

## **DHORMIR DOST v. UNION OF INDIA**

Karmasthan is a Union Territory in India, directly under the Control of Government of India. Dhormir City News (DCN) is the news paper published from the capital city of Dhormir. On 3-1-2018 Sham Kiran assumed the charge of City Commissioner of Police of Dhormir. On 12-5-2018, DCN published the following news item

*The night of May 12 remains a horrifying memory for the 120 odd LGBTQ members from Dhormir, who attended a pride party at a four-star hotel in the city. The party was hosted by Dhormir Dost, a well known NGO, at Hotel Jeena Plaza and all was fine till 12.15 am, before police officers led by Sham Kiran unexpectedly arrived at the scene for a drug raid. During the raid, they allegedly abused, threatened and humiliated the attendees.*

*Speaking to DCN, 26-year-old Jaya Bhai, an LGBTQ activist who had attended the party says, "We were wrapping up the party around 12am when 20-25 cops barged into the bar. They said it was a drug raid based on a tip off they had received. They seized everyone's phones and made each and everyone strip in groups". The officers had produced no search warrant and were allegedly abusive towards the attendees. Further, the strip search happened in public view, violating the detainees' right to privacy. During the search, they found 25 grams of dry alcohol and used this as an excuse to search us individually. Five people were taken at once to the smoking zone of the area and asked to strip. "Apart from five transgender persons who were assigned lady police officers for the search, the others were all asked to undress in groups. The police said that they had to do it in groups to save time, as we were over a 100 people," Jaya says*

*"Some of the attendees had not yet got their sex reassignment surgeries done. The officers asked them specific questions about this. Another officer groped a person's chest and posed a perverted question. A few closet members were even threatened to be exposed to the public. This really scarred many people. Several of those who attended work at corporates and were scared that they would lose their jobs, as this happened prior to Section 377 being decriminalised," Prasanna Pran, one of the organisers of the event tells DCN*

*Once the search was completed, it was 4am and the police left after forcibly procuring personal information such as names, numbers and addresses of all attendees.*

*Tharun Kumar, an advocate who is closely involved with the issue, tells DCM that the raid was conducted in an illegal manner. "The officers did not identify themselves, their department or produce a search warrant before the raid. This is mandatory, as per the law", he says. When we asked, the officer claimed they are from the Narcotics Department. But on further enquiry, we found that some of them were from the Ram Nagar and Sanrdin police stations. What does the Ram Nagar police have to do with this? This does not come under their jurisdiction and it is a clear violation of law."*

*When DCN contacted the Narcotics Control Bureau in Dhormir, a senior officer confirmed that no raids from the department had been carried out on the said date. "We are very sure that there were no raids done in Ramada hotel by our department*

*in the said month. We will be enquiring into the incident once we receive a written complaint on the issue,” the officer, who did not wish to be named, said.*

On 16-8-2018 Dhormir Dost filed a petition before the Supreme Court seeking the compensation for the violation of the fundamental rights of the victims of the incident happened on May 12. The copy of the report of the DCN was also attached.

On 26-12-2018 the Income Tax (IT) officers conducted raid in the office of Dhormir Dost and seized seven computers kept in the office.

On 3-1-2019 Dhormir Dost filed a petition under Art.32 of the Constitution challenging the validity of the action of IT Department. It is contended that action of the IT Department is *mala fide* considering the fact that Commissioner of IT is the brother of Sham Kiran. It is further contended that the Order S.O. 6227(E) of Cyber and Information Division of Ministry of Home affairs dated 20-12-2018 ,Rule 4 of the Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information ) Rules 2009 and Section 69(1) of Information Technology Act 2000 are unconstitutional on the ground of violation of fundamental rights.

The Supreme Court decided to hear both the petitions together. On behalf of Union of India all the contentions in both the petitions are refuted. It was further contended that Supreme Court is not the proper forum to file these petitions.