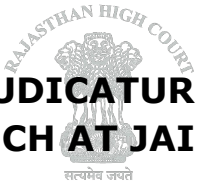




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No.7231/2025

Jitendra Meena @ Jitendra Matsya S/o Kalyan Sahai Matsya,
Aged About 50 Years, R/o 161 Santosh Sagar Colony, Brahmpuri
Road, Jaipur -302002.

-----Petitioner

Versus

1. State Of Rajasthan, Through P.P.
2. Kailash Gurjar S/o Kalyanmal Gurjar, Plot No. 76 Patel Na-
gar Kalwar Road, Jhotwara Jaipur Hal Mantri Shilpacharya
Vishwakarma Grah Nirman Sahkari Samiti Limited Jaipur.

-----Respondents

Connected With

S.B. Criminal Miscellaneous (Petition) No.4223/2020

Shilpacharya Vishwakarma Grah Nirman Sahkari Samiti Ltd,
Jaipur, Through Its Secretary Kailash Gurjar S/o Sh. Kalyan Mal
Gurjar, R/o 76, Patel Nagar, Kalwar Raod, Jhotwara, Jaipur, Raj.

-----Petitioner

Versus

The State Of Rajasthan through the Public Prosecutor.

-----Respondent

For Petitioner(s)	:	Mr. Abhishek Bhardwaj Mr. Aayush Malik
For Respondent(s)	:	Major R.P. Singh, Senior Advocate as- sisted by Mr. Mahesh Gupta Mr. Rituraj Kaur Bhullar Ms. Shivangi Mayaramka Mr. Abhiraj Singh Deval
		Mr. Jitendra Singh Rathore, PP Mr. Narendra Singh Dhakar, PP

JUSTICE ANOOP KUMAR DHAND

Order

16/03/2026

Reportable

1. By way of filing these cross and connected criminal misc.
petitions, the complainant as well as the accused have approached
this Court for passing appropriate orders with regard to F.I.R.



No.832/2014 registered at the Police Station Pratap Nagar, District Jaipur (East) for the offences under Sections 420 467, 468, 471, 474 & 120-B IPC.

2. The complainant-Shilpacharya Vishwakarma Grah Nirman Sahkari Samiti Limited has approached this Court by way of filing S.B. Criminal Misc. Petition No.4223/2020 seeking directions to the Investigating Agency for conducting fair, transparent and expeditious investigation of the aforementioned FIR.

3. On the contrary, the accused-Jitendra Meena @ Jitendra Matsya has approached this Court by way of filing S.B. Criminal Misc. Petition No.7231/2025 for quashing of the aforesaid FIR and for quashing the proceedings arising from the same.

4. With the consent of counsels appearing on behalf of both the sides, arguments have been heard together and these two criminal misc. petitions are being disposed of by this common order.

5. Learned counsel appearing on behalf of the complainant, i.e., Shilpacharya Vishwakarma Grah Nirman Sahkari Samiti Limited submits that an FIR No.832/2014 was registered against the accused Jitendra Meena and other co-accused persons with the Police Station Pratap Nagar, District Jaipur (East) for the offences under Sections 420, 467, 468, 471, 474 & 120-B IPC alleged to have been committed way-back in the year 2014. But inspite of passing of more than 11 years, till date the charge-sheet has not been submitted against the accused, inspite of conclusion of investigation at different points of time. Learned counsel submits that even on 18.07.2024, the SHO, Police Station Pratap Nagar, Jaipur (East) has concluded the investigation and submitted a





factual report before the Court of Metropolitan Magistrate No.14, Jaipur Metropolitan-II, Jaipur wherein it has been mentioned that a case has been found to be proved against the accused persons- Kalyan Sahai Matsya and Jitendra Matsya under Sections 420, 467, 468, 471, 474 and 120-B IPC. Learned counsel submits that in spite of the above, till date, charge-sheet has not been submitted before the competent Court of law.

6. Learned counsel further submits that a Co-ordinate Bench of this Court vide order dated 17.03.2021 directed the State counsel to procure status report of the investigation, conducted in the aforementioned FIR and even on 02.07.2025, a detailed order was passed by the co-ordinate Bench of this Court observing that inspite of passing of more than eleven years, the investigation is still lying pending, hence, the concerned Investigating Officer was directed to remain present before this Court with an appropriate explanation on the next date. Learned counsel submits that on 11.08.2025, the concerned Investigating Officer remained present before this Court and submitted a report, the same was also taken on record and the Investigating Officer was directed to complete the investigation on or before 04.09.2025. Learned counsel further submits that even after passing of such orders, when the investigation was not completed, then again, on 13.10.2025, the Co-ordinate Bench of this Court passed the following order:-

“It is matter of serious concern that despite the fact that the FIR was lodged 11 years back and on so many occasions, directions have been given by this Court to the concerned Investigating Officer to conclude the investigation and to submit final report, nothing has been



done except changing the Investigating Officers time and again, which is against the policy of State Government dated 06.01.2019.

On earlier occasion also, although the Investigating Officer was directed to remain personally present before the Court, yet no satisfactory reason was given by him except his inability to conduct the investigation on account of additional protocol duties in addition to the investigation.

Under these circumstances, this Court deems it just and proper to direct the Additional Commissioner of Police, Commissionerate, Jaipur to remain personally present before this Court with his explanation with regard to delay in concluding the investigation on the next date of hearing.

Let the matter be listed on 13th November, 2025."

7. Learned counsel submits that still the matter is lying, without any changes, at the stage of filing of charge-sheet and the same has not been submitted before the competent Court of law. He further submits that as per the factual report dated 13.05.2025, furnished by the concerned SHO, it has been mentioned that he was otherwise occupied in maintaining law and order duty at the Rajasthan State Assembly Sessions, 2025, Shab-e-barat, Mahashivratri, Holi, Idul Fitr, Jamatulvida, Ramnavmi, Hanuman Jayanti, Ambedkar Jayanti, Indian Premier League, 2025 and during the visit of Vice-President of the United States of America. Learned counsel submits that such like explanation on behalf of the Investigating Officer is not satisfactory and, he is supposed to comply with the orders passed by this Court. But on every occasions, the orders passed by this Court have been taken in a casual and callous manner and till date the charge-sheet has not





been submitted against the accused persons, before the competent Court of Law. Hence, appropriate directions be issued to the concerned Investigating Officer to submit the charge-sheet before the concerned Court expeditiously, as early as possible.

8. Learned counsel submits that as per the reply, submitted by the State, as many as 15 cases have been registered against the accused person-Kalyan Sahai Matsya and Jitendra Meena @ Jitendra Matsya, wherein FIR has been quashed in two cases and post investigation charge-sheet has been submitted against them in 12 cases. Learned counsel submits that various blank leases, backdated stamp and receipts of many societies including receipts of the petitioner-society were recovered at the instance of the accused persons. Learned counsel submits that many documents and pattas of land, belonging to the complainant, have been fabricated by the accused persons.

9. Lastly, he argued that even when the investigation was done by the SOG, the involvement of the accused persons was found to be proved, as per Para 36 of the reply submitted by the State counsel.

10. Learned Public Prosecutor has supported the contentions raised by learned counsel for the complainant.

11. *Per contra*, learned counsel appearing on behalf of the petitioner-Jitendra Meena opposed the arguments raised by learned counsel for the complainant-Shilpacharya Vishwakarma Grah Nirman Sahkari Samiti Limited and submitted that the complainant has no concern whatsoever with the subject land as the subject land belongs to the father of the accused petitioner, i.e., the deceased-Kalyan Sahai Matsya. Learned counsel submits





that no agreement to sell the subject land was ever executed by him and an agreement to sell was executed by the complainant by forging his signatures. Learned counsel submits that the land in question belongs to Scheduled Caste and without any conversion of the subject land, the complainant-society has no right or authority to allot pattas of the subject lands for selling the same to anyone. He further submits that with regard to the similar allegations, FIR No.342/2009 was registered by one of the allottees, i.e., Sangeeta Choudhary, with the same Police Station for the same offences. Learned counsel submits that in the said FIR, the Final Report was submitted but at a later stage, the said Sangeeta Choudhary entered into a compromise with the accused and on the basis of the said compromise, proceedings arising out of the aforesaid FIR were quashed by this Court in S.B. Criminal Misc. Petition No.3046/2012. Learned counsel submits that with regard to similar allegations, the successive FIR cannot be lodged by the complainant-society. Learned counsel submits that validity of the aforesaid so called agreement to sell has been assailed by father of the petitioner before the Competent Civil Court, wherein an interim order has already been passed in favour of father of the petitioner and the said suit is still lying pending for its adjudication before the Court. Learned counsel submits that in the instant case, the investigation has been done by as many as 20 Investigating Officers since 2014 till 2025 and on four instances, Final Report negative have been proposed. Learned counsel submits that the instant case is a case of civil nature, which has been given the colour of a criminal case by making false and baseless allegations. Learned counsel submits that, under these



circumstances, interference of this Court is warranted and the impugned FIR is liable to be quashed and set-aside.

12. Learned counsel submits that in the instant case, an FIR has been registered more than eleven years back and continuance of long investigation seizes the right of the accused with regard to his liberty and life guaranteed under Article 21 of the Constitution of India. In support of his contentions, counsel has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **State of Andhra Pradesh Vs. P.V. Pavithran** reported in **(1990) 2 SCC 340**. Apart from the above, he has also placed reliance upon the following judgments passed by the Hon'ble Apex Court:

(1) Tarak Desh Mukharjee and Ors. Vs. State of Uttar Pradesh and Ors. while deciding **Criminal Appeal No.1400/2022 on 23.08.2022;**

(2) Paramjeet Batra Vs. State of Uttrakhand and Ors. while deciding **Criminal Appeal No.2069/2012 on 14.12.2012;**

(3) Chanchalpati Das Vs. The State of West Bengal and Ors. reported in **AIR 2023 SC 2710;**

(4) Mohammad Wajid and Ors. Vs. State of U.P. and Ors. reported in **(2023) 20 SCC 219; or**

(5) Md. Ibrahim and Ors. Vs. State of Bihar and Ors. reported in **(2009) 8 SCC 751**

13. Lastly, he argued that in view of the submissions made hereinabove, the proceedings arising out of the impugned FIR be quashed and set-aside.



14. In rebuttal, learner Senior Counsel appearing on behalf of the complainant submits that the allegations levelled in the present FIR by the complainant-society as well as the allegations levelled in the FIR No.342/2009 registered at the same Police Station are altogether different and the same have been lodged by two different victims. Hence, the instant FIR is not a successive or second FIR and under these circumstances, interference of this Court is not warranted.

15. Heard and considered the submissions made at the Bar and perused the material available on the record.

16. Perusal of the impugned FIR and the allegations levelled therein reveal commission of a cognizable offence. The correctness of the allegations cannot be examined and adjudicated by this Court under its inherent jurisdiction, contained under Section 482 Cr.P.C. and certainly, this task has been assigned to the Investigating Agency.

17. So far as the contentions raised by counsel for the accused-Jitendra Meena with regard to similar allegations by way of lodging a second FIR is concerned, the victims are different in both the FIRs.

Whether the allegations levelled in both the FIRs are similar or not, this fact can also be examined by the Investigating Officer at the time of conclusion of investigation.

18. This Court deems it just and proper to dispose of the instant criminal misc. petitions granting liberty to the accused as well as the complainant to submit appropriate representations before the Investigating Officer.



19. In case, such representation is submitted by the accused, it is expected from the Investigating Officer concerned to examine the same and in case, the involvement of the accused is found to be proved then a notice under Section 41-A IPC would be issued to him.

20. With the aforesaid observations, these criminal misc. petitions stand disposed of.

21. Before parting with this order, this Court feels pain to observe that the instant case is a unique one where FIR was registered more than a decade back, i.e., in the year 2014 and still the investigation is lying pending and the conclusion/report of investigation under Section 173 Cr.P.C. has not been submitted before the competent Court of law inspite of repeated directions issued by this Court.

22. It is quite shocking and surprising on the part of the Investigating Agency to keep pending investigation of the matter for an indefinite period. It is also quite shocking on the part of the Investigating Officer, who has submitted the factual report before this Court on 13.05.2025 stating therein that the investigation of the present FIR could not be concluded inspite of several directions issued by this Court and the justification, so furnished by the Investigating Officer for the same, is not quite satisfactory in the eyes of this Court. The justification of the Investigating Officer, i.e., the SHO, Police Station, Pratap Nagar Jaipur (East), in his factual report dated 13.05.2025, indicates that the orders passed by this Court on multiple occasions could not be complied with because he was occupied in maintaining law and order duty at the Rajasthan State Assembly Sessions, 2025, Shab-e-barat,



Mahashivratri, Holi, Idul Fitr, Jamatulvida, Ramnavmi, Hanuman Jayanti, Ambedkar Jayanti, Indian Premier League Cricket Matches, 2025 (IPL) and during the visit of Vice-President of the United States of America.

23. This Court has noticed and felt on various occasions that the investigation of several criminal cases could not be completed expeditiously and the same have remained pending for a considerably long time because in many cases, the same Investigating Officer, who has been assigned the task to investigate the matter has also been assigned other duties of maintaining law and order in the concerned area. Under these circumstances, it becomes very difficult for such Investigating Officers to discharge both the duties simultaneously.

24. For separation of investigation work from law and order, even the Law Commission of India in its 154th Report has recommended such separation to ensure speedier investigation, better expertise and improved rapport with the people without, of course, any watertight compartmentalisation in view of both functions being closely interrelated at the ground level.

25. In discharge of its constitutional duties, this Court deems it just and proper to observe that certain directions are required to be issued to the State Government for separation of two wings, i.e., one wing for investigation and the other wing for maintaining the law and order, so that no delay occurs in conducting the investigation and arriving at its conclusion.

26. The Investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. There should be full co-





ordination between these two wings. The separation, to start with, may be effected in towns/urban areas which have a population of ten lakhs or more and gradually extended to smaller towns/urban areas as well.

27. Whatever has been observed by this Court hereinabove has already been examined by the Hon'ble Apex Court in the case of **Prakash Singh & Others Vs. Union of India and Others** reported in **(2006) 8 SCC 1**, wherein several directions have been issued to the Central Government as well as the State Governments by the Hon'ble Apex Court for framing of appropriate legislation, policy etc. for separation of investigation from the police wing for maintaining law and order.

For ready reference, the relevant paragraphs 20 to 31 of the aforesaid judgment are reproduced as under:-

"20. Besides the Home Minister, all the commissions and committees abovenoted, have broadly come to the same conclusion on the issue of urgent need for police reforms. There is convergence of views on the need to have (a) State Security Commission at State level; (b) transparent procedure for the appointment of Police Chief and the desirability of giving him a minimum fixed tenure; (c) separation of investigation work from law and order; and (d) a new Police Act which should reflect the democratic aspirations of the people. It has been contended that a statutory State Security Commission with its recommendations binding on the Government should have been established long before. The apprehension expressed is that any commission without giving its report binding effect would be ineffective.

21. More than 25 years back i.e. in August 1979, the Police Commission Report recommended that the





investigation task should be beyond any kind of intervention by the executive or non-executive.

22. For separation of investigation work from law and order even the Law Commission of India in its 154th Report had recommended such separation to ensure speedier investigation, better expertise and improved rapport with the people without of course any watertight compartmentalisation in view of both functions being closely interrelated at the ground level.

23. The Sorabjee Committee has also recommended establishment of a State Bureau of Criminal Investigation by the State Governments under the charge of a Director who shall report to the Director General of Police.

24. In most of the reports, for appointment and posting, constitution of a Police Establishment Board has been recommended comprising the Director General of Police of the State and four other senior officers. It has been further recommended that there should be a Public Complaints Authority at district level to examine the complaints from the public on police excesses, arbitrary arrests and detentions, false implications in criminal cases, custodial violence, etc. and for making necessary recommendations.

25. Undoubtedly and undisputedly, the Commission did commendable work and after in-depth study, made very useful recommendations. After waiting for nearly 15 years, this petition was filed. More than ten years have elapsed since this petition was filed. Even during this period, on more or less similar lines, recommendations for police reforms have been made by other High-Powered Committees as abovenoticed. The Sorabjee Committee has also prepared a draft report. We have no doubt that the said Committee would also make very useful recommendations and come out with a model new Police Act for consideration of the Central and the



State Governments. We have also no doubt that the Sorabjee Committee Report and the new Act will receive due attention of the Central Government which may recommend to the State Governments to consider passing of the State Acts on the suggested lines. We expect that the State Governments would give it due consideration and would pass suitable legislations on recommended lines, the police being a State subject under the Constitution of India. The question, however, is whether this Court should further wait for the Governments to take suitable steps for police reforms. The answer has to be in the negative.

26. Having regard to (i) the gravity of the problem; (ii) the urgent need for preservation and strengthening of the rule of law; (iii) pendency of even this petition for the last over ten years; (iv) the fact that various commissions and committees have made recommendations on similar lines for introducing reforms in the police set-up in the country; and (v) total uncertainty as to when police reforms would be introduced, we think that there cannot be any further wait, and the stage has come for issuing of appropriate directions for immediate compliance so as to be operative till such time a new model Police Act is prepared by the Central Government and/or the State Governments pass the requisite legislations. It may further be noted that the quality of the criminal justice system in the country, to a large extent, depends upon the working of the police force. Thus, having regard to the larger public interest, it is absolutely necessary to issue the requisite directions. Nearly ten years back, in *Vineet Narain v. Union of India* [(1998) 1 SCC 226 : 1998 SCC (Cri) 307] this Court noticed the urgent need for the State Governments to set up the requisite mechanism and directed the Central Government to pursue the matter of police reforms with the State



Governments and ensure the setting up of a mechanism for selection/appointment, tenure, transfer and posting of not merely the Chief of the State Police but also all police officers of the rank of Superintendents of Police and above. The Court expressed its shock that in some States the tenure of a Superintendent of Police is for a few months and transfers are made for whimsical reasons which has not only demoralising effect on the police force but is also alien to the envisaged constitutional machinery. It was observed that apart from demoralising the police force, it has also the adverse effect of politicising the personnel and, therefore, it is essential that prompt measures are taken by the Central Government.

27. The Court then observed that no action within the constitutional scheme found necessary to remedy the situation is too stringent in these circumstances.

28. More than four years have also lapsed since the report abovenoted was submitted by the National Human Rights Commission to the Government of India.

29. The preparation of a model Police Act by the Central Government and enactment of new Police Acts by the State Governments providing therein for the composition of the State Security Commission are things, we can only hope for the present. Similarly, we can only express our hope that all State Governments would rise to the occasion and enact a new Police Act wholly insulating the police from any pressure whatsoever thereby placing in position an important measure for securing the rights of the citizens under the Constitution for the rule of law, treating everyone equal and being partisan to none, which will also help in securing an efficient and better criminal justice delivery system. It is not possible or proper to leave this matter only with an expression of this hope and to await developments further. It is essential to lay down



guidelines to be operative till the new legislation is enacted by the State Governments.

30. Article 32 read with Article 142 of the Constitution empowers this Court to issue such directions, as may be necessary for doing complete justice in any cause or matter. All authorities are mandated by Article 144 to act in aid of the orders passed by this Court. The decision in *Vineet Narain case* [(1998) 1 SCC 226 : 1998 SCC (Cri) 307] notes various decisions of this Court where guidelines and directions to be observed were issued in the absence of legislation and implemented till the legislatures pass appropriate legislations.

31. With the assistance of learned counsel for the parties, we have perused the various reports. In discharge of our constitutional duties and obligations having regard to the aforementioned position, we issue the following directions to the Central Government, State Governments and Union Territories for compliance till framing of the appropriate legislations:

State Security Commission

(1) The State Governments are directed to constitute a State Security Commission in every State to ensure that the State Government does not exercise unwarranted influence or pressure on the State Police and for laying down the broad policy guidelines so that the State Police always acts according to the laws of the land and the Constitution of the country. This watchdog body shall be headed by the Chief Minister or Home Minister as Chairman and have the DGP of the State as its ex-officio Secretary. The other members of the Commission shall be chosen in such a manner that it is able to function independent of Government control. For this purpose, the State may choose any of the models recommended by the National Human Rights Commission, the Ribeiro



Committee or the Sorabjee Committee, which are as under:

NHRC	Ribeiro Committee	Sorabjee Committee
1. Chief Minister/ HM as Chairman.	1. Minister i/c Police as Chairman.	1. Minister i/c Police (ex-officio Chairperson).
2. Lok Ayukta or, in his absence, a retired judge of High Court to be nominated by the Chief Justice or a Member of the State Human Rights Commission.	2. Leader of Opposition.	2. Leader of Opposition.
3. A sitting or retired judge nominated by the Chief Justice of the High Court.	3. Judge, sitting or retired, nominated by the Chief Justice of the High Court.	3. Chief Secretary.
4. Chief Secretary.	4. Chief Secretary.	4. DGP (ex-officio Secretary).
5. Leader of Opposition in the Lower House.	5. Three non-political citizens of proven merit and integrity.	5. Five independent Members.
6. DGP as ex-officio Secretary.	6. DG Police as Secretary.	

The recommendations of this Commission shall be binding on the State Government.

The functions of the State Security Commission would include laying down the broad policies and giving directions for the performance of the preventive tasks and service-oriented functions of the police, evaluation of the performance of the State Police and preparing a report thereon for being placed before the State Legislature.

Selection and minimum tenure of DGP

(2) The Director General of Police of the State shall be selected by the State Government from amongst the three seniormost officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he



has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.

Minimum tenure of IG of police and other officers

(3) Police officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge District and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities. This would be subject to promotion and retirement of the officer.

Separation of investigation

(4) The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. It must, however, be ensured that there is full coordination between the two wings. The separation, to start with, may be effected in towns/urban areas which have a population of ten lakhs or more, and gradually extended to smaller towns/urban areas also.

Police Establishment Board

(5) There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. The Establishment Board shall be a departmental body comprising the Director General of Police and four other senior officers of the Department. The State Government may interfere with the decision of the Board in exceptional cases only after recording its reasons for doing so. The Board shall also be authorised to make appropriate recommendations to the State Government regarding the postings and transfers of officers of and above the rank of



Superintendent of Police, and the Government is expected to give due weight to these recommendations and shall normally accept it. It shall also function as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above regarding their promotions/transfers/disciplinary proceedings or their being subjected to illegal or irregular orders and generally reviewing the functioning of the police in the State.

Police Complaints Authority

(6) There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above. The district-level Authority may be headed by a retired District Judge while the State-level Authority may be headed by a retired Judge of the High Court/Supreme Court. The head of the State-level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice; the head of the district-level Complaints Authority may also be chosen out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him. These Authorities may be assisted by three to five members depending upon the volume of complaints in different States/districts, and they shall be selected by the State Government from a panel prepared by the State Human Rights Commission/Lok Ayukta/State Public Service Commission. The panel may include members from amongst retired civil servants, police officers or officers from any other department, or from the civil society. They would work whole time for the Authority and would have to be suitably remunerated for the services rendered by them. The Authority may also need the services of regular staff to conduct field inquiries. For this purpose, they may utilise the services of retired investigators from the CID, Intelligence, Vigilance or any other organisation. The State-level Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody. The district-level Complaints Authority would, apart from the above cases, may also inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority. The recommendations of the Complaints Authority, both at the



district and State-levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the authority concerned.

National Security Commission

(7) The Central Government shall also set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate appointing authority, for selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years. The Commission would also review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper coordination between them and that the forces are generally utilised for the purposes they were raised and make recommendations in that behalf. The National Security Commission could be headed by the Union Home Minister and comprise heads of CPOs and a couple of security experts as members with the Union Home Secretary as its Secretary.

The aforesaid directions shall be complied with by the Central Government, State Governments or Union Territories, as the case may be, on or before 31-12-2006 so that the bodies aforementioned become operational on the onset of the new year. The Cabinet Secretary, Government of India and the Chief Secretaries of State Governments/Union Territories are directed to file affidavits of compliance by 3-1-2007."

28. It appears that the issue in hand was taken up by the Ministry of Home Affairs, Government of India in the year 2022 and on the basis of 237th Report of the Department related Parliament Standing Committee on Home Affairs, the following letter was sent to all the Additional Chief Secretaries/Principal Secretary (Home)/Home Secretaries of all States/Union Territories, which reads as under:-

"F.No.11019/11/2022-PM-II

Government of India

Ministry of Home Affairs



Jaisalmer House, 26, Man Singh Road,
New Delhi-110011, the 27th April, 2022.

To

1. The Addl. Chief Secretaries/Pr. Secretary (Home) / Home Secretaries of all States/UTs.
2. The Director General of Police of all States/UTs.

Subject:- 237th Report of the Department-related Parliamentary Standing Committee on Home Affairs on the subject "Police- Training, Modernisation and Reforms"

Madam/Sir,

I am directed to refer to the subject mentioned above and to say that Department-related Parliamentary Standing Committee on Home Affairs on the subject "Police-Training, Modernisation and Reforms" has submitted its 237th Report. The Committee has made some recommendations relating to "Separation of Investigation from law and order". This issue was earlier taken up with the States as this was one of the recommendation of the Review Committee (R.S. Mooshahary Committee) on police reforms. Further, this was also one of the directions of the Hon'ble Supreme Court pronounced in its judgment dated 22.09.2006 in Writ Petition titled Prakash Singh & Others Vs Uol & Others.

2. The recommendations/observations of the 237th Report of the Department-related Parliamentary Standing Committee on Home Affairs are as below:-

Para	Recommendations/observations
4.6.9	Separation of Investigation from law and order The Committee notes that only a few States have separated the investigation from the law and order





	duties of their police. The Committee is of the view that separation of investigation from law and order is important to maintain the accountability of the police and increase their autonomy in investigating crimes. Therefore, the Committee recommends that the MHA may advise the remaining States to create separate investigations and law and order wings in the police. It will lead to specialization and professionalism in the police department, speed up the investigation and secure the conviction of offenders.
4.6.10	To address the shortage of staff in creating separate wings for investigation and law & order, the Committee recommends that the personnel of the rank of ASIs & head constables can be utilized for investigation of minor offenses of simple nature after adequate training.
4.6.11	The Committee notes that one of the reasons for low conviction rate is the lapses in the investigation. Therefore, it is important that regular monitoring and supervision of the investigation of cases should be done by senior officers. The Committee recommends that the MHA may advise States for the field visit of the senior police officers of the rank of SP/IG/DIG for on-the-spot assessment of investigation of cases. The SP/DSP should submit monthly PRs (Progress Reports) on important cases and the performance of I/Os. Accordingly, suitable rewards/punishment should also be given to I/Os. The Committee also recommends to upgrade the skills of the I/Os through periodic training and engaging experts as and when necessary cases.

3. It is therefore, requested that necessary action may be taken on the aforesaid recommendations of the Committee.

Yours faithfully,
(Devendra Singh Parihar)
Deputy Secretary to the Government of India”

Perusal of the aforesaid letter clearly indicates that recommendation was made to all the States and Union Territories for Separation of Investigation from law and order.



29. More than two decades have elapsed since order was passed by the Hon'ble Apex Court in the case of **Prakash Singh** (supra) and even after passing of more than two decades, i.e., 20 years, till date the Government of Rajasthan has not formulated/enacted any appropriate legislation/policy for creation of two separate wings of Police so also in the light of the letter dated 27.04.2022 issued by the Ministry of Home Affairs, Government of India. The direction issued in the case of **Prakash Singh** (supra) with further reiteration by the Hon'ble Apex Court in the case of **Pramod Kumar Vs. Bihar Vyavasayik Sangharsh Morcha** reported in **AIR 2007 SC 2948** requires to be implemented at the earliest to avoid any such delays in conducting investigations and bringing forward the conclusions.

30. In the case of **Prakash Singh** (supra), the Hon'ble Apex Court has issued clear and specific directions to the Central as well as the State Governments to bring appropriate legislation by way of bringing new Police Act for separation of investigation work from law and order. Even the Hon'ble Apex Court, after studying various committee reports on police reforms has laid down certain directions in the nature of police reforms to be operative until the new Police Act is to be framed. It is necessary to quote the following excerpt from the judgment:

"It is not possible or proper to leave this matter only with an expression of this hope and to await developments further. It is essential to lay down guidelines to be operative till the new legislation is enacted by the State Governments. Article 32 read with Article 142 of the Constitution empowers this Court to issue such directions, as may be necessary for doing complete justice in any cause or matter. All authorities



are mandated by Article 144 to act in aid of the orders passed by this Court....In the discharge of our constitutional duties and obligations having regard to the aforementioned position, we issue the following directions to the Central Government, State Governments and Union Territories for compliance till framing of the appropriate legislations."

31. Until the new Police Act is framed by the Central Government or by the State of Rajasthan, in pursuance of the directions issued by the Hon'ble Apex Court in the case of **Prakash Singh** (supra) and in pursuance of the letter dated 27.04.2022 issued by the Ministry of Home Affairs, Government of India, this Court deems it just and proper to direct the State Heads of various Departments, i.e., the Chief Secretary, the Principal Secretary, Department of Home Affairs, the Director General of Police, Government of Rajasthan to form appropriate policy for separation of police investigation wings from the Police and create a separate wing for maintaining law and order.

32. Therefore, this Court deems it just and proper to issue directions to the Chief Secretary, Government of Rajasthan; and the Additional Chief Secretary, Department of Home, Government of Rajasthan, Director General of Police to draft a policy for separation of powers of police by constituting two different wings, i.e., one for maintaining law and order and another for investigating the case registered with the concerned Police Station until a legislation is introduced in this regard.

33. This Court hopes & trusts that appropriate legislation would be introduced by the State Government, in terms of the observations issued by the Hon'ble Apex Court in the case of **Prakash Singh** (supra).



34. This Court also deems it just and proper to issue directions to the Investigating Officer of the present case to conclude the investigation of the instant FIR expeditiously, as early as possible, without any further delay within a period of six weeks from the date of receipt of certified copy of this order and submit his report of conclusion under Section 173 Cr.P.C.

35. The Commissioner of Police and the Additional Commissioner of Police (East), Jaipur are directed to monitor the investigation of the impugned FIR and instruct the concerned SHO to conclude the investigation of impugned FIR within the above stipulated time fixed by this Court and ensure compliance of the directions issued by this Court, failing which appropriate action would also be taken against them for non-compliance of this order.

36. It is made clear that, in case the directions issued by this Court are again flouted by the concerned Investigating Officer, the same would be viewed seriously and contempt proceedings would be initiated against him, on filing of appropriate application by either side before this Court.

37. Let a copy of this order be sent to the Chief Secretary, Government of Rajasthan; the Additional Chief Secretary, Department of Home, Government of Rajasthan; the Director General of Police, the Commissioner of Police, the Additional Commissioner of Police (East), Jaipur and the Station House Officer, Police Station Pratap Nagar (East), Jaipur for necessary compliance of this order.

38. Stay applications as well as all pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

Karan/21-22