



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 9567 of 2025

Rahul Yadav

.....Petitioner(s)

Versus

State Of U.P Thru. Secy. Home Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Ravendra Pratap Singh
Counsel for Respondent(s) : G.A.

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard learned counsel for the petitioner and learned AGA appearing on behalf of the respondents no. 1 to 3.
2. Issue notice to the respondent no. 4 returnable at an early date.
3. Steps be taken within a week.
4. Instant petition has been filed praying for quashing of the First Information Report No. 0007/2025 dated 03.01.2025 under Sections 3, 5A , 8 of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (hereinafter referred to as "Act, 1955") and Section 11 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as "Act, 1960"), Police Station - Kotwai Nagar, District - Pratapgarh. A further prayer is for a mandamus commanding the respondents to not harass the petitioner on the basis of the aforesaid First Information Report.
5. Contention of learned counsel for the petitioner is that the petitioner is the owner of a Bolero Pickup having registration no. UP50 ET 6453. The vehicle is usually driven by his driver namely Sri Ratnesh Upadhyay. On 01.03.2025, Sri Upadhyay had taken the vehicle but did not return back. Subsequently, the petitioner has come to know about the aforesaid First Information Report being registered. On the basis of the said First Information Report, the petitioner is being harassed by the respondents.
6. Contention is that a perusal of the said First Information Report would indicate that on 03.01.2025, an information had been received by Sri

Sandeep Kumar Tiwari, Sub Inspector that some progeny of the cow are being taken from the side of Amethi to Pratapgarh by two persons. He also received information that the said progeny of the cow were being taken for slaughter. On the basis of the said information, the complainant along with other police personnel and informant stood at a tiraha and started observing the vehicles coming from the side of Amethi. They noticed one Pickup vehicle coming from the side of Amethi. The informant pointed out the said vehicle. The driver of the vehicle, noticing the police personnel, stopped the vehicle at some distance and the occupants of the said vehicle ran away. Upon checking of the vehicle it was noticed that the progeny of the cow were loaded on Vehicle No. UP50 ET 6453. The progeny of the cow were bound by ropes and were also panting. There were nine progeny of the cow in total and thus, the First Information Report under Section 3/5 (A)/8 of the Act, 1955 and Section 11 of the Act, 1960 was registered.

7. From perusal of the aforesaid First Information Report it emerges that the progeny of the cow totalling nine in number were being carried in the Pickup vehicle.

8. The vehicle was also from the side of Amethi and going towards the Pratapgarh meaning thereby that there is no allegation in the First Information Report of the progeny of the cow being transported outside the State.

9. This Court in the case of **Kaliya v. State of U.P.**, reported in **2023 SCC OnLine All 1974 : (2024) 126 ACC 61**, has held that transportation of progeny of cow within the State is not a crime and the provisions of Section 5 (A) of the Act, 1955 would not be attracted. Thus, clearly no offence is made out against the petitioner under Section 5 (A) of the Act, 1955 who is the owner of the vehicle.

10. It is also not the case of respondents that the petitioner had indulged in slaughtering of the progeny of the cow inasmuch as the progeny of the cow has been found alive. Thus, the provisions of Section 3 of the Act, 1955 are also not made out against the petitioner. Consequently, the penalty as prescribed under the provisions of Section 8 of the Act, 1955 would also be not attracted inasmuch as the provisions of Section 3 and Section 5 (A) of the Act, 1955 are not attracted.

11. So far as Section 11 of the Act, 1960 is concerned, the same is applicable

where any person beats, kicks, over-rides, over-drives, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or being the owner, permits any animal to be so treated or conveys or carries whether in or upon any vehicle or not any animal in such a manner or position as to subject it to unnecessary pain or suffering etc.

12. Once, prima facie the petitioner is only the owner of the vehicle and was neither the driver nor a person in the said vehicle consequently, prima facie it cannot be said that any offence under Section 11 of the Act, 1960 are attracted against the petitioner.

13. Considering the aforesaid, a prima facie case for interference is made out. As such, until further order of this Court, no coercive action shall be taken against the petitioner in pursuance to the impugned First Information Report.

14. Needless to mention that the petitioner shall cooperate in the investigation.

15. The matter might have ended at this stage requiring the respondents to file a counter affidavit. However, the matter cannot be treated to be so simple inasmuch as this Court is deluged with such matters on the basis of First Information Reports being filed left and right by the authorities and complainants under the provisions of the Act, 1955.

16. As already indicated above, from a perusal of the First Information Report, the progeny of the cow has been found to be alive yet the First Information Report has been lodged under the provisions of Sections 3/5 (A) & 8 of the Act, 1955.

17. For the sake of convenience, Sections 3, 5 (A) & 8 of the Act, 1955 are reproduced below:-

"Section-3. No person shall slaughter or cause to be slaughtered, or offer or cause to be offered for slaughter, a cow, bull or bullock in any place in Uttar Pradesh, anything contained in any other law for the time being in force or any usage or custom, to the contrary notwithstanding".

"5A. Regulation on transport of cow, etc. – (1) No person shall transport or offer for transport or cause to be transported any cow, or bull or bullock, the slaughter whereof in any place in Uttar Pradesh is punishable under this Act, from any place within the State to any place

outside the State, except under a permit issued by an officer authorised by the State Government in this behalf by notified order and except in accordance with the terms and conditions of such permit.

(2) Such officer shall issue the permit on payment of such fee not exceeding five rupees for every cow, bull or bullock as may be prescribed :

Provided that no fee shall be chargeable where the permit is for transport of the cow, bull or bullock for a limited period not exceeding six months as may be specified in the permit.

(3) Where the person transporting a cow, bull or bullock on a permit for a limited period does not bring back such cow, bull or bullock into the State within the period specified in the permit, he shall be deemed to have contravened the provision of sub-section (1).

(4) The form of permit, the form of application therefor and the procedure for disposal of such application shall be such as may be prescribed.

(5) The State Government or any officer authorised by it in this behalf by general or special notified order, may, at any time, for the purpose of satisfying itself, or himself, as to the legality or propriety of the action taken under this section, call for and examine the record of any case and pass such orders thereon as it or he may deem fit]."

"Section-8. Penalty. - *(1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of Section 3, Section 5, Section 5-A shall be guilty of an offence punishable with rigorous imprisonment for a term which shall not be less than three years and which may be extended to ten years and with fine which shall not be less than three lakh rupees and which may extent to five lakh rupees.*

(2) Whoever after conviction of an offence under this Act is again guilty of an offence under this Act, shall be punished with double the punishment provided for the said offence for the second conviction.

(3) The names and the photographs of the persons accused of the contravention of the provision of Section 5-A shall be published at some prominent place in locality where the accused ordinarily resides or to a public place, if he conceals himself from the law enforcement officers.

18. The word 'Slaughter' has been defined in Section 2(d) of the Act, 1955 as:

"slaughter means killing by any method whatsoever and includes

maiming and inflicting of physical injury which in the ordinary course will cause death".

18. From a perusal of Section 3 of the Act, 1955 it is apparent that where a person either slaughters or causes to be slaughtered or offers or causes to be offered for slaughter a cow, bull or bullock, then he would be liable for the penalty as provided under Section 8 of the Act, 1955 meaning thereby that as per definition given in Section 2(d) of the Act, 1955, killing by any method including maiming and inflicting of physical injury which in ordinary course will cause death is a sine qua non for invocation of Section 3 of the Act, 1955.

19. From a perusal of the Section 5 (A) of the Act, 1955 it is apparent that the same pertains to regulation on transport of cow etc from any place within the State to any place outside the State. As per the judgment of this Court in the case of **Kaliya (supra)**, transportation of cow within the State is not a crime. Thus, the crime under Section 5 (A) of the Act, 1955 can only be said to be committed where the cow is being transported outside the State and not on being transported within the State.

20. Likewise Section 8 of the Act, 1955 provides the penalty against a person who contravene or abets the contravention of the provisions of Section 3, Section 5 or Section 5 (A) of the Act, 1955.

21. In the present case, from a perusal of the FIR it clearly emerges out that neither the progeny of the cow which were found had been slaughtered nor were maimed or had any physical injury yet the First Information Report under Section 3 of the Act, 1955 has been filed.

22. As already indicated above, the progeny of the cow were found to be alive on the fateful day and thus clearly the provisions of Section 3 of the Act, 1955 are not attracted inasmuch as the said provisions would only be attracted where certain conditions are fulfilled as specified in Section 2 (d) of the Act, 1955 which is not the case.

23. In this regard, this Court in the case of **Parasram Ji Vs Intiaz** reported in **AIR 1962 All 22 : (1962) 1 Cri LJ 7** has held more than six decades back while considering the provisions of Act, 1955 that mere preparation for slaughter of an animal is not an offence.

24. For the sake of convenience, the judgment of **Parasram Ji (supra)** is

reproduced below:-

"1. This criminal revision application, which has been filed by the Secretary of the Gohatya Nirodh Samiti of Muzaffarnagar against the acquittal in appeal of certain persons who had been convicted by a first class Magistrate of that district for an offence under Section 8 of the U. P. Prevention of Cow Slaughter Act, raises an interesting point regarding the distinction between attempt to commit an offence and mere preparation for an offence.

2. The prosecution case was that at about 6 p.m. on 29-1-1959 Head Constable Deep Chand of Police Station Titavi, being informed that some persons had collected a number of cows in a piece of waste land in the vicinity of the police station with the object of slaughtering them, proceeded to the spot along with a number of witnesses; and when he arrived there he found a cow lying on the ground tied up with rope, being held down by Sharif and Khairati accused, while Imtiaz accused stood by with a knife in his hand. Three other persons Ishtiaq, Rafiq and Hanif were also present on the spot along with a herd of 51 cows and calves.

3. The Magistrate who tried the case accepted the prosecution story in its entirety and convicted all the six of the accused for an offence under Section 8 of the U. P. Prevention of Cow Slaughter Act. Imtiaz, Sharif and Khairati were sentenced to six months' R. I. and a fine of Rs. 200/- each, while Hanif, Rafiq and Ishtiaq were sentenced to three months' R. I. In appeal however the Additional Sessions Judge of Muzaffarnagar found that Hanif, Rafiq and Ishtiaq were mere onlookers; while as regards Imtiaz, Sharif and Khairati he came to the conclusion that the acts attributed to them fell short of proving an attempt to slaughter the cow and amounted to nothing more than mere preparation, which would not make them criminally liable. Accordingly all six were acquitted.

4. This revision has been dismissed summarily as regards Hanif, Rafiq and Ishtiaq and has been admitted with respect to Imtiaz, Sharif and Khairati only.

5. The facts alleged by the prosecution have been accepted by both the courts below as proved and cannot be challenged in this revision. But the point that arises for determination is whether these proved facts disclose an attempt to slaughter a cow, punishable in accordance with Section 511 I.P.C., or only preparation for slaughter, which would not be punishable at all,

6. Preparation, normally speaking, consists of devising and arranging the

means necessary for the commission of the offence; while attempt implies some direct move towards the commission of the offence after the preparation has been made. But there is no sharp clear-cut distinction between the two. The one shades into the other and the dividing line can only be decided with reference to the facts of each particular case.

.....

*10. In the circumstances of the present case it seems to me that the learned Sessions Judge was perfectly right in coming to the conclusion that the prosecution has succeeded in proving only preparation, not attempt. **Making an animal ready for slaughter by tying it with rope and throwing it down on the ground is obviously nothing more than mere preparation for its slaughter. One could do all that and then go off and leave the animal lying on the ground, postponing the actual slaughter for an hour or two.***

Attempt to slaughter must imply some act more proximate to the actual killing. Similarly, merely arming oneself with a knife would only amount to preparation. The stage of attempt would be reached when the knife was raised or pointed at the animal with the intention of inflicting the fatal blow. This distinction is clearly brought out by illustration (c) to Section 307 I.P.C., which shows that merely arming oneself with a gun and loading it do not constitute attempt to murder, though firing the gun at the intended victim, does. I am therefore satisfied that Imtiaz, Sharif and Khairati cannot be held guilty of attempt to slaughter the cow, but only of preparation for its slaughter.

*11. In the case of attacks on human beings, mere preparation by itself may amount to an offence (under Section 351 I.P.C.); **but preparation for the slaughter of an animal is no offence.** This revision application is accordingly rejected, the acquittal of the accused being confirmed.*

25. The Apex Court in the case of **State of Madhya Pradesh Vs. Narayan Singh** reported in **(1989) 3 SCC 596** has clearly held that in the commission of offence, there are four stages namely (a) intention (b) preparation (c) attempt and (d) execution. Intention and preparation done would not attract culpability.

26. For the sake of convenience, the relevant observations of **Narayan Singh(supra)** are quoted below:-

" In the commission of an offence there are four stages viz intention, preparation, attempt and execution. The first two stages would not attract culpability but the third and fourth stages would certainly attract

culpability".

27. From a perusal of First Information Report, it does not come out that the persons had made any attempt to slaughter or had executed the slaughter.

28. Thus considering the aforesaid and the casual manner in which the provisions of the Act, 1955 are being invoked against persons through out the State and the fact that the Court is deluged with such petitions being filed repeatedly before this Court, we require the Principal Secretary (Home) as well as the Director General of Police to file their personal affidavits indicating as to why such casual First Information Reports are being filed against persons left and right which has resulted in various petitions being filed before this Court even though the provisions of the Act, 1955 are not attracted. Once the law in this regard has been laid down more than six decades back by this Court in the case of **Parasram Ji (supra)** which would have applicability through the State as such, there cannot be any occasion of the authorities who are responsible for ensuring the law and order and their subordinates to have such casual First Information Reports being filed under the provisions of the Act, 1955.

29. The personal affidavits would also indicate the action which is to be taken against the officials/complainants who file such casual First Information Reports wasting the precious time of both the police authorities who spent their valuable time in such investigations as well as this Court to repeatedly stress on the provisions of the Act, 1955. The personal affidavits would also indicate as to why action should not be taken against the police personnel/complainants who file such casual First Information Report and would also indicate as to why directions be not issued to the State to issue a Government order to ensure that such casual First Information Reports are not filed under the Act, 1955.

30. Yet another connected aspect of the matter under the garb of the Act, 1955 is vigilantism which is being practiced by various persons. Why we say this is because a few days back, a Bench of this Court was seized of a matter in which the car of the person was stopped by vigilantes and thereafter, it was not traceable. (See- Criminal Misc. Writ Petition No. 9152 of 2025 Inre; Bablu Vs. State of U.P and Ors). In the said writ, instructions have been called for by the Court. Violence, lynching and vigilantism is the order of the day. The Apex Court around seven years back in the case of **Tehseen S.**

Poonawalla Vs. Union of India and Ors reported in **(2018) 9 SCC 501** considering the large number of cases pertaining to vigilantism and vigilantes had issued directions wherein it was specifically directed that the authorities who are conferred with the responsibility to maintain law and order in the States have the principal obligation to see that vigilantism, be it cow vigilantism or any other vigilantism of any preception, does not take place.

31. Mob vigilantism and mob violence are to be prevented by the Governments by taking strict action and by the vigil society who ought to report such incidents to the State machinery and the police instead of taking the law and order into their own hands.

32. Considering the aforesaid, the Apex Court in paragraph 40 of its judgment indicated about the preventive measures, remedial measures and punitive measures to be adopted. The punitive measures were indicated that wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited to departmental action under the service rules.

33. Obviously, the preventive measures as above, would pertain to vigilantism also more particularly when persons traveling on the road in a vehicle are stopped by vigilantes and assaulted and law is taken in their hand by means of vigilantism.

34. For the sake of convenience, the relevant observations of the Apex Court in the case of **Tehseen S. Poonawalla (supra)** are reproduced below:-

"17. There can be no shadow of doubt that the authorities which are conferred with the responsibility to maintain law and order in the States have the principal obligation to see that vigilantism, be it cow vigilantism or any other vigilantism of any perception, does not take place. When any core group with some kind of idea take the law into their own hands, it ushers in anarchy, chaos, disorder and, eventually, there is an emergence of a violent society. Vigilantism cannot, by any stretch of imagination, be given room to take shape, for it is absolutely a perverse notion. We may note here that certain applications for intervention and

written notes have been filed in this regard supporting the same on the basis that there is cattle smuggling and cruel treatment to animals. **In this context, suffice it to say that it is the law enforcing agencies which have to survey, prevent and prosecute. No one has the authority to enter into the said field and harbour the feeling that he is the law and the punisher himself.** A country where the rule of law prevails does not allow any such thought. It, in fact, commands for ostracisation of such thoughts with immediacy.

18. Lynching is an affront to the rule of law and to the exalted values of the Constitution itself. We may say without any fear of contradiction that lynching by unruly mobs and barbaric violence arising out of incitement and instigation cannot be allowed to become the order of the day. **Such vigilantism, be it for whatever purpose or borne out of whatever cause, has the effect of undermining the legal and formal institutions of the State and altering the constitutional order. These extrajudicial attempts under the guise of protection of the law have to be nipped in the bud; lest it would lead to rise of anarchy and lawlessness which would plague and corrode the nation like an epidemic. The tumultuous dark clouds of vigilantism have the effect of shrouding the glorious ways of democracy and justice leading to tragic breakdown of the law and transgressing all forms of civility and humanity.** Unless these incidents are controlled, the day is not far when such monstrosity in the name of self-professed morality is likely to assume the shape of a huge cataclysm. It is in direct violation of the quintessential spirit of the rule of law and of the exalted faiths of tolerance and humanity.

19. **Mob vigilantism and mob violence have to be prevented by the governments by taking strict action and by the vigil society who ought to report such incidents to the state machinery and the police instead of taking the law into their own hands.** Rising intolerance and growing polarisation expressed through spate of incidents of mob violence cannot be permitted to become the normal way of life or the normal state of law and order in the country. Good governance and nation building require sustenance of law and order which is intricately linked to the preservation of the marrows of our social structure. In such a situation, **the State has a sacrosanct duty to protect its citizens from unruly elements and perpetrators of orchestrated lynching and vigilantism with utmost sincerity and true commitment to address and curb such incidents which must reflect in its actions and schemes.**

40. In view of the aforesaid, we proceed to issue the following guidelines:-

A.Preventive Measures

(i) *The **State Government** shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district. Such Nodal Officer shall be assisted by one of the DSP rank officers in the district for taking measures to prevent incidents of mob violence and lynching. They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.*

(ii) *The **State Governments** shall forthwith identify Districts, Sub-Divisions and/or Villages where instances of lynching and mob violence have been reported in the recent past, say, in the last five years. The process of identification should be done within a period of three weeks from the date of this judgment, as such time period is sufficient to get the task done in today's fast world of data collection.*

(iii) *The **Secretary, Home Department** of the concerned States shall issue directives/advisories to the Nodal Officers of the concerned districts for ensuring that the Officer In-charge of the Police Stations of the identified areas are extra cautious if any instance of mob violence within their jurisdiction comes to their notice.*

(iv) *The Nodal Officer, so designated, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.*

(v) *The Director General of Police/the Secretary, Home Department of the concerned States shall take regular review meetings (at least once a quarter) with all the Nodal Officers and State Police Intelligence heads. The Nodal Officers shall bring to the notice of the DGP any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.*

(vi) *It shall be the duty of every police officer to cause a mob to disperse, by exercising his power under Section 129 of CrPC, which, in his opinion, has a tendency to cause violence or wreak the havoc of lynching in the*

disguise of vigilantism or otherwise.

(vii) The Home Department of the Government of India must take initiative and work in co-ordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to identify the measures for prevention of mob violence and lynching against any caste or community and to implement the constitutional goal of social justice and the Rule of Law.

(viii) The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas keeping in view the incidents of the past and the intelligence obtained by the office of the Director General. It singularly means that there should be seriousness in patrolling so that the anti-social elements involved in such crimes are discouraged and remain within the boundaries of law thus fearing to even think of taking the law into their own hands.

(ix) The Central and the State Governments should broadcast on radio and television and other media platforms including the official websites of the Home Department and Police of the States that lynching and mob violence of any kind shall invite serious consequence under the law.

(x) It shall be the duty of the Central Government as well as the State Governments to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.

(xi) The police shall cause to register FIR under Section 153A of IPC and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.

(xii) The Central Government shall also issue appropriate directions/advisories to the State Governments which would reflect the gravity and seriousness of the situation and the measures to be taken.

Remedial Measures

(i) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of IPC and/or other provisions of law.

(ii) *It shall be the duty of the Station House Officer, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s).*

(iii) *Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be.*

(iv) *The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC within one month from the date of this judgment. In the said scheme for computation of compensation, the State Governments shall give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses. The said compensation scheme must also have a provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence/lynching.*

(v) *The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district. Such courts shall hold trial of the case on a day to day basis. The trial shall preferably be concluded within six months from the date of taking cognizance. We may hasten to add that this direction shall apply to even pending cases. The District Judge shall assign those cases as far as possible to one jurisdictional court so as to ensure expeditious disposal thereof. It shall be the duty of the State Governments and the Nodal Officers in particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial.*

(vi) *To set a stern example in cases of mob violence and lynching, upon conviction of the accused person(s), the trial court must ordinarily award maximum sentence as provided for various offences under the provisions of the IPC.*

(vii) *The courts trying the cases of mob violence and lynching may, on application by a witness or by the public prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.*

(viii) *The victim(s) or the next of kin of the deceased in cases of mob*

violence and lynching shall be given timely notice of any court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. They shall also have the right to file written submissions on conviction, acquittal or sentencing.

(ix) The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.

Punitive Measures

(i) Wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited to departmental action under the service rules. The departmental action shall be taken to its logical conclusion preferably within six months by the authority of the first instance.

(ii) In terms of the ruling of this Court in Arumugam Servai v. State of Tamil Nadu 21 , the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

(emphasis by the Court)

35. Subsequent to the directions issued by the Apex Court in the case of **Tehseen S. Poonawalla (supra)** on 17.08.2018, the Apex Court in the case of **Kodungallur Film Society and Ors Vs. Union of India and Ors** reported in **(2018) 10 SCC 713** on 01.10.2018 has reiterated the aforesaid directions with regard to the vigilantes , a peaceful protest turning into mob violence causing loss of life or damage to public and private properties including violence designed to instill fear in the minds and terrorise the common man, in the absence of any law to that effect.

36. Strangely, despite aforesaid directions being issued about seven years back yet it is not known as to what action has been taken by the **State**

Government for following the aforesaid directions as issued by the Apex Court and as already indicated above, the cases pertaining to vigilantism still continue to see the light of the day.

37. A member of the Bar has passed on a copy of the circular issued by the Director General of Police, Uttar Pradesh dated 26.07.2018 in pursuance to the directions issued by the Apex Court in the case of **Tehseen S. Poonawalla (supra)**.

38. The aforesaid circular prima facie would not fall within the ambit of the directions that have been issued by the Apex Court in the case of **Tehseen S. Poonawalla (supra)** considering the fact that the Apex Court has directed the **State Government** to issue directions with regard to vigilantism and mob violence and the circular as issued by the Director General of Police can only be considered to be a circular prima facie so far as the said department is concerned although it directs the police officials to take appropriate measures. However, once the directions of the Apex Court are to the State Government, consequently, a Government order should have been issued in this regard which should reflect the official decision, policy or administrative directions of the Government inasmuch as the Government order is an expression of the executive power of the State under Article 162 of the Constitution of India. Accordingly, prima facie the circular as issued by the Director General of Police does not conform to the direction as issued by the Apex Court. Thus, while filing the personal affidavit, it would also be indicated as to action which has been taken by the **State Government** pursuant to the directions issued by the Apex Court in the case of **Tehseen S. Poonawalla (supra)**.

39. In this regard, it would also be apt to refer to the recent judgment of the Apex Court in the case of **National Federation of Indian Woman Vs. Union of India passed in Writ Petition (Civil) No. 719 of 2023** decided on 11.02.2025 wherein again the Apex Court has reiterated the earlier directions in the case of **Tehseen S. Poonawalla (supra)** and has also reiterated that when directions are issued by the Apex Court, the same are binding on all the authorities and the Courts in the country in view of Article 141 of the Constitution of India. The Apex Court has further observed that if there is any non compliance of directions issued in the case of **Tehseen S. Poonawalla (supra)** an aggrieved person would have a remedy available to him in law and can approach the competent Court for the redressal of

grievances in accordance with law.

40. In this regard, it would also be apt to refer to the judgment of the Apex Court in the case of **Subrata Roy Sahara Vs. Union of India and ors** reported in **(2014) 8 SCC 470** wherein the Apex Court has observed as under:-

"191. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part. He pays for the litigation, from out of his savings (or out of his borrowings), worrying that the other side may trick him into defeat, for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for, what he has lost, for no fault? The suggestion to the legislature is, that a litigant who has succeeded, must be compensated by the one, who has lost. The suggestion to the legislature is to formulate a mechanism, that anyone who initiates and continues a litigation senselessly, pays for the same. It is suggested that the legislature should consider the introduction of a "Code of Compulsory Costs".

(emphasis by the Court)

41. The aforesaid observations are being indicated in this order as on account of filing of the frivolous First Information Reports, as indicated above, the aggrieved persons are constrained to approach this Court for the redressal of their grievances whereby spending their valuable money and time and at the same time, the precious judicial time of the Court is also wasted in dealing with such cases which could have been nipped in the bud by the State itself. As such, personal affidavits would also indicate that in case such frivolous cases continue to come to the highest Court of the State as to why exemplary cost should not be imposed against the authorities who have not applied their mind while lodging the First Information Reports under the Act, 1955.

42. Let the personal affidavits on the points as aforesaid be filed by both the

officials within three weeks.

43. List this case on ***07.11.2025 as fresh.***

44. In case, the personal affidavits are not filed then the Principal Secretary (Home) and Director General of Police shall appear in person before this Court along with record to assist the Court.

45. This Court records the assistance rendered by Mr. Mohd. Azam Siddiqui, Research Associate of this Court.

October 9, 2025

Pachhere/-

(Abdhesh Kumar Chaudhary,J.) (Abdul Moin,J.)