

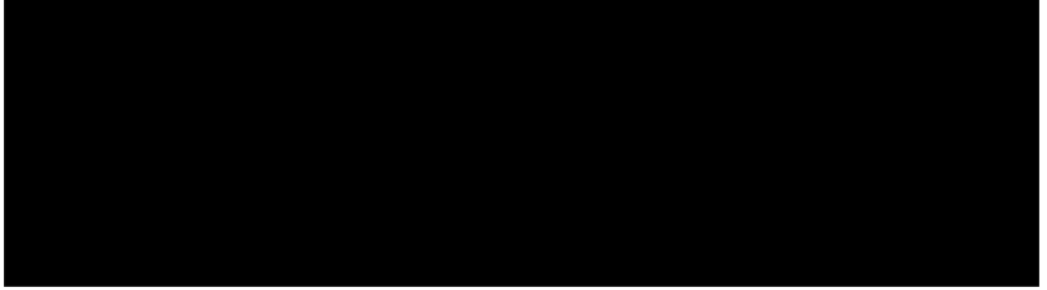
**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



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

1.

2.



----Petitioners

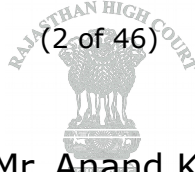
Versus

1. State Of Rajasthan, through Public Prosecutor.
 2. The Director General of Police, Rajasthan, Jaipur.
 3. The Superintendent of Police, Karauli.
 4. The Station House Officer, Police Station Hindauncity,
District Karauli.
 5. The Station House Officer, Police Station Masalpur, District
Karauli.
 6. Kaduram S/o Ramdhan,
 7. Fouranti Devi W/o Kaduram,
 8. Roopsingh S/o Ramdhan,
 9. Rishikesh S/o Ramdhan,
- Respondent No.6 to 9 are resident of Chainpura, Tehsil
Karauli, District Karauli.
10. Kalla S/o Chiranji, R/o Jhadoli, Tehsil Bavanwas, District
Gangapur City.

----Respondents

For Petitioner(s) : Mr. Tribhuvan Narayan Singh
Mr. Sukhdev Singh Solanki
Mr. Chitransh Sharma
Mr. Moharpal Meena
Mr. Arvind Balot
Mr. Prakash Thakuriya
Mr. Suresh Kumar

For Respondent(s) : Mr. G.S. Rathore, GA-cum-AAG with
Mr. Atul Sharma, PP



Mr. Anand Kumar, ACS (Home)
through V.C.
Mr. Jai Narayan Sher, IGP with
Smt. Navita Khokhar, RPS present in
person

HON'BLE MR. JUSTICE SAMEER JAIN

Order

REPORTABLE

Reserved on **11/07/2024**

Pronounced on **02/08/2024**

PREFATORY REMARKS:

1. The instant Writ Petition involves a crucial issue regarding the constitutional and statutory obligations of the State, and particularly the police authorities, qua safeguarding the life and liberty of persons who face threats of extra-legal harassment and/or violence at the hands of other social actors or groups.

SUBMISSIONS OF THE PETITIONERS AND MEMBERS OF THE

BAR:

2. Learned counsel for the petitioners has submitted that petitioners no. 1 and 2 are a major couple who solemnized their marriage with mutual consent on 01.03.2024. It is submitted that the petitioners apprehend a threat to their safety from respondents no. 6 to 10, who are the family members of petitioner no. 1, and who perceive the petitioners' marriage as a threat to their honor and social standing.

3. Respondents no. 2 to 5 are the police authorities against whom the petitioners have prayed for directions to the effect that the petitioners' safety is ensured. In this regard, learned counsel for the petitioner has submitted that a representation highlighting the threat to the petitioners' lives, and seeking the implementation of appropriate measures to ensure the petitioners' safety, was filed before the police authorities on 01.03.2024. Nevertheless, the said representation was not duly considered by the police authorities.

4. This Court has often been called on to adjudicate cases wherein persons who apprehend extra-legal threats to their lives and liberty are compelled to approach this Court for the requisite directions to the police authorities to ensure their safety. This Court notes that on a daily basis, approximately 15-20 petitions with prayers for the reliefs as aforementioned are filed before this Court, often at the first instance and without the respective persons having earlier filed a representation before the respective police authorities for the implementation of adequate measures to safeguard the respective persons' lives and liberty. This Court is conscious of the institutional limitations of its adjudicatory processes in deciding the complex, and often disputed, questions of fact that are raised in petitions of this nature. For instance, to adjudicate on the petitions pertaining to police protection that are filed by persons who are married/ are in a close relationship, including the instant writ petition, this Court must reach findings of fact on questions including the age and nationality of the respective persons seeking protection; the nature of the

relationship between the parties (marriage, live-in relationship etc.); and the existence of free consent on part of the respective parties, especially the respective women, qua the marriage/ close relationship. Given the nature of this Court's jurisdictions under Article 226 of the Constitution and Section 528 of the BNSS 2023 (corresponding to Section 482 of the CrPC 1973), this Court cannot adjudicate on such questions of fact through deploying the mechanisms for fact-finding that are available to and deployed by Courts of first instance. Nevertheless, this Court considers the filing of a sizeable number of petitions relating to police protection by persons who apprehend extra-legal threats to their safety, with most such petitions being filed before this Court at the first instance, to be indicative of an underlying systemic malaise which requires the intervention of this Court for the respective persons' lives and liberty to be safeguarded.

5. Accordingly, vide the order dated 03.07.2024, this Court invited the members of the Bar at large to address this Court on the next date of hearing regarding the existing mechanism(s) for the grant of police protection to persons who apprehend such threats, and the lacunae in these mechanisms. The members of the Bar were heard, and the arguments in the instant writ petition were concluded, on 11.07.2024.

6. From the bar, submissions were made before this Court by the learned counsel Mr. Tribhuvan Narayan Singh, Mr. Sukhdev Singh Solanki, Mr. Chitransh Sharma, Mr. Moharpal Meena, Mr. Arvind Balot, Mr. Prakash Thakuriya, and Mr. Suresh Kumar. The learned counsel have submitted that the persons who are married/

are in a close relationship, and who approach this Court qua ensuring their safety, are often hesitant to approach/ file a representation for that purpose before the police authorities. This is because the respective couples apprehend that their constitutional rights would not be sufficiently protected, and would perhaps be further violated, if and when they approach the police authorities. Further, the learned counsel have submitted that even in cases where the respective couples have filed representations before the police authorities to ensure their safety, such representations are not duly considered and decided in accordance with law. Therefore, it is submitted that the respective couples are compelled to approach this Court to ensure that their constitutional rights are safeguarded against perceived extra-legal threats to their lives and liberty.

7. In this respect, the learned counsel have submitted that the respective couples who approach the police to seek measures relating to protection face the following barriers in the safeguarding of their constitutional rights:

7.1 In most cases, the police officers concerned do not tender responses to the representations filed by the respective couples, and/or do not undertake the necessary procedures to ascertain whether the respective couples ought to be granted protection;

7.2 In many cases, the police officers concerned harass the respective couples based on extra-constitutional societal norms and prejudices. Further, the police officers concerned often collude with the social actors who seek to scuttle the couple's autonomy,

such as their respective families. Such collusion often culminates in the couple's, especially the respective woman's, coercive detention at the respective police station and/or in the custody of the respective family, which is illegal and violative of their constitutional rights.

7.3 Such police harassment is exacerbated in the case of inter-caste or inter-faith couples, whose relationships/marriages do not receive social acceptance. Hence, instead of safeguarding the respective couples' constitutional rights against social norms that are inconsistent with the constitutional values, the police operate to legitimise and entrench such social norms.

8. Accordingly, it is submitted that the couples who are married/ are in a close relationship, including the petitioners in the instant writ petition, are compelled to approach this Court to ensure that their constitutional rights under Part III of the Constitution, particularly under Articles 14 and 21, are protected. In support of their averments, the learned counsel have placed reliance on the judgments of the Hon'ble Supreme Court in **Lata Singh vs. State of UP** reported in **(2006) 5 SCC 475**; and in **Shakti Vahini vs. Union of India** reported in **AIR 2018 SC 1601**.

9. Accordingly, relying on the arguments as aforesaid, it was prayed that the instant writ petition be allowed in terms of the prayers made therein. In essence, the petitioners in the instant writ petition have prayed for directions to the respondent-police authorities to take appropriate measures to ensure the petitioners' safety. Further, the learned members of the Bar who addressed

this Court on 11.07.2024 have prayed for certain directions to ensure that adequate systems are created to protect the constitutional rights of couples who are married/ are in a close relationship, and who exercise their autonomy in contravention of the extant social norms. The directions prayed for include the following:

9.1 The creation of an online system through which the couples who apprehend threats to their safety can file representations for the grant of police protection, which would be decided expeditiously and in a time-bound manner;

9.2 The conferral of the responsibility to take a decision qua such representations on authorities other than the police, such as the District Magistrate, District Judge/ Chief Judicial Magistrate, or the Registrar (Judicial);

9.3 The creation of shelter homes wherein the respective couples' safety would be assured, in line with the directions issued by the Hon'ble Supreme Court in the judgment in **Shakti Vahini (Supra)**.

SUBMISSIONS OF THE RESPONDENTS:

10. *Per contra*, Mr. G.S. Rathore, learned GA-cum-AAG appearing on behalf of the respondent-State has submitted that there exist efficacious mechanisms in the existing law and legal procedures for the safeguarding of the constitutional rights of the couples who are married/ are in a close relationship, including the petitioners in the instant writ petition. In this regard, data have been submitted before this Court to the effect that almost all the representations which were filed by couples who apprehended a threat to their

safety before the police authorities concerned in 2023 and in 2024 (upto May 2024) have been duly considered and disposed of in accordance with law. Further, the learned AAG has submitted that in case such representations are not duly considered and disposed of, the same may be reported to the designated police officers, or to the 'Police Accountability Committees' which have been constituted at the State and District levels under the Rajasthan Police Act, 2007.

11. Vide the order dated 03.07.2024 in the instant writ petition, this Court directed the State Authorities concerned/ Office of the Director General of Police, Jaipur to produce before this Court a draft Standard Operating Procedure ('SoP') which would govern the consideration and disposal by the police authorities of representations for enhanced police protection. Consequently, the SoP No. प.6 (40) पु0अ0/म0अ0/प्रेमी यु/पार्ट-2/23/ has been submitted for this Court's consideration.

12. The learned AAG has submitted that the draft SoP has posited a multi-layered and time-bound mechanism for the expeditious disposal of representations for enhanced police protection that are filed by couples who are married/ are in a close relationship. It is submitted that the draft SoP also specifies potential courses of action for couples whose representations are not duly considered or decided on by the respective police authorities. Further, it is submitted that the draft SoP mentions certain Whatsapp and helpline numbers through which the couples who apprehend a threat to their safety can approach the police authorities to ensure that their lives and liberty are protected.

13. Therefore, relying upon the arguments noted hereinabove, the learned AAG prayed for the dismissal of the instant Writ Petition, and of the prayers made by the learned members of the Bar before this Court.

DISCUSSION AND FINDINGS:

14. Heard and considered the arguments advanced by learned counsel before this Court, scanned the record of the instant writ petition and perused the judgments cited at Bar.

15. In support of their contentions before this Court, the learned counsel for the petitioners and the members of the Bar have relied primarily on the constitutional guarantees enshrined in Articles 14 and 21 of the Constitution of India. The said constitutional provisions are reproduced as follows:

"Article 14 - Equality before law

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 21 - Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law."

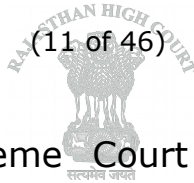
16. In **Lata Singh (Supra)**, the Hon'ble Supreme Court recognised the autonomy of persons who have attained the age of majority to solemnize inter-caste or inter-faith marriages with other persons who have attained the age of majority. Further, the Hon'ble Supreme Court strongly condemned instances where certain social actors sought to scuttle the respective couple's personal choice, through subjecting the latter to extra-legal forms

of coercion. The relevant extracts from the judgment are reproduced as follows:

"14. This case reveals a shocking state of affairs. There is no dispute that the Petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was committed by the Petitioner, her husband or her husband's relatives.

17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. ... "

17. With respect to the role and responsibility of the police in preventing and responding to such violations of constitutional



rights, the Hon'ble Supreme Court in **Lata Singh (Supra)** recognised the institutional role of the police as an organ of the State in safeguarding the respective couple's personal choice. Further, the Hon'ble Supreme Court issued directions to the police authorities throughout India to ensure that the couples who had attained the age of majority, and thereafter solemnized inter-caste or inter-faith marriages, were shielded from extra-legal harassment and/or violence. The relevant extracts from the judgment are reproduced as follows:

"15. We are of the opinion that no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the court as well as of the administrative machinery at the instance of the Petitioner's brothers who were only furious because the Petitioner married outside her caste. We are distressed to note that instead of taking action against the Petitioner's brothers for their unlawful and high-handed acts (details of which have been set out above), the police has instead proceed against the Petitioner's husband and his relatives.

17. ... We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter religious marriage with a woman or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.

19. *In the circumstances, the writ petition is allowed. The proceedings in Sessions Trial No. 1201 of 2001 titled State of U.P. v. Sangita Gupta arising out of FIR No. 336 of 2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the places concerned should ensure that neither the Petitioner nor her husband nor any relatives of the Petitioner's husband are harassed or threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned."*

18. In the judgment in **Shakti Vahini (Supra)**, the Hon'ble Supreme Court further reiterated its reasoning and directions as passed in the judgment in **Lata Singh (Supra)**, in the context of the 'honour' crimes of the kind apprehended by the petitioners in the instant writ petition. In **Shakti Vahini (Supra)**, the Hon'ble Supreme Court held that the choice of one's partner or spouse is an inherent facet of the dignity and personal autonomy which are constitutionally protected under Article 21 of the Constitution. The relevant extracts from the judgment are reproduced as follows:

"42. ... Honour killing guillotines individual liberty, freedom of choice and one's own perception of choice. It has to be sublimely borne in mind that when two adults consensually choose each other as life partners, it is a manifestation of their choice which is recognized Under Articles 19 and 21 of the Constitution. Such a right has the sanction of the constitutional law and once that is recognized, the said right needs to be protected and it cannot succumb to the conception of class honour or

group thinking which is conceived of on some notion that remotely does not have any legitimacy.

44. The choice of an individual is an inextricable part of dignity, for dignity cannot be thought of where there is erosion of choice. True it is, the same is bound by the principle of constitutional limitation but in the absence of such limitation, none, we mean, no one shall be permitted to interfere in the fructification of the said choice. If the right to express one's own choice is obstructed, it would be extremely difficult to think of dignity in its sanctified completeness. When two adults marry out of their volition, they choose their path; they consummate their relationship; they feel that it is their goal and they have the right to do so. And it can unequivocally be stated that they have the right and any infringement of the said right is a constitutional violation. ..."

19. Further, in **Shakti Vahini (Supra)**, the Hon'ble Supreme Court strongly condemned the illegal but socially legitimized practice of meting out extra-legal harassment or violence, in the name of 'honour', against the persons who exercised their personal choice to choose their partners/ spouses in defiance of social norms. The Hon'ble Supreme Court held that such extra-legal harassment or violence was an affront to the Rule of Law, and was rooted in social prejudices regarding the role and position of women in the family and in society. The relevant extracts from the judgment are reproduced as follows:

"1. ...The question that poignantly emanates for consideration is whether the elders of the family or clan can ever be allowed to proclaim a verdict guided by some notion of passion and eliminate the life of the

young who have exercised their choice to get married against the wishes of their elders or contrary to the customary practice of the clan. The answer has to be an emphatic "No". It is because the sea of liberty and the ingrained sense of dignity do not countenance such treatment inasmuch as the pattern of behavior is based on some extra-constitutional perception. ...

4. It is contended that the existence of a woman in such an atmosphere is entirely dependent on the male view of the reputation of the family, the community and the milieu. Sometimes, it is centered on inherited local ethos which is rationally not discernible. The action of a woman or a man in choosing a life partner according to her or his own choice beyond the community norms is regarded as dishonour which, in the ultimate eventuate, innocently invites death at the cruel hands of the community prescription. The reputation of a woman is weighed according to the manner in which she conducts herself, and the family to which the girl or the woman belongs is put to pressure as a consequence of which the members of the family, on certain occasions, become silent spectators to the treatment meted out or sometimes become active participants forming a part of the group either due to determined behaviour or unwanted sense of redemption of family pride.

5. The concept of honour with which we are concerned has many facets. Sometimes, a young man can become the victim of honour killing or receive violent treatment at the hands of the family members of the girl when he has fallen in love or has entered into marriage. The collective behaves like a patriarchal monarch which treats the wives, sisters and daughters subordinate, even servile or self-sacrificing, persons moving in physical frame having no individual autonomy, desire and identity. The concept of status is accentuated by the male members of the community and a sense of

masculine dominance becomes the sole governing factor of perceptive honour.

7. ... The constitutional provisions are shown scant regard and human dignity is treated at the lowest melting point by this collective. Article 21 which provides for protection of life and liberty and guards basic human rights and equality of status has been unceremoniously shown the exit by the actions of these Panchayats or the groups who, without the slightest pangs of conscience, subscribe to honour killing. ...

39. ... The human rights of a daughter, brother, sister or son are not mortgaged to the so-called or so-understood honour of the family or clan or the collective. The act of honour killing puts the Rule of law in a catastrophic crisis.

41. What we have stated hereinabove, to explicate, is that the consent of the family or the community or the clan is not necessary once the two adult individuals agree to enter into a wedlock. Their consent has to be piously given primacy. If there is offence committed by one because of some penal law, that has to be decided as per law which is called determination of criminality. It does not recognize any space for informal institutions for delivery of justice. It is so since a polity governed by 'Rule of Law' only accepts determination of rights and violation thereof by the formal institutions set up for dealing with such situations. It has to be constantly borne in mind that Rule of law as a concept is meant to have order in a society. It respects human rights. Therefore, the Khap Panchayat or any Panchayat of any nomenclature cannot create a dent in exercise of the said right.

44. ... The majority in the name of class or elevated honour of clan cannot call for their presence or force their appearance as if they are the monarchs of some indescribable era who have the power, authority and

final say to impose any sentence and determine the execution of the same in the way they desire possibly harbouring the notion that they are a law unto themselves or they are the ancestors of Caesar or, for that matter, Louis the XIV. The Constitution and the laws of this country do not countenance such an act and, in fact, the whole activity is illegal and punishable as offence under the criminal law."

20. Accordingly, to curb the pervasive social practice of crimes based on 'honour', the Hon'ble Supreme Court issued certain preventive, remedial, and punitive directions in the judgment in **Shakti Vahini (Supra)**. For the purposes of the instant Writ Petition and the issue before this Court, it is significant that the Hon'ble Supreme Court directed the police authorities to *inter alia* (1) prevent offences based on 'honour' as aforementioned; and (2) ensure protection for the respective couple against extra-legal harassment and violence by other social actors or groups. Further, the Hon'ble Supreme Court directed the State Governments to *inter alia* establish 'safe houses' for the respective couples who were threatened with extra-legal harassment or coercion on account of their personal choice as aforementioned. The relevant extracts from the judgment relating to police protection and the establishment of safe houses are reproduced as follows:

"48. Having noted the viciousness of honour crimes and considering the catastrophic effect of such kind of crimes on the society, it is desirable to issue directives to be followed by the law enforcement agencies and also to the various administrative authorities. We are disposed to think so as it is the obligation of the State to have an atmosphere where

the citizens are in a position to enjoy their fundamental rights. ...

53. Mr. Raju Ramachandran, learned senior Counsel being assisted by Mr. Gaurav Agarwal, has filed certain suggestions for issuing guidelines. The Union of India has also given certain suggestions to be taken into account till the legislation is made. To meet the challenges of the agonising effect of honour crime, we think that there has to be preventive, remedial and punitive measures and, accordingly, we state the broad contours and the modalities with liberty to the executive and the police administration of the concerned States to add further measures to evolve a robust mechanism for the stated purposes. ...

II. Remedial Measures:

...

(c) Additionally, immediate steps should be taken to provide security to the couple/family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety and threat perception. The State Government may consider of establishing a safe house at each District Headquarter for that purpose. Such safe houses can cater to accommodate (i) young bachelor-bachelorette couples whose relationship is being opposed by their families/local community/Khaps and (ii) young married couples (of an inter-caste or inter-religious or any other marriage being opposed by their families/local community/Khaps). Such safe houses may be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police.

(d) The District Magistrate/Superintendent of Police must deal with the complaint regarding threat administered to such couple/family with utmost

sensitivity. It should be first ascertained whether the bachelor-bachelorette are capable adults. Thereafter, if necessary, they may be provided logistical support for solemnising their marriage and/or for being duly registered under police protection, if they so desire. After the marriage, if the couple so desire, they can be provided accommodation on payment of nominal charges in the safe house initially for a period of one month to be extended on monthly basis but not exceeding one year in aggregate, depending on their threat assessment on case to case basis....”

21. In light of the Hon’ble Supreme Court’s reasoning and directions in **Lata Singh (Supra)** and **Shakti Vahini (Supra)**, this Court affirms that the constitutional guarantees under Articles 14 and 21 bolster the claim for enhanced police protection for the major persons who exercise their personal autonomy to choose their partners/spouses, and thus apprehend extra-legal threats to their safety from other social actors or groups. In such situations, not only do the constitutional guarantees of life and liberty of the respective couples stand to be negated, but the constitutional edifice of the Rule of Law itself stands threatened. Further, the extra-legal forms of harassment and violence which are apprehended by the respective couples are rooted in patriarchal social norms that refuse to recognise women’s autonomy to determine the course of their lives.

22. In this regard, this Court recognises the constitutional duty of the State and its instrumentalities to ensure that appropriate laws and policies are enacted and implemented to respect,

protect, and promote the respective persons' autonomy to choose their partners/spouses post attaining the age of majority. This conclusion flows inescapably from Articles 14 and 21 read with Articles 12 and 13 of the Constitution, and has been upheld by the Hon'ble Supreme Court in its judgments in **Lata Singh (Supra)** and **Shakti Vahini (Supra)**.

23. A crucial element of the constitutional duty as aforesaid is the constitutional obligation of the police authorities to ensure the appropriate level of protection for the respective couples, so as to ensure that the latter are able to exercise their personal autonomy unfettered by the confines of extra-legal harassment or violence. This constitutional responsibility has been recognised by the Hon'ble Supreme Court in **Lata Singh (Supra)** and **Shakti Vahini (Supra)**. Further, the same finds statutory reflection in Sections 168 and 169 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Sections 149 and 150 of the Code of Criminal Procedure, 1973), which delineate the duties of police officers relating to the prevention of cognizable offences; and in Sections 29 of the Rajasthan Police Act, 2007, which specifies the various duties of police officers. The aforesaid statutory provisions have been reproduced as under:

"Bharatiya Nagarik Suraksha Sanhita, 2023

Section 168 - Police to prevent cognizable offences

Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Section 169 - Information of design to commit cognizable offences

Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Code of Criminal Procedure, 1973

Section 149 - Police to prevent cognizable offences

Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Section 150 - Information of design to commit cognizable offences

Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Rajasthan Police Act, 2007

Section 29 - Functions, Duties and responsibilities of police officers

(1) The following shall be the functions, duties and responsibilities of a police officer: -

- (a) to enforce the law, and to protect life, liberty, property, rights, dignity and human rights of the people;*
- (b) to prevent crime and public nuisance;*
- (c) to maintain public order;*
- (d) to preserve internal security, prevent and control terrorist activities, and to prevent breach of public peace;*
- (e) to protect public property;*
- (f) to detect offences and bring the offenders to justice;*
- (g) to apprehend persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist;*

(h) to help people in situations arising out of natural or man-made disasters, and to assist other agencies in relief measures;

(i) to facilitate orderly movement of people and vehicles, and to control and regulate traffic;

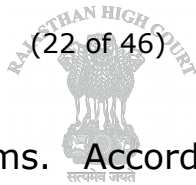
(j) to gather intelligence relating to matters affecting public peace and crime;

(k) to provide security to public authorities in discharging their functions and duties; and

(l) to perform such duties and discharge such responsibilities as may be enjoined upon him by law or by an authority empowered to issue such directions under any law.

(2) The State Government, or an authority specially empowered in this behalf by the State Government, may assign such other duties and responsibilities to police officers as may be specified by the State Government."

24. From a different lens, the constitutional responsibility as aforementioned flows inescapably from the institutional powers of the police as one of the primary institutions for maintaining law and order, wherein the State's monopoly over legitimate forms of coercion manifests itself. Within a constitutional edifice that is built on the supremacy of the Constitution, such institutional powers must be exercised to, and only to, further the constitutional vision and values; and only in accordance with the constitutional provisions as well as statutes that stand the test of constitutional validity. Therefore, the police authorities bear a constitutional responsibility to provide enhanced protection to the respective couples whose autonomy stands to be scuttled by social actors or groups who deploy extra-legal harassment or threats to entrench



the dominant social norms. Accordingly, in case the police authorities fail to discharge their duty as aforesaid, there must exist appropriate institutional mechanisms which are accessible for the aggrieved persons, and which ensure that the respective police officers are held accountable for their failure to prevent/collusion in the occurrence of the resultant constitutional and legal infractions.

25. The significance of adequate institutional mechanisms to ensure the accountability of the police authorities was highlighted by the Hon'ble Supreme Court in the judgment of **Prakash Singh and others vs. Union of India and others** reported in **(2006) 8 SCC 1**. In this judgment, the Hon'ble Supreme Court recorded the petitioners' submissions pertaining to the extant political influence on the police authorities within the country, which resulted in the politically dominant actors gaining leverage to violate the law with impunity. In the consideration of the Hon'ble Supreme Court, such external influences on the police were constitutionally impermissible, considering the constitutional responsibility of the police to function in accordance with the constitutional norms and values. The relevant extracts from the judgment are reproduced as under:

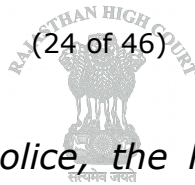
"10. It has been averred in the petition that the violation of fundamental and human rights of the citizens are generally in the nature of non-enforcement and discriminatory application of the laws so that those having clout are not held accountable even for blatant violations of laws and, in any case, not brought to justice for the direct violations of the rights of citizens in the form of unauthorized detentions, torture, harassment,



fabrication of evidence, malicious prosecutions etc. The petition sets out certain glaring examples of police inaction. According to the petitioners, the present distortions and aberrations in the functioning of the police have their roots in the Police Act of 1861, structure and organization of police having basically remained unchanged all these years.

11. The petition sets out the historical background giving reasons why the police functioning has caused so much disenchantment and dissatisfaction. It also sets out recommendations of various Committees which were never implemented. Since the misuse and abuse of police has reduced it to the status of a mere tool in the hands of unscrupulous masters and in the process, it has caused serious violations of the rights of the people, it is contended that there is immediate need to re-define the scope and functions of police, and provide for its accountability to the law of the land, and implement the core recommendations of the National Police Commission. The petition refers to a research paper 'Political and Administrative Manipulation of the Police' published in 1979 by Bureau of Police Research and Development, warning that excessive control of the political executive and its principal advisers over the police has the inherent danger of making the police a tool for subverting the process of law, promoting the growth of authoritarianism, and shaking the very foundations of democracy.

12. The commitment, devotion and accountability of the police has to be only to the Rule of Law. The supervision and control has to be such that it ensures that the police serves the people without any regard, whatsoever, to the status and position of any person while investigating a crime or taking preventive measures. Its approach has to be service oriented, its role has to be defined so that in appropriate cases, where on account of acts of omission



and commission of police, the Rule of Law becomes a casualty, the guilty Police Officers are brought to book and appropriate action taken without any delay.

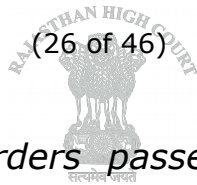
26. Having regard to (i) the gravity of the problem; (ii) the urgent need for preservation and strengthening of Rule of Law; (iii) pendency of even this petition for last over ten years; (iv) the fact that various Commissions and Committees have made recommendations on similar lines for introducing reforms 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 issue 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 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 India¹, 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 demoralizing effect on the police force but is also alien to the envisaged constitutional machinery. It was observed that apart from demoralizing the police force, it has also the

adverse effect of politicizing the personnel and, therefore, it is essential that prompt measures are taken by the Central Government.

29. The preparation of a model Police Act by the Central Government and enactment of new Police Acts by State Governments providing therein for the composition of 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."

26. Accordingly, the Hon'ble Supreme Court issued various directions to ensure that the police authorities across the country were shielded from external influences, and were held accountable to the applicable constitutional and statutory norms. Of these directions, the constitution of the 'Police Complaints Authority' at the State and District levels is particularly significant for the adjudication of the instant writ petition. The relevant extracts from the judgment are reproduced as follows:

"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's case¹ notes various decisions of this Court where guidelines and directions to be observed were issued in absence of legislation and implemented till 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:

...

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 utilize the services of retired investigators from the CID, Intelligence, Vigilance or any other organization. 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 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.

...

The aforesaid directions shall be complied with by the Central Government, State Governments or Union Territories, as the case may be, on or before 31st December, 2006 so that the bodies afore-noted became 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 3rd January, 2007."

27. This Court records the failure of the State of Rajasthan to comply with the aforesaid directions of the Hon'ble Supreme Court in the judgment in **Prakash Singh (supra)**. Qua the constitution of the 'Police Complaints Authority' in the context of Rajasthan,

this Court's attention was drawn to Sections 62 to 69 of the Rajasthan Police Act, 2007, which posit different facets of the constitution and functioning of the 'Police Accountability Committees' at the State and District levels. The relevant statutory provisions are reproduced as follows:

"Section 62 - Police accountability

(1) The State Government may, as soon as may be, establish a State Police Accountability Committee (hereinafter referred to as "State Committee"), and District Accountability Committee (hereinafter referred to as "District Committee") for each district or group of districts.

(2) The Chairman and the Members of the Committees established under this section may be paid such honorarium and out of pocket expenses as the State Government may, from time to time, determine by a general or special order.

Section 63 - The State Committee

(1) The State Committee shall have five members nominated by the State Government as follows:-

(a) four persons of eminence with experience in public dealing and having credible record of integrity and commitment to human rights as independent members:

Provided that one independent member shall be from weaker sections of society and one from women;

(b) One officer of the rank of Additional Director General of Police as its Member-Secretary;

(c) The Government shall appoint one of the independent members as the Chairman of the State Committee.

(2) The State Committee may be provided with such secretarial assistance as the Government may determine, from time to time, by a general or special order.

Section 64 - The functions of the State Committee

The functions of the State Committee shall be as follows:-

- (a) to enquire into allegations of "serious misconduct", against police officers in the Supervisory ranks, either suo moto or on a complaint received from a victim or any person on his behalf or from the District Committee;
- (b) to carry out such other functions as the Government may, from time to time, specify;
- (c) to make recommendations to the State Government on any case entered into by it, wherever required.

Explanation:- "serious misconduct" for the purpose of this Section shall mean :

(I) any mala fide act of omission or commission by a police officer that leads to or amounts to:

- (i) grievous hurt;
- (ii) illegal detention; or
- (iii) any other offence for which the maximum punishment prescribed in law is ten years or more.

(II) Extortion by a police officer.

Section 65 - Powers of the State Committee

The State Committee shall, while discharging its functions under this Act, have same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act No.5 of 1908) when trying a suit, in respect of the following matters, namely:-

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commission for examination of witnesses, and the proceedings before the Committee shall be deemed to be the judicial proceedings within the meaning of sections 193, 196 and 228 of the Indian Penal Code, 1860 (Central Act No. 45 of 1869).

Section 66 - District Committee

(1) The District Committee shall have five members nominated by the State Government as follows :

(a) four persons of eminence with experience in public dealing and having credible record of integrity and commitment to human rights as independent members: Provided that one independent member shall be from weaker sections of society and one from women.

(b) One officer of the rank of Additional Superintendent of Police as its Member-Secretary;

(c) The Government shall appoint one of the independent members as the Chairman of the District Committee.

Section 67 - The Functions of the District Committee

The District Committee shall perform the following functions:-

(a) to enquire into allegations of serious misconduct, against police personnel in subordinate rank, either suo motto or on a complaint and to send its recommendations to the disciplinary authority concerned: Provided that the disciplinary authority shall take decision on the recommendations made by the committee within a period of three months and send a copy of the decision also for information of the committee;

(b) to monitor departmental enquiries against police officers in the subordinate ranks;

(c) to refer to the State Committee complaints received to it against the police officers in the supervisory ranks and such other matters as it may deem fit.

Section 68 - Tenure of independent members of the Committees

(1) The tenure of an independent member of the State Committee or the District Committee shall be two years and no independent member shall be nominated for the second term in the same committee.

(2) The State Government may remove an independent member of the State Committee or the District Committee, if he incurs any disqualification specified in

Section 69, or if he fails to perform duties enjoined upon him as an independent member.

Section 69 - Disqualification for nomination as Independent Member

A person shall not be eligible to be nominated as an Independent Member of the State Committee or of the District Committee, if he

(a) is not a citizen of India;

(b) has been convicted by a court of law, or against whom charges of an offence involving moral turpitude have been framed by a court;

(c) has been dismissed, removed or compulsorily retired from any public service;

(d) has been declared insolvent by a court of law;

(e) is of unsound mind; or

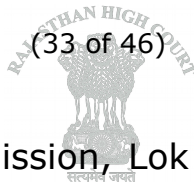
(f) is or has been a Member of Parliament or the Legislature of a State or a local body; or is or has been an office-bearer of any political party or any organisation connected with a political party; or is or has been a member of any political party or any organization affiliated to a political party."

28. This Court finds that the aforementioned statutory provisions pertaining to the 'Police Accountability Committee' mechanism are marked by a dilution of various safeguards which were posited in the Hon'ble Supreme Court's directions in **Prakash Singh (Supra)**. The said statutory provisions exhibit a departure from the Hon'ble Supreme Court's directions in terms of the composition, method of selection, and the (non-)binding nature of the recommendations of the 'Police Accountability Committees' at both levels. The specific facets of the 'Police Complaints Authority' mechanism as delineated by the Hon'ble Supreme Court in

Prakash Singh (supra), which have been contravened in the provisions pertaining to the 'Police Accountability Committee' mechanism as posited under the Rajasthan Police Act, 2007, are as follows:

28.1. **Composition:** As per the directions of the Hon'ble Supreme Court, the head of the state-level Police Complaints Authority shall be a retired Judge of the Hon'ble Supreme Court/the High Court, while the district-level Police Complaints Authorities shall be headed by retired District Judges. Further, as per the Hon'ble Supreme Court's directions, the Police Complaints Authorities at the state and district levels shall comprise "*members from amongst retired civil servants, police officers or officers from any other department, or from the civil society.*" *Per contra*, Sections 63 and 66 of the Rajasthan Police Act, 2007, posit that the Police Accountability Committees at the state and district levels shall comprise four "*persons of eminence with experience in public dealing and having credible record of integrity and commitment to human rights as independent members*"; and one police officer of the specified rank as the member-secretary. Further, Sections 63 and 66 of the Act empower the State Government to appoint any of the 'independent members' as the Chairman of the respective Police Accountability Committee at the state or district level.

28.2. **Method of Selection:** As per the directions of the Hon'ble Supreme Court, the respective State Government shall appoint the members of the Police Complaints Authorities at the state and district levels from a panel of names prepared by the



State Human Rights Commission, Lok Ayukta, or the State Public Service Commission. Further, as per the directions of the Hon'ble Supreme Court, the State Government is required to select the heads of the Police Complaints Authorities from a panel of names prepared respectively by the Chief Justice (qua the state-level Police Complaints Authority); and by the Chief Justice or a Judge of the High Court nominated by the Chief Justice for this purpose (qua the district-level Police Complaints Authorities). *Per contra*, Sections 63 and 66 of the Rajasthan Police Act, 2007 vest the State Government with the *carte blanche* to appoint members to the 'Police Accountability Committees' at the state and district levels, without any prior preparation of a panel of names by the specified judicial officers/ fourth-branch institutions as was directed by the Hon'ble Supreme Court in **Prakash Singh (supra)**. Further, under Section 68(2) of the Rajasthan Police Act, 2007, the State Government retains the power to remove any 'independent member' from the Police Accountability Committees at the state and district levels, based on the State Government's assessment of whether and when the respective member "*fails to perform duties enjoined upon him as an independent member*".

28.3. **Nature of Recommendations:** As per the directions of the Hon'ble Supreme Court in **Prakash Singh (supra)**, the Police Complaints Authorities at both levels shall have the power to issue binding recommendations to the respective authority for the initiation of department or criminal proceedings against a delinquent police officer. *Per contra*, the Rajasthan Police Act, 2007 does not vest the Police Accountability Committees at the



state and district levels with the power to make binding recommendations. In this regard, Section 64(c) of the Act empowers the State Police Accountability Committee to only make recommendations to the State Government. Further, in the case of the Police Accountability Committees at the district level, the proviso to Section 67(a) of the Act subjects the recommendations of the respective Police Accountability Committee to the decision of the respective disciplinary authority.

29. This Court considers the existing statutory provisions relating to the 'Police Accountability Committee' mechanism to be inadequate for effectuating the vision underlying the Hon'ble Supreme Court's directions in **Prakash Singh (Supra)**. The Rajasthan Police Act, 2007 vests the State Government with a virtual *carte blanche* to select or remove the members of the State and District Police Accountability Committees, and to adopt or dismiss the recommendations of these institutions, based on political considerations. Therefore, the existing 'Police Accountability Committee' mechanism at the state and district levels is effectively an in-house/ internal mechanism which concentrates the decision-making powers over complaints against police officers with the State Government, and hence fails to address the concerns regarding the external influence on the police that underlay the Hon'ble Supreme Court's directions in **Prakash Singh (supra)**. Consequently, this Court considers the 'Police Accountability Committee' mechanism to be incapable of effectuating a shift in the police culture and functioning in the state to a culture of justification, wherein police officers discharge

their constitutional and statutory obligations in accordance with the constitutional principles and values, and may be held accountable by and to the people on the touchstone of these principles and values. Accordingly, this Court considers it imperative for the State of Rajasthan to take the requisite measures to ensure that the 'Police Complaints Authorities' at the state and district levels are appointed and constituted in the state in accordance with the Hon'ble Supreme Court's directions in the judgment in **Prakash Singh (Supra)**.

DIRECTIONS:

29. This Court is conscious of the limitations of its jurisdictions under Article 226 of the Constitution as well as Section 528 of the BNSS 2023 (corresponding to Section 482 of the CrPC 1973) qua developing an accurate and comprehensive view of the factual scenarios that underlie individual petitions wherein directions pertaining to police protection are prayed for by the petitioner(s). For instance, where such petitions are filed by persons who are married/are in a close relationship, the same often involve contested and/or complex assessments of fact on aspects including the age and citizenship of the parties who seek enhanced police protection; the nature and extent of the threat faced by the respective parties; whether the respective parties, especially the respective women, have exercised free consent in entering into the marriage/ close relationship; and the exact measures which ought to be implemented on part of the respective police authorities to ensure that the respective couple's constitutional rights are safeguarded. This Court considers the respective police

authorities to be relatively well-equipped to gain a holistic and accurate view of the factual scenarios involved in individual cases; as well as to ascertain and implement the requisite measures to ensure the respective persons' safety. Nevertheless, this Court considers it imperative to issue certain directions to ensure that the respective police authorities adequately discharge their constitutional and statutory obligations qua the respective persons; and that the respective police officers are held sufficiently accountable for any derelictions in the discharge of the said obligations.

30. Accordingly, upon a cumulative consideration of the facts that every person who has attained the age of majority enjoys a constitutionally protected personal autonomy to choose their partner/ spouse; that the State, and particularly the police authorities, bear constitutional and statutory obligations to ensure that the respective couples are able to make such intimate personal choices without extra-legal compulsions imposed by other social actors or groups; and relying upon the dicta of the Hon'ble Supreme Court as enunciated in the judgments in **Lata Singh (Supra)**, **Shakti Vahini (Supra)**, and **Prakash Singh (Supra)**, this Court deems it appropriate to delineate the following procedure to ensure that the couples who are married/ are in a close relationship are able to gain access to adequate measures relating to police protection to ensure their safety. The following directions are designed to ensure the due realisation of the existing constitutional and statutory obligations of the State Government, and particularly the police authorities, including

under Section 29 of the Rajasthan Police Act, 2007. This Court clarifies that for the reasons detailed in paragraph 31 of this judgment, the following directions shall be applicable generally to persons who seek the implementation of measures to ensure their safety, on account of extra-legal threats to their lives or liberty from other social actors or groups (hereinafter 'the applicant(s)'). Hence, the following directions shall extend to, but shall not be limited to, the respective persons who may face such threats on account of their choice of their partner/spouse.

30.1 The applicant(s) shall be at liberty to file a representation before the respective police officer who is designated as the Nodal Officer for deciding on such representations. In this regard, the State Government and the police authorities across Rajasthan shall specify and publicize the procedure for the applicant(s) to file such representations. In addition to enabling the applicant(s) to file representations before the respective Nodal Officer physically/in-person or through an advocate, the State Government is expected to create an online mechanism where the applicant(s) may file such representations as aforementioned, and receive updates regarding the proceedings thereon.

30.2 This Court clarifies that in accordance with the concept of 'zero FIR' as posited in Section 173 of the BNSS 2023, the mere lack of territorial jurisdiction shall not be a ground for a Nodal Officer who receives a representation as aforementioned to dismiss the same. Instead, the Nodal Officer concerned who receives the representation shall (i) ensure, within the upper limit

of 3 days of receiving a representation as aforesaid, that the applicant(s) is/are able to file a representation before the respective Nodal Officer who has territorial jurisdiction over the matter; and shall (ii) coordinate with the respective Nodal Officer who has territorial jurisdiction over the matter to ensure that the applicant(s) receive(s) interim protection if required, and that the representation is considered and decided in accordance with law. The relevant statutory provisions under the BNSS 2023 relating to the concept of 'zero FIR' are reproduced as follows:

"Section 173 - Information in cognizable cases

(1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station, and if given--

(i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;

(ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf: ..."

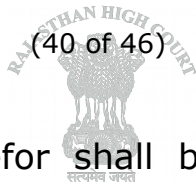
30.3 On receiving the representation filed by the applicant(s) as specified in paragraphs 30.1 and 30.2, the respective Nodal Officer who has territorial jurisdiction over the matter shall afford an opportunity of appearance and hearing to the applicant(s). The applicant(s) may choose to appear before the respective Nodal

Officer in-person or through an advocate. The proceedings before the respective Nodal Officer shall be duly recorded through the CCTV cameras installed at the respective police station, in accordance with the directions of the Hon'ble Supreme Court in **Paramvir Singh Saini vs. Baljit Singh and others** reported in **(2021) 1 SCC 184**.

30.4 On receiving the representation filed by the applicant(s) as specified in paragraphs 30.1 and 30.2, the respective Nodal Officer as specified in paragraph 30.3 shall ensure that the requisite measures qua interim protection, if any, are implemented to ensure the safety of the applicant(s). Further, the respective Nodal Officer shall consider the representation, afford an opportunity of appearance and hearing to the applicant(s), and decide on the representation in accordance with law within the upper limit of 7 days of the date of receiving the representation.

Where the respective Nodal Officer concludes that the applicant(s) face(s) extra-legal threats to their safety as claimed, the following measures shall be implemented as required:

30.4.1 The respective Nodal Officer may deploy certain police personnel to ensure the safety of the applicant(s). Further, where the applicants are persons who face extra-legal threats to their safety on account of their choice of their partner/spouse, if the applicants so desire, the respective Nodal Officer may ensure that the applicants secure residence in one of the shelter homes constituted under the directions of the Hon'ble Supreme Court in the judgment in **Shakti Vahini (Supra)**. In case either/both of these measures are not implemented despite the applicant(s)'



wishes, the reasons therefor shall be recorded in writing and communicated to the applicant(s).

30.4.2 Where the persons from whom extra-legal threats are apprehended are family members of a couple seeking enhanced police protection, the respective Nodal Officer may conduct mediation between the respective couple and such family members. Prior to such mediation proceedings, the respective Nodal Officer shall duly inform the respective family members of the couple's constitutional rights qua choosing their partners/spouses. Further, the respective Nodal Officer shall ensure that the respective couple, especially the woman who apprehends extra-legal threats on account of exercising her autonomy, are apprised of their constitutional rights, and are not subjected to any pressure from the family members during the mediation proceedings. This Court clarifies that the mediation proceedings as aforesaid shall be conducted only after, and not in lieu of, the implementation of the measures specified in paragraphs 30.4 and 30.4.1.

30.5 Where the applicant(s) is/are aggrieved of the decision(s)/ inaction of the respective Nodal Officer(s) qua the representation filed in accordance with the directions of this Court, the applicant(s) shall be at liberty to invoke the following remedies:

30.5.1 The applicant(s) may file the appropriate representation before the Superintendent of Police concerned. The Superintendent of Police concerned shall consider and decide on

such a representation within the upper limit of 3 days of receiving the same.

30.5.2 Where the applicant(s) is/are aggrieved of the decision/inaction of the respective Superintendent of Police qua the representation as specified in paragraph 30.5.1, the applicant(s) may file the appropriate complaint before the appropriate level of the Police Complaints Authority mechanism, as constituted in pursuance of the directions of the Hon'ble Supreme Court in the judgment in **Prakash Singh (supra)**. Through such a complaint, the applicant(s) may implead by name the respective Nodal Officer(s) and/or Superintendent of Police who failed to discharge their constitutional and statutory obligations as a police officer, by not considering and disposing of the representation filed by the applicant(s) in accordance with the directions of this Court, and/or by colluding with other social actors or groups in the violation of the applicant(s)' constitutional rights. Where the respective Police Complaints Authority concludes that the allegations levelled against the respective Nodal Officer(s) and/or the respective Superintendent of Police stand proved, it shall issue the appropriate binding recommendations to ensure that the appropriate criminal and/or civil proceedings are instituted against the respective officer(s) in accordance with law. In this regard, this Court directs the State Government to take the requisite steps for the appointment and constitution of the 'Police Complaints Authority' at the state and district levels in the state of Rajasthan, in compliance with the directions of the Hon'ble Supreme Court in the judgment in **Prakash Singh (Supra)**, such

that the 'Police Complaints Authorities' at the state and district levels commence their functioning within one month of the date of this judgment. In case the State Government fails to ensure compliance with this direction within the stipulated timeline, this Court would be compelled to exercise its jurisdiction under Article 226 of the Constitution to ensure that both levels of the 'Police Complaints Authority' are appointed and constituted through the directions of this Court. Such directions would ensure that the directions issued by the Hon'ble Supreme Court in **Prakash Singh (supra)** are effectuated in the state of Rajasthan, after the inexplicable prolonged delay of 18 years on part of the State Government in implementing the said directions.

30.6 Where the applicant(s) is/are aggrieved of the decision(s) of the respective Police Complaints Authority in pursuance of the complaint as specified in paragraph 30.5.2, or where the proceedings before the respective Police Complaints Authority are not concluded within a reasonable period of time, the applicant(s) shall be at liberty to invoke this Court's jurisdiction under Article 226 of the Constitution of India, for compelling reasons and in accordance with law. While invoking this Court's jurisdiction under Article 226, the applicant(s) shall include due pleadings and a footnote in the petition disclosing the details which indicate that the alternative efficacious remedies have already been availed through filing the appropriate representations/ complaints before the respective Nodal Officer(s), Superintendent of Police, and the appropriate level of the Police Complaints Authority in accordance with paragraphs 30.1 to 30.5.2 of this judgment.

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

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

Step 2: *The applicant(s) may file a representation before a designated Nodal Officer, who may or may not have territorial jurisdiction over the matter. [In case the Nodal Officer before whom the representation is filed does not have territorial jurisdiction over the matter, the respective Nodal Officer shall undertake the steps specified in paragraph 30.2 of this judgment.]*

Step 3: *The respective Nodal Officer having territorial jurisdiction over the matter shall implement measures to ensure interim protection for the applicant(s), if required, on an immediate basis.*

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

Step 5: *If aggrieved of the decision(s)/inaction of the respective Nodal Officer(s) as specified in steps 2 to 4, the applicant(s) may file a representation before the respective Superintendent of Police.*

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

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

Step 8: *Where (and only where) the applicant(s) is/are aggrieved of the decision of the respective Police Complaints Authority, or the proceedings before the respective Police Complaints Authority are not concluded within a reasonable period of*

time, the applicant(s) may invoke this Court's jurisdiction under Article 226 of the Constitution for compelling reasons and in accordance with law.

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

31. Before parting with the instant case, this Court clarifies that the constitutional guarantees under Articles 14 and 21 may require the implementation of measures for enhanced police

protection in the case of persons/groups, other than couples, who assert their personal autonomy in defiance of the existing social structures, and thus apprehend extra-legal threats to their lives and liberty. For instance, such protection may be required in the case of women who face threats of extra-legal violence from their family members, on account of their choice not to solemnize marriage at the family's behest. Such protection may also be required in the case of the persons, especially senior citizens, who refuse to concede to the extra-legal monetary demands made by the dominant political/social actors in the locality. This Court clarifies that the directions and procedure specified in paragraphs 30 to 30.8 of this judgment would apply *mutatis mutandis* to the representations/complaints filed before the respective authorities by applicant(s) other than couples, qua the apprehended threats to the applicant(s)' lives and liberty.

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

33. A copy of this judgment be sent to the Chief Secretary, Government of Rajasthan to ensure compliance with the directions of this Court.

34. Petitioners no. 1 and 2 in the instant Writ Petition shall be at liberty to file the appropriate representation before a designated Nodal Officer in accordance with the directions of this Court, within the upper limit of 7 days of the date of this judgment. For the intervening period till the respective Nodal Officer having territorial jurisdiction over the matter considers and disposes of the representation filed (if any) in accordance with the directions of this Court, respondents no. 2 to 5 are directed to implement the requisite measures to ensure that the lives and liberty of petitioners no. 1 and 2 are protected from extra-legal threats from other social actors or groups, including respondents no. 6 to 10.

35. With the aforesaid directions, the instant Writ Petition is disposed of. Pending applications, if any, stand disposed of.

(SAMEER JAIN),J