

October 7, 2011.

**Mr. B.K. Gupta,
Commissioner of Police,
Police Headquarters,
New Delhi.**

Dear Police Commissioner,

Please refer to my letter to you dated 6.10.2011 regarding making available to me the FIR that the media has quoted the police and advocate having been registered with me as accused for writing an article in the DNA newspaper of Bombay and which was published on July 16, 2011. Since 24 hours have elapsed and still no copy of the FIR has been made available to me, I write once again to bring to your knowledge the law on the subject in case you are not aware of the same.

It has been held by several judgments of the Supreme Court and the High Courts that an FIR is a public document within the meaning of Section 74 of the Evidence Act (1872). I also draw your attention to Section 76 of the Evidence Act that requires every public officer having the custody of a public document to give a copy of the same together with a certificate at the foot of such copy as true copy. The Delhi High Court in a judgment pronounced on December 6, 2010 in the matter of a Writ Petition (Cri) No. 468/2010 has held after reviewing various judgments that there is no trace of doubt that an Fir is a public document as defined by Section 74 of the Evidence Act. Let me also inform you that this FIR has been registered according to the newspaper leaks on the 26/27th of September, 2011, that is more than two months when my article appeared. Hence you have a duty as outlined in case law to give satisfactory explanation explaining the delay and if the said explanation is not satisfactory in the eyes of the court, vitiate the FIR itself.

Hence kindly perform your statutory duties and abide by the various judgments of the Supreme Court and of the High Courts by supplying me a copy of the FIR immediately and not later than tomorrow morning by 10 O'clock. If someone from your office calls Advocate Mr. Pran Nath Mago (Mob.9212137571) he can personally come and have it picked up. I may also inform you that the courts have now come to recognize that law of torts recognizes misfeasance in the performance of duty and therefore failure to act according to Articles 21 and 22 of the Constitution will invite a suit for damages against the Delhi Police.

Yours sincerely,

(SUBRAMANIAN SWAMY)

October 8, 2011.

**Mr. B.K. Gupta,
Commissioner of Police,
Police Headquarters,
New Delhi.**

Dear Police Commissioner,

Please refer to my letter to you dated 6.10.2011 regarding making available to me the FIR registered with me as accused for writing an article published on July 16, 2011 in the DNA newspaper of Bombay. Since 48 hours have elapsed since my last letter and no copy of the FIR has yet been made available to me, I write once again to bring to your knowledge the case law on the subject in case you are not aware of the same.

It has been held in several judgments of the Supreme Court and the High Courts that an FIR is a public document within the meaning of Section 74 of the Evidence Act (1872). Section 76 of the Evidence Act requires every public officer having the custody of a public document to give a copy of the same together with a certificate at the bottom of such copy that it is a true copy. The Delhi High Court in a judgment delivered on December 6, 2010 in Writ Petition (Cri) No. 468/2010 has held after reviewing various judgments, that “there is no trace of doubt” that an FIR is a public document as defined by Section 74 of the Evidence Act. This present FIR has been registered, according to the newspaper leaks, on the 26/27th of September, 2011, that is more than two months after when my article was published in the DNA. Hence you are required to give a satisfactory explanation for the delay and if the said explanation is not satisfactory in court, it will vitiate the FIR itself, and liable to be quashed.

Hence please abide by the various judgments of the Supreme Court and of the High Courts, and supply me a copy of the FIR immediately, and in any case not later than tomorrow morning by 10 O'clock. If someone from your office calls Advocate Mr. Pran Nath Mago (Mob.9212137571) he can personally come and have it picked up. I may also inform you that the courts have now come to recognize that law of torts provides for a suit against misfeasance in the performance of duty, and therefore the Police failure to act according to the provisions of Articles 21 and 22 of the Constitution will invite a suit for damages against the Delhi Police.

Yours sincerely,

(SUBRAMANIAN SWAMY)