर प्रवेश किया अतः उन्हें धारा 151 सी०आर०पी०सी० के अन्तर्गत गिरफ्तार किया । पुनः करीब 15-20 बजे सातवां जुलूस सर्वश्री 1-महावीर प्रसाद शर्मा, सामिल 2 जगदीश प्रसाद, 3-सरयुग यादव, 4-डारिका प्रसाद, 5-बैजसाव, 6-गणेश प्रसाद, 7-दयानंद कुमार, 8-रामनरेश प्रसाद सिंह, 9-बैचन सिंह, 10-बाल्मीकि सिंह, 11-गरीब साव वगैरह के नाजायज जुलूस झंडा लेकर नारा लगाते हुए लखीसराय के डाउन प्लेटफार्म पर आया । अतः धारा 151 उपरोक्त गिरफ्तार किया । पुनः करीब 16-25 बजे आठवां जत्था सर्वश्री 1-कपिलदेव शास्त्री, सामिल, 2-रामबहादुर सिंह, 3-हरनंदन सिंह, 4-शिवनन्दन सिंह, 5-चन्द्रमा सिंह, 6-इन्द्रजीत सिंह, 7-सुखदेव यादव, 8-रामानन्दन सिंह, 9-कृष्ण देव मंडल, 10-इन्द्रदेव यादव, 11-देव प्रकाश राम, 12-बैजनाथ तमोली, 13-बुचु सरदार, 14-प्रभुदत्त साह, 15-युगल किशोर पांडे, 16-कोकाय पासवान, 17-राजाराम गुप्ता, 18-देवेन्द्र प्रसाद साव, 19-हंस राज पासवान, 20-रामदेव यादव, 21-डोमन प्रसाद, 22-रामचन्द्र यादव, 23-लालो मंडल, 24-कृष्ण मांझी, 25-प्यारे यादव, 26-कितो मांझी, 27-निरंजन कुमार, 28-सुरेन्द्र प्रसाद, 29-उबैय पासवान, 30-सुरेन्द्र प्रसाद, 31-मेवनी प्रसाद, 32-दसरथ प्र० मांझी, 33-सैलेन्द्र प्रसाद, 34-ब्रह्मदेव चौधरी, 35-सुन्दर यादव के नाजायज जुलूस में सामिल होकर झंडा लिये नारा लगाते हुए बार बार मना करने पर भी लखीसराय डाउन प्लेटफार्म पर सत्याग्रह के लिये आये इन्हें धारा 151 सी०आर०पी०सी० में गिरफ्तार किया गया । उपरोक्त घटना श्री माधुर मजिस्ट्रेट फ्लैट क्लास, मुंगेर, 2-श्री बी० एन० सिंह, रेलवे मजिस्ट्रेट किउल, 3-श्री भट्ट बी०डी०धो० लखीसराय, 4-श्री ी० एन० पांडे, एस०आर०पी० झाम्ना, 5-श्री राजकुमार सिंह, धा०नि० रेल धाना किउल वगैरह अनेकों अन्य गवाहों के सामने घटी । सभी मुद्दालय को एस०डी०धो० सदर मुंगेर के यहाँ भेजा गया । धारा 107/117 सी०आर० पी०सी० और धारा 188 आई०पी०सी० अन्तर्गत रिपोर्ट की जा रही है ।

करीब 17 बजे रात को श्री 'गीता सिंह' एकल प्रेसिडेन्ट एस०एस०पी०, मुंगेर तथा श्रीमती चम्पा त्रिपाठी श्री श्री मधु त्रिपाठी एम०पी० तथा श्री राम चौधरी सिंह, एकल एम०

एल०ए० सा० मंसौल थाना बरियारपुर मुंगेर रेलवे मैदान में धारा 144 सी०आर०पी सी० का उलंघन करते हुए एक ग्राम सभा की और भाषण दिये । लखीसराय थाना के पुलिस ऑफिसरान तथा आरक्षी निरीक्षक राजकुमार सिंह, रेल थाना किउल के समक्ष । अतः उनके विरुद्ध उच्च अधिकारियों से परामर्श बाद उचित कार्रवाई की जायगी । सभी भाषण देने वालों ने एलान 16 जनवरी, 1969 तक उनकी सारी मांगें पूरी नहीं होती हैं तो वे लोग डाइरेक्ट ऐक्शन प्रारम्भ करेंगे और जिस तरह 1942 आंदोलन और साक्रिय के लिये ब्रिटिश सरकार जिम्मेवार थी उसी तरह इस डाइरेक्ट ऐक्शन के लिये रेलवे बोर्ड तथा सरकार जिम्मेवार होगी शांति भंग के लिये ।

ह०:-धर्मराज सिंह,

6-11-68

किउल जी०आर०पी०

To

The S.D.O., Sadr, Monghyr.

Ref: Kiul G.R.P.S. case No. 6 of 19th November 1968.

Sir,

I beg to report that the persons named in the F.I.R. (list attached herewith) who were arrested and forwarded to you on 6th November 1963 u/s 151 Cr.P.C. may kindly be remanded in this case. They are still reported to be in Jail in connection with the proceeding u/s 151/107 Cr.P.C. They may kindly be remanded to Jail custody for a fortnight by which time further report will follow.

Yours faithfully.

Accused persons

(116) vide list attached.

(Sd.) Illegible.

20-11-1968.

O/C G.R.P.S., Kiul.

Put up with records.

(Sd.) Illegible

21-11-1968.

To

The S.D.O., Sadar, Monghyr.

Ref: Kiul GRPS Case No. 6 dated 19th November 1968 u/s 143
IPC/122/121 Rly. Act.

Sir,

Kindly depute a Magistrate to record the statement of the following witness in connection with the above noted case u/s 164 Cr.P.C.

- (1) Shri G. P. Mishra—T.C. Y.M. Squard, Kiul.
- (2) Shri S. B. Pandey—T.C. Lakhisarai.

Yours faithfully,

(Sd.) D. R. SINGH.

O/C G.R.P.S., Kiul.
25-11-1968.

Compiled statement in two sheets are enclosed herewith. To
S.D.O

(Sd.) Illegible.
25-11-1968.

Shri R. N. N. Sahai, Magistrate, 1st Class will please do it.

(Sd.) Illegible.
25-11-1968.

धारा 164 भा० द० प्र० संहिता के अन्तर्गत
FORM OF HEADING OF DEPOSITION 1.

कियुल जी० धार० पी० Case No. 6 ता० 19-11-1968

Deposition of witness No.....for the.....
aged about.....taken on solemn affirmation on the
.....day of.....19

My name गया प्रसाद मिश्र । I am son of पं० जमुना प्रसाद मिश्र

My age is 39 years. I am by caste

My home is at Mauza टेढी घाट Police-station लाजेकला
....., District पटना I reside

at present in Mauza कियुल Police-station कियुल
.....District मुंगेर where I am टिकट कलेक्टर

यह घटना 6-11-68 की है । मेरी तथा श्री विजय बहादुर सिंह, टिकट कलेक्टर क्यूल की डिप्टी लखीसराय स्टेशन पर 6 बजे सुबह से 6 बजे शाम तक थी । दोनों प्रादमी डाऊन प्लेटफार्म के मेन गेट पर काम कर रहे थे । करीब 9.45 बजे सुबह बाहर की ओर से 100-125 लोगों की भीड़ "इनक्लाब", "जिन्दाबाद", "हमारी मांगें पूरी करो" "रेल का चक्का जाम करो" इत्यादि नारों के साथ प्लेटफार्म पर घुसने की कोशिश की । हम लोगों के साथ पुलिस के बहुत से सिपाही एवं पुलिस अधीक्षक एवं माधुर जाहब मैजिस्ट्रेट गेट के पास मौजूद थे । हम लोगों ने इन लोगों से टिकट मांगा । उन लोगों ने कोई समझ गया, लेकिन वे लोग जबरदस्ती सभी लोगों को चक्का देते हुए प्लेटफार्म पर घुस आये । उन लोगों में सब से आगे माननीय कपिलदेव सिंह जी एवं श्री मधुलिमये साहब थे । उसके बाद पुलिस अधीक्षकों ने उन लोगों को घेर लिया और घेर कर प्रथम श्रेणी के विश्रामानगर ले गये ।

इसी तरह करीब 1 या 1½ घंटे के बीच 25-30 का एक जत्था वही नारा लगाते हुए, टिकट न दिखाते हुए, जबरदस्ती प्लेटफार्म पर घुस आये । वे सभी गिरफ्तार हो गये । यह क्रम 4½ बजे संध्या तक चला । सब मिला कर 8 जत्थे आये और गिरफ्तार हुए । आखिरी जत्था 4½ बजे आया था ।

सब पढ़ लिया एवं सही पाकर अपना
हस्ताक्षर कर दिया

ह०—रा०न०ना० सहाय

25-11-68

ह०—गया प्रसाद मिश्र,
टिकट कलेक्टर, कियुल जं०,
25-11-68 ।

दंडाधिकारी प्रथम श्रेणी, मुंगेर ।

FORM OF HEADING OF DEPOSITION 2.

कियुल घाना Case No. 6 ता० 19-11-68

Deposition of witness No.....for the.....
aged about.....taken on solemn affirmation on the
.....day of.....19

My name श्याम विहारी पांडेय

I am son of श्री बट्टी नाथ पांडेय

My age is 27 years. I am by caste

My home is at Mauza पौहारीपुर, Police-station बलिया

....., District बलिया (उ०प्र०) reside

at present in Mauza लखीसराय Police-station कियुल जी०भार०पी०

.....District मुंगेर where I am टिकट कलेक्टर

6-11-68 को मेरी तथा जी० पी० मिश्रा, तथा बी० बी० सिंह की ड्यूटी लखी-
सराय स्टेशन के डाऊन प्लेटफार्म पर थी। फिर कहता है कि मेरी डियुटी अप प्लेटफार्म के
निकलने वाले गेट पर थी। बी० बी० सिंह और जी० पी० मिश्रा की डियुटी 6 बजे प्रातः से 6
बजे संध्या तक थी। मेरी ड्यूटी 8 बजे प्रातः से 8 बजे संध्या तक थी।

करीब 9-25 बजे करीब 100-125 आदमी "हमारी मांगें पूरी हों" "रेल का
चक्का जाम करो", "इनकलाब" "जिन्दाबाद" का नारा लगाते हुए तथा हाथ में झंडा लिये हुए
लखीसराय स्टेशन के उत्तर तरफ से होते हुए तीसरे दर्जे के मुसाफिरखाने में आकर के इकट्ठे
हुए। गेट पर बी० बी० सिंह, जी० पी० मिश्रा, टिकट कलेक्टरों ने उन लोगों को पुलिस अधि-
कारियों के साथ मिल कर स्टेशन प्लेटफार्म पर घुसने से रोका। परन्तु वे लोग किसी भी प्रकार
नहीं माने। जबरदस्ती वे लोग प्लेटफार्म में घुस गये। कुछ रेलवे अधिकारी, उन लोगों के साथ
लेकर प्रथम श्रेणी के बेटिंग रूम में चले गये। फिर कहता है कि पुलिस अधिकारी उन्हें लेकर
बेटिंग रूम में चले गये।

फिर मैंने देखा कि करीब 10 बजे कुछ पुलिस अधिकारी और सिपाही कुछ लोगों को
साथ लिए डाऊन प्लेटफार्म के पश्चिमी सिरे से होते हुए पूरब तरफ आकर प्रथम श्रेणी के बेटिंग
रूम में चले गये। उन लोगों के साथ 25-30 आदमी थे। कुछ लोग उनमें से भाग भी गये
इसी तरह 4-1/2 बजे तक 8 बार लोग डाऊन गेट से अन्दर आये। टी०सी० बाबू लोगों के
और पुलिस अधिकारियों के रोकने पर नहीं माने और जबरदस्ती प्लेटफार्म पर आते गये।

मैंने पहले जत्थे में एक व्यक्ति को पहचाना था । वे थे भूतपूर्व खाद्य मंत्री श्री कपिलदेव सिंह । सात जत्थे डाउन प्लेट-फार्म के मेन गेट से स्टेशन के अन्दर आये थे । केवल एक जत्था पश्चिम तरफ से आया था ।

ह०—रा० न० ना० सहाय

25-11-68

दंडाधिकारी, प्रथम श्रेणी,
मुंगेर ।

बयान पढ़कर सही पाया और हस्ताक्षर किया ।

ह०—श्याम बिहारी पांडे,

टी०सी०

लखीसराय स्टेशन

दिनांक 25-11-68

COURT OF SUB-DIVISIONAL MAGISTRATE
MONGHYR

Schedule XLIII—High Court (M)69(Old C.P. 43)

WARRANT FOR INTERMEDIATE CUSTODY

(Section 344 of the Criminal Procedure Code.)

GRP's Kiul P.S. Case No. 6(11)68.

To

OFFICER INCHARGE JAIL, MONGHYR.

Whereas Sri Madhu Limaye, M.P.

Son of

Vill.

P.S.

Dist

is charged u/s 143 IPC. and 122 Rly. Act

and has been rendered to custody until the 25th November 1968.
You are hereby required to receive the said accused into your
custody and produce him on the said day at 10-30 A.M. dated the 25th
day of November, 1968.

(Sd.) Illegible.

Sub-Divisional Magistrate.

Sadr, Monghyr.

25-11-1968.

COURT OF SUB-DIVISIONAL MAGISTRATE
MONGHYR.

Schedule XLIII—High Court (M) 69 (Old C.P. 43)

WARRANT FOR INTERMEDIATE CUSTODY

Section 344 of the Criminal Procedure Code)

Kiul GRP's P.S. Case No. 6(11)68.

To

OFFICER INCHARGE JAIL, MONGHYR.

Whereas Shri Jadubans Singh

Son of Shri Sarjung Pd. Singh,

Vill. Patner

P.S. Lakhisarai

Dist. Monghyr

is charged u/s 143 IPC. and 122 Rly. Act

and has been rendered to custody until the 25th November, 1968.

You are hereby required to receive the said accused into your custody and produce him on the said day at 10-30 A.M. dated the 25th day of November, 1968.

(Sd.) Illegible.

Sub-Divisional Magistrate,

Sadar, Monghyr.

25-11-1968.

From

The Superintendent,
District Jail, Monghyr.

To

The Sub-Divisional Officer, Sadar, Monghyr.

Dated, Monghyr, the 27th November, 1968.

Sir,

With reference to your memo No. 429, dated 26th November, 1968, forwarding an extract copy of your order-sheet, dated 26th November, 1968 in Kiul G.R.P.S. Case No. 6(11)68 u/s 143 I.P.C. and 122 Rly. Act, I am to state that four intermediate Custody Warrants, dated 25th November 1968 u/s 143 I.P.C. and 122 Rly. Act in respect of Shri Madhu Limaye, M.P., Shri Jadubans Singh, Shri Kapildeo Shastri and Shri Harinandan Singh were brought for delivery to the jail-office at 10 P.M. on 25th November 1968. Two I/C Warrants for Shri Kapildeo Shastri and Shri Harinandan Singh, who are confined in this jail at present, were accepted by jail clerk Shri Ramashanker Mishra, and the remaining two I/C Warrants for Shri Madhu Limaye, M.P., and Shri Jadubans Singh were not taken delivery of as both these undertrial prisoners were lodged in Delhi Central Jail for production before Hon'ble Supreme Court of India, New Delhi, on 25th November 1968 in connection with the hearing of Writ Petition No. 355 of 1968 and which fact was also known to you, and it was thus considered unnecessary to accept the two I/C Warrants for them unless they are re-transferred to this jail for custody.

There was no *mala fide* motive on the part of the jail clerk in returning the two I/C Warrants referred to above.

Yours faithfully,

(Sd.) Illegible.

27-11-1968.

Superintendent,

District Jail, Monghyr.

(Sd.) Illegible.

27-11-1968.

To

The S.D.O. Sadar Monghyr.

REF:—Kiul GRPS. case No. 6, dated 19-11-68, u/s

143 IPC/122/121 Rly. Act.

Sir,

Kindly depute a Magistrate of 1st Class, to record the statements of the following PWs u/s 164, Cr. P.C. in connection with the above noted case.

P.Ws.

- (1) Shri A. B. Singh—Cabin A.S.M. Lakhisarai.
- (2) Shri B. B. Singh—T.C. Y.M. Squard Kiul.

Yours faithfully,

Sd./- D. R. SINGH.

27-11-68.

O/C GRPS., Kiul.

Complied.

Sd./- Illegible.

27/11.

Shri K. K. Pathak, Magistrate, 1st Class will please do it.

(Sd.)/-Illegible.

27-11-68.

Statement recorded u/s 164 Cr. P.C. in Kiul G.R.P.S. case No. 6 (11) 68
FORM OF HEADING OF DEPOSITION 3.

Case No.

19

Deposition of witness No. तीन

for the प्रोसिक्यूशन

aged about 30 वर्ष

taken on solemn affirmation on the

27वीं day of नवम्बर, 1968 ।

My name विजय बहादुर सिंह

I am son of बिन्दा प्रसाद सिंह

My age is 30 years. I am by caste हिन्दू

My home is at Mauza नदाव Police-station बक्सर

..... -District शाहाबाद I reside

at present in Mauza कियूल Police-station कियूल जी० आर० पी०

..... District मुंगेर, where I am टिकट कलेक्टर, मुंगेर ।

6-11-68 को मेरी ड्यूटी लखीसराय डाउन प्लेटफार्म पर मेन गेट पर मेरी तथा बी० पी० मिश्र टिकट कलेक्टर की ड्यूटी थी । वहां पर सिपाही तथा दारोगा जी और माथुर साहब मजिस्ट्रेट एवं बी० डी० ओ०, लखीसराय भी थे । और भी रेलवे के पदाधिकारीगण थे । करीब सवा नव बजे रेलवे स्टेशन के उत्तर तरफ से एक सौ आदमी का जत्था तीसरे श्रेणी के मुसाफिर खाना में आया । जत्थे के लोग "इन्कलाब जिन्दाबाद । हमारी मांगें पूरी हों । रेलवे बोर्डें बर्खास्त हो " का नारा लगा रहे थे । वे लोग डाउन प्लेटफार्म के मुख्य फाटक पर आकर खड़ा हो गये । उन लोगों से टिकट मांगा गया । इस पर वे लोग टिकट नहीं दिखाये । उन लोगों से कहा गया कि 144 धारा लागू है तथा इसकी घोषणा भी लखीसराय टिकट कलेक्टर कार्यालय से की जा रही थी । लेकिन इसके बावजूद भी वे लोग धक्का देकर हम लोगों को तथा पुलिस को प्लेटफार्म पर चले आये । करीब तीस आदमी प्लेटफार्म पर चले आये । पुलिस ने उन लोगों को गिरफ्तार कर लिया ।

इसके बाद करीब सौ-सवा सौ आदमी का जत्था बेस्ट केबिन के तरफ गया । वहां से भी दारोगाजी सात आदमी को गिरफ्तार कर लाये । अप-प्लेटफार्म से जो लोग केबिन के तरफ नारा लगाते गये उसी में से ये सात आदमी थे । छव बार जत्था बना कर प्रदर्शनकारी मेनगेट से धक्का देकर प्लेटफार्म पर आये और गिरफ्तार हो कर गये ।

मैंने यह बयान स्वेच्छापूर्वक दिया है तथा जो कुछ कहा है वह सत्य कहा है । मैंने किसी के दबाव, प्रभाव या प्रलोभन में पड़ कर यह बयान नहीं दिया है ।

विजय बहादुर सिंह

ह०—प्रस०

टी०सी०, कियूल

27-11-68

27-11-68 ।

डा. अधिकारी, प्रथम श्रेणी, मुंगेर ।

FORM OF HEADING OF DEPOSITION 4.

Case No.

19

Deposition of witness No. चार for the प्रासिनयुशन

aged about 33 वर्ष taken on solemn affirmation on the

27वीं day of नवम्बर, 1968 ।

My name अवध बिहारी सिंह

I am son of श्री राधा सिंह

My age is 33 years. I am by caste हिन्दू

My home is at Mauza पुरेनिया Police-station बिहटा

.....District पटना I reside

at present in Mauza लखीसराय Police Station क्यूल जी० आर० पी०

....., District मुंगेर Where I am ए०एस०एम०

लखीसराय रेलवे स्टेशन

6-11-68 को मेरी ड्यूटी लखीसराय (क्यूलवेस्ट) केबिन में केबिन ए०एस०एम० के रूप में थी। मेरी ड्यूटी 2 बजे रात से 10 बजे दिन तक थी। उस केबिन में मेरे भलाबे एक प्वायंट्स मैन और पोर्टर की भी ड्यूटी थी। वहां सशस्त्र पुलिस के साथ जी०आर०पी और ए०एस०एम० के भी कुछ सिपाही ड्यूटी पर थे। करीब सवा नव बजे दिन में 6-11-68 को मैंने केबिन से हल्ला सुना करीब पाने दस बजे केबिन के तरफ पूरब की ओर से करीब तीन चार सौ लोग नारा लगाते हुए तथा झंडा लिये हुए आ रहे थे। बीच ही में पुलिस के अफसरान भोग उन लोगों को रोकना चाहे पर वे लोग न माने तथा नारा लगाते हुए केबिन के पास आ गये। वे लोग नारा लगा रहे थे कि "रेल का चलना बंद करो। रेलवे बोर्ड बंद करो। हमारी मांगें पूरी करो। वगैरह-वगैरह" जब वे लोग केबिन के एकदम पास आ गये तब जी० आर० पी० के दारोगाजी ने कुछ लोगों को गिरफ्तार कर लिया। दाकि लोगों को भगा दिया। उस ज़ंके का नेतृत्व यदुबंश सिंह उर्फ प्यारे लाल कर रहे थे।

यह बयान मैंने स्वेच्छापूर्वक दिया रहे तथा जो कुछ कह है वह सत्य कह है। मैं किसी के दबाव, प्रभाव या प्रलोभन में पड़कर यह बयान नहीं दिया है।

ह०—अस्पष्ट

27-11-68

बंढाधिकारी, प्रथम श्रेणी, मुंगेर।

ह०—अवध बिहारी सिंह,

ता० 27-11-1968 ई०।

Sri Madhu Limaye, M.P. 2. Kapildeo Singh, s/o Lakhan Singh of Barhaiya, PS Barhaiya, 3. Ramakant Singh, s/o Ramautar Pd. of Chandarpur, PS Lakhisarai, 4. Balmiki Shastri, s/o Gore Pd. Singh of Kaithma, PS Ariari, Dist. Monghyr, 5. Dhanoo Yadav, s/o Shankar Yadav of Chowk Lakhisarai, 6. Yugal Yadav, s/o Tilakdhari Yadav of Singhochak, PS Lakhisarai, 7. Sri Bindeshwari Modi, s/o Sri Ganga Modi of Lakhisarai, 8. Sri Rajendra Singh, s/o Sri Bhisu Singh of Babhangama, PS Lakhisarai, 9. Sri Bano Manjhi, son of Sri Kartik Manjhi of Amahra, PS Lakhisarai, 10. Sri Kishori Pd. Verma, s/o Sri Ram Pd. Verma of Mano Chak, PS Lakhisarai, 11. Sri Saudagar Sah, s/o Sri Kali Sah of Tikakkhar PS Lakhisarai, 12. Sri Dargahi Yadav, s/o Sri Mangal Yadav of Purani Bazar, Lakhisarai PS 13. Ramdeo Singh Yadav, s/o Sri Govind Singh Yadav of Khoja Bazar, Town P.S., 14. Sri Allauddin Badsah, s/o Sri Md. Jn of Guhia Pokhar, PS Town, Monghyr, 15. Sri Rajniti Pd., s/o Sri Bind Pd. of Gardanibagh, Patna, 16. Sri Parmanand Pd., s/o Sri Bindeshwari Pd. Singh of Pateshwar, PS Lakhisarai, 17. Sri Gurcharan Singh s/o Sri Bhuneshwar Singh of Patneshwar, PS Lakhisarai, 18. Sri Umakant Singh, s/o Sri Chandrika Singh of Babhangama, PS Lakhisarai, 19. Sri Ramkhelawan Singh, s/o Sri Chotan Yadav of Mano, PS Surajgarha, 20. Sri Maheshwari Pd. Singh, s/o Sri Rajan Singh of Sarari, PS Sheikhpura, 21. Sri Ram Pd. Drollia, s/o Sri Prosuttamdar Drollia of Lakhisarai, 22. Sri Rajendra Pd. Khetan, s/o Sri Hanuman Pd. Khetan, 23. Sri Rabindra Kumar Drollia, s/o Sri Ghani Ram Drollia of Puranibazar, Lakhisarai, 24. Kishori Pd. Chaurasia, s/o Tilak Mahton of Panapur, PS Lakhisarai, 25. Sri Jugal Kishore Singh, s/o Sri Huro Singh of Bahadurpur, PS Barhaiya, 26. Sri Shyam Sundar Singh, s/o Sri Bindeshwari Singh of Lodia, PS Lakhisarai, 27. Sri Kapildeo Pd. Singh, s/o Sri Dwarika Singh of Lodia, PS Lakhisarai, 28. Sri Kamleshwari Pd. Singh, s/o Sri Ramadhin Singh of Sulemanchak, PS Lakhisarai, 29. Sri Ramautar Singh s/o Sri Sundar Singh of Rampur, PS Surajgarha, 30. Sri Md. Abbas,

s/o Sri Fakir Pd. of Balgudar, PS Lakhisarai, 31. Sri Jadubansh Singh, s/o Sri Sarjug Pd Singh of Patner, PS Lakhisarai, 32. Sri Jugeshwar Pd., s/o Sri Basudeo Singh of Patner, PS Lakhisarai, 33. Sri Nageshwar Singh, s/o Sri Lakhan Singh of Patner, PS Lakhisarai, 34. Sri Ganesh Pd., s/o Baldeo Ram of Kiul, PS Lakhisarai, 35. Sri Rupan Manjhi, s/o Sri Saukhi of village Patner, PS Lakhisarai, 36. Sri Rito Bhuian, s/o Sri Ghari Bhuian of Patner, PS Lakhisarai, 37. Sri Naresh Singh, s/o Sri Kunjo Singh of Lodia, PS Lakhisarai, 38. Sri Sidheshwar Pandey, s/o Sri Jagat Narain of village Rampur, PS Surajgarha, 39. Sri Krishnandan Singh, s/o Sri Bhagwat Singh of Rahna, PS Lakhisarai, 40. Sri Chunchun Singh, s/o Sri Bhagwat Singh, village Lodia, PS Lakhisarai, 41. Sri Jairam Singh, s/o Sri Ramrup Singh of village Lodia, PS Lakhisarai, 42. Sri Ramsharan Yadav, s/o Sri Balo Yadav of Rahna, PS Lakhisarai, 43. Sri Ram Das, s/o Sri Nawrang Sao of Chakandra, PS Ariari, 44. Sri Chandrika Singh, s/o Sri Jago Singh of Salauna Chak, PS Lakhisarai, 45. Sri Surendra Singh, s/o Sri Deonath Singh of Pather, PS Lakhisarai. 46. Sri Ramautar Mandal, s/o Sri Khoper Mandal of Kiul, PS Lakhisarai, 47. Sri Anil Kumar, s/o Sri Anirudh Pd. Singh of Barhaiya, PS Barhaiya, 48. Sri Sahdeo Pd. Singh, s/o Sri Harbans Pd. of Piparia, PS Barhaiya, 49. Sri Siya Ram Yadav, s/o Sri Kailu Yadav, of Barhaiya, PS Barhaiya, 50. Sri Jainarain Singh, s/o Sri Ram Krishna Pd. Singh of Babhangama, PS Lakhisarai, 51. Sri Kailu Yadav, s/o Sri Garho Yadav of Jainagar, Kawaiya Nayabazar, PS Lakhisarai, 52. Sri Bhola Manjhi, s/o Sri Bhado Manjhi of Sansarpokhar, PS Lakhisarai, 53. Sri Balmiki Manjhi, s/o Sri Narayan Manjhi of Sansarpokhar, PS Lakhisarai, 54. Sri Kamlu Manjhi s/o Sri Asho Manjhi of Sansarpokhar, PS Lakhisarai, 55. Sri Keshar Mandal, s/o Sri Barho Mandal of Naya Tola Puranibazar, PS Lakhisarai, 56. Sri Balmiki Singh, s/o Ramgulam Singh of Rajauna Chanlai, PS Lakhisarai, 57. Sri Ganesh Pd., s/o Sri Sita Ram of Naya Bazar, PS Lakhisarai, 58. Sri Mahesh Kumar, s/o Sri Mahadeo Pd., of Naya Bazar, PS Lakhisarai, 59. Sri Sarjug Singh, s/o Sri Lakhan Singh of Babhangama, PS Lakhisarai, 60. Sri Surendra Pd. Singh, s/o Sri Nawal Kishore Singh of Lakhisarai Kabaiya, 61. Sri Jai Kumar Pd., s/o Sri Lakshmi Pd. of Nayabazar, Lakhisarai, 62. Sri Shankar Pd., s/o Sri Kameshwar Pd. of Naya Bazar, Lakhisarai, 63. Sri Shankar Paswan, s/o Sri Ramdhani Paswan of Lakhisarai, English, 64. Sri Sheo Manjhi, s/o Sri Barho Manjhi of Sansarpokhar, PS Lakhisarai, 65. Sri Uttam Pd., s/o Sri Khakhar Sao of village Kharra, PS Surajgarha, 66. Sri Sarjug Pd. Modi, s/o Sri Gobardhan Modi of village Arma, PS Surajgarha, 67. Sri Ramashraya Singh, s/o Sri Mameshwar Pd. Singh of Khuthar, PS Barhaiya, 68. Sri Rambalak Singh, s/o Bishwanath Singh of Khuthar, PS Barhaiya, 69. Sri Radhe Shyam Singh, s/o Sri Jwalamukhi Singh of

Rahna, PS Lakhisarai, 70. Sri Gita Pd. Singh, s/o Sri Ayodhya Singh of Rahna, PS Lakhisarai, 71. Sri Mahabir Pd. Arya, s/o Sri Bonsbi Ram of Naya Bazar, Lakhisarai, 72. Sri Jagdish Pd., s/o Prabhu Sao of Jainagar, PS Lakhisarai, 73. Sri Siru Yadav, s/o Sri Rohan Yadav of Jainagar, PS Lakhisarai, 74. Sri Dwarika Pd. Mishra, s/o Sri Rameswar Pd. Mishra of Jainagar, PS Lakhisarai, 75. Sri Baiju Sahu, s/o Karu Sao of Shanger Pokhar, Lakhisarai, 76. Sri Ganesh Pd., s/o Ram Charan, Arya Samaj, Lakhisarai, 77. Sri Dayanand Kumar Sao, s/o Ramrup Sao of village Kishunpur, PS Surajgarha, 78. Sri Ram Naresh Pd. Singh, s/o Raghunandan Singh of Salikpur, Lakhisarai, 79. Sri Bechan Singh, s/o Sivashin of Rehua, PS Lakhisarai, 80. Sri Balmiki Singh, s/o Kuldip Singh of Rehua, PS Lakhisarai, 81. Sri Garib Sao, s/o Gulab Sao of Rehua, PS Lakhisarai, 82. Sri Kapildeo Shastri, s/o Rupnarain Sah of Rampur, PS Surajgarha, 83. Sri Rambahadur Singh, s/o Sitasaran of Rampur, PS Surajgarha, 84. Sri Harinandan Singh, s/o Firangi Singh of Rampur, PS Surajgarha, 85. Sri Sheo Nandan Singh, s/o Lallu Hari Singh of Chitaura, PS Sheikhpura, 86. Sri Chadrama Yadav, s/o Laljee Yadav of village Gorhi, PS Lakhisarai, 87. Sri Indrajit Pal, s/o Sri Shashidhar Pal of Lakhisarai, 88. Sri Sukhdeo Yadav, s/o Ram Sewak Yadav of village Gorhi, PS Lakhisarai, 89. Ram Nandan Singh, s/o Ramrup Singh of Kiul, PS Lakhisarai, 90. Sri Krisnadeo Mandal, s/o Kokai Mandal of Kiul, Lakhisarai, 91. Sri Indradeo Yadav, s/o Ramrup Yadav of Lohri, PS Lakhisarai, 92. Sri Deo Prakash Ram, s/o Ram Pd. Ram of Lohri, PS Lakhisarai, 93. Baijnath Tamoli, s/o Gaya Tamoli of Kiul, PS Lakhisarai, 94. Bachu Sardar, s/o Khartar Mandal of Kiul, PS Lakhisarai, 95. Prabhudutt Sahu, s/o Jalim Sao of Damodarpur, PS Lakhisarai, 96. Jugal Kishore Pandey, s/o Hardeo Pandey of Lodia, PS Lakhisarai, 97. Sri Kokai Paswan, s/o Latan Paswan of Lodia, PS Lakhisarai, 98. Rajaram Gupta, s/o Bhajo Sao of village Naya Bazar, Lakhisarai, 99. Sri Diwendra Pd. Sao, s/o Andhi Sao of Nayabasti, Kawaiya, PS Lakhisarai, 100. Hansraj Paswan, s/o Barho Paswan of village Kawaiya, PS Lakhisarai, 101. Rajdeo Yadav, s/o Chhotu Yadav of village Kawaiya, PS Lakhisarai, 102. Sri Doman Pd., s/o Jaso Mahton of village Kawaiya, PS Lakhisarai, 103. Sri Ram Chandra Yadav, s/o Sri Bharoshi Yadav of village Kawaiya, PS Lakhisarai, 104. Sri Krishna Manjhi, s/o Dwarka Manjhi of Sansarpokhar, PS Lakhisarai, 105. Sri Lalo Mandal, s/o Mato Mandal of Kawaiya, PS Lakhisarai, 106. Piyare Yadav, s/o Natho Yadav of Kawaiya, PS Lakhisarai, 107. Kito Manjhi, s/o Meghu Manjhi of Sansar Pokhar, PS Lakhisarai, 108. Sri Niranjan Kumar Verma, s/o Mathura Pd. Verma of Puranibazar, Lakhisarai, 109. Sri Surendra Pd., s/o Dayanand of English, PS Lakhisarai, 110. Sri Udai Paswan, s/o Sri Sito Paswan of English, PS Lakhisarai, 111. Surendra Pd., s/o

Deokinandan of Naya Bazar, PS Lakhisarai, 112. Sri Medni Paswan, s/o Jhimal Paswan of Gorhi Tola, PS Lakhisarai, 113. Sri Dasrath Pd. Mathuri, s/o Banwari Ram Mathuri of Sheikhpura, 114. Sri Sailendra Pd., s/o Baldeo Pd. of Puranibazar, Lakhisarai, 115. Sri Brahmdeo Choudhary, s/o Kishun Choudhary of Lakhisarai, and 116. Sri Sundar Yadav, s/o Prayag Pd., Yadav.

Sd./- Illegible.

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O/C.

G.R.P.S., Ktul.

APPENDIX VI

(See para. 22 of the Report)

A Note on the privilege of freedom from arrest of Members of Parliament and some relevant cases.

Privilege of freedom from arrest

The position with regard to the privilege of freedom from arrest and obstruction or molestation of members in the discharge of their duties has been described in *May's Parliamentary Practice* (17th Ed.) as follows:

- (i) "The privilege of freedom from arrest is limited to civil causes, and has not been allowed to interfere with the administration of criminal justice or emergency legislation. In early times the distinction between "Civil" and "Criminal" was not clearly expressed. It was only to cases of "treason, felony and breach (or surety) of the peace" that privilege was explicitly held not to apply. Originally the classification may have been regarded as sufficiently comprehensive. But in the case of misdemeanours, in the growing list of statutory offences, and, particularly, in the case of preventive detention under emergency legislation in times of crisis, there was a debatable region about which neither House had until recently..... expressed a definite view. The development of the privilege has shown a tendency to confine it more narrowly to cases of a civil character and to exclude not only every kind of criminal case, but also cases which, while not strictly criminal, partake more of a criminal than of a civil character. This development is in conformity with the principle laid down by the Commons in a conference with the Lords in 1641: 'Privilege of Parliament is granted in regard of the service of the Commonwealth and is not to be used to the danger of the Commonwealth'."

—p. 78

- (ii) "In all cases in which Members of either House are arrested on criminal charges, the House must be informed of the cause for which they are detained from their service in Parliament..... It has been usual to communicate the

cause of commitment of a Member after his arrest; and whenever Members are in custody in order to be tried by naval or military courts-martial, or have been committed to prison for any criminal offence by a court or magistrate. The communication has been made by the clerk to the court, C.J. (1919), 116, 183, 325; *ibid* (1920), 88.”

—p. 80

- (iii) “The committal of a Member for high treason or any criminal offence is brought before the House by a letter addressed to the Speaker by the committing judge or magistrate. On these occasions, the first communication to the Speaker is made when the Member is committed to prison, bail not being allowed; and subsequently, if the Member be not released from custody, or acquitted, the judge informs the Speaker of the offence for which the Member was condemned, and the sentence that has been passed upon him. Where a Member is convicted but released on bail pending an appeal, the duty of the magistrate to communicate with the Speaker does not arise.”

In the case of Lord George Gordon the communication was made by a royal message, C.J. (1778—80) 903, and in the case of Mr. Smith O'Brien by a letter from the Lord-Lieutenant of Ireland, *ibid* (1847-48) 888. In the case of the arrest of four Members in Ireland and their internment under Regulation 14B of the Defence of the Realm Regulations, the communication was made to the Speaker by a letter from the Chief Secretary to the Lord Lieutenant of Ireland which was read to the House by the Speaker, C.J. (1918) 105; H. C. Deb. (1918) 106, c. 1235. See also C.J. (1939-40) 140.”

—p. 81.

- (iv) “McHugh's case—In 1902 a resident Irish magistrate committed McHugh, a Member, for his refusal to enter into recognizances to be of good behaviour, and informed the Speaker by letter. A select committee reported that there was no difference in principle between this case and the foregoing cases, that McHugh's contempt was of a criminal and not civil character and that no distinction could be drawn between cases of criminal contempt and other indictable offences C.J. (1902) 300; H.C. 309 (1902).”

—p. 83.

- (v) “It is a contempt to cause or effect the arrest, save on a criminal charge, of a member of the House of Commons.

during a session of Parliament, or during the forty days preceding, or the forty days following, a session.....

The privilege of freedom from arrest does not extend to criminal charges, and upon the same principle the internment of a Member under regulations enabling the Home Secretary to detain persons in the interests of public safety or the defence of the realm has been held not to constitute a breach of privilege [H.C. 164 (1939-40)].

Although the privilege of freedom from arrest does not extend to criminal charges, it is the right of each House to receive immediate information of the imprisonment or detention of any Member, with the reason for which he is detained [I *Blackstone's Commentaries* (1876 ed.) 134]. The failure of a judge or magistrate to inform the House of the committal to prison of a Member on a criminal charge or for a criminal offence would, therefore, constitute a breach of privilege, though it is otherwise where a Member is convicted but released on bail pending an appeal [Parl. Deb. (1902) 113, c. 234].....

It is a breach of privilege to molest a Member of either House while attending such House or when coming to or going from it.

The Commons, on 12 April 1733 and the Lords on 17 May 1765, resolved, 'That the assaulting, insulting or menacing any Member of this House, in his coming to or going from the House, or upon the account of his behaviour in Parliament, is a high infringement of the privilege of this House, a most outrageous and dangerous violation of the rights of Parliament and a high crime and misdemeanour'; and on 6 June 1780 the Commons resolved, 'That it is a gross breach of the privilege of this House for any person to obstruct and insult the Members of this House in the coming to or the going from the House, and to endeavour to compel Members by force to declare themselves in favour of, or against any proposition then depending or expected to be brought before the House'."

—pp. 120-21.

2. Kaul and Shakhder, in their treatise *Practice and Procedure of Parliament*, have stated thus:

- (1) "Need of the Privilege: The privilege of freedom from arrest protects Members from arrest in civil suits for the duration of the session and for a period of forty days before

and after the session. This privilege, like other privileges, is granted to members of Parliament in order that they may be able to perform their duties in Parliament without let or hindrance. The object of this privilege is 'to secure the safe arrival and regular attendance of members on the scene of their parliamentary duties'.

Scope of the Privilege: A review of the development of this privilege reveals a tendency to confine it more narrowly to cases of civil character and to exclude not only every kind of criminal case, but also cases which, not strictly criminal, partake more of a criminal than of a civil character. This development is in conformity with the principle laid down by the Commons in a conference with the Lords in 1641 that 'privilege of Parliament is granted in regard to the service of the Commonwealth and is not to be used to the danger of the Commonwealth'."

—p. 179.

- (ii) "*Freedom from Arrest does not extend to Criminal Offences:* Following the position obtaining in the United Kingdom, the privilege of freedom from arrest in India 'cannot extend or be contended to operate, where the member of Parliament is charged with an indictable offence'."

—p. 181.

- (iii) "*House to be informed of the arrest, Detention, conviction and release of Members:* Although the privilege of freedom from arrest does not extend to criminal charges or preventive detention under statutory authority by executive order, the Rules specially provide that when a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under the executive order, the committing judge, magistrate or executive authority, as the case may be, must immediately intimate such fact to the Speaker, indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member, in a prescribed form. When a member is arrested and after conviction released on bail pending an appeal or is otherwise released, such fact is also required to be intimated to the Speaker by the authority concerned in the prescribed form.

As soon as the intimation regarding the arrest, detention, conviction or release of a member is received by the Speaker, he reads it out in the House if it is in session. If

the House is not in session, he directs that the information be published in the Bulletin for the information of the members.

When the intimation of the release of a member either on bail or by discharge on appeal is received before the House has been informed of the original arrest, the fact of his arrest, or his subsequent release or discharge need not be intimated to the House by the Speaker.

If a member has started attending the House before the House has been informed of his release, such intimation is not read out in the House, but is published in the Bulletin for the information of the members.....

Although the failure to intimate to the Speaker the place of imprisonment or detention of a member, or his transfer from one jail to another or his release from custody would not by itself involve a breach of privilege, it would nevertheless be non-compliance with an established convention in this regard.....

If a member is bound over under section 107 of Code of Criminal Procedure for keeping the peace, it is not necessary for the magistrate passing the order to inform the Speaker of the matter since such an order does not prevent the member concerned from attending the sittings of the House."

- (iv) "*Molestation of Members*: It is a breach of privilege and contempt of the House to molest a member while in the execution of his duties, that is while he is attending the House or when he is coming to, or going from, the House. Thus, insults offered to members on their way to or from the House have always been deemed high breaches of privilege. Similarly, to molest a member on account of his conduct in Parliament is a breach of privilege."

—pp. 211-12.

Some relevant cases

3. The following cases of Lok Sabha, House of Commons (U.K.) and Madras Legislative Assembly illustrate the different aspects of the matter:

(a) Lok Sabha:

- (i) In the *Deshpande Case*, 1952, which was a case of arrest under the Preventive Detention Act, 1950, the

Committee of Privileges of First Lok Sabha, in paras. 16 and 17 of their Report, reported as follows:—

“The Committee thinks that preventive detention is in its essence as much a penal measure as any arrest by the police, or under an order of a Magistrate, on suspicion of the commission of a crime, or in course of, or as a result of the proceedings under the relevant provisions of the Criminal Procedure Code and no substantial distinction can be drawn on the ground that preventive detention may proceed merely on suspicion and not on the basis of the commission of an offence on the part of the person directed to be detained. The Constitution authorises preventive detention in the interests of the State, and it is well settled that ‘the privilege of Parliament is granted in regard to the service of the Commonwealth and is not to be used to the danger of the Commonwealth’, and further every detention by whatever name it is called—preventive, punitive or any other, has, as was pointed out by the Committee of Privileges in the House of Commons in Ramsay’s case, this in common: ‘the protection of community as a whole’.

As long as the person authorised to order preventive detention is one expressly authorised to do so by the law passed by Parliament or the State Legislature concerned in this behalf, his official status has no material bearing on the question now before the Committee. It is for Parliament or the State Legislature concerned to decide which particular officer and of what status should be clothed with the necessary authority to direct preventive detention. It has further to be remembered that the fundamental principle is that all citizens including Members of Parliament have to be treated equally in the eyes of law. Unless so specified in the Constitution or in any law a Member of Parliament cannot claim any higher privileges than those enjoyed by any ordinary citizen in the matter of the application of the laws. The Committee therefore considers that if preventive arrest under statutory authority by executive order is made no breach of privilege is involved.”

- (ii) In the *Dasaratha Deb case*, 1952, the Committee of Privileges of First Lok Sabha, held *inter alia* that the arrest of a Member of Parliament in the course of

administration of criminal justice did not constitute a breach of the privilege of the House.

(b) *House of Commons (U.K.)*

- (iii) On the 15th February, 1883, the Speaker read to the House a letter from the Lord Chief Justice of the Court of Queen's Bench in Dublin, Ireland, in which the latter had intimated that Mr. T. M. Healy, a Member, was arrested and imprisoned on the 7th February, 1883, on his refusing to comply with the Court's orders of the 24th January, 1883, for a bail bond to be of good behaviour.

The Leader of the House (Marquess of Hartington) observed that according to the practice followed in such cases, the House might not interfere in the administration of justice in criminal cases and Mr. Healy's refusal to give bail was a case of that kind. He, therefore, moved:

"That the Letter of the Chief Justice of the Court of Queen's Bench in Ireland do lie upon the Table."

Mr. Tarnell, a Member, objected to the motion stating that the letter did not disclose the nature of offence for which Mr. Healy was required to find bail and also that the Court had taken action in arresting a Member after a delay of two months when he was about to resume his parliamentary duties. He, therefore, moved the following amendments to the motion, which, after a protracted debate, was rejected on division:

- "To leave out the words 'do lie upon the Table' in order to add the words 'informing the House of the trial, arrest and imprisonment of Mr. Healy, a Member of this House, be referred to a Select Committee, for the purpose of inquiring into all the matters connected with the proceedings referred to therein, and of reporting whether they demand the further attention of this House.' "

The main question was then put and agreed to by the House.

[Parl. Deb. (1883) 276, cc. 67-89]

- (iv) On the 16th February, 1909, the Speaker informed the House that he had received the following letter dated the

23rd December, 1908 from the Clerk of the Crown in Ireland:

"I have to inform you that at a Court of this Division held yesterday, Tuesday, the 22nd day of December, instant (the Right Honourable the Lord Chief Baron presiding), James I. Farrell, Esquire, Member of Parliament for the County of Longford, was, in default of entering into sureties to be of good behaviour and keep the peace, committed to prison for the period of six months, or until he should sooner enter into such recognisance for that purpose with sureties." No further action was taken by the House.

[Parl. Deb. (H.C.) dt. 16-2-1909, c. 2]

- (v) On the 26th March, 1920, the Speaker informed the House that he had received a letter dated the 23rd March, 1920 from the Clerk of Sligo County Petty Sessions which stated *inter alia* as follows:

"The Court ordered Mr. McCabe to forthwith enter into a recognisance himself in the sum of £50 with two sureties in the sum of £25 each conditioned that he be of good behaviour towards all His Majesty's subjects for a period of 12 months, and in default of entering into said recognisance he was ordered to be imprisoned in Sligo prison for a period of three months without hard labour.

Mr. McCabe declined to enter into the recognisance."

No further action was taken by the House.

[Parl. Deb. (H.C.) 1920, Vol. 127, c. 770]

- (vi) In Captain Ramsay's case, 1940, which was a case of detention under the Defence (General) Regulations, 1939, the Committee of Privileges of the House of Commons reported as follows:

"The privilege originated at a time when our law made a free use of imprisonment in civil proceedings as a method of coercing debtors to pay their debts. Members of Parliament in attendance on the House were considered as engaged upon the King's business, and therefore not to be hindered in doing so by arrest at the suit of another subject of the King. Criminal acts were regarded as offences against the King, and the privilege,

therefore, did not apply. Consideration of the general history of the privilege shows that the tendency has been to narrow its scope.

It must be recognised that at a later time privilege was regarded from a different angle. In the struggle of Parliament against the Crown, privilege was regarded as a protection of the member of Parliament against an executive authority not responsible to Parliament. Thus, Blackstone states that 'privilege of Parliament was principally established in order to protect its Members not only from being molested by their fellow subjects, but also, more especially from being oppressed by the power of the Crown'. This aspect of the question was emphasized by Captain Ramsway in the representations which he made before Your Committee. The fact that the executive is now responsible to Parliament and that powers such as those in question in this case can only be exercised if conferred by Parliament itself, is relevant when considering general statements such as that quoted from Blackstone made at the time of or in relation to that conflict.

Both aspects of the privilege from arrest referred to above must have regard to the general principle laid down by the Commons in 1641 that 'Privilege of Parliament is granted in regard to the Service of the Commonwealth and is not to be used to the danger of the Commonwealth'. It is granted to Members in order that they may be able to perform their duties in Parliament without let or hinderance; for example, the privilege of free speech protects a member speaking in his place in Parliament because such freedom is necessary to the performance of his functions and duties as Member, but does not protect him from civil or criminal consequences of speeches made outside the House, although such speeches may be dealing with political matters. The House should be careful not to relinquish any established privilege, but it should be equally careful not to extend privilege beyond what is essential for its purpose and beyond what has, in principle if not by precise precedent, been recognised in the past....." "Arrest in the course of civil proceedings is, in principle, wholly different. It is a method of coercion to enforce a private right. Although different views were expressed in early days it is only in cases of arrest in

civil proceedings that the privilege of freedom from arrest can be held to be clearly established. As Sir Gilbert Campion states 'it is certain that during this period (the last two hundred years) privilege from arrest has not been successfully claimed except in civil cases'. Applying the principles set out above, Your Committee come to the conclusion that the arrest of Captain Ramsay was not a breach of privilege.....

Parliament has always maintained the right to be informed of the arrest of one of its Members, and in cases where the arrest is excepted from privilege the position is in Your Committee's opinion correctly stated by Blackstone. He says: 'The Chief, if not the only, privilege of Parliament in such cases seems to be the right of receiving immediate information of the imprisonment or the detention of any Member with the reasons for which he is detained.....'

Preventive arrest under statutory authority by executive order is not within the principle of the cases to which the privilege from arrest has been decided to extend. To claim that the privilege extends to such cases would be either the assertion of a new parliamentary privilege or an unjustified extension of an existing one. No question of any infringement of the privilege of freedom of speech arises."

[Paras 17—19, 21, 23 and 26 of the Report]⁸

In the same case, Sir Gilbert Campion (as he then was), the Clerk of the House of Commons submitted a Memorandum to the Committee of Privileges in which he stated *inter alia*:

"The requirement of surety of the peace and the requirement of security for good behaviour are forms of preventive justice. According to Blackstone this procedure 'consists in obliging those persons whom there is a probable ground to suspect of future misbehaviour to stipulate with—and to give full assurance to the public that such offence as is apprehended shall not happen, by finding pledges or securities for keeping the peace, or for their good behaviour.' (4 Blackstone, Commentaries, 251).

A person who refuses to give surety or to find securities, can be committed to custody, and thus subjected to a form of preventive detention analogous to that imposed under the Defence Regulations. It is a significant fact that at no time, even when the privilege of freedom from arrest was claimed to its fullest extent, did Parliament admit the claim of privilege in cases of refusal to give sureties of the peace. Reference has already been made to the claim of the Commons in Larke's case, which excluded surety of the peace from the protection of privilege. No distinction appears to have been drawn in respect of privilege between refusal to give surety of the peace and refusal to give securities for good behaviour, although, obviously, the power to bind over a person who is 'not of good fame' to be of good behaviour is of much wider application than the power of binding over one person at the instance of another to keep the peace towards that other.....

Imprisonment for refusal to give surety of the peace was held from the earliest times not to infringe the privilege of freedom from arrest. Imprisonment in this case was, however, at the discretion of judicial and not executive officers. A review of the development of the privilege reveals a tendency to confine it more narrowly to cases of a civil character and to exclude, not only every kind of criminal case, but also cases which, while not strictly criminal, partake more of a criminal than of a civil character. This development is in conformity with the principle laid down by the Commons in a Conference with the Lords in 1641 'Privilege of Parliament is granted in regard of the service of the commonwealth and is not to be used to the danger of the commonwealth (Commons Journals, Vol. 2, p. 261, cited H. C. Paper (1831) No. 117, p. 7)'."

- (vii) In Lewis case, 1951, which was a case of alleged obstruction of a member by the traffic police while coming to the House of Commons, the Committee of Privileges stated :

"The privilege of freedom from obstruction in the coming to or the going from the House derives from the undoubted right of Parliament to the full service of its Members. It is a privilege of the House of Commons and individual Members derive their right from the privileges of the House of Commons as a whole, and the

right and need of the House of Commons to protect itself, and in so doing to protect its Members.

Erskine May (15th Edition, p. 122) says, 'It is a breach of privilege to molest a Member of either House while attending such House or when coming to or going from it.'

The general privilege is one which has no geographical limits within the United Kingdom of Great Britain and Northern Ireland. A breach of this privilege may occur anywhere there."

"In conclusion Your Committee wish to reaffirm that the privileges of the House of Commons apply to individual Members only in so far as they are necessary in order that the House may freely perform its functions. Such privileges do not exalt the Member above the ordinary restraints of law which apply to his fellow-citizens. They do not discharge the Member from the obligations to society which apply to him as much and perhaps more closely in that capacity, as they apply to other subject of the Crown."

[Paras. 16 and 22 of the Report¹⁰]

- (viii) "On the 2nd March, 1959, the Under Secretary of State for Commonwealth relations (Mr. C. J. M. Alport) made a statement in the House about the visit of Mr. Stone-house, a Member, to the Federation of Rhodesia and Nyasaland (a British protected territory) and the declaration of Mr. Stone-house by the Government of Rhodesia and Nyasaland as a prohibited immigrant to that territory. On a question being raised whether the action of the Government of Rhodesia and Nyasaland did not unduly restrict the freedom of a Member of the House, the Speaker observed :

"The position is that if an hon. Member goes of his own accord into another jurisdiction that is not the concern of the House. . . . Privilege belongs to the House and not to the individual Member; he does not carry it about with him wherever he goes. Privileges generally are concerned with seeing that an hon. Member has free access to this place and free speech when he is here. I know of nothing that has been done against that.

..... if the House had sent the hon. Member for Wednesday (Mr. Stonehouse) on its own business to Salisbury, Northern Rhodesia, or wherever it may be, then any refusal to facilitate his progress by the authorities there might have been regarded by the House, in certain circumstances, as approaching a contempt of the House because he was a delegate of the House. The facts in this case are that the hon. Member has undertaken the journey upon his own volition and with no authority from the House.

..... the House has a right to look into a case of a British citizen who, it may think, is wrongfully treated but only as a British subject, not as a member of Parliament."

(H.S. Deb. Vol. 601, cc. 40—59)

(c) *Madras Legislative Assembly*

(ix) On the 18th August, 1960, in a case of arrest of a member under section 151 Cr. P.C. the Speaker ruled¹¹ :

"..... preventive arrest, though a preventive and not a punitive measure, would be of a criminal nature, and there is no breach of privilege when a preventive arrest is made under statutory authority. Arrest under section 151, Criminal Procedure Code, is certainly preventive arrest under statutory authority. There is no doubt that judicial decisions on the nature of preventive detention under statutory authority would apply *mutatis mutandis* to the preventive custody under section 151, Criminal Procedure Code. That apart, the mere fact that such an arrest is provided for in the Criminal Procedure Code is sufficient to show that the arrest partakes of a criminal character.

The hon. Member, Shri M. Kalyanasundaram has also contended that he has been arrested within the immunity period of 40 days. This immunity period applies only for arrests under civil process. As the arrest of Shri M. Kalyanasundaram was not under civil process, there is no immunity period.

Shri Kalyanasundaram's contention that he must be informed of the reasons for his arrest is not correct. The only condition is that the House should be informed of the cause for the arrest and that the Member is detained

11. Madras Legislative Assembly Debates dated 18-8-1960, pp. 28—40.

from service in the House. The House is to be informed through the Speaker, and this has been done in this case. The Commissioner of Police informed me on the 13th July itself of the arrest. The fact of the arrest has also been communicated to hon. Members as the House was not sitting at the time. This also does not involve a question of privilege.

I, therefore, rule that there is no *prima facie* case made out in this case."

(x) On the 22nd November, 1963 in a case of arrest of a member under section 151 Cr. P.C., the Speaker ruled¹² :

"The next point is that the concerned member had gone to his village after attending this Assembly and when he was returning to attend the meeting of the Assembly, could he be arrested? According to the rules of the Legislative Assembly relating to the privilege of a member, a member could not be arrested on a civil matter while he is in the House or 40 days before and 40 days after, the commencement of the sitting of the Assembly. But in a matter of criminal charge or preventive arrest, that privilege cannot be extended even to hon. members. Even the hon. members who have been attending the House, with the permission of the Speaker, can be arrested. Therefore the question of attending the House with absolute immunity—whether going or coming or sitting in the House—does not arise, as far as the criminal charge or preventive arrest is concerned. So, I do not think that I should give consent to this notice of privilege."

12. *Ibid.* dated 22-11-1963.



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