

2025 LiveLaw (SC) 182

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

VIKRAM NATH; J., SANJAY KAROL; J., SANDEEP MEHTA; J.

SLP(CIVIL) NOS. 25250-25251 OF 2024, 07-02-2025; FEBRUARY 07, 2025

SAJIMON PARAYIL VERSUS STATE OF KERALA

Bharatiya Nagarik Suraksha Sanhita, 2023 - Sections 173, 176 - High Court's direction to register FIRs based on statements before Justice Hema Committee regarding sexual exploitation in Malayalam cinema - The appellant challenged the High Court's order directing the registration of FIRs, noting that statements recorded by the Justice Hema Committee disclosed cognizable offences, requiring the SIT to act under Section 173(3) of BNSS. Held, under Section 176 of BNSS, police are obligated to investigate upon receiving information about a cognizable offence, and no injunction can restrain this process. The Supreme Court disposed of the appeals, granting petitioners liberty to approach the High Court for their grievances. (Para 16)

[Arising out of impugned final judgment and order dated 10-09-2024 in WA No. 1248/2024 14-10-2024 in WA No. 1248/2024 passed by the High Court of Kerala at Ernakulam]

For Petitioner(s): Mr. Siddhartha Dave, Sr. Adv. Mr. R Basant, Sr. Adv. Mr. Abid Ali Beeran P, AOR Mr. Saiby Jose Kidangoor, Adv. Mr. Sarath S Janardanan, Adv. Mr. Saswat Adhyapak, Adv. Ms. Namita Kumari, Adv. Mr. R. Basant, Sr. Adv. Mr. Saiby John Kidangoor, Adv. Mr. A. Karthik, AOR Ms. Smrithi Suresh, Adv. Mr. Sugam Agrawal, Adv. Mr. Ujjwal Sharma, Adv.

For Respondent(s): Mr. Ranjith Kumar, Sr. Adv. Mr. Nishe Rajen Shonker, AOR Mrs. Anu K Joy, Adv. Mr. Alim Anvar, Adv. Mr. Santhosh K, Adv. 1 Ms. Kamakshi S. Mehlwal, AOR M/S. Kmnp Law Aor, AOR Mr. Gopal Sankarnarayanan, Sr. Adv. Mr. Kuriakose Varghese, Adv. Mr. V Shyamohan, Adv. Ms. Sradhaxna Mudrika, Adv. Ms. Anshika Bajpai, Adv. Ms. Shreya Nair, Adv. Mr. Tushar Srivastava, Adv. Mr. Vishal Sinha, Adv. Mr. Shourya Dasgupta, Adv. Ms. Vrinda Baheti, Adv. Ms. Sandhya Raju, Adv. Mr. Paras Nath Singh, AOR Mr. Neeleshwar Pavani, Adv. Mr. Rohin Bhatt, Adv. Ms. Gouri N., Adv.

ORDER

VIKRAM NATH, J.

- 1.** Permission to file SLP is granted in SLP(C) D.No.55412 of 2024.
- 2.** These are petitions assailing the correctness of the orders dated 10.09.2024 and 14.10.2024 passed by Division Bench of the High Court of Kerala in Writ Appeal No.1248 of 2024 and other connected matters. The petitioners are basically aggrieved by some of the directions/observations contained in the order dated 14.10.2024.
- 3.** Before proceeding further to consider the submissions made, brief background of the facts giving rise to the present petitions is as follows: -
 - 3.1.** On the request of an organisation by the name of Women in Cinema Collective (WCC), the Government of Kerala in 2017 constituted a committee comprising of a retired Judge of the High Court, Justice K. Hema (Chairperson), actor T. Sharda and a retired bureaucrat, Ms. Basala Kumari as members to study the issues raised therein primarily dealing with the working conditions, welfare and the hardship being faced by the women in the Malayalam Cinema Industry. The above committee has been referred to as 'Hema Committee' in the proceedings before the High Court as also before this Court.
 - 3.2.** The Hema Committee submitted its report on 31.12.2019 to the State Government. Apparently, no action was taken on the recommendations made by the Hema Committee

for a substantial period. Certain activists had been requesting for a copy of the report under the Right to Information Act, 2005, which request was denied.

3.3. The petitioner Sajimon Parayil in SLP(Civil) Nos.25250-25251 of 2024 filed a Writ Petition (Civil) No.26497 of 2024 before the Single Judge of the Kerala High Court, primarily praying for the relief that the Hema Committee report be not made public as it would be violating privacy rights and would also breach confidentiality in particular to those who have testified before the said Committee. The Single Judge, *vide* order dated 13.08.2024, dismissed the writ petition on the finding that the petitioner therein had no *locus*. Aggrieved by the same a writ appeal was preferred which was registered as WA No.1248 of 2024.

3.4. Before the Division Bench of the High Court several other petitions were filed praying for directions to the State to produce the Hema Committee report and to act upon it, as according to the said petitioners, the committee had made recommendations which, if implemented, would bring about greater safety & security of women working in Cinema Industry in Kerala and also help in improving their working conditions and betterment of their welfare. All these writ petitions, along with the writ appeal, were clubbed together and the Division Bench started monitoring the implementation of the recommendations of the Hema Committee report.

3.5. Learned Advocate General appearing for the State of Kerala before the Division Bench, on 10.09.2024 produced the report in a sealed cover which the Court required the learned Advocate General to retain with him in safe custody to be produced at a later stage. Further, the Division Bench approved the Special Investigating Team¹ constituted by the Director General of Police comprising of seven members headed by Inspector General and the Commissioner of Police, Thiruvananthapuram City and further supervised by the Additional Director General of Police, Crime Branch.

3.6. In the order dated 10.09.2024, it was recorded that the SIT would be investigating into the complaints received in the recent past after the publication of the Hema Committee report in its redacted form. The Division Bench also noticed that the State had not taken the matter any further and in fact no action had been taken till the constitution of the SIT on 25.08.2024. After recording displeasure at the inaction of the State, the Division Bench issued certain directions as contained in paragraph 7 of the order dated 10.09.2024 which are reproduced here under:

“7. Taking note of the present situation, therefore, we issue the following directions:

(i) The State Government shall, forthwith, furnish a full copy of the Justice Hema Committee Report, together with all its annexures - documentary and otherwise - to the SIT constituted in terms of the order dated 25.08.2024. The SIT shall, on its part, go through the report in its entirety to see whether any offence, cognizable or otherwise, has been made out at the instance of any person and proceed to take suitable action in accordance with law- by treating the contents of the report as "information" for the purposes of setting the law in motion.

(ii) The SIT shall, in particular, be mindful of the sensitivities that are required to be observed during investigation, and shall take note of the legal provisions regarding the privacy rights of the victim as well as those against whom allegations/ accusations have been levelled by the alleged victims of crimes. The preliminary enquiry and consequent action shall be done in a manner that is fair to all concerned. The SIT shall then forward a report, on the action taken by it, to the State Government within two weeks from today and upon receipt thereof, the State Government shall

¹ SIT

include a copy of the action taken report along with the counter affidavit filed to the averments in the various writ petitions and writ appeal referred above.

(iii) The members of the SIT shall refrain from giving press conferences or communicating with the media on any aspect of the investigation Conducted in connection with the report of the Justice Hema Committee. We make it clear however that the restriction against giving press conferences shall not be seen as preventing the investigating team from giving such information, without mentioning the names of any person, as would indicate the progress that they have made in their investigation.

(iv) This Court believes that the print, electronic and social media would exercise restraint and adhere to an appropriate code of conduct in the matter of publishing news governing any aspect of the Justice Hema Committee Report by according due respect to the privacy rights of persons who are allegedly victims of offences committed against them, as also of persons against whom such allegations/accusations have been made. They shall bear in mind that even an accused person has a fundamental right to a fair investigation and trial of the case against him/her and a trial by media would throw to the winds the guarantee of fundamental rights assured to the individual under our Constitution. The safeguard of the fundamental right to privacy under our Constitution is assured to the individual not only by the State but also at the instance of fellow citizens who are obligated under Part IV-A of our Constitution to abide by the Constitution and respect its ideals as also to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women.

(v) We are also hopeful that since this Court is now in seizin of this matter, and will be monitoring the progress of the investigation by the SIT, the print, electronic and social media will ensure that undue pressure is not applied on the Investigating Team through posts or news articles which may have the effect of pressurizing the investigating agencies- to act in a hasty manner.

(vi) Since we are hopeful that the print, electronic and social media will show due respect to the rights of the individuals in the society in a sensitive matter such as the present, we do not feel any need to pass a formal order restraining the media in this regard.”

3.7. Thereafter, the matter was taken up on 14.10.2024. The High Court, after perusing the Hema Committee report, was of the view that statements of many witnesses recorded by the Committee revealed commission of cognizable offences. In paragraph 5, the Division Bench noted that none of the witnesses, who had given statement before the Hema Committee, were ready to cooperate and give statement to the SIT. Although the Division Bench noticed that there cannot be any compulsion to give statement, however it went on to direct that the SIT, on registration of a crime, shall take necessary steps to contact the victim/survivors and record their statement. It again reiterated that, in case, the witnesses do not cooperate and there are no materials to proceed with the case, appropriate steps as contemplated under Section 176 of the Bharatiya Nagarik Suraksha Sanhita, 2023² shall be taken. Paragraph 5 of the order dated 14.10.2024 is reproduced hereunder:

“5. The SIT in its action taken report dated 28/09/2024 has stated that none of the witnesses who have given statement before the Committee are ready to cooperate and give statement to the police. We reiterate that there cannot be any compulsion of the witnesses to give statement. The Sit on registration of a crime, shall take necessary steps to contact the victim/survivors and record their statements. In case the witnesses do not cooperate, and there are no materials to proceed with the case, appropriate steps as contemplated under Sec. 176 BNSS shall be taken.”

² BNSS

It is the contents of paragraph 5 by which the petitioners are majorly aggrieved.

4. The petitioner in SLP (Civil) Nos. 25250-25251 of 2024, namely Sajimon Parayil, is a film producer. Admittedly, as on date, there is no First Information Report³ registered against him nor had he deposed before the Committee, and it was on this ground that the Single Judge dismissed his petition holding that he had no *locus* to maintain the petition.

5. The petitioner in SLP(C)Nos.27320-27321 of 2024, namely Juli CJ, is said to be a witness and that she is being pressurised to give statement. It is also her case that despite her denial to lodge any complaint or to give any statement before the SIT, an FIR has apparently been registered. Further, the petitioner in Diary No.55412 of 2024, namely Parvathi T., is an actress and is facing similar harassment and pressure at the instance of the SIT, much against her wishes.

6. We have heard Mr. R Basant and Mr. Siddharth Dave learned Senior Counsels appearing for the petitioner(s). On behalf of respondents, Mr. Ranjith Kumar, learned Senior Counsel, appeared for State of Kerala, Mr. Gopal Sankarnarayanan, learned Senior Counsel appeared for WCC, Ms. Parvathi Menon A, learned Counsel, appeared for Kerala State Women Commission and Ms. Sandhya Raju, appeared for some of the other respondents.

7. Mr. Basant, learned senior counsel appearing for the film producer has submitted that the impugned order is contrary to the settled legal position as such, the petitioner has rightly approached this Court raising a fundamental question of law and also alleging violation of fundamental rights.

8. However, insofar as the other two petitioners, Juli CJ and Parvathi T., are concerned, they have a specific grievance of being harassed and coerced by the SIT and complaints being registered at their instance despite their specific denial of any harassment or victimisation or they being made witnesses in such cases and being coerced to give statements to the SIT.

9. Mr. Siddharth Dave, learned senior counsel appearing for these two petitioners submitted that specific directions may be issued commanding the SIT not to harass or coerce the petitioners to give statement and not to register any complaint at their instance or treat them as witnesses to any complaint and in case any such complaint has been registered, the same may be quashed.

10. On the other hand, learned senior counsel appearing for the respondents have submitted that as of date, 36 preliminary enquiries (PE's) have been registered, and 18 FIRs have been registered by the SIT. It is further submitted that the High Court has already clarified in paragraph 5 of the order dated 14.10.2024 that there shall be no compulsion of the witnesses to give statements and has also clarified that if the witnesses do not cooperate and there are no materials to proceed, appropriate steps as contemplated under Section 176 BNSS would be taken.

11. It is also submitted that the two petitioners, Juli CJ and Parvathi T., never approached the High Court and have directly approached this Court under Article 136 of the Constitution of India. It is also submitted that these petitioners should approach the High Court for redressal of their grievances which could be examined by the High Court. It was thus submitted that these petitions also deserve to be dismissed.

³ FIR

12. Our attention has also been drawn to subsequent orders passed by the Division Bench of the High Court on 28.10.2024, 07.11.2024 and 27.11.2024. It has been submitted that the High Court is continuously monitoring these matters and no injustice is being done to the petitioners.

13. In rejoinder, it has been stated by the learned senior counsels for the petitioners that after this Court issued notice on 23.10.2024 in the petition wherein it was also provided that prayer for grant of interim relief would be considered on the next date, the SIT has, in great haste, registered all the FIRs and PE's. None of the FIRs or PE's were registered prior to 23.10.2024. It was thus submitted that it is completely *mala fide* exercise on the part of the respondent State in an attempt to overreach the consideration by this Court of the pending petition(s).

14. It was lastly submitted that the petitioners have no objections to any criminal prosecution being lodged, FIR being registered and investigations being carried out provided there is plausible evidence collected by the SIT; but without any evidence, if the SIT is proceeding to register the cases and compelling the witnesses to depose before it, then it would be a travesty of justice.

15. Having considered the submissions, we are of the view that no fruitful purpose would be served by detaining these petitions before this Court.

16. Under criminal jurisprudence, once information is received or otherwise an officer-in-charge of a police station has reason to suspect that a cognizable offence has been committed, he is duty bound to proceed in accordance to law as prescribed under Section 176 of BNSS. There can be no direction to injunct or restrain the police officer from proceeding in accordance to law. This is exactly what the Division Bench has directed in the order dated 14.10.2024 in paragraph 5 thereof. The Division Bench of the Kerala High Court is monitoring the action taken on a regular basis as is apparent from the subsequent orders passed by it.

17. We leave it open for the affected persons who had deposed before the Hema Committee and are being compelled by the SIT to depose before it to approach the High Court for redressal of their grievances.

18. We may only observe that the Division Bench of the High Court would consider the specific grievances which may be raised by the present petitioners, or any other individual facing similar harassment and will also examine as to whether the FIR registered are based upon material collected during the investigation by the SIT or they are being registered without any supporting material. The High Court will also look into the grievances of those individuals who had deposed before the Hema Committee that they are not unnecessarily harassed or coerced or compelled to depose before the SIT. Accordingly, we dispose of these matters giving liberty to the petitioners to approach the High Court for their respective grievances.