

Suman Meena D/O Kaduram Meena vs State Of Rajasthan on 3 March, 2025

Author: Sameer Jain

Bench: Sameer Jain

[2025:RJ-JP:3627]

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Writ Petition No. 792/2024

1. Suman Meena D/o Kaduram Meena, Aged About 23 Years, R/o Chainpur, Karauli (Rajasthan).
2. Rinku Kumar Meena S/o Vodya Ram Meena, Aged About 26 Years, R/o Vajheda, District Karauli (Rajasthan).

----Petitioners

Versus

1. State Of Rajasthan, Through Public Prosecutor.
2. The Director General Of Police, Rajasthan, Jaipur.
3. The Superintendent Of Police, Karauli.
4. The Station House Officer, Police Station Hindauncity, District Karauli.
5. The Station House Officer, Police Station Masalpur, District Karauli.
6. Kaduram S/o Ramdhan, Resident Of Chainpura, Tehsil Karauli, District Karauli.
7. Fouranti Devi W/o Kaduram, Resident Of Chainpura, Tehsil Karauli, District Karauli.
8. Roopsingh S/o Ramdhan, Resident Of Chainpura, Tehsil Karauli, District Karauli.
9. Rishikesh S/o Ramdhan, Resident Of Chainpura, Tehsil Karauli, District Karauli.
10. Kalla S/o Chiranji, R/o Jhadoli, Tehsil Bavanwas, District Gangapur City.

----Respondents For Petitioner(s) : Mr. VR Bajwa, Sr. Adv. (Amicus Curiae) with Ms. Savita Nathawat Mr. Tribhuvan Narayan Singh For Respondent(s) : Mr. Rajendra Prasad, AG with Mr. Tanay Goyal Mr. Manvendra Singh Shekhawat, PP HON'BLE MR. JUSTICE SAMEER JAIN
Judgment 03/03/2025

1. Today, the matter is listed in 'To be mentioned' category.

2. Vide judgment dated 02.08.2024, the primary contentions of the learned counsel for the petitioner vis-a-vis the issue in delay/non- consideration of the plea(s) of granting protection to unmarried couples/ [2025:RJ-JP:3627] (2 of 8) [CRLW-792/2024] married couples or any other persons was finally disposed of, considering the accountability of police authorities in the directions encapsulated in the dictum of Prakash Singh and & Ors. Vs. Union of India and ors. reported in 2006 (8) SCC 1, it was directed that the same be followed in terms of constitution of Police complaints Authority. The relevant categorical directions passed in the judgment dated 02.08.2024 are reproduced herein below:

"30.5.2 Where the applicant(s) is/are aggrieved of the decision/inaction of the respective Superintendent of Police qua the representation as specified in paragraph 30.5.1, the applicant(s) may file the appropriate complaint before the appropriate level of the Police Complaints Authority mechanism, as constituted in pursuance of the directions of the Hon'ble Supreme Court in the judgment in Prakash Singh (supra). Through such a complaint, the applicant(s) may implead by name the respective Nodal Officer(s) and/or Superintendent of Police who failed to discharge their constitutional and statutory obligations as a police officer, by not considering and disposing of the representation filed by the applicant(s) in accordance with the directions of this Court, and/or by colluding with other social actors or groups in the violation of the applicant(s)' constitutional rights. Where the respective Police Complaints Authority concludes that the allegations levelled against the respective Nodal Officer(s) and/or the respective Superintendent of Police stand proved, it shall issue the appropriate binding recommendations to ensure that the appropriate criminal and/or civil proceedings are instituted against the respective officer(s) in accordance with law. In this regard, this Court directs the State Government to take the requisite steps for the appointment and constitution of the 'Police Complaints Authority' at the state and district levels in the state of Rajasthan, in compliance with the directions of the Hon'ble Supreme Court in the judgment in Prakash Singh (Supra), such that the 'Police Complaints Authorities' at the state and district levels commence their functioning within one month of the date of this judgment. In case the State Government fails to ensure compliance with this direction within the stipulated timeline, this Court would be compelled to exercise its jurisdiction under Article 226 of the Constitution to ensure that both levels of the 'Police Complaints Authority' are appointed and constituted through the directions of this Court. Such directions would ensure that the directions issued by the Hon'ble Supreme [2025:RJ-JP:3627] (3 of 8) [CRLW-792/2024] Court in Prakash Singh (supra) are effectuated in the state of Rajasthan, after the inexplicable prolonged delay of 18 years on part of the State Government in implementing the said directions.

30.6 Where the applicant(s) is/are aggrieved of the decision(s) of the respective Police Complaints Authority in pursuance of the complaint as specified in paragraph 30.5.2, or where the proceedings before the respective Police Complaints Authority are not concluded within a reasonable period of time, the applicant(s) shall be at liberty to invoke this Court's jurisdiction under Article 226 of the Constitution of India, for compelling reasons and in accordance with law. While invoking this

Court's jurisdiction under Article 226, the applicant(s) shall include due pleadings and a footnote in the petition disclosing the details which indicate that the alternative efficacious remedies have already been availed through filing the appropriate representations/ complaints before the respective Nodal Officer(s), Superintendent of Police, and the appropriate level of the Police Complaints Authority in accordance with paragraphs 30.1 to 30.5.2 of this judgment.

30.7. The following flowchart represents the mechanism delineated under paragraphs 30.1 to 30.6 of this judgment:

Step 1: The applicant(s) apprehend(s) extra-legal threats to their lives and liberty on the part of other social actors/groups.

Step 2: The applicant(s) may file a representation before a designated Nodal Officer, who may or may not have territorial jurisdiction over the matter. [In case the Nodal Officer before whom the representation is filed does not have territorial jurisdiction over the matter, the respective Nodal Officer shall undertake the steps specified in paragraph 30.2 of this judgment.] Step 3: The respective Nodal Officer having territorial jurisdiction over the matter shall implement measures to ensure interim protection for the applicant(s), if required, on an immediate basis.

Step 4: The respective Nodal Officer having territorial jurisdiction over the matter shall consider the representation, afford an opportunity of appearance and hearing to the applicant(s) in-person or through an advocate, and decide on the representation in accordance with law within the upper limit of 7 days of the date of receiving the representation.

Step 5: If aggrieved of the decision(s)/inaction of the respective Nodal Officer(s) as specified in steps 2 to 4, [2025:RJ-JP:3627] (4 of 8) [CRLW-792/2024] the applicant(s) may file a representation before the respective Superintendent of Police.

Step 6: The respective Superintendent of Police shall consider and decide on the representation in accordance with law within the upper limit of 3 days of the date of receiving the representation.

Step 7: If aggrieved of the decision/inaction of the respective Superintendent of Police, the applicant(s) may file a complaint before the appropriate level of the 'Police Complaints Authority'.

Step 8: Where (and only where) the applicant(s) is/are aggrieved of the decision of the respective Police Complaints Authority, or the proceedings before the respective Police Complaints Authority are not concluded within a reasonable period of time, the applicant(s) may invoke this Court's jurisdiction under Article 226 of the Constitution for compelling reasons and in accordance with law.

30.8. The State Government is directed to ensure that the existing procedures and mechanisms for the consideration and disposal of representations for enhanced police protection are brought in compliance with the directions stipulated in paragraphs 30.1 to 30.5.1 as well as 30.7 of this judgment, through the promulgation of the appropriate 'Standard Operating Procedure' (SoP). This Court clarifies that the aforementioned SoP shall specify, inter alia, the details of the online mechanism as specified in paragraph 30.1 of this judgment, as well as certain Whatsapp/ helpline numbers and a designated email ID where the respective persons who apprehend a threat to their safety may register their grievances. The State Government shall ensure that the aforementioned online mechanism and Whatsapp/helpline numbers and email ID are effective and functional at all times, and are accessible to the respective persons who apprehend a threat to their safety. Further, the aforementioned SoP shall specify the contact numbers and details of the designated Nodal Officers. The State Government shall ensure that the aforementioned SoP is accessible to the police officers and visitors at every police station, and is publicised widely to the extent possible through publication in newspapers, on the appropriate social media handles etc.

31. Before parting with the instant case, this Court clarifies that the constitutional guarantees under Articles 14 and 21 may require the implementation of measures for enhanced police protection in the case of persons/groups, other than couples, who assert their personal autonomy in defiance of the existing social structures, and thus apprehend extra-legal threats to their lives and liberty. For instance, such protection may be required in the case of [2025:RJ-JP:3627] (5 of 8) [CRLW-792/2024] women who face threats of extra-legal violence from their family members, on account of their choice not to solemnize marriage at the family's behest. Such protection may also be required in the case of the persons, especially senior citizens, who refuse to concede to the extra-legal monetary demands made by the dominant political/social actors in the locality. This Court clarifies that the directions and procedure specified in paragraphs 30 to 30.8 of this judgment would apply mutatis mutandis to the representations/complaints filed before the respective authorities by applicant(s) other than couples, qua the apprehended threats to the applicant(s)' lives and liberty.

32. Registrar (Judicial) is directed to ensure that the present case is listed before this Court on 9 September 2024 to ascertain compliance with the directions of this Court regarding the promulgation of the appropriate 'Standard Operating Procedure' (SoP), and the appointment and constitution of the Police Complaints Authority at the state and district levels in accordance with the directions of the Hon'ble Supreme Court in Prakash Singh (supra)."

3. A copy of the said judgment was sent to the Chief Secretary through Registrar (Judicial) for compliance. Thereafter, it was apprised to this Court, that in compliance of the directions of the Court, a SOP dated 05.09.2024, laying down the mechanism for safety and protection of desired persons was issued and same was

even approved by the State Government on 05.09.2024 itself.

4. However, when the said petition was listed for compliance, it was contended qua creation of Police Complaints Authority, that a public interest litigation titled as Sanyam Lodha Vs. State of Rajasthan & Ors. numbering DB (PIL) No. 1447/2022 is subjudice before the Division Bench at Principal Seat, Jodhpur. It was also contended by learned Advocate General that at present new criminal laws the Bhartiya Nagrik Suraksha Sanhita, 2023, Bhartiya Nayay Sanhita, 2023 and Bhartiya Sakshay Adhiniyam, 2023 are also enacted and enforced, which are conscious qua the rights of citizens and in terms of Section 528 of BNSS, 2023, in case of any abuse of law, after following the due [2025:RJ-JP:3627] (6 of 8) [CRLW-792/2024] procedure as stated in the judgment, redressal can be prayed before the High Court invoking its inherent jurisdiction.

5. Considering the same for assistance of Court Mr. V. R. Bajwa, Senior Counsel was appointed as amicus curiae to address and apprise the Court with the overarching issues. Learned amicus curiae had furnished the following submissions:

5.1 That as per the dictum enunciated in Prakash Singh (Supra), the Police Complaints Authority at State and District level was directed to be formulated with appropriate composition.

5.2 That the State of Rajasthan thereafter, in terms of Rajasthan Police Act, 2007, had not formulated Police Complaints Authority but a different committee under the nomenclature of 'State Police Accountability Committee' and 'District Police Accountability Committee' with different composition was formulated, however, the said committee was not complying nor was/is in consonance of the aims and object of the directions spelled out in the ratio of Prakash Singh (Supra).

5.3 That unlike Maharashtra Police Act, Gujarat Police Act and Delhi Police Act, who have made an earnest effort to secure and nurture the spirit of directions, in true spirit, in the State of Rajasthan the same were not followed.

5.4 That not following the directions of Prakash Singh (supra) case in true spirit by diluting the composition and constitution has frustrated the basic and vital purpose of the same, and have failed in resolving the grievance of public at large, which not only violates the constitutional rights of the petitioners/citizens but also their fundamental rights as granted and ensured under the provisions of Article 14, 19 and 21 of the Constitution of India. 5.5 That zilch statistics qua Police Complaints Authority are placed on record, nevertheless the umpteen number of petitions which [2025:RJ-JP:3627] (7 of 8) [CRLW-792/2024] are filed seeking directions for fair trial or grant of protection under Section 528 of BNSS or the Section 482 of CrPC, makes it evident that the grievances of the petitioners/aggrieved parties are not addressed. 5.6 That being a welfare State, the foremost duty of the State is to take care of its citizens, therefore, pronto actions should be taken in the instant matter.

5.7 That in DB Criminal Death Reference No. 1/2020, titled as State of Raj. Vs. Mohd. Salman decided on 29.03.2023, the Division Bench of the Court has contemplated and emphasized upon the formation of Police Complaints Authority.

6. Qua the said submission, learned Advocate General has submitted that after passing the judgment of Prakash Singh (supra), the Police Act in various states was enacted and the grievance redressal is duly taken care of. Subsequently, it was contended that if there is any grievance on the part of the public at large against the police authorities, there are various other locus also, like Human Rights Commission, Lokayukts and provisions under BNSS, 2023, additionally there are various panel/supervisory/statutory provisions enabling the District Courts and High Court(s) to address the same.

7. At the outset, this Court extends gratitude towards learned amicus curiae for his assiduous efforts. Consecutively, considering the foregoing facts and circumstances of the instant matter, and taking note of the fact that a PIL is subjudice before the Principal Bench, Jodhpur i.e. Sanyam Lodha Vs. State of Rajasthan & Ors.: DB (PIL) No. 1447/2022, this Court is of the view that parallel proceedings ought not be initiated/heard. Howsoever, considering the fact that the vital issue of the dispute is adjudicated and considered vide judgment dated 02.08.2024 (whereby the present petition was disposed of), this Court directs Registrar (Judicial) to send a copy of the said judgment and [2025:RJ-JP:3627] (8 of 8) [CRLW-792/2024] place the same before the Bench considering DB (PIL) No. 1447/2022, alongwith the contentions made by the learned amicus curiae.

8. In light of the above, the lis in hand and petition thereof is directed to be placed before the competent/concerned Division Bench at Principal Seat, Jodhpur.

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