

अध्यक्ष महोदय : कल कहा गया था कि मैं उपदेश देता हूँ ।

श्री स० भो० बनर्जी (कानपुर) : आप, आदेश में मत आइये ।

अध्यक्ष महोदय : मुझे कुछ माननीय सदस्यों से इसकी शिकायतें मिली हैं कि उन्हें हैरत किया जा रहा है । मैंने उसे होम मिनिस्टर साहब के पास भेजा है । मुझे उनसे कुछ पता ले लेने दीजिये कि क्या बात है । मैं जो मेम्बरों की शिकायत है उसके लिए कोई वक्त रख दूंगा और उनको बोलने का मौका भी दे दूंगा लेकिन इस तरीके से हाउस की कार्यवाही को माननीय सदस्य इंटरप्ट न करें ।

श्री श्रीर्य : किसी की पत्नी की बेइज्जती हो

अध्यक्ष महोदय : श्रीर्य साहब अभी धीरज रखें मैं आज ही जवाब लेने की उनसे कोशिश करूंगा ।

श्री श्रीर्य : किसी की पत्नी की इस तरह से बेइज्जती हो कौन ऐसा अपमान बर्दाश्त कर सकेगा ? मैं गृह मंत्री साहब से पूछना चाहता हूँ कि उन्होंने किस हैसियत से पुलिस को भेजा, किस हैसियत से मेरे मकान की तलाशी ली गई, किस तरीके से मेरे यहां पुलिस घर में घुस गयी और मेरी पत्नी की बेइज्जती की ? कैसे यह बात हुई ? रिपब्लिकन पार्टी एक पुराप्रमन पार्टी है । मैं और मेरी पार्टी हिंसा में यकीन नहीं करते लेकिन अगर इस तरीके से हम को चुनौती देना चाहते हैं तो उन्होंने स्वीकार करने के लिए मैं तैयार हूँ । मैं गृह मंत्री से जानना चाहूंगा कि इस तरह से क्यों किया गया ?

अध्यक्ष महोदय : मैंने आप की शिकायत उनके पास जवाब के लिए भेज दी है आप अभी धैर्य रखें ।

श्री श्रीर्य : श्रीमन्, होम मिनिस्टर साहब यहां इस समय हाउस में मौजूद हैं, बैठे हुए सब सुन रहे हैं वह अभी क्यों नहीं मुझे जवाब दे देते ? He should be asked. What is he doing?

अध्यक्ष महोदय : इस तरीकेसे आप नहीं पूछ सकते हैं ।

12.37 hrs.

ARREST OF MEMBERS

(Dr. Ram Manohar Lohia and Shri Ram Sewak Yadav)

Mr. Speaker: I have to inform the House that I have received the following communication dated the 16th November, 1966 from the Superintendent, Central Jail, New Delhi:—

"I have the honour to state that Dr. Ram Manohar Lohia, Member Lok Sabha, was admitted in this Jail on the night of the 15th/16th November, 1966, under sections 107/150, Criminal Procedure Code, by the court of the Sub-Divisional Magistrate, New Delhi."

I have also received the following further communication, dated the 17th November, 1966 from the Sub-Divisional Magistrate, New Delhi:—

"In continuation of my letter to you dated the 16th November, 1966 intimating the arrest of Dr. Ram Manohar Lohia, Member, Lok Sabha, under section 107, Criminal Procedure Code, I beg to inform you that soon after the arrest the hon. Member was produced before me and on his failure to furnish the security he was remanded to judicial custody till the 28th November, 1966 and thereafter was lodged in Tihar Jail, New Delhi. I very much regret that in my earnestness and respect for the House, I immediately took action to intimate you about the arrest of the Honourable Member but inadvertently I omitted to mention the fact of the detention in Tihar Jail and also the date of his detention,

[Mr. Speaker]

i.e., the night of 15/16th November, 1966.

Furthermore, in my having referred to section 107, Criminal Procedure Code, I omitted to mention that the arrest was effected under section 114 of the Criminal Procedure Code. Dr. Ram Manohar Lohia was taken into custody under sections 107/156, Criminal Procedure Code....." (Interruptions).

Shri Kapur Singh (Ludhiana): You cannot arrest under 150; perhaps it is 151.

Mr. Speaker: I may be allowed to read it.

"...as there was apprehension of breach of public peace on account of his open advocacy that students should defy orders under section 144, Criminal Procedure Code, which have been in force throughout the Union Territory of Delhi prohibiting meetings and processions.

The omission to give these details in my earlier communication is deeply regretted and I tender an unqualified apology to you for the inconvenience caused to you and to the members of the august body."

Several hon. Members rose—

Mr. Speaker: Mr. Kapur Singh.

Shri Kapur Singh: The Magistrate has intimated to you that he has effected the arrest under sections 107 and 150—I think it must be 151—of the Criminal Procedure Code. In support thereof he has mentioned the fact that his arrest has been effected because he had advocated to the students to defy the order under section 144. Sir, section 151 of the Criminal Procedure Code lays down that an arrest can be made only if there is an imminent apprehension of breach of

peace and not if any sayings or utterances of a citizen have the tendency to result in a breach of peace. Therefore, this order is demonstrably mala fide and ostensibly wrong.

Shri S. M. Banerjee (Kanpur): I rise on a point of order under rule 229. The point of order was raised by my hon. friend Shri Kamath also yesterday. Rule 229 reads thus:

"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...."

He also brought to your notice...

Mr. Speaker: The form was also mentioned or referred to.

Shri S. M. Banerjee: That form is set out in the Third Schedule. Now, what has come out today either from the sub-divisional magistrate or from the Superintendent of the district jail? This is the first time that a communication has been received from the superintendent of a district jail that such and such a Member of Parliament is detained in that jail. That is something unusual. I had also been detained several times but only the arrest order was conveyed to you or the order of release or release on bail. Now, here is something to justify the order of the sub-divisional magistrate; I think that this is a case of dual responsibility and I would submit that the sub-divisional magistrate should not try to....

Mr. Speaker: There is no question of dual responsibility. Nobody has raised the point that it is a dual responsibility or that the magistrate's responsibility has been minimised.

Shri S. M. Banerjee: Kindly hear me.

Mr. Speaker: I am going to hear him. But he should not bring in these matters that have no relevance. Whether the superintendent of the district jail has sent that information or not does not absolve the magistrate from the responsibility that he has to discharge under the rules.

Shri S. M. Banerjee: I am only saying that this is to justify the wrong deeds or misdeeds of the sub-divisional magistrate....

Mr. Speaker: That cannot justify it.

Shri S. M. Banerjee: Even yesterday when the sections were clearly mentioned, I was very attentively listening to it. Section 107 followed section 151, or rather section 150, as it was read out. When we were arrested we were always arrested on the ground mentioned in section 151, namely apprehension of breach of peace or imminent danger to law and order; if the authority is satisfied that if I am not arrested there may be apprehension of the breach of the peace, then I am arrested, and arrested under section 107. For the ground mentioned in section 151 I am arrested but the arrest is under section 107 with provision for *muchalka* or *zamanat*. Yesterday I wanted to raise it but I could not. Then there is the point about section 150. There is nothing in the order to indicate that he was arrested under section 151; I think there must have been a typographical error. So, I have a feeling that the FIR has been changed to suit the convenience of Government.

Mr. Speaker: How does that arise? How does he make this allegation that

the FIR has been changed, or that somebody else has tampered with and so on? I would not allow those things.

Shri S. M. Banerjee: You may kindly protect us.

Mr. Speaker: I should protect others also; I should protect the other citizens also. Otherwise, he would go on recklessly saying whatever he wants.

Shri S. M. Banerjee: You know that yesterday...

Mr. Speaker: He has made that allegation now. What justification has he got to make that allegation?

Shri S. M. Banerjee: Let me finish my sentence. I am not an astrologer. Let me finish what I wanted to say. I can only substantiate my argument by arguing it out.

My point is that yesterday a communication was sent dated the 11th November, 1966 by the sub-divisional magistrate. From that it is clear that the magistrate had full knowledge that Dr. Ram Manohar Lohia was not an ordinary person but he was the leader of a party and a most important member of this august House, and so, naturally, he must have taken proper precautions to see that the proper section was mentioned in the communication. As regards the section under which he was arrested, how could there be any mistakes in it?

So, I would request you to kindly see that further investigation is made into this because there are cases in this country where the FIR is changed. That is my point of order.

Shri Priya Gupta (Katihar): The point that I want to submit before you is this. On the first day, the sub-divisional magistrate had sent a communication to you that Dr. Ram Manohar Lohia had been arrested. Being a sub-divisional magistrate, he should

[Shri Priya Gupta]

have known that until the charges were given, until the FIR was prepared and it was produced before him, he had got no business to look into the cases. He says that there has been omission in this respect. It is such an important thing; the section itself was not quoted on the first day; on the second day, he expresses his inability and sorrow and delinquency and begs to be excused saying that he could not give it on the first day and now he is informing you of the sections under which he had been arrested.

May I, now, therefore, request you to probe into the matter in order to see whether it is a concocted story or whether he was himself at a loss to say how he should be charged and how he should be arrested until he got some *ishara* from the Home Minister or somebody else?

Shri G. N. Dixit (Etawah): My hon. friend is talking of matters which are pending decision in a court of law. Rule 352 reads thus:

A Member while speaking shall not—

“(i) refer to any matter of fact on which a judicial decision is pending.”

Dr. Ram Manohar Lohia has been arrested under section 107 Cr. P. C. All these facts which have been referred to are pending before the magistrate. My submission, therefore, is that all these matters of fact which are pending decision should not be permitted to go on record.

Shri Hari Vishnu Kamath (Hoshangabad): I shall try to the best of my ability to put this matter in the proper perspective. Yesterday I had raised this matter and I dare say that your august self as well as Members on all sides of the House ought to be concerned over this matter, not just

because it touches my hon. friend Dr. Ram Manohar Lohia but because what has happened to him may happen to any one of us, any Member on this side of the House, to any one of us on this side of the House; any day, any fine morning or dead of night any one of us could be rounded up summarily and callously and cavalierly and locked up behind the bars. Now, what has happened in this particular case? The hon. Home Minister, who is new to the portfolio—I do not know whether he has got used to it—has seen to it that a correction or a supplemental information has been sent to you by the officer or officers concerned. Now, what does rule 229 say?

Mr. Speaker: That was read out yesterday. Would that not be enough?

Shri Hari Vishnu Kamath: Even that has not been complied with fully. I am going to point out and prove to you to the hilt that even what was said yesterday by me and by my other friends has not been fully complied with, and the bureaucracy to which some Ministers do not pay as much attention as they should, is becoming more and more callous, cavalier and casual in this matter.

Shri D. C. Sharma (Gurdaspur): He had already used those adjectives yesterday.

Shri Hari Vishnu Kamath: Rule 229 must be read with the Third Schedule. What was the information given yesterday? I am reading from the records. Look at the way the communication is worded.

Mr. Speaker: That was read out yesterday.

Shri Hari Vishnu Kamath: You were not here at that time, but it was read out by the Deputy-Speaker yesterday. But we did not have a copy of that at that time; otherwise, we would have pointed out the very casualness of the manner in which

they had done this thing. Kindly look at the wording. They do not take any pains, and they do not pay any respect to you or to parliamentary procedures, norms, values and standards in parliamentary life and public life, and here is the example...

Mr. Speaker: Order, order. He need not go into all that now.

Shri Hari Vishnu Kamath: I am at your service. What was yesterday's information which the Deputy-Speaker had read out? Please see how casual it is.

Shri S. M. Banerjee: I was sent out yesterday only for trying to point this out.

Shri Hari Vishnu Kamath: The communication reads thus:

"I wish to inform you..."

Now, what does the Third Schedule say:

"I have the honour to inform you..."

There is a regular form prescribed or a regular proforma for this purpose; they could have got it printed also, but he writes only a casual letter to you and says:

"I wish to inform you that Dr. Ram Manohar Lohia, Member, Lok Sabha, was taken into custody under..."

No mention is made of the person by whom he was taken into custody. I shall presently read out the form set out in the Third Schedule and point out how important a matter it is affecting the rights and liberties of the Members of the House and I hope that you would not hustle this matter. The communication says:

"...Dr. Ram Manohar Lohia, Member, Lok Sabha, was taken into custody under section 107 Criminal Procedure Code. He was required to execute a bail bond in the sum of Rs. 25,000

with two sureties in like amount..."

Shri Frank Anthony (Nominated—Anglo-Indians): That is too much.

Shri Hari Vishnu Kamath: It was Rs. 25,000 for a Member of Parliament with two sureties in like amount. I am glad that even Shri Frank Anthony thinks that it is too much, and too much a thing to swallow.

The communication further reads:

"...Since he failed to do so, he was remanded to judicial custody till 28th November, 1966."

A moot point arises here. Rule 229 reads as follows:

"When a Member is arrested on a criminal charge..."

—criminal charge is No. 1—

"or for a criminal offence..."

—that is No. 2—

"...or is sentenced to imprisonment by a court..."

—that is No. 3—

"...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..."

and also the criminal charge.

Now, what does section 107 say? This is one of the preventive sections of the Criminal Procedure Code. There is no criminal charge imposed by sec. 107. Section 107 reads...

Mr. Speaker: That we know.

Shri Hari Vishnu Kamath: But not everybody knows. You know of course perfectly. I know a little only. But very few here know what is section 107. My hon. friend, Shri

[Shri Hari Vishnu Kamath]

Morarji Desai, knows. Some Ministers know, but I am sure not even all the Ministers know what that section is.

Section 107 says:

"When a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace. . . ."

Mr. Speaker: Would Shri Kamath allow me to say...

Shri Priya Gupta: Let him finish.

Mr. Speaker: No. I am putting this to him. Here we cannot go into these facts, whether the arrest was legal or illegal, whether 107 is the section under which he could be arrested. These are things for the court to see. Here we are only entitled to information. That has to be sent to us (*Interruptions*). We are only entitled to information, and information in the manner prescribed in the rules and in the form.

Shri S. M. Banerjee: That is exactly what he is going to say.

Mr. Speaker: That is all we are concerned with. He should only proceed and say that the information given is this and what should have been given is this. I cannot go into the question whether 107 has been applied, whether he would be acquitted, whether they could arrest him under that or not. That is not a question for me to determine here.

Shri Kapur Singh: Most respectfully, I beg to submit that the point which I tried to make out has not been disposed of by the ruling you have just now given.

Mr. Speaker: I have not disposed of it.

Mr. Kapur Singh: Could I make a submission or should I sit down?

Mr. Speaker: Just as he likes.

Shri Kapur Singh: My submission was that on the showing of the Magistrate himself in his report, he has made it manifest to this House that the arrest of Dr. Lohia has been made under a provision of law which does not apply. From this it logically follows that the arrest is *mala fide*. If the arrest is *mala fide*, it is a clear case of breach of privilege such as entitles you to take action under rule 229 of the Rules of Procedure. That is all the point I wanted to make.

Mr. Speaker: No. I cannot agree there. If it is *mala fide*, it has to be considered by the court, not by me.

Shri Kapur Singh: Manifestly *mala fide*.

Mr. Speaker: The question of *mala fide* also is to be determined by the courts, not by me.

Some Members have said that it would not be 150. I am also surprised how it could be 150. It might be 151. I do not know how that mistake has crept in.

Shri Hari Vishnu Kamath: I am deeply beholden to you for the guidance you have given. I entirely agree with you that we should not go into the merits of the issue. As to whether he has been rightly charged or wrongly charged, is all for the courts to decide. But as you have rightly said, the information that has been supplied to you, communicated to you, must be in total compliance, in strict compliance, with the rules of procedure and the schedule thereunder.

An hon. Member: Form.

Shri Hari Vishnu Kamath: Spirit and content—both. I am going to confine myself to the boundaries of

rule 229 and the Third Schedule. I would request you to kindly bear with me. Of course, you know it by heart. But I would refer to it. What does it say? First it speaks of a criminal charge—that is, arrested for a criminal charge; then arrested for a criminal offence. The third is, sentenced to imprisonment; this does not apply. The next is: detained under an executive order.

I did not follow the long rigmarole that is given today, I think the word used is 'detained' in jail, Tihar Jail.

Mr. Speaker: Detained.

Shri Hari Vishnu Kamath: We wish we could have a copy of it.

So far as the Superintendent is concerned, he has said that he is detained. He is arrested apparently under 107 and 151. Whether that applies or not, it is for the courts to decide—I leave the matter of *mala fide* or *bona fide* at that.

As regards arrest on a criminal charge, section 107 refers only to keeping the peace. I was about to read it. It only says:

“...the Magistrate may... require such person to show cause why he should not be ordered to execute a bond...”

He has not committed the offence; the police may think that he is on the verge of committing an offence and he should execute a bond. So it is not a criminal charge, in the sense that a man is accused of an offence under the Criminal Procedure Code and arrested on a criminal charge and criminal offence. He has not committed either. He has been arrested to prevent him from committing an offence.

So under rule 229, neither criminal charge applies, nor criminal offence applies. No sentence has been awarded, so the third does not apply. So if at all, only the last could apply, namely 'detained under an executive order', because I believe that is the tail end of today's communication.

First of all, I would request you to direct the executive, the Government,—because I do not want this Parliament to be the hand-maid of the Government, only a puppet show of the Congress Party—I would earnestly request you to direct the executive, with its vast army of Secretaries, Joint Secretaries and Deputy Secretaries and others, not to go on dilly-dallying with our Rules of Procedure and Conduct of Business, forms and so on. Even yesterday, I wanted to bring this to your notice. I am appealing to you because you are the custodian of the rights of Members; if you go under, Parliament goes under and democracy goes under.

Shri Hem Barua (Gauhati): The country goes under.

Shri Hari Vishnu Kamath: I would appeal to you on two or three points. Why is it that the Minister and his—I do not say 'minions'—officers, could not look at the rules and act accordingly? This is a simple form prescribed. Why could not they send it yesterday in the prescribed form?

Mr. Speaker: That is one.

Shri Hari Vishnu Kamath: We here work single-heartedly, without any secretarial assistance, without any stenographic assistance. I have given notice of a question of breach of privilege also I do not know whether you have held it in order because this is a breach of the rules...

Mr. Speaker: There is no question of breach of privilege.

Shri Kapur Singh: Have you given your ruling?

Mr. Speaker: Since he has referred to it, I have said that I have disallowed it.

Shri Hari Vishnu Kamath: I thought—may be you think wrongly—that it is a breach of rule 229 and the Third Schedule, with regard to the

[(Shri Hari Vishnu Kamath)]

arrest of Dr. Lohia and, therefore, I gave notice of a question of privilege. Why was it that this proforma was not used by the officer concerned...

Mr. Speaker: That is one.

Shri Hari Vishnu Kamath:and why did he do it in a casual manner?

Secondly, even today, according to the latest communication, he has been 'detained'. It is not mentioned under what Act he has been detained...

Shri Hem Barua: Why has he been detained?

Shri Hari Vishnu Kamath: ..and why, for what reason? What is the Third Schedule?

Shri Dinen Bhattacharya (Serampore): He has been put under division C, third class,

13 hrs.

Shri Hari Vishnu Kamath: The form prescribed in the Third Schedule reads:

"I have the honour to inform you that I have found it my duty, in the exercise of my powers.."

Even today, having drawn the attention of the Minister concerned—I do not know which Minister was here at that time, because Ministers come and go as they like, I do not know who was here...

Shri D. C. Sharma: Some Ministers stay for ever.

Shri Hari Vishnu Kamath: The Deputy-Speaker was there to see that it is complied with. Even today, after their attention was drawn to it, they do not see that the proforma is complied with. They probably do not know that the form, the Schedule, exists at all.

This is the form prescribed:

"I have the honour to inform you that I have found it my duty, in the exercise of my powers..."

Mr. Speaker: Yes.

Shri Hari Vishnu Kamath: Please don't be impatient.

Mr. Speaker: Am I patient here? I have been hearing him, and one point he has made.

Shri Hari Vishnu Kamath: This is the second point now.

Mr. Speaker: He says I am getting impatient...

Shri Hari Vishnu Kamath: As I have said earlier, first the form and second the content, the spirit and the content. I am not a stickler for form only, I want both spirit and content. Please be patient a while.

It continues:

"...under Section of the (Act)..."

Even today I do not think he has done it.

"...to direct that Shri, Member of the Lok Sabha, be arrested/detained..."

It does not mention the section under which he has been detained, whether it is the Preventive Detention Act or DIR. I do not know whether the DIR is still in force in Delhi. Whatever it is, it must have been mentioned.

Finally, it says:

"... (reasons for the arrest or detention, as the case may be)."

The rule also mentions reasons separately. Charge is separate and then the reasons are separate. "Reasons" means that he has been preparing under section 107 or 151 of the Criminal Procedure Code. Yesterday the communication was that it was section 151. Section 151 refers to some sort of knowledge of a design with the police, that the police have got knowledge, information, that a design is brewing. Section 151 reads:

"A police officer knowing of a design to commit a cognizable offence may arrest without orders from the Magistrate, without a warrant, a person so designing..."

Yesterday, this was the section that was retailed to the House. Today, we have 114, 115, 150. Is it 150 or 151?

Mr. Speaker: I read 150.

Shri Hari Vishnu Kamath: Yesterday it was 151. Section 150 reads:

"Every police officer receiving information of a charge of a design to commit a cognizable offence shall communicate such information to the police officer to whom he is subordinate."

That is a procedural matter.

It is very strange, it beats me, my intelligence cannot perhaps cope with this matter but it beats me, that there should have been such a big mix-up in this case, an incomprehensible mix-up. Whatever is convenient to the executive, they do, without any reference to law, to the rules. They are above the law, or beneath the law, God only knows. They are lawless or unlawful, whatever they may do is proper.

He was arrested on a criminal charge, now he is detained because he did not furnish a bail bond and sureties for Rs. 25,000.

Shri Tyagi (Dehra Dun): Repetition is not permitted.

Mr. Speaker: Mr. Kamath would conclude now.

Shri Hari Vishnu Kamath: I am concluding in a minute.

The second point is the spirit of the rule.

Shri D. C. Sharma: He has taken half an hour.

Shri Hari Vishnu Kamath: I may take one hour, there is the Speaker to conduct the business, not you.

Shri D. C. Sharma: I am a Member of the House, I have a right to ask the hon. Member not to waste the time of the House.

Shri Hari Vishnu Kamath: I shall conclude in a minute or two. Finally. . . .

श्री राधेलाल व्यास : (उज्जैन)
माननीय सदस्य एक नहीं, चार घंटे से, लेकिन हम सब का इतना टाइम क्यों दिया जाये ?

श्री हरि विष्णु कामत : यह इनका टाइम नहीं है,—यह इन का टाइम थोड़े ही है ?—यह हाउस का टाइम है ।

Shri D. C. Sharma: The House consists of all of us, not of those Benches alone.

Shri Hari Vishnu Kamath: The House consists of not Mr. Sharma. (Interruptions).

These interruptions. I welcome them, I am fond of interruptions, but they will take the time of the House, I am sorry for that. I live on them, I thrive on them.

I will come to the last point now, the content of the rule and the Schedule. A Member has been detained during the session and without any specific charge as the rule requires, neither for a criminal offence, nor has he been detained, according to the communication communicated, under any particular section of a particular Act. No sentence, no charge, no criminal offence, no detention under a particular Act, that has not been mentioned. Therefore, I submit that on all these counts, keeping in view rule 229 which is very precise, unequivocal, unambiguous, read with the Third Schedule to the Rules of Procedure and Conduct of Business, I do humbly submit, in all humility, that these rules have been deliberately, callously, disregarded, flouted, not compiled with, and I would still and that even

[Shri Hari Vishnu Kamath]

after 24 hours they have refused to comply with the rules. They have cant regard for Parliament, parliamentary procedure and to you, your authority has been flouted also. You have considered this question of privilege once and held it not in order, but in the interests of guarding parliamentary democracy, seeing that Parliament is supreme over the executive, I even now urge you to allow us, if not today, tomorrow to move this motion of privilege and to send it to the Privileges Committee.

श्री मधु लिमये (मंगेर) : अध्यक्ष महोदय,

Mr. Speaker: Endlessly I cannot go on.

श्री मधु लिमये : इसमें "एंडलेसली" का क्या सवाल है ? जब मैं खड़ा होता हूँ, तो आप मुझे दबाते चले जाते हैं ।

अध्यक्ष महोदय : दबाने का क्या सवाल है ? मैंने श्री कामत को सुन लिया है और अब मैं इस बारे में अपना फैसला दे रहा हूँ । इस वक्त यहाँ पर इस सवाल पर डिस्कशन नहीं हो सकता है ।

श्री मधु लिमये : आप दबाते नहीं, तो और क्या है ? आप हमेशा मुझे क्यों दबाते हैं ? मेरा पायंट आफ़ ऑर्डर है । आप मुझे इसको उठाने का मौका दीजिये । क्या आप मुझे हमेशा इसलिए दबाते हैं कि मैं अविश्वास प्रस्ताव लाया हूँ ?

अध्यक्ष महोदय : यह धमकी देने का क्या मतलब है कि चूँकि आप अविश्वास प्रस्ताव लाये हैं, इसलिए मैं आप को इजाजत नहीं देता हूँ ? अविश्वास-प्रस्ताव जब लिया जाना होगा, तब लिया जायेगा । **बंट विल हूब इर्ट्स नामर्स कोर्स** । आप इस तरह धमकी क्यों दे रहे हैं ?

श्री मधु लिमये : आप मुझे धमकी दे रहे हैं । मैं कोई धमकी नहीं दे रहा हूँ । मैं तो यह प्रार्थना कर रहा हूँ कि आप मेरा पायंट आफ़ ऑर्डर सुनिये ।

अध्यक्ष महोदय : आप इस तरह धोटन कर के मुझ से कोई बात नहीं मनवा सकते हैं । अविश्वास-प्रस्ताव का इसमें कोई ताल्लुक नहीं है । वह अपने वक्त पर आ जायेगा ।

श्री मधु लिमये : आप ने मुझे क्यों दबाया ? मैं अपना पायंट आफ़ ऑर्डर उठाना चाहता हूँ । आप मुझे मौका दीजिये ।

अध्यक्ष महोदय : इसमें दबाने का सवाल नहीं है । इस बारे में कल भी वक्त लिया गया है और आज भी आध घंटा हो गया है । आखिर मैं इस पर कितना वक्त दे सकता हूँ ?

श्री मधु लिमये : मैंने इस बारे में कोई भी समय नहीं लिया है । मेरे दल का नेता पकड़ा गया है । आप मुझे पायंट आफ़ ऑर्डर उठाने का मौका दीजिये ।

अध्यक्ष महोदय : अगर आपके दल का नेता पकड़ा गया है, तो उस पर इस तरह बहस नहीं हो सकती है ।

श्री मधु लिमये : मैं कोई बहस नहीं कर रहा हूँ । सदन के मामले जो मुझे हैं, उनके बारे में मैं पायंट आफ़ ऑर्डर उठाना चाहता हूँ । आप मुझे मौका दीजिये । आप क्यों क्वाह-म-क्वाह इस तरह गर्मी पैदा करते हैं ?

Shri G. N. Dixit: I object.... (Interruptions).

Shri Parashar (Shivpuri): After arguing with the Chair so hotly, he cannot be allowed.

Mr. Speaker: I have often appealed and now I appeal again that I may not be browbeaten or coerced in this manner.

श्री मधु लिमये : मैं कहां यह कर रहा हूँ ?

अध्यक्ष महोदय : अगर मैं आप को रोकता हूँ, तो आप मुझे सुनाने हैं कि चूँकि आप ने अविश्वाम प्रस्ताव दिया है, इसलिए मैं आप को रोकता हूँ। क्या मुझे आप को रोकने का अधिकार नहीं है ?

श्री मधु लिमये : आप ने सब माननीय सदस्यों को सुन लिया है। तो क्या वजह है कि आप मुझे नहीं सुनते हैं ?

अध्यक्ष महोदय : उन को इसलिए सुना है कि कल से उनका पायंट चल रहा है और डिप्टी स्पीकर ने कहा था कि इसको आत्र लिया जायेगा। लेकिन यह तो जरूरी नहीं कि हाउस में इस पर पूरी डोबेट हो।

श्री मधु लिमये : यह केवल मेरे बारे में क्यों होता है ?

अध्यक्ष महोदय : यह केवल आप के बारे में नहीं होता है।

श्री मधु लिमये : प्राग मेरा पायंट आफ्रान्डर सुनिये।

Mr. Speaker: Mr. Kamath....

श्री मधु लिमये : अध्यक्ष महोदय, आप अपना निर्णय देने से पहले मेरा पायंट आफ्रान्डर सुनिये।

अध्यक्ष महोदय : श्री कामा ने इस काल को उठाया था। उन्होंने प्रार्थु कर लिया है। अब इस पर श्रीर बहस की जरूरत नहीं है।

श्री मधु लिमये : मैंने भी इसको उठाया था।

अध्यक्ष महोदय : एक ही माननीय सदस्य को सुनना काफी है।

श्री मधु लिमये : मैं एक दूसरे पहलु का मामला उठा रहा हूँ।

अध्यक्ष महोदय : मुझे इसका फ़ैसला देने दीजिये। अगर कोई दूसरा मामला होगा, तो मैं उसको सुन लूँगा।

श्री मधु लिमये : आप पूरी बात को सुने बगैर अपना निर्णय दे रहे हैं।

अध्यक्ष महोदय : मैंने कहा है कि अगर आप का कोई दूसरा मामला होगा, तो मैं सुन लूँगा।

श्री मधु लिमये : यही तो मैं कह रहा हूँ।

Mr. Speaker: Mr. Kamath has argued at great length, and he has read those sections of the Criminal Procedure Code. He has tried to argue that this is not an offence; this is not a charge. That is not what is required under the rules. I cannot go into that question except to the limited one, what is required by the rules. I am not to decide or adjudicate whether it is a charge or an offence or not. That is not my business. I cannot enter into it. Mr. Kamath also need not have dwelt at length on this because that was not relevant here at all. The only question is whether the information sent conforms to the requirement of the rule and form. That is all we are concerned with here. This much I must say that they do not conform to the rules and forms which are to be adhered to. Even today that form has not been adopted though there was so much of excitement yesterday also. At least the magistrate or whoever he may be, he should have looked into the form at least after that discussion and sent it according to that. When a form is prescribed, certainly it is needed. Those wards might be wrong there; of course they indicate some respect to this House and they must be there. Though the same thing can be said in another form, he has said it, the spirit has come; the information is there but in that case also...

Shri Hari Vishnu Kamath: The spirit is not there; I am sorry to say.

Mr. Speaker: Now, Mr. Kamath would let me proceed.

Shri Priya Gupta: Magistracy is getting blanket support.

Mr. Speaker: Order, order. Mr. Priya Gupta, you have to go out now. It is more than a dozen times now, I cannot allow this.

श्री प्रिय गुप्त : अगर ११ हो तो ?
आप ने कहा कि डजेन टाइम्स, तो आप गिन लीजिये अपने रिकॉर्ड से और उसी के मुताबिक अपने आर्डर की रिव्यू कर लीजिये ।

अध्यक्ष महोदय अब आप बाहर जाइये । मैं गिन लूंगा । . . . (अवधान)
मिस्टर प्रिय गुप्त, अब आप बाहर जायें । . . .
मिस्टर प्रिय गुप्त, आप बाहर जायें ।

Shri Kapur Singh: I would like to raise a point of order on this.

Shri Priya Gupta: I am not going out.

Mr. Speaker: I am perforce naming him.

The Minister of Law (Shri G. S. Pathak): Sir, I move. . . .
(Interruptions).

Shri S. M. Banerjee: What do you move?

Shri Hari Vishnu Kamath: Sir, I would request you to consider this point.

Shri Kapur Singh: Mr. Speaker, I rise on a point of order on your instructions to Mr. Priya Gupta.

* **Shri Parashar:** Under what rule? . . . (Interruptions.)

Mr. Speaker: Order, order. Let me do some business.

Shri Kapur Singh: Sir, these instructions to hon. Members are being given in this House lately in such frequency that it has become necessary for me to submit to you that they are not in order. A Member can be asked to go out of this House under rule 373 if my memory serves me well. Rule 373 says that a Member may be asked to go out of the House by the Speaker if he is grossly disorderly. There are three stages or degrees which the English language indicates about disorderliness. There is a degree, there is a state of affairs in which a person speaks when you ask him not to speak; that would be out of order; that man would be out of order because he is speaking against your instructions, against your permission. Then, there is the second degree or grade—that is disorderliness. Disorderliness would be something else, something more severe and not merely being out of order. To be grossly disorderly one has to go much beyond that. But in all those cases, including the case just now before the House, namely, the case of hon. Priya Gupta, there does not exist, as far as I can see, there is nothing manifest to the House where gross disorderliness has been shown or has been done for which action can be taken under rule 373. This kind of thing, I submit most respectfully, should stop in the interest of the dignity of this House itself.

Shri Hari Vishnu Kamath: Sir, I shall be very brief. Hon. friend Priya Gupta is my party colleague in this House and an earnest Member and takes a lot of interest in his work and diligently applies himself to his duties. Maybe that in this House during the last few days, as you must have noticed on all side tempers rise, tempers are frayed because of happenings outside as you said in the address to the Presiding Officers Conference at the end of last month, what is happening outside reflects here. That is what is happening here.

Today, just now, the gravamen of the offence, the charge against him now is that he said just two or three words. He may have said some words earlier, one hour, or half an hour ago. Now, what he said was just two or three words as compared to the shouting that has been going on continuously on that side.

Shri M. L. Dwivedi (Hamirpur): No, no.

Shri Hari Vishnu Kamath: You may say: no, no; I say, yes, yes. I know.

Shri M. L. Dwivedi:**

Shri Hari Vishnu Kamath:**....
(Interruptions.)

Mr. Speaker: Both shall be expunged—

Shri Hari Vishnu Kamath: The hon. Member on that side defied you half a dozen times... (Interruptions.)

Mr. Speaker: Order, order. He may not refer to that now.

Shri Hari Vishnu Kamath: I can cope with the whole lot of them. Sir. Now, may I refer to rules 373 and 374? Since you referred to naming, I would refer to rule 374. My hon. friend Shri Kapur Singh has quoted rule 373; it refers to "grossly disorderly". I would say that what Shri Priya Gupta said five minutes ago cannot by any stretch of imagination be a case of having been disorderly. He mentioned only two or three words, by way of interruption. What does 373 say? The Speaker may direct any member whose conduct is in his opinion grossly disorderly. Your opinion is final; we have to bow to it. If you think that it is grossly disorderly, we are helpless. The Speaker may direct him to withdraw immediately from the House. Naming comes under rule 374. You were about to name him; the naming process is given here. Now, 374 says that if the

Speaker deems it necessary—of course you are perfectly in order—he can name a Member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof... (Interruptions.) I know what is correct and what is not. What has happened is that Shri Priya Gupta interrupted you and you asked him to withdraw. It is felt, on this side—I do not know what their sense of justice is—many of us here feel that others sitting on that side have committed graver offences just before that; you in your wisdom did not ask them to withdraw. I do not question your wisdom at all but when he interrupted you, you asked him to withdraw. Being a youngish Member of the House he must have felt aggrieved by the sentence awarded by you. We are all fallible—none of us is infallible—and we lose our tempers and we lose many other things besides sometimes, and he naturally feels it. Perhaps at the first moment, on the spur of the moment, he said that "I feel I have been dealt with unjustly" and perhaps he declined to withdraw.

Now, I would only urge you, request you, to reconsider the matter—when he said just two or three words and you were pleased to pass a sentence on him—whether that sentence was in order, whether that is just and proper at all, when others on that side of the House were shouting.

Mr. Speaker: I do not think we can continue that debate.

Shri Ranga (Chittoor): You can excuse him and drop the matter. (Interruption.)

Shri Priya Gupta: I am withdrawing if you feel so. I only objected to your saying "You have said a dozen times." If you feel so, I will go.

(Shri Priya Gupta then left the House)

**Expunged as ordered by the Chair.

Mr. Speaker: I have this grievance against some of the Members in the Opposition. I exercise my patience to the utmost limit; and I go on bearing and tolerating, till I am compelled and sometimes the stage comes when I feel that I have borne too much. This case should not be taken in isolation: that because Shri Priya Gupta said those words I asked him to withdraw. The records must be seen to know what has been happening since this morning.

Shri Hari Vishnu Kamath: You have not looked at that side.

Mr. Speaker: I do look at that side. That is an unfair charge.

I do look at that side also. Now, this is not a matter that should be taken up in isolation: that he had said those words and I had asked him to withdraw. Since this very morning, I have been asking him so many times, requesting him so many times, not to do what he had been doing. I requested him so many times not to persist in his behaviour and not to do that. But in spite of that, he went on. Therefore, it cannot be said that simply because at this moment I have taken action his conduct is not grossly disorderly. It cannot be interpreted in that manner. If I tolerate once, and I tolerate it again, when a fresh occasion occurs, just to take up that last instance, the one instance that occurred last and ask whether that amounted to grossly disorderly conduct or not is not the way. Then action can never be taken at all. That is not the way in which these things should be judged. I am sorry about this instance, but now that he has gone, we need not proceed any longer with that matter.

Shri M. L. Dwivedi: You have said that, "I am forced to name him."

Mr. Speaker: Order, order. It is finished. Let us leave it there. Now, I have heard Shri Kamath at length. I do not find any ground there. He is under the misapprehension that

reasons have not been given. The reasons are detailed together with the offence. It says:

"Dr. Ram Manohar Lohia was taken into custody under sections 107/150, Criminal Procedure Code, as there was apprehension of breach of public peace on account of his open advocacy that students should defy orders under section 144. Criminal Procedure Code..."

The reasons are given there. They are enough.

Shri S. M. Banerjee: That is concoction. (*Interruption*.)

Mr. Speaker: I am not concerned with it. I have said again and again. Therefore, the only question that remains is that the form has not been strictly conformed to. I will only ask the Home Minister to issue instructions to all the magistrates that this must be complied with and that the House is of that opinion and I also feel like that, that it should not be repeated.

Shri Hari Vishnu Kamath: He should express a formal regret.

The Minister of Home Affairs (Shri Y. B. Chavan): He has already expressed regret.

Shri Hari Vishnu Kamath: Not he only; you must express your regret. (*Interruption*) Sir, the Minister is on his legs; he wants to say something perhaps.

Shri Y. B. Chavan: The Speaker's instructions certainly will be complied with immediately. I will take care.

श्री मधु लिनये : अध्यक्ष महोदय, इस सवाल के दो पहलू हैं। एक पहलू है सदन का अपमान या सदन की अवहेलना और दूसरा पहलू है गिरफ्तारी से सदस्यों को संरक्षण या मुक्ति। यह तो मानी हुई बात है और "वे" में लिखा है कि—

"The privilege of freedom from arrest or molestation of Members of Parliament is of great importance..."

यह 26 जनवरी को मौजूद था, इसलिये हम को भी प्राप्त है। अब आप ने कहा कि इस स्वतन्त्रता की चार मर्यादाएँ हैं, जिनका जिक्र हमारे नियमों में है। 229 में क्रिमनल चार्ज, क्रिमनल आफेन्स

अध्यक्ष महोदय : आप ने कहा था कि आप डिफरेंट मामले पर बोलेंगे।

श्री मधु लिमये : जी हाँ, मैं उमी को बता रहा हूँ। डिटेन्शन होने पर विश्वाधिकार का भंग नहीं हो सकता, इसको मान कर आगे बढ़ रहा हूँ, लेकिन उसके साथ साथ यह भी गत है कि तुरन्त खबर देनी चाहिये और कारण बताये जाने चाहिये। अब मैं कारण पर आ रहा हूँ। अध्यक्ष महोदय, आपके सामने मैं दो अदालतों के मामले रखना चाहता हूँ...

अध्यक्ष महोदय : मैं दो और अदालतों के मामले नहीं सुनना चाहता।

श्री मधु लिमये : लेकिन उनका इससे तात्लुक है। मैं आप को पेरलल केसज बना रहा हूँ, जिससे आपको कैमला देने में सुविधा हो सके।

अध्यक्ष महोदय : नहीं, मैं पेरलल अदालतों की बात नहीं सुनना चाहता। अब आप बैठ जाइये।

श्री मधु लिमये : देखिये, अध्यक्ष महोदय, आप मेरे साथ किन्ने इम्पेरोन्ट हैं। मैंने 5 मिनट की अपने ऊपर मर्यादा बांध दी है, पाँच मिनट के बाद बैठा दीजिये, मेरा आधा वाक्य भी खत्म नहीं हुआ लेकिन आप कहते हैं कि बैठ जाइये।

अध्यक्ष महोदय : आप कहते हैं कि दो पेरलल अदालतों की बात सुनना चाहता हूँ।

श्री मधु लिमये : इसलिये कि उनका इससे सम्बन्ध है। इलाहाबाद अदालत का फंसला है, अगर केवल दफा बना दी गई है और कारण नहीं बताये गये हैं दो गिरफ्तारी प्रबंध है, उसको छोड़ देना चाहिये।

मेरा खुद का मामला भी पंजाब हाई कोर्ट के सामने आया था; और मैंने पंजाब हाई कोर्ट के सामने हैबियस-कार्पस पेटिशन दी थी, और काउन्टर एफिडेविट में कहा गया कि ये ये दफायें बता दी गई हैं, लेकिन गिरफ्तारी के कारण नहीं दिये गये थे। चूंकि कारण नहीं दिये गये थे, इसलिए उस गिरफ्तारी को प्रबंध माना गया था और फौरन मुझ को छोड़ दिया गया था।

अब मैं अपने मुद्दे पर आता हूँ। कारण नहीं बताया है, यह तो आप भी मानते हैं और सदन भी मानता है।

श्री म० ला० द्विवेदी : कारण दिये हैं।

श्री मधु लिमये : आज बतलाये गये हैं, कल नहीं बतलाये गये थे। शुरू में जो इतिला दी गई है, हम को उस पर जाना चाहिये। जैसे रिट-पेटिशन में होता है। यद्यपि बाद में उन्होंने कहा है कि मैं माफ़ी मांगता हूँ, तो इससे केवल यही साबित होता है कि इस सदन की जान-रुमकर भवहेलना करना उनका उद्देश्य नहीं था। मैं यह भी नहीं कहता हूँ कि चार्ज था या नहीं, ओफेन्स हुआ या नहीं, डिटेन्शन है या नहीं, मैं इसमें भी जानने के लिये नहीं कह रहा हूँ। केवल कारण न दिये जाने को लेकर मैं कहना चाहता हूँ कि इस सदन की दृष्टि में उनकी गिरफ्तारी प्रबंध है, हमारे नियमों के अनुसार नहीं है।

इसलिये मेरा आप से अनुरोध है कि आप सब-डिवीजनल मॅजिस्ट्रेट को वारन्ट निकाल कर या उनको बिनती करके बन्ना

[श्री मधु लिमये]

बुलायें और डा० राम मनोहर लोहिया को भी बुलायें। मैजिस्ट्रेट को कहें कि यह गिरफ्तारी हमारे नियमों के अनुसार नहीं है, चूंकि पहली दफा आपने कारण नहीं दिये। 24 घण्टे के बाद जो कारण दिये हैं, उसका कोई मतलब नहीं होता है, उससे सिर्फ यही साबित होता है कि आपका उद्देश्य अच्छा था, उसमें भूल थी लेकिन आप अपमान नहीं करना चाहते थे।

अब मैं दूसरा सवाल उठा रहा हूँ—स्वतन्त्रता का। चूंकि डाक्टर साहब की स्वतन्त्रता गलत तरीके से छीनी गई है, हमारे नियमों के विपरीत जाकर यह काम किया गया है, इसलिये इस सदन को अधिकार है कि डा० राम मनोहर लोहिया को बुलाये और मैजिस्ट्रेट साहब को सुने और उसके बाद फैसला करें। इस सदन को अदालत के सभी अधिकार प्राप्त हैं, मैं एक बहुत ही लिमिटेड सवाल रख रहा हूँ—ईमीडियेट इन्टीमेशन, तुरत इत्तिला आनी चार्जिये थी, जो इत्तिला आई वह गलत आई तथा हमारे नियमों के अनुसार नहीं है। जिस तरह इलाहाबाद हाई कोर्ट ने और पंजाब हाई कोर्ट ने मेरे पेटिशन पर मुझे छोड़ दिया, उसी तरह से इस सदन को अधिकार है कि अपने एक सदस्य की स्वतन्त्रता की हिफाजत करने के लिये मैं आप से हाथ जोड़ कर प्रार्थना करता हूँ, इस पर विचार कीजिये और फिर फैसला दीजिये।

अध्यक्ष महोदय : मैंने विचार कर लिया है। यह कोई एनानौजी नहीं है कि अगर रीजन्स नहीं दिये गये हैं, तो उनको छोड़ दिया जाय। यह अधिकार हम को नहीं है

श्री मधु लिमये : आप नियमों की ओर ध्यान दीजिये।

अध्यक्ष महोदय : मैं नियमों की ओर ध्यान दे रहा हूँ। यह एडजुडिकेशन इस कोर्ट

का नहीं है, न जूडिशल एक्शन का हमको अधिकार है। जो एक्जैक्यूटिव करे उसको स्कूटिनाइज करें और फैसला करें, वह अख्तियार भी हम को नहीं है और न हम देख सकते हैं। जो रीजन्स हैं वह कल उन्होंने नहीं दिये थे, इसी वास्ते मैंने कहा था कि

श्री मधु लिमये : इसलिये डाक्टर साहब को छोड़वाइये।

अध्यक्ष महोदय : फिर भी मुझे छोड़ने का अख्तियार नहीं है।

श्री मधु लिमये : क्यों नहीं है।

अध्यक्ष महोदय : नहीं है।

श्री मधु लिमये : आप को अधिकार है।

अध्यक्ष महोदय : मेरे पास छोड़ने का अधिकार नहीं है। इस सदन को अख्तियार है कि वह होम मिनिस्टर के बाइबलाफ कोई सेन्सर मोशन लाये। लेकिन मैं या हाउस छाड़ नहीं सकते। यह नहीं कह सकते कि रिद्दा करो।

Arrest of Shri Ram Sewak Yadav

Mr. Speaker: I have to inform the House that I have received the following telegram, dated the 16th November, 1966 from the Deputy Superintendent of Police, Barabanki:

"Shri Ram Sewak Yadav, Member, Lok Sabha, arrested under sections 151/107/117, Criminal Procedure Code on the 16th November, 1966 at 6.20 P.M. at Haidergarh Police Station, Lonikatra, District Barabanki."

Shri Hari Vishnu Kamath: Again I rise on a point of order, Sir.

Mr. Speaker: This is the telegram. The intimation will be coming.