

A COMMISSIONER OF POLICE, DELHI AND ANR.
v.
REGISTRAR, DELHI HIGH COURT, NEW DELHI

OCTOBER 11, 1996

B [M.M. PUNCHHI AND K.T. THOMAS, JJ.]

C *VIP Security—Special Protection Group Act, 1988—Section 2(a), 2(g), 14—Proximate Security—Meaning—Purposive approach—Visits of protectee to court as an accused—SPG cover cannot be lifted from the protectee.*

Constitution of India, Art. 136—Jurisdiction—Plenary in nature—Supreme Court can determine its own jurisdiction.

D Shri P.V. Narasimha Rao, former Primer Minister of India, whose security was covered under the Special Protection Group Act, 1988, stood summoned as an accused in a criminal case before the Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi. Shri Rao, obliged to appear before the criminal court, had to be taken there as a protectee of the Special Protection Group. The petitioner, the Commissioner of Police, Delhi and the Director, Special Protection Group, New Delhi approached the Delhi High Court suggesting that the venue of appearance and the place of trial of Shri Rao be changed, as on account of the location, situation and topography of the Tis Hazari Court Complex, it was almost impossible for the Special Protection Group and the Delhi Police to provide to the protectee proximate security satisfactorily. The High Court by an administrative order declined their request. The Administrative Committee of the High Court held that the provisions of Section 2(g) defining 'proximate security' were not applicable in the case of a protectee summoned as an accused in a court case and that Sec.14 of the Special Protection Group Act, whereunder the Special Protection Group could seek assistance from certain authorities was not attracted in the case of assistance required from the courts. However the Committee did not dispute the expressed apprehensions and the threat perception to Shri Rao as projected by the appellants. Hence, the petitioners filed petitions under Article 136 r/w Article 142 of the Constitution seeking the relief of change of venue of trial from Tis Hazari Court to either of the venues suggested in the petition or to any other venue found suitable and consistent with

the requirements of the situation, relaxing the administrative decision of the Delhi High Court in order to facilitate the petitioners to carry out their statutory duties in the special facts and circumstances of the case. A

Allowing the appeal, this Court

HELD : 1.1. The will of the Parliament reflected in the Special Protection Group Act is bold, unequivocal, comprehensive and wide in nature, no-where permitting withdrawal, limiting or proscribing of the proximate security statutorily conferred on the protectee. The mere fact that the protectee has to go to court as an undertrial, does not disentitle him to the proximate security. His being in transit or getting within the precincts of the court does not absolve the Group from extending to him the proximate security as threat perception to him is in no way diminished. The expression "proximate security" has to be given a purposive meaning, for, it could never have been intended by the Parliament that security would be restricted to places of functions, engagements, residence or halt or resorting to the literal meaning. The purposive approach would warrant these places to be wide enough to include visits of a protectee to courts, compulsive or voluntary and in no way can the group be absolved from its statutory responsibility on the specious plea that having brought the protectee to the court precincts, the obligation to protect him would then shift to the court, who may either, under orders, place the protectee back to the Group, or send him into Police or Judicial Custody, shifting in the obligation of his protection to others. The protectee is a protectee all the time, as long as he keeps breathing for the period of ten years, from the date he demits office of the Prime Minister. Even in court custody or other custody as ordered by the court, the SPG protective cover cannot be lifted from the protectee. It goes with the person of the protectee as the shadow with a man. It is for the SPG to devise how to render meaningful protection to the protectee wherever he is even when he is under court orders, vide Section 2(a). [444-H, 445-A-E] B C D E F

1.2. Article 21 of the Constitution which enshrines and guarantees the precious right of life and liberty to a person, deprivable only on following the procedure established by law in a fair trial, assured of the safety of the accused. Assurance of a fair trial is the first imperative of the dispensation of justice. [445-H, 446-A] G

1.3. A change of venue would not create a precedent. The former H

A Prime Ministers entitled to such security are just a handful. One can hopefully look forward that no occasion would arise for citing the instant case as precedent. Those who faced trial in the court of its origin and those whose venues were shifted, as mentioned in the pleadings of the parties, are merely examples but not precedents. Distinction can be drawn in the instant matter on two grounds (i) those cases were cases on their own fact situations; and (ii) none of the persons involved had the special protective cover of the Act. [447-B-C]

1.4. Under Sec. 14 of the Act assistance can be requisitioned by the Group by enjoining, amongst others, every local or other authority or civil or military authority to act in aid of the Director or any member, whenever called upon to do so in furtherance of the duties and responsibilities assigned to such Director or member. The language employed is wide enough to include assistance to the Group from all civil and local authorities when taking a protectee to a court of law. There is no reason why the court Administration is isolated from such requirement as long as the assistance sought does not obstruct or in any other manner hinders court proceedings. Change of timings of court as suggested by the Coordination Committee is out of question. The Presiding Officer of the Court is not expected to start functioning at 7.30 a.m. and then continue till the end of the court timings. Likewise this Court cannot expect the Presiding Officer to sit for two to three hours in continuation of court timings. Such request is totally out of tune with the exigencies of the matter. [448-B-E]

1.5. On account of the threat perception to Shri Rao and the fears expressed by the appellants the venue of trial/trials involving Shri P.V. Narasimha Rao, former Prime Minister may be shifted from Tis Hazari Court complex to another venue. On the High Court selecting the new venue the appellants and all concerned should make necessary arrangements for conducting the trial/trials pertaining to Shri Rao. [448-H, 449-A-C]

2. The appellate jurisdiction under Article 136 is plenary in nature and this Court can determine its own jurisdiction and its effort in that regard would be final. The order of the Administrative Committee of the High Court was amenable to the jurisdiction of this Court. [447-E, D]

Menaka Sanjay Gandhi v. Rani Jethmalani, AIR (1979) SC 469; *Delhi Judicial Service Association v. State of Gujarat*, [1991] 4 SCC 406 and *Union Carbide Corporation v. Union of India*, [1991] 4 SCC 584, relied on.

Dev Singh and Others v. Registrar, Punjab and Haryana High Court and others, [1987] 2 SCR 1005, referred to. A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12991 of 1996.

From the Judgment and Order dated 25.9.96 of the Delhi High Court in A. No. Nil of 1996. B

WITH

I.A. No. 3 of 1996. C

(Under Article 136 read with 142 of the Constitution of India.)

K.N. Bhatt, Additional Solicitor General, O.P. Sharma, Arun Jaitley, P. Parmeshwaran, R.C. Gubrella, Vivek Sharma, Ashok Sudan, K.R. Gupta, Ms. Nanita, Rajiv Dutta, O.P. Saxena, Revedra Aggarwal and M.A. Chinnaswamy, Ms. A. Subhashini, and A. Ramchanda for the appearing parties. D

The Judgment of the Court was delivered by

PUNCHHI, J. The people of India, that is Bharat, gave to themselves a written Constitution effective from 26th January, 1950, ordaining in Article 74 that there shall be a council of ministers with the Prime Minister as the Head, to aid and advice the President. The importance of the office of the Prime Minister in a parliamentary democracy is well understood and needs no elaboration. In the course of time, on October 31, 1984, the People of India suffered assassination of their Prime Minister, Shrimati Indira Gandhi, during a period of great turmoil and tumult. Her son, Shri Rajiv Gandhi then stepped forward to serve the country as Prime Minister, when the cult of violence had begun and was expected to gain round. During his tenure, need was felt to provide high security to the Prime Minister of India and the Members of his immediate family, since there had been several threats to his life. A Bill which led to the passing of the Special Protection Group Act, 1988 (for short the 'Act') was introduced in the Parliament by giving out the following : E
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"STATEMENT OF OBJECTS AND REASONS H

A During the last few years, terrorism has been steadily assuming menacing proportions in various parts of the country and abroad. In addition to indulging in wanton killings, arson, looting and other heinous crimes with the object to overawing the Government, terrorists aim to destabilise the democratically elected Government by resorting to selective killing of prominent members of the public including those who are in the Government. During the last three years, the present Prime Minister has been under several threats to his life.

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C 2. With a view to providing the proximate security to the Prime Minister and the members of his immediate family, both in India as well as abroad, it has been decided to raise a special force. Accordingly, the Special Protection Group was set up in April 1985 under the Cabinet Secretariat.

D 3. The Special Protection Group is intended to serve as a single specialised agency consisting of highly motivated professionals charged with the responsibility of ensuring the proximate security of the Prime Minister and the members of his family.

E 4. It is essential that matters concerning the force should be regulated by a self-contained statute which will also provide the essential legal status to its functioning.

F 5. The proposed legislation will constitute the force as an armed force of the Union. It will lay down the terms and conditions of service of the members of the force and provide for its control and direction. It has provisions restricting the application of some of the Fundamental Rights to the members of the force in so far this is necessary for the maintenance of discipline. Keeping in view, the exclusive task entrusted to the force, it is proposed to make it obligatory on the part of Ministries and Departments of the Central and State Governments and the Union Territories, Indian Missions abroad and local or other authorities, civil or military, to act in aid of the Group."

The Act came into force on June 2, 1988.

H On December 2, 1989, Shri Rajiv Gandhi demitted the office of

Prime Minister. On May 21, 1991, he was assassinated, whereafter need was felt to bring to the former Prime Ministers of India and the immediate members of their families under the umbrella of the Act. Therefore a Bill passed by the Parliament brought forth the necessary amendment with effect from 25.9.1991, whereunder every former Prime Minister of India was brought at par with the existing Prime Minister of India for being extended high security. The following was the statement of objects and reasons made in the Parliament when introducing the amendment :

"STATEMENT OF OBJECTS AND REASONS

Following the tragic assassination of Shri Rajiv Gandhi, Government have received reports that indicate that several extremist organisations, inside and outside India, are conspiring to cause harm to the members of his immediate family. The threat perception emerging from these reports confirms that the danger to the members of the immediate family of the assassinated ex-Prime Minister is grave and serious.

2. The Central Government have been considering ways and means for providing adequate arrangements for the security of the members of the immediate family of the assassinated ex-Prime Minister consistent with the high level of threat.

3. With a view to ensuring proximate security for the members of the immediate family of such assassinated Prime Minister and assassinated ex-Prime Minister who continue to be under serious threat, it is considered necessary that such security of the said members of immediate family should be brought within the purview of the Special Protection Group. Since the role of the Special Protection Group as at present provided by law is to provide proximate security only to the Prime Minister and members of his immediate family, an amendment of the Special Protection Group Act, 1988 is necessary to enable the Special Protection Group to take up the task of providing proximate security to the said members of the immediate family."

The Act was further amended w.e.f. November 16, 1994 to extend the period of security from a period of five years to ten years from the date of the Prime Minister demitting office.

A The Act is thus very special in nature, in as much as the Prime
 Minister of India and the members of his immediate family as well as
 former Prime Ministers of India and the members of their immediate
 families form a distinct group which are under the protective cover of the
 Act; the only distinction being that the Prime Minister cannot shake off the
 B protective cover but any member of his immediate family, a former Prime
 Minister or any member of his immediate family, can and may decline such
 protective cover, and in that case the obligation to provide security gets
 lifted.

C We have on the spread of life five important persons whose security
 is covered under the Act. They are:

- (1) Shri H.D. Devegowda, existing Prime Minister;
- (2) Shri V.P. Singh, former Prime Minister;
- D (3) Shri Chander Shekhar, former Prime Minister;
- (4) Shri P.V. Narsimha Rao, former Prime Minister; and
- (5) Shri Atal Behari Vajpayee, former Prime Minister.

E The Act, as its preamble suggests, is a measure to provide for the
 constitution and regulation of an armed force of the Union for providing
 proximate security to the afore-mentioned category of persons and mem-
 bers of their immediate families, and for matters connected therewith.
 Unless the context otherwise requires, Section 2(a) defines "active duty" in
 relation to a member of the Group to mean any duty as such member
 F during the period when he is posted to physically protect the Prime
 Minister of India and the members of his immediate family, or a former
 Prime Minister and the members of his immediate family, *wherever he or
 they may be.* (emphasis supplied). Section 7 provides that every member of
 the Group, not on leave or suspension, shall for all purposes of the Act,
 G be always on active duty and may at any time be employed or deployed in
 any manner which is consistent with the duties and responsibilities of the
 Group under the Act. The expression "proximate security" as per Section
 2(g) means protection provided from close quarters, during journey by
 road, rail, aircraft, watercraft or on foot or any other means of transport
 and shall include the places of functions, engagements, residence or halt
 H and shall comprise ring round teams, isolation cordons, the sterile zone

around, and the rostrum and access control to the person or members of the immediate family. Sub-section (1) of Section 4 provides that there shall be an armed force of the Union called the Special Protection Group for providing proximate security to (i) the Prime Minister and the members of his immediate family; and (ii) any former Prime Minister or to the members of his immediate family for a period of ten years from the date on which the former Prime Minister ceased to hold the office of the Prime Minister. Provided that any former Prime Minister or any member of his immediate family may decline such proximate security. Section 14 ordains that it shall be the duty of every Ministry and Department of the Central Government or the State Government or the Union Territory Administration, every Indian Mission, every local or other authority or every civil or military authority to act in aid of the Director or any member of the Group whenever called upon to do so in furtherance of the duties and responsibilities assigned to such Director or member. These are the only prominent provisions of the Act which get attracted to solve the problem we have in hand, relating to a former Prime Minister.

Shri P.V. Narasimha Rao, serialised above at No. 4, stood summoned for 30th September, 1996 at 10.00 a.m. as an accused in R.C. 1(S) 88 - *State (CBI) v. Chandraswamy and others*, before Shri Ajit Bharihoke, Chief Metropolitan Magistrate/Additional Sessions Judge, Tis Hazari Courts, Delhi, on which date this special leave petition was placed before us at 10.30 a.m. as the first item. The petitioners, namely the Commissioner of Police, Delhi and the Director, Special Protection Group, New Delhi in their special leave petition had bared themselves in concluding, for reasons given, that it was almost impossible for them to provide proximate security satisfactorily to Shri Rao when required to be taken to the Tis Hazari Court on the date fixed. Having regard to the constricted time situation, in which we were placed in examining this matter, we thought making of an interim order in favour of the petitioners as an absolute imperative and achieved the object by exempting personal appearance of Shri P.V. Narasimha Rao, permitting him to appear instead through a pleader before the criminal court on that day and until further orders of this Court.

Shri Narasimha Rao, obliged as he was to appear on that day before the criminal court, had to be taken there as a protectee of the Special Protection Group. But the prospect of his being taken there compelled the petitioners to approach the Delhi High Court suggesting that the venue of

A appearance and the place of trial of Shri P.V. Narasimha Rao be changed, as on account of the location, situation and topography of the Tis Hazari Court complex, it was almost impossible for the Special Protection Group and the Delhi Police to provide to the protectee proximate security satisfactorily. Since the Administrative Committee of five Hon'ble Judges of that Court, after discussing with the petitioners declined their request on 25.9.1996, the petitioners have approached this Court under Article 136 read with Article 142 of the Constitution seeking the relief of change of venue of the trial from Tis Hazari Court to either of the venues suggested in the petition or to any other venue found suitable and consistent with the requirements of the situation, relaxing the administrative decision of the Delhi High Court dated 25.9.1996 in order to facilitate the petitioners to carry out their statutory duties in the special facts and circumstances of the case.

D On notice being issued for October 7, 1996, we got a response from the Delhi High Court in the form of an affidavit of its Registrar, appended with which is a copy of an extract from the minutes of the September 25 meeting as perceived by the High Court in contrast with the minutes perceived by the petitioners, copy whereof was annexed with their petition. I.A. No. 3 of 1996 has also been attracted praying for impleadment of the Coordinated Committee of all the three district Bar Associations of District Courts at Delhi, viz. Delhi Bar Association, New Delhi Bar Association and Shahdara Bar Association, and in the alternative for allowing them to join as interveners in the special leave petition.

F Shri K.N. Bhat, learned Additional Solicitor General, appearing for the petitioners, at the very outset maintained that the present petition of the petitioners is in no way adversarial and that it has been brought forth in the uncommon situation developed and likely to develop due to the repeated appearances of Shri Rao in the trial court in the case aforementioned as well as in other cases in other courts, placed within the precincts of Tis Hazari Courts complex. Shri Jaitley, learned counsel appearing for the Registrar, Delhi High Court too has maintained that the counter-affidavit filed by the Registrar is in no way adversarial and has been placed on record to highlight and bare some of the feature emerging from the fact situation. The intending intervener i.e. the Coordination Committee through Shri Rajiv Datta, their learned counsel, was also not adversarial in the strict sense but in opposition to the grant of the prayer suggesting that

changing venue would set a bad precedent and at best timings of the trial of cases in which Shri Rao is an accused could be changed to 7.30 a.m. or to any other suitable time before or after the regular court timings. We thus have permitted the Coordination Committee to intervene in the matter and be a party respondent and having done so, we grant leave in order to dispose of this matter finally on the footing that the cause before us is not adversarial. Learned counsel have been heard at length.

We have already dwelt at considerable length on the historical aspect of the need for and importance of the proximate security required to be extended to the person of a former Prime Minister. It is through an Act of Parliament that such security stands provided; qualitatively far above than the ordinary security available or extended to other persons in authority before or after retirement from public service. The security available in courts and other places of governance, even in existence, can be no match or substitute to the statutory security affordable to a former Prime Minister. The complex and situation of Tis Hazari Courts where Shri Rao is required to go in response to summons received from the Court of Shri Ajit Bharihoke, Chief Metropolitan Magistrate/Addl. Sessions Judge, has been apprehensively described and visualized by the petitioners as follows:

"... The complex has five entry/exit gates with no access control-system in existence. As many as 250 courts are functional attracting 60,000-70,000 visitors including 5000-10000 lawyers, 2000 car/scooters every day. The complex also houses a canteen umpteen number of lawyer's hutments, innumerable trunks, almirahs, etc. There is absolutely no restriction on movements of men and materials within the complex.

The Court room and Chamber of Shri Bharihoke is on the ground floor near the gate No. 1. The size of the Court room is approximately 30' x 20' with a number of steel/wooden almirahs and steel trunks stacked inside the room. In the remaining space, there are 22 chairs, a table and the seating enclosure of the Special Judge. The corridors provide access to different floors of the entire complex and are full of visitors and litigants during the court hours.

3. The information gathered so far, indicates that 800-1000 media men including those of visual media and thousands of sup-

A porters/detractors and onlookers are likely to congregate inside the court complex on the day of appearance. All will try to converge towards the Court room. Hundreds of cars/scooters will be used by this large crowd as means of conveyance to the court complex. With this large assembly of people, a choked like situation is anticipated on that day by the security agencies."

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The Threat Perception to Shri Rao has been summarised by the appellants in this manner :

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"1. Shri P.V. Narasimha Rao continues to be the Prime target of Sikh and Kashmiri militant groups.

2. Reports continue to be received about the presence of Sikh and Kashmiri militants in Delhi waiting for an opportunity for mounting a sensational attack.

D

3. In the past enough indications of plans of LTTE and Islamic fundamentalist groups to target Shri P.V. Narasimha Rao have come to light. The possibility of such elements gaining access in the Court premises in the guise of supporters/media persons/litigants cannot be ruled out.

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4. The date fixed for the appearance of Shri P.V. Narasimha Rao is publicly known. Hence the possibility of mischievous elements, militant groups taking advantage of the situation capitalising on the difficulties in enforcing strict access control and thorough anti-sabotage checks of the venue and the surrounding areas, including vehicles, can easily plant and detonate explosive devices or even mount an attack in the area. Such a situation will immediately result in a massive stampede and confusion leaving no scope at all for evacuation of the VIP from the area.

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5. Any law and order situation that may develop just outside the Court premises is likely to result in immense confusion, melee and stampede which will positively nullify all measures for evacuation of former P.M.

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6. Demonstrations and counter demonstrations are likely to give rise to serious law and order problems."

The Administrative Committee of the High Court has reacted to the above apprehensions and threat perception in the manner reflected from the minutes recorded on 25.9.96, set out below :

Shri Nikhil Kumar, Commissioner of Police, Delhi, and Shri Shyamal Dutta, Director (SPG) were heard at length. The Police Commissioner reiterated his request for shifting the venue of trial proceedings in *Mr. Narasimha Rao's* case to another suitable place whether proper security measures could be taken. Shri Dutta submitted that Shri Rao was a SPG protectee and by virtue of the provisions of Sections 2(g) and 14(1) of the S.P.G. Act, 1988, the Special Protection Group could call aid from any authority in the discharge of its statutory duty of providing Special Protection cover for a period of 10 years to the former Prime Minister, Mr. Narasimha Rao, wherever he went.

The Director (SPG) was clearly told that the provisions made in Section 2(g) and Section 14 of the SPG Act were not applicable in the case of a person summoned as an accused in a case in Court.

After due consideration of the submissions made by both of these officers, the request for change of venue for trial was declined. The Commissioner of Police was also told to move an application before the concerned Court, if so advised.

The Commissioner of Police was further told that the High Court would not agree to make any special arrangement for a particular person who is to appear as an accused in a case before a Court and that it was upto the SPG/Police Authorities to make whatever arrangement they considered necessary for safety and security of a particular person without obstruction or hindering the normal course of proceedings in court and the Administration of Justice and that the security arrangement may be made in a manner that no obstruction should be caused to *bonafide* litigants, witnesses, lawyers etc. coming to any court to attend to their respective cases and the Police should ensure that no obstruction or inconvenience is caused to any Judicial Officer while coming or going from the court and in case a Judicial Officer was, somehow, found held up in the traffic jam caused by police control, he would

A be taken out of the traffic jam by the police authorities and put on free way to reach the court. The Police would also make arrangements for parting of the vehicles, other than those which have Bar Association and Judges labels, at the open triangular plot which is opposite Tis Hazari Complex.

B The Police Commissioner assured that while making security arrangements, all precautions, as may be required, would be taken to protect the Judicial Officers and the Court Complex. However, he contended that extra-ordinary steps would be required to meet the exigency of the situation, therefore, some inconvenience is bound to be caused to Judicial Officers, lawyers, and litigant public although his endeavour would be to cause as little inconvenience to all as possible."

D It is evident from the above minutes that the Administrative Committee of High Court was of the view that the provisions of Section 2(g) defining "proximate security" were not applicable in the case of a protectee summoned as an accused in a court case. Additionally, the Committee was of the view that Section 14 of the Act, where under the Special Protection Group could seek assistance from certain authorities mentioned therein, was not attracted in the case of assistance required from a court. What the Committee seemingly would have meant was that neither a protectee accused summoned in court was entitled to proximate security, nor could the summoning court be required to assist the group in terms of Section 14. When attention to this stance of the Committee was drawn Shri Jaitley, learned counsel was candid enough to state that the High Court has no intention to invite any pronouncement on the subject but he could not deny the fact that such view as recorded in the minutes could be a factor which might have influenced the Committee in taking such a position. Significantly the Committee did not dispute the expressed apprehensions and the threat perception to Shri Rao as projected by the appellants but had rather great expectations from the appellants handling the situation of the day and on other days in the manner reflected in the minutes.

H We cannot help remarking that the will of the Parliament reflected in the Act is bold, unequivocal, comprehensive and wide in nature, nowhere permitting withdrawal, limiting or prescribing of the proximate security statutorily conferred on the protectee. The mere fact that the

protectee has to go to court as an undertrial, does not disentitle him to the proximate security. His being in transit or getting within the precincts of the court does not absolve the Group from extending to him the proximate security as threat perception to him is in no way diminished. The expression "proximate security" has to be given a purposive meaning, for, it could never have been intended by the Parliament that security would be restricted to places of functions, engagements, residence or halt on resorting to a literal meaning. The purposive approach would warrant these places to be wide enough to include visits of a protectee to courts, compulsive or voluntary and in no way can the Group be absolved from its statutory responsibility on the specious plea that having brought the protectee to the court precincts, the obligation to protect him would then shift to the court, who may either, under orders, place the protectee back to the Group, or send him into Police or judicial custody, shifting the obligation of his protection to others. A contrary view expressed on these lines by Shri Bhat deserves outright rejection. It has to be borne in mind that the protectee is a protectee all the time, as long as he keeps breathing for the period of ten years, from the date he demits office of the Prime Minister. We shall not be taken to have even remotely suggested or tried to impinge on the power of the court to deal with the person summoned in accordance with law but we wish to lay emphasis that even in court custody or other custody as ordered by the court, the SPG protective cover cannot be lifted from the protectee. It goes with the person of the protectee as the shadow with a man. It is for the SPG to devise how to render meaningful protection to the protectee wherever he is even when he is under court orders, vide Section 2(a).

Shri Bhat supported the need for change of venue not only on the apprehensions and threat perception projected by the appellants but also on the ground that the request for change has been made taking into account certain suggestions made by Hon'ble Mr. Justice J.S. Verma, sitting Judge of this Court, who sat in Commission to report the security failures relating to the assassination of late Prime Minister Shri Rajiv Gandhi. That report, in our view, is entitled to great respect and his Lordship's suggestions are not meant to be merely on paper but must reach out in action. Another former Prime Minister cannot have to be experimentally killed in order to realize the gravity of threat perception more so while undergoing criminal trial/trials. Emphasis need be laid on Article 21 of the Constitution which enshrines and guarantees the precious right of life and

A liberty to a person, deprivable only on following the procedure established by law in a fair trial, assured of the safety of the accused. Assurance of a fair trial is the first imperative of the dispensation of justice. This is what Justice Krishna Iyer speaking for the Court in *Menaka Sanjay Gandhi v. Rani Jethmalani*, AIR (1979) SC 469 at 470 had to say :

B "..... Likewise, the safety of the person of an accused or complainant is an essential condition for participation in a trial and where that is put in peril by commotion, tumult or threat on account of pathological conditions prevalent in a particular venue, the request for a transfer may not be dismissed summarily. It causes disquiet and concern to a court of justice if a person seeking justice is unable to appear, present one's case bring one's witnesses or adduce evidence. Indeed, it is the duty of the court to assure propitious conditions which conduce to comparative tranquility at the trial. Turbulent conditions putting the accused's life in danger or creating chaos inside the court hall may jettison public justice. If this vice is peculiar to a particular place and is persistent the transfer of the case from that place may become necessary. Likewise, if there is general consternation or atmosphere of tension or raging masses of people in the entire region taking sides and polluting the climate, vitiating the necessary neutrality to hold a detached judicial trial, the situation may be said to have deteriorated to such an extent as to warrant transfer."

We repeat that the High Court does not deny the threat perception. At the same time it requires avoidance of dislocation of the ordinary routine of the courts when producing the protectee in the Tis Hazari Court. It is also not disputed that the protectee would have to visit the courts a number of times not only in this case but in other cases too. We are equally conscious that his appearance time and again, would put a lot many people to inconvenience, if it is insisted upon that like any other criminal, he too should appear in court in such conditions. In these circumstances the assessment of the situation made by the appellants would normally require no contradiction particularly when there is no *malafide* exercise of power. Should the worst happen, the protectee alone may not depart from the world, as others too might go with him. Instinct of self preservation is the foremost to be favourably responded. The concern of the appellants is therefore justified.

It has been urged by the Bar Coordination Committee that change of venue would set a bad precedent. The appellants too in their minutes prepared, appended with the petition, have thought this to be the view of the Committee. The Registrar of the High Court in his counter has suggested nothing of the kind. Even so, we fail to appreciate how a change of venue would create a precedent. The former Prime Ministers entitled to such security are just a handful. We can hopefully look forward that no occasion would arise for citing the instant case as precedent. Those who faced trial in the court of its origin and those whose venues were shifted, as mentioned in the pleadings of the parties, are merely examples but not precedents. Distinction can be drawn in the instant matter on two grounds (i) those cases were cases on their own fact situations; and (ii) none of the persons involved had the special protective cover of the Act.

At this juncture, we may dispose of an objection which was feebly raised in passing by the Bar Coordinate Committee to the effect that the order of the kind passed by the Committee was not amenable to jurisdiction under Article 136 of the Constitution. Reliance was placed on *Dev Singh and Others v. Registrar, Punjab and Haryana High Court and Others*, [1987] 2 SCR 1005. Before us the petition is not only under Article 136 but under Article 142 of the Constitution as well. A Larger Bench in the *Delhi Judicial Service Association v. State of Gujarat*, [1991] 4 SCC 406 has ruled that the appellate jurisdiction under Article 136 is plenary in nature and this Court can determine its own jurisdiction and its effort in that regard would be final. This Court observed as follows:

"18. There is therefore, no room for any doubt that this Court has wide power to interfere and correct the judgment and orders passed by any court or tribunal in the country. *In addition to the appellate power, the Court has special residuary power to entertain appeal against any order of any court in the country.* The plenary jurisdiction of this Court to grant leave and hear appeals against any order of a court or tribunal, confers power of judicial superintendence over all the courts and tribunals in the territory of India including subordinate courts of Magistrate and District Judge. This Court has, therefore, supervisory jurisdiction over all courts in India."

(emphasis supplied)

A Likewise paras 58 to 62 in *Union Carbide Corporation v. Union of India*, reported in [1991] 4 SCC 584 may be read with advantage in support. Reproduction thereof is avoided to reduce the length of this judgment.

B In the same strain, we may, to some extent, deal with the scope of Section 14 of the Act, whereunder assistance can be requisitioned by the Group by enjoining, amongst others, every local or other authority or civil or military authority to act in aid of the Director or any member, whenever called upon to do so in furtherance of the duties and responsibilities assigned to such Director or member. The language employed is wide enough to include assistance to the Group from all civil and local authorities when taking a protectee to a court of law. We see no reason why the court administration is isolated from such requirement as long as the assistance sought does not obstruct or in any other manner hinders court proceedings. We need not stretch this aspect of the matter any further for reasons which are obvious.

C
D Change of timing of court as suggested by the Coordination Committee is out of question. We do not expect the Presiding Officer of the Court to start functioning at 7.30 a.m. and then continue till the end of the court timings. Likewise we cannot expect the Presiding Officer to sit for two to three hours in continuation of court timings. Such request is totally out of tune with the exigencies of the matter.

E
F Lastly the plea of the Coordination Committee that there should be an open court trial in terms of Section 327 of the Code of Criminal Procedure, we have only to state that within the confines of that provision, the Presiding Judge or the Magistrate of the criminal court can regulate its proceedings and the Presiding Judge or Magistrate, as the case may be, dealing with the matter/matters of Mr. Rao would likewise do the needful as the circumstances of the case may warrant.

G Thus for the afore-going reasons, we go to allow this appeal upturning the orders of the Administrative Committee of the Delhi High Court reflected in its recorded minutes of 25th September, 1996, paving the way for remittal of this matter to the High Court for fresh consideration by making the following suggestions:

H (1) On account of the threat perception to Shri Rao and the fears

expressed by the appellants the venue of trial/trials involving Shri P.V. Narasimha Rao, former Prime Minister may be shifted from Tis Hazari Court complex to another venue; A

(2) The appellants are directed to submit to the High Court by Monday, the 14th October 1996, a list of places in New Delhi area which may be suitable for converting into a court, within the shortest possible time; B

(3) The choice of Patiala House Court complex as the venue of trial, for obvious reasons, be avoided as far as possible, as similar problem may surface there also; C

(4) On the High Court selecting the new venue the appellants and all concerned should make necessary arrangements for conducting the trial/trials pertaining to Shri Rao;

(5) On such happening, the exemption from personal appearance of Shri Rao, granted by us vide interim orders of 30.9.1996, may continue until the Court concerned requires his presence in the newly venued Court. D

Ordered accordingly.

R.A.

Appeal allowed.