

The Government Of The Day Is Handicapped; It Can't Register an FIR because there is a Judicial order: Vice-President

Motion to remove the judge is the answer? If there has been a crime, a culpable act, Why wasn't it punished? questions VP

Permission to file FIR Could Have Been Given on the Very First Day; It Could Have Been Given at Least After the Report, stresses VP

Committee of Judges Can not Substitute FIR or Constitutional Removal Mechanism for Judges: Vice-President

We Have Lost More Than Three Months, And The Investigation Has Not Even Been Initiated, says VP

Has money influenced the Judiciary in judicial work?, questions VP

If The Temple Of Justice Is So Sacrileged, So Tainted, So Besmirched... Then, Where Would People Go For Justice?, asks VP

Lawyers Of The Bar Are Custodians Of The Rule of Law, says VP

The People's Confidence... Will Be Restored — Only By Very Thorough Investigation, Proper Investigation, Scientific Investigation, highlights VP

Surely The Cash Will Not Come Without A Purpose. And The Purpose Can't Be Legitimate, Says VP

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The Vice-President of India, Shri Jagdeep Dhankhar, today said, “The Government of the day is handicapped. It can't register an FIR. Because there is a judicial order. And that judicial order is more than three decades old. It provides virtually impregnable cover. Unless permission is accorded by a functionary at the highest level in the judiciary, an FIR can't be registered. So I pose a question to myself, in deep pain, worried, concerned, in anguish — why was that permission not given? That was the minimum that could have been done on the earliest occasion.”

He further said, “I have raised the issue. Ultimately, if a motion is brought to remove a judge, is that the answer? If there has been a crime, a culpable act shaking the foundations of democracy — the rule of law, why wasn't it punished? We have lost more than three months, and the investigation has not even been initiated. Whenever you go to court, they ask why the FIR was delayed.”

Shri Dhankhar further stated, “Does the committee of judges have a constitutional sanction? Does it have statutory sanction? Can this report result in any outcome? Can this report, by itself, be actionable? If a judge removal mechanism is there, the Constitution says this removal mechanism can be initiated either in the Lok Sabha or the Rajya Sabha. This is the only way. Then this committee cannot substitute for an FIR investigation. Now, the separation of powers. Penal thing has to follow it. If we have to lay claim on democracy, on the rule of law, equality before law, let me tell you — even the President of India and the Governors — they have immunity from prosecution only till they are in office. No other body has it. No other in the country, no other constitutional office has this immunity, and that too while in office. Now, how can we have a mechanism that such a crime — a culpable act — revealed from a document revealed by the Supreme Court, that there was a cash haul.”

The Vice-President said, “I find it very soothing and must congratulate you that the bar associations in the country are active on it. I hope an FIR is filed. One, that permission could have been given on the very first day. It should have been. A compulsive, expedient situation should have been there, because the mechanism evolved is the same. Second, it could have been given at least after the report. Could it have been given on the judicial side? What happened on the judicial side — it is there. I gather from the public domain — money spending.”

Shri Dhankhar further said, “While I have appreciated the former Chief Justice for putting those documents in the public domain, so what we say, there was a cash haul, because the report says — the report was put in the public domain by the Supreme Court. Let us not destroy the idea of democracy. Let us not dilute our ethical

standards so low. Let us not decimate integrity.”

Interacting with members of the Punjab and Haryana High Court Bar Association in Chandigarh today, the Vice-President said, “Judicial system at the moment, because of a very painful incident that happened mid-March in Delhi at the residence of a sitting judge, there was a cash haul, obviously tainted, unaccounted, illegal. And unexplained! The intervention is very significant. One, it appeared in the public domain after 6-7 days. Imagine if it had not appeared. So, we don’t know whether it is isolated or if there are other instances. Now, whenever tainted, unaccounted, unexplained cash haul is there, the system has to move to find out whose money is this? And what is the money trail? Where did this loose cash come from? Are there big sharks? Has the money influenced the Judiciary in judicial work? All these issues are agitating not only the minds of lawyers but also people on the street. But let the lid be blown off the can of worms. Let these skeletons in the cupboards come out. Why was there no FIR? Why has there been no investigation at all?”

Shri Dhankhar stated, “I’m so happy that our Bar associations are picking up the issue. But the confidence of the people is very fundamental in all institutions. All I am saying is, the thought that it will die down, that it will not get media attention, that people have short memories, and those actors, sharks who are culpable, postures that indicate the highest criminality. We must not be sparing them. The people’s confidence, I’m sure, will be restored — I don’t know to what extent — but only by very thorough investigation, proper investigation, scientific investigation — the investigation that will expose, to public satisfaction, the original source of money, the money trail, the people involved, the beneficiaries, and the purpose.”

The Vice-President recollected, “If you know a famous case — Sarwan Singh v. State of Punjab, 1957 — the gap between establishing the truth is sometimes very thin. The distance between ‘may be true’ and ‘must be true’ is very thin. But this thin distance has to be negotiated by evidence of unimpeachable veracity. So I put innocence at a very high level. I am not aware of who is guilty. But one thing is for sure — a crime of great enormity, shaking the foundations of the Judiciary and democracy, has taken place. I hope it will be addressed”

Shri Dhankhar stated, “As a former President of the Rajasthan High Court Bar Association, probably this is the first time this happened — that we got together. So lawyers in such bodies are watchdogs of democracy. And in democracy, nothing matters more than proper investigation, proper findings, getting to the source, the original source of the tainted, unaccounted, illegal cash. Surely the cash will not come without a purpose. And the purpose can’t be legitimate. Lord Denning, a great judge, quoted Fuller. Fuller is from 350 years from now: “Be ye never so high, the law is above you.” Now, those who have to enforce the law are also subject to the law.”

Highlighting that courts are a temple of justice, Shri Dhankhar said, “For lawyers, nothing is more important than the purity of the system where you work. That is why we call it the temple of justice. Now, if the temple of justice is so sacrilegied, so tainted, so besmirched that people come very close to losing faith, then where would people go for justice? Before we inflict more injuries on the soul of Bharat — it’s written in a sense of democracy — I hope things will take shape.

He further said, “All I’m saying is that our judges need protection. Because judges make tough decisions. Judges decide against the Executive. The Executive in any democracy is a mighty power. So judges have to be fearless and independent. They cannot be subjected in a routine way. But now what has happened is — even judges’ premises are sacrosanct. Any crime happening therein is not subject to investigation unless a sanction is given.”

The Vice-President said, “Now, if this institution is clouded, smoked, then one gets an idea. We don’t know how many skeletons are in the cupboard. Then another worry — stories are going around. Names are floating on whose money is it? Maybe it is not their money. So, proper investigation will also save the reputation of many, many who are being doubted. Because a criminal investigation must nab only the accused and prove the guilt beyond a reasonable doubt. Because people can’t put pressure. Bar associations can. We have a role to play in this society. You are stakeholders. Ultimately, you’ll be the sufferers. You help people access courts. Members of the bar, you do your utmost to secure the dispensation of justice in the right way. If faith

in what you are assisting with is shaken, there will be no way.”

Signifying the importance of the Bar Association, the Vice-President said, “The Body of Lawyers and Bar Associations is, in a sense, custodians of the rule of law. They are watchdogs of democracy, and when the system is challenged, there is an obligation on members of the Bar. There have been times when lawyers play a key role, and that is why in our democracy, we have a separation of powers, which means the Executive will do its role, the Legislature will do its role, and the Judiciary will do its role. The critical issue is, judgments have to be given by judges. They can't be scripted by the Legislature. I am Chairman, Rajya Sabha, you can't script a judgment. Am I right? Similarly, the job that we do can't be done by the Executive or the Judiciary.”

Shri Dhankhar further said, “The Bar Association of the Punjab and Haryana High Court is unique in the entire country. Two States, One Union Territory, very, very important Bar Association. The same is about the Bar Council. I had the good fortune to be the President of my association in Rajasthan, but that was the presidency of the bench at Jaipur. You are the president in the complete right. Whenever I have appeared in the Punjab and Haryana High Court, it has always been a pleasure to come to this place because the Bar has a long tradition. Members of the Bar have been instrumental in getting us freedom. During the freedom struggle, top lawyers ignored their real practice in fiscal terms and devoted themselves to the nation.”

Highlighting the importance of a democratic society, Shri Dhankhar said, “In a democratic society, the rule of law and equality in law are compromised — seriously, severely, if some people are above the law, beyond scrutiny, beyond investigation. Secondly, yours is a very important High Court, covering a huge jurisdictional area of two states and a Union Territory. The Chief Justice of the High Court, apart from judicial work, also has to do administrative work. And the administrative work is very large. Same about Haryana.”

The Vice-President said, “I believe the greatest power of Indian citizens is to be treated as innocent till proven guilty. So I don't want to suggest someone is guilty. But let the investigation be there. It should be proved. Definitely. We don't know how many people will be there once we break the curtain.”

He further added, “Purpose is equally important because if it is related to judicial work, if judgment can be influenced by money bags, that day at least, I do not wish to see. And no Member of Parliament would love to see it—unless one is part of it.”

In conclusion, Shri Dhankhar said, “Let me tell you, I have travelled all over the world. On intelligence, our judges are the best. In hard work, our judges are the best. When they lose confidence in everybody — the executive, and I would say even in organizations to which I belong, but they trust the Judiciary. Because they know, a judge is a reincarnation of God. He will do justice. And there also, they draw a distinction. A sitting judge, in public perception, I don't subscribe to it, carries greater weightage than a judge under oath will certainly do justice.”

JK/RC/SM

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