

2023 LiveLaw (SC) 626 : 2023 INSC 698

IN THE SUPREME COURT OF INDIA

EXTRAORDINARY APPELLATE / ORIGINAL JURISDICTION

DR. DHANANJAYA Y. CHANDRACHUD; CJI., J.B. PARDIWALA; J., MANOJ MISRA; J.

Special Leave Petition (Civil) Diary No 19206 of 2023; August 7, 2023

Dinglung Gangmei versus Mutum Churamani Meetei & Ors.

Manipur Violence - the Court directed to constitute a committee of three former High Court women Judges that will essentially look at relief and rehabilitation of the survivors and to appoint officers from other States to monitor the investigation of the criminal cases related to the ethnic clashes.

Constitution of India, 1950 - The Court expressed its anguish of the manner in which women have been subjected to grave acts of sexual violence in the course of the sectarian strife in Manipur. Subjecting women to sexual crimes and violence is completely unacceptable and constitutes a grave violation of the constitutional values of dignity, personal liberty and autonomy all of which are protected as core fundamental rights under Part III of the Constitution. Mobs commonly resort to violence against women for multiple reasons, including the fact that they may escape punishment for their crimes if they are a member of a larger group. (Para 17)

Sexual Violence - In time of sectarian violence, mobs use sexual violence to send a message of subordination to the community that the victims or survivors hail from. Such visceral violence against women during conflict is nothing but an atrocity. It is the bounden duty of the state – its foremost duty, even – to prevent people from committing such reprehensible violence and to protect those whom the violence targets. (Para 17)

WITH Special Leave Petition (Civil) Diary No 19210 of 2023, Writ Petition (Civil) No 540 of 2023, Writ Petition (Civil) No 576 of 2023, Writ Petition (Civil) No 572 of 2023, Writ Petition (Civil) No 574 of 2023, Writ Petition (Criminal) No 321 of 2023, Writ Petition (Criminal) No 327 of 2023, Writ Petition (Criminal) No 329 of 2023, Writ Petition (Civil) No 802 of 2023

(Arising out of impugned final judgment and order dated 27-03-2023 in WP(C) No. 229/2023 passed by the High Court of Manipur at Imphal)

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J U D G M E N T

Dr. Dhananjaya Y. Chandrachud, CJI.,

1. The State of Manipur has been besieged by sectarian strife since the first week of May 2023.

2. On 27 March 2023, the Acting Chief Justice of the High Court of Manipur issued directions in a writ petition under Article 226 of the Constitution¹ to the Government of Manipur directing it to respond to a communication dated 29 May 2013 of the Ministry of Tribal Affairs in the Union Government by recommending the inclusion of the Meitei community in the Presidential List of Scheduled Tribes. The recommendation for including the community in the list of Scheduled Tribes was directed to be considered expeditiously within a stipulated time frame. The jurisdiction of this Court under Article 136 of the Constitution was invoked to challenge the order of the High Court principally on the ground that while exercising jurisdiction under Article 226 of the Constitution the High Court cannot issue directions for the inclusion of a community in the list of Scheduled Tribes. The pleadings in the Special Leave Petition highlight that ‘Manipur is burning after the impugned order.’

3. On 8 May 2023, the Union Government apprised this Court that the State of Manipur ‘is taking appropriate steps for recall of the order of the Single Judge of the High Court dated 27 March 2023 by moving the competent forum in that regard.’ The Union Government placed a statement on record indicating that the following steps were taken to ensure normalcy:

“(a) 52 companies of Central Armed Police Forces and 105 columns of the Army/Assam Rifles have been deployed in Manipur;

(b) Flag marches have been conducted in disturbed areas;

(c) A senior level former police officer has been appointed as Security Adviser by the State Government and another senior officer has been repatriated yesterday from Central Deputation to serve as Chief Secretary to the Government of Manipur;

(d) Peace meetings have been conducted and vigilance is being maintained;

(e) Helicopters and drones are being used to monitor the situation in addition to the extensive deployment of security forces;

(f) Relief camps have been opened for displaced persons where rations and medical help are being provided; and

(g) Movement of persons who are stranded is being facilitated through security forces.”

A statement was made before this Court “that as a consequence of the measures which have been adopted, no violence had been recorded in the State during the course of the previous two days and the situation is gradually returning to normalcy.” Counsel for the contesting parties had voiced concerns over the need to preserve law and order and to provide relief and rehabilitation. This Court emphasised the need to maintain vigil and ensure that there is no recurrence of violence, bearing in mind the loss of human life and destruction of homes and places of worship that had taken place. This Court observed:

¹ WP(C) No 229 of 2023

“7. While expressing the concern of the court over the loss of human life and destruction of homesteads and places of worships, we emphasise the need for :

- (i) Ensuring that due arrangements are made in the relief camps by providing all basic amenities in terms of food and medical care;
- (ii) Taking all necessary precautions for the rehabilitation of displaced persons; and
- (iii) Protecting places of religious worship.”

This Court directed that where critical medical care is required for persons who are in relief camps, the authorities shall make arrangements for medical care at Army Hospitals or other medical establishments. An updated status report was called from the State of Manipur in regard to the steps taken to provide relief and rehabilitative measures.

4. When the proceedings were next taken up on 17 May 2023, a status report was filed by the State of Manipur indicating:

- a. The steps taken to bring normalcy to the law and order situation in the State;
- b. Details of relief camps which have been opened;
- c. Compensation packages made available on account of death or, as the case may be, injury;
- d. Security measures taken for protecting religious places;
- e. Transportation of persons who were stranded due to the ongoing crisis; and
- f. Registration of FIRs and the recovery of arms.”

5. Besides the challenge to the direction issued by the Acting Chief Justice of the High Court, a batch of writ petitions under Article 32 of the Constitution was moved before this Court. In one of those petitions,² apprehensions were expressed by the petitioners about threats to safety. The petitioners sought directions for enhancing security in sensitive areas specifically with reference to certain vulnerable villages. This Court directed that these apprehensions must be taken into account by the authorities entrusted to monitor law and order in the State. The Chief Secretary and the Security Adviser were directed to immediately attend to the grievances after due verification and take such measures as are required to foster confidence and to ensure peace and tranquillity. The apprehensions which were expressed by the petitioners in other petitions were also directed to be taken into account by the law enforcement authorities. The proceedings were listed before this Court on 20 June, 3 July and 10 July 2023. Noting that the Chief Secretary had filed a status report, this Court permitted the contesting parties to make concrete suggestions to the State of Manipur and the Union of India for improving the situation. On 11 July 2023, the following submissions were formulated by the Petitioners in **Zomi Students Federation v. Union of India**:³

“1. Several bodies are reported to be lying unidentified and unclaimed in several mortuaries in hospitals across Imphal including The Jawaharlal Nehru Institute of Medical Sciences Morgue, Imphal. Families of persons who are missing and feared dead are unable to reach these mortuaries. The State may designate an officer who can be contacted and who will facilitate visits by such families to mortuaries under escort/protection and enable the process of identification and handover of dead bodies for last rites.

² WP(C) No 540 of 2023

³ WP (C) No 572 of 2023

2. There is an acute shortage of doctors in the district hospitals in the hill districts. The doctors deputed by the health ministry (see para 22.4 of the status report – Annexure ‘A’) and those promised by the Hon’ble Home Minister (see PIB Notification dt. 01.06.2023 – Annexure ‘B’) may be sent to the district hospitals in the hill districts to address this shortage.
3. There is shortage of essential medicines, Dialysis Machines, CT Scan Machines in the district hospitals in the hill districts which must be addressed.
4. Arrangement has been made for students of Churachandpur Medical College to attend classes in Jawaharlal Nehru Institute of Medical Sciences, Imphal (JNIMS) (see notification attached - Annexure ‘C’). Similar arrangement may be made for medical students of JNIMS, Regional Institute of Medical Sciences, Imphal (RIMS) and other medical colleges in Imphal to attend classes in other institutions of similar standing outside the state (for example see proposal sent by RIMS, Imphal to the Union of India - Annexure ‘D’).
5. Manipur University has decided to conduct examinations in all its affiliated colleges (see para 14 of the Status Report). These examinations need to be deferred since schools and colleges in the hill districts have been converted into relief camps and a large number of students and university staff have been forced to flee their homes.
6. Helicopter Services have been provided between Churachandpur, Kangpokpi and Tengnoupal and Imphal (see para 22.3 of the Status Report). Such services are in fact required between Churachandpur, Kangpokpi and Tengnoupal and Aizawl, Guwahati and Dimapur as tribals from the hill districts are still afraid to come to Imphal even to use the airport.
7. Jio and Vodafone Cellular Services have not been functioning in the State for the last several weeks and need to be restored.
8. The State Government has issued a circular on 26 th June 2023 (see Annexure ‘E’) asking all government employees to immediately report to work and threatening disciplinary action against employees who fail to do so. This circular may be withdrawn as a large number of persons have either fled the State or are living in relief camps.
9. There are 105 relief camps in Churachandpur, 56 in Kangpokpi, 10 in Chandel and 15 in Tengnoupal being run by community self-help groups. There is acute shortage of drinking water, food, sanitation, shelter and bedding at these for the displaced persons staying at these relief camps. The Petitioner be allowed to submit a list of items urgently required at these camps and the Respondents State/Central Government be directed to supply these items at the earliest.
10. Direction be issued by this Hon’ble Court that appropriate restraint be exercised by persons holding official positions from making inciting or provocative remarks directed at any particular community that may exacerbate the conflict as per the directions issued by this Hon’ble Court in the case of Kaushal Kishor v. State of U.P., (2023) 4 SCC 1.
11. The Hon’ble Home Minister, after discussions with representatives of all communities had indicated that an inter-agency unified command would be set up under the chairmanship of the security adviser Shri Kuldeep Singh (see PIB Notification dt. 01.06.2023 – Annexure B). However, as per the updated status report, the meetings of the unified command center are being chaired by the Chief Minister (see paragraph 6 of the Status Report – Annexure A) which is contrary to the stated position of the Central Government. This needs to be corrected to generate confidence in the neutrality of measures being undertaken.
12. A status report be called for on the number of arms looted from the police armories, the number of such arms recovered and the measures being undertaken for recovery of the remaining arms.
13. To make the task of this Hon’ble Court easier, a committee having representatives of both the affected communities and chaired by a retired judge of this Hon’ble Court be appointed to oversee rescue, relief and rehabilitation measures and to address grievances concerning the same. This will ensure neutrality and build confidence in the impartiality of the relief and

rehabilitation measures. At present the teams comprising ministers and MLAs appointed by the Government to oversee relief and rehabilitation measures comprise of 35 MLAs (from a legislative assembly comprising 60 MLAs) across seven teams incharge of seven (7) districts pointedly do not include even a single MLA from the ZoKuki tribes which damages public confidence in the neutrality of the measures being undertaken (see circular dated 5th July, 2023 – Annexure ‘F’).”

6. While issuing directions for implementing most of the above suggestions (save and except those at Serials 5, 6, 7 and 13 above), this Court directed positive action by 14 July 2023. As regards suggestion at Serial number 13, the court noted that a notification was issued on 5 July 2023 by the Government of Manipur constituting Committees in seven districts for overseeing the supervision and management of relief camps set up for housing persons who have been displaced by the situation in Manipur. On the aspect of providing compensation to the victims of the sectarian strife, this Court observed:

“4 In the suggestions which have been made before this Court in Manipur Tribal Forum Delhi vs The State of Manipur and Another, at this stage, we are of the view that following suggestion would merit consideration by the State administration, namely:

“Direct the State to immediately begin and complete within 3 months (a) the interim payment of 10 lakhs for every tribal killed as assured by the Home Minister, (See list of 118 killed tribals (Add Aff. 8.7.23), (b) the reconstruction by the State of the 141 tribal villages destroyed (pg.41 I.A. 115711), and the 227 churches destroyed (pg.26) and further to provide security so that the tribals can return.”

5 The State administration shall take a considered view for disbursal of compensation to the affected families and for reconstruction of villages and places of religious worship which have suffered destruction in the recent incidents of violence in the State.”

7. On the arrangements for preserving security, the Chief Secretary of the State of Manipur filed an affidavit indicating the steps taken. This Court directed the Union Government and the State of Manipur to make sufficient arrangements to ensure the protection of lives and properties of all the citizens and residents of the State of Manipur.

8. On 20 July 2023, the proceedings were taken on board by this Court in response to visuals which had appeared in the media on the previous day depicting the perpetration of sexual assault and violence on women in Manipur. While noting that it was ‘deeply disturbed by the visuals,’ this Court noted that what was portrayed in the media indicated gross constitutional violations and infractions of human rights. This Court observed that “using women as instruments for perpetrating violence is simply unacceptable in a constitutional democracy.” The Court called for reports indicating the steps taken by the Government (i) to hold the perpetrators accountable; and (ii) ensure that such incidents are not repeated. Both the Union Government and the State Government were directed to take immediate steps – remedial, rehabilitative and preventive - and to apprise this Court of the action which was taken by the next date.

9. On 1 August 2023, this Court was apprised by the State of Manipur that 6,523 FIRs had been registered as on 25 July 2023. According to its status report, 150 deaths had taken place between 3 May 2023 and 9 June 2023 and 502 persons were reported to have been injured. The State reported that there were 5,101 cases of arson; 252 persons were arrested in connection with the FIRs and 12,740 preventive arrests were made. The State informed the Court that 11 FIRs involved cases of violence against women and children, though this was subject to further verification. Seven arrests were reportedly made in connection with these 11 FIRs.

10. At that point, the Court was apprised by one of the counsel that there was one more FIR of the same genre. The Union Government apprised this Court through the Solicitor

General that while two FIRs which had been registered in the context of the horrific visuals that depicted sexual violence against women, the State of Manipur was willing to refer all the 11 FIRs to the CBI. Noting that the material which was disclosed before the Court was inadequate, this Court observed that there was no disaggregation of the 6,523 FIRs on the basis of the offences to which they pertained. The State was directed to carry out this exercise and inform the Court how many of the FIRs pertain to cases involving: (i) murder and/or rape and outraging of modesty; (ii) arson and looting; (iii) destruction of house property and places of religious worship; and (v) grievous hurt. This Court expressed its dissatisfaction with the tardy pace of investigation. The Court highlighted that there was an unexplained delay between the occurrence of the crimes in early May 2023 and the registration of the FIRs and the recording of witness statements and making arrests have been few and far between. This Court, accordingly, called for a tabulated statement indicating:

- a. The date of each occurrence;
- b. The date of the registration of the zero FIR, if any;
- c. The date of the registration of the regular FIR;
- d. The dates on which witness statements have been recorded;
- e. The dates on which statements under Section 164 of the Code of Criminal Procedure 1973,⁴ if any, have been recorded;
- f. The dates on which the victims were medically examined;
- g. The dates on which arrests, if any, have been effected; and
- h. Whether the accused have been named in the complaint/FIR.

11. The status report which has been filed by the State of Manipur contains a disaggregation of 6,523 FIRs registered between 3 May and 30 July 2023. It is reproduced below:

**“DISAGGREGATION OF 6523 FIRs
(03 May to 30 July 2023)**

1. Murder and /or rape and outraging of modesty:

| SI No | Crime | Section of Law (IPC) | No of cases |
|-------|----------------------|---|-------------|
| (i) | Murder | 302/304 – Murder | 72 |
| (ii) | Rape | 376/376D – Rape/Gang rape | 3 |
| (iii) | Murder and Rape | 302/304 – Murder and 376 – Rape | 1 |
| (iv) | Outraging of modesty | 354 – Assault or criminal force to woman with intent to outrage her modesty | 6 |

Kindly note: There is an overlap of offences in the FIRs

2. Arson, Looting, Destruction of house property:

| SI No | Crime | Section of Law (IPC) | No of cases |
|-------|-------------------------------|--|-----------------------------------|
| (i) | Arson | 436/435 -Mischief by fire or explosive substance (arson) | 4454 |
| (ii) | Looting | 380 – Theft in dwelling house 392/397/395/400/390 - Robbery, Dacoity | 4148 There is overlap of offences |
| (iii) | Destruction of house property | 427 – Mischief causing damage | 4694 There is overlap of offences |

⁴ “CrPC”

| | | | |
|------|---------------------------|--|----------------------------------|
| (iv) | Damage to public property | 3 PDPP ACT – Mischief causing to damage to public property | 584 There is overlap of offences |
|------|---------------------------|--|----------------------------------|

Kindly note: There is an overlap of offences in the FIRs

3. Destruction of places of worship:

| SI No | Crime | Section of Law (IPC) | No of cases |
|-------|--|--|-------------|
| (i) | Destruction of places of religious worship | 295/295A - Injury or defiling place of worship | 46 |

4. Grievous hurt:

| SI No | Crime | Section of Law (IPC) | No of cases |
|-------|---------------|-------------------------|-------------|
| (i) | Grievoushurt. | 325/326 - Grievous hurt | 100” |

12. The status report contains details of FIRs, month wise occurrence of crimes, registration of cases, and the reporting of deaths and injuries. The status report provides the following data:

| | | |
|----|--|-------|
| “1 | Total number of FIR registered originally as regular FIRs in the PS of original jurisdiction | 4766 |
| 2 | Total number of FIRs registered originally as ZERO FIRs | 11414 |
| 3 | Total number of such ZERO FIRs transferred to PS of respective jurisdiction | 10382 |
| 4 | Total number of ZERO FIRs converted to regular FIRs by PS of respective jurisdictions | 6621” |

13. The status report indicates the following situation in regard to the examination of witnesses, arrests, and medical examination of victims:

“EXAMINATION OF WITNESSES, ARRESTS ETC

(1) Murder rape, Outrage of modesty

| | | |
|-----------------------------------|---|-----|
| No of witness statements recorded | : | 193 |
| No of 164 statements recorded | : | 3 |
| No of arrests made | : | 16 |
| No of medical examination | : | 13 |

(2) Arson, looting, damage to property

| | | |
|-----------------------------------|---|------|
| No of witness statements recorded | : | 1366 |
| No of 164 statements recorded | : | 3 |
| No of arrests made | : | 14 |
| No of medical examination | : | 6 |

(3) Destruction of religious place of worship

| | | |
|-----------------------------------|---|-----|
| No of witness statements recorded | : | 10 |
| No of 164 statements recorded | : | nil |
| No of arrests made | : | nil |
| No of medical examination | : | nil |

(4) Grievous Hurt

| | | |
|-----------------------------------|---|-----|
| No of witness statements recorded | : | 56 |
| No of 164 statements recorded | : | nil |
| No of arrests made | : | 12 |
| No of medical examination | : | 7” |

14. During the course of the submissions which have been addressed before this Court, certain fundamental aspects warranting the immediate attention of this Court have crystallized. Counsel for the petitioners specifically highlighted the following issues:

- a. The need for the appointment of a court-mandated Committee for hearing and healing and for restoring the confidence of survivors and the families of victims of violence, particularly sexual violence against women;
- b. Constituting a court-appointed Special Investigating Team⁵ comprising five police officers drawn from outside the State of Manipur with a specific mandate to ensure:
 - i. registration of FIRs;
 - ii. recording of statements of victims under Section 164 CrPC; and
 - iii. medical examination of the victims under Section 164A CrPC;
- c. Protection of victims and witnesses;
- d. Provision of legal aid;
- e. Enforcing the right to a speedy trial;
- f. Provision of free and comprehensive medical aid to survivors or victims;
- g. Transformative and reparative justice for the victims of ethnic violence, including by:
 - i. Ensuring conditions of dignity in the relief camps;
 - ii. Providing compensation and restitution to the victims of violence; and
 - iii. Taking preventive measures;
- h. Facilitating the right to information by appointing nodal officers at relief camps and other places to bridge the informational vacuum;
- i. Providing dignity in the disposal of dead bodies; and
- j. Appointment of a Commission of Inquiry to enquire into dereliction of duty by public servants.

15. The circumstances which justify the intervention of this Court in the exercise of its jurisdiction under Article 32 of the Constitution, clearly emerge from the sequence narrated earlier in this judgment. The sectarian violence and strife in Manipur has received extensive coverage in the media. The affidavit which has been filed by the Union Home Secretary in these proceedings states that:

“4. ... large-scale violence broke out in the State of Manipur on 03.05.2023 after a Tribal Solidarity March undertaken by All Tribal Students Union Manipur (ATSUM) in opposition to the demand for inclusion of the Meitei community in the list of Scheduled Tribes. The call for this march led to a counter response by Meiteis. Thereafter large-scale violence broke out in the State of Manipur, and as a result of the violence, many residents of Manipur lost their lives and several other got seriously injured, their houses and properties were burnt down as a result of arson and many of them were rendered homeless. Moreover, incidents of violence and heinous crimes against women have come to light.”

The Union Home Secretary has also noted that on 26 July 2023, the Government of Manipur recommended the entrustment of two FIRs to the CBI for investigation which was then recommended by the Union Ministry of Home Affairs on 27 July 2023. The Union Government has also informed the Court of its position that not only should the investigation be completed at the earliest but the trial should also be conducted in a time bound manner outside the State of Manipur.

⁵ SIT

The tardy pace of investigation by the investigating machinery in the State of Manipur has emerged from the material which was placed before this Court which is indicative of:

- a. Significant delays between the occurrence of incidents involving heinous crimes including murder, rape and arson and the recording of zero FIRs;
- b. Significant delays in forwarding the zero FIRs to the police stations which have jurisdiction over the incidents;
- c. Delays in converting the zero FIRs into regular FIRs by the jurisdictional police stations;
- d. Delays in recording witness statements;
- e. Lack of diligence in recording the statements under Section 161 and Section 164 CrPC;
- f. The tardy pace of effecting arrests in cases involving heinous offences; and
- g. The lack of alacrity in ensuring medical examination of victims.

16. These lapses in the investigative process do not bode well for the State of Manipur. The importance of a speedy and fair justice system should need no reiteration but the magnitude of the offences that we are dealing with prompts this Court to reiterate their importance:

- a. When a bodily or sexual offence is complained of, it is necessary to conduct a medical examination of the victim immediately after the FIR is registered, without any delay (subject to the victim consenting to such examination). This is because one of the crucial pieces of evidence which has great probative value in a trial is the nature and severity of the injuries sustained by the victim. The existence of that injury has to be proved to the satisfaction of the court. A medical examination by a registered medical practitioner appropriately authorised in this regard is necessary to prove that an injury was sustained. As time passes, some injuries heal and it is difficult (and in some cases, not possible) for a registered medical practitioner to accurately assess the severity of the injury. It is also difficult for the registered medical practitioner to develop an opinion on the nature of the weapon or the type of trauma which caused the injury. These aspects attain importance during the trial when a weapon recovered from the accused may be found to be connected to the injury sustained by the victim. If the prosecution fails to prove that the injury sustained by the victim / survivor was a result of the weapon recovered from the accused, a person who is guilty of an offence may be unjustly acquitted. Conversely, if the injury sustained by the victim / survivor is incorrectly found to be linked to the weapon recovered from the accused, an innocent person may be wrongfully convicted. Time is especially of the essence when a sexual offence is complained of. A medical examination may result in the recovery of the DNA of the accused from the clothing or body of the victim / survivor. It may also result in the identification and recording of the nature and severity injuries sustained by the victim / survivor. This is one of the reasons that Section 164-A CrPC requires the medical examination of rape victims to take place within twenty-four hours from the time that information about the commission of the offence is received (subject to the victim / survivor consenting to such examination). Undoubtedly, the absence of such evidence ought not to lead to an acquittal as a matter of course. However, there is no reason to deprive the prosecution of evidence which has significant probative value or to deviate from the investigative procedures prescribed by law;
- b. The statements under Sections 161 and 164 CrPC must be recorded as soon as possible. Such statements often lead to the recovery of evidence or the identification of

accused persons or witnesses. The statement under Section 161 CrPC may attain relevance during the trial, where the defence may rely on it to contradict a witness in terms of Section 145 of the Indian Evidence Act 1872;

c. The statements under Sections 161 and 164 CrPC coupled with the medical examination of the victim may lead to the recovery of evidence and the discovery of relevant facts, which will enable the prosecution to correctly identify the accused person(s) and arrest them. This, in turn, will enable the trial to commence as soon as possible and for justice to be done. Justice delayed is indeed justice denied;

d. It is crucial for the police to identify and arrest the accused person expeditiously because the accused person may be required for the completion of investigation. Further, the accused may attempt to tamper with or destroy the evidence, intimidate witnesses, and flee from the place of the crime. Whether or not a person who is arrested in a particular case is likely to do this is a matter left to be determined by the court seized of the matter (during proceedings for bail, if any) but a significant delay in the identification and arrest of the accused for no reason at all cannot be countenanced by this Court;

e. The importance of identifying, arresting, prosecuting, and convicting the person who is actually responsible for the commission of an offence cannot be overstated. If the police arrests a person who is not actually responsible for the offence complained of, it results in injustice which is two-fold: the actual perpetrator is not brought to justice and an innocent person is unjustly prosecuted; and

f. A speedy investigation is necessary to secure a just and proper outcome in a trial and to instil and maintain confidence in the administration of criminal justice in our country. A speedy investigation also serves a preventive function in that the persons who witness the swiftness and accuracy with which the criminal justice system punishes the perpetrator, will be deterred from committing similar crimes. Last but not least, an expeditious investigation and trial ensures that the trauma of victims / survivors is not prolonged because of the length of the proceedings.

17. This Court must express its anguish of the manner in which women have been subjected to grave acts of sexual violence in the course of the sectarian strife in Manipur. Subjecting women to sexual crimes and violence is completely unacceptable and constitutes a grave violation of the constitutional values of dignity, personal liberty and autonomy all of which are protected as core fundamental rights under Part III of the Constitution. Mobs commonly resort to violence against women for multiple reasons, including the fact that they may escape punishment for their crimes if they are a member of a larger group. In time of sectarian violence, mobs use sexual violence to send a message of subordination to the community that the victims or survivors hail from. Such visceral violence against women during conflict is nothing but an atrocity. It is the bounden duty of the state – its foremost duty, even – to prevent people from committing such reprehensible violence and to protect those whom the violence targets.

18. The sectarian strife has also led to large scale destruction of residential property and places of religious worship. In this backdrop, this Court is duty bound to step in while performing its plain constitutional obligation. This Court is also of the opinion that its intervention will be a step towards the guarantee of non-repetition that victims of such crimes are entitled to.⁶ The remedies which have been granted are those which the Court

⁶ United Nations, General Assembly, Resolution 60/147, 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.'

feels will be even handed across all communities and do justice to all those who have been injured (in any manner) by the sectarian violence. The victims of violence must receive remedial measures irrespective of their community. Likewise, the perpetrators of violence must be held accountable irrespective of the source of violence. There are serious allegations including witness statements indicating that the law-enforcing machinery has been inept in controlling the violence and, in certain situations, colluded with the perpetrators. Absent a proper investigation, this Court will not enter a finding of fact on these allegations. But, at the very least, such allegations require an objective fact-finding to be conducted. Those who are responsible for a breach of public duty must equally be brought to account, regardless of their rank, position, or post. Every officer of the state or other employee of the state who is guilty not only of the dereliction of their constitutional and official duties but of colluding with perpetrators to become offenders themselves, must be held accountable without fail. This is the promise of justice that the Constitution demands from this Court and from all branches of the state.

19. In this backdrop, there are two broad objects which the directions of this Court must subserve. Firstly, there is a need to ensure that the violence ceases, the perpetrators of violence are punished according to the procedure established by law, and that consequently, the faith and confidence of the community in the justice system is restored. Secondly, there is a pressing need to ensure that the rule of law is restored and public confidence in the investigative and prosecutorial process is sustained.

20. In order to subserve the two objectives which have been highlighted above, we issue the following directions:

- a. A Committee consisting of the following three members is constituted:
 - i. Justice Gita Mittal, former Chief Justice of the High Court of Jammu and Kashmir;
 - ii. Justice Shalini Phansalkar Joshi, former Judge of the High Court of Judicature at Bombay; and
 - iii. Justice Asha Menon, former Judge of the High Court of Delhi.
- b. The mandate of the Committee shall be to:
 - i. Enquire into the nature of violence against women that occurred in the State of Manipur from 4 May 2023 from all available sources including personal meetings with survivors, members of the families of survivors, local/community representatives, authorities in charge of relief camps and the FIRs lodged as well as media reports; and
 - ii. Submit a report to this Court on the steps required to meet the needs of the survivors including measures for dealing with rape trauma, providing social, economic, and psychological support, relief and rehabilitation in a time bound manner;
 - iii. Ensure that free and comprehensive medical aid and psychological care to victims of survivors is provided;
 - iv. Ensure conditions of dignity in relief camps set up for displaced persons including suggestions for additional camps. This would include, illustratively, ensuring that the following requirements are met:
 - A. Clean rations which are adequate in quantity;
 - B. Adequate supplies of essential products such as soap, water, toothpaste, other toiletries, and clothes;
- c. Taking care of the needs of infants and lactating mothers;

- D. Meeting the requirement of basic medical care;
 - E. Control on the outbreak of communicable diseases;
 - F. Providing information on the accessibility of legal, psycho-social, medical and livelihood services;
 - G. Access to free pregnancy tests, free emergency contraceptives, free sanitary pads and free maternal health services including access to gynaecologists;
 - H. Emergency and specialised medical care for people suffering with critical illness including haemophilia, cancer, and HIV/AIDS;
 - I. Proper sanitation facilities at the relief camps including clean toilets and bathrooms which are adequate in number having due regard to the number of people housed in a particular relief camp and proper disposal of sewage and other waste;
 - J. Suicide prevention services and regular visits by psychologists / psychiatrists to treat the impact of violence and trauma;
 - K. Regular visits by psychologists, psychiatrists, and counsellors who are specifically trained to treat children and adolescents;
 - L. Ensuring that women, children and persons suffering from physical and mental disabilities have equal access to resources to meet their basic needs; and
 - M. Ensuring that information regarding the availability of the facilities listed above is disseminated and awareness is created amongst the residents of the relief camps.
 - v. Ensuring the payment of compensation and restitution to victims of violence; and
 - vi. Issuing directions for the appointment of nodal officers at relief camps and the provision of toll-free helplines to provide updates on any investigation, missing persons, and the recovery of dead bodies. The nodal officers must also ensure that they maintain a database of all persons who are housed in their respective relief camps. They must use this database to coordinate with one another and ensure that minors and other persons who have been separated from their families are reunited with their families at the earliest.
- 21.** The three-Judge Committee appointed by this Court would, as part of its remit, enquire into and take steps necessary for the disbursement of compensation including the following:
- a. Issuing directions to the Manipur State Legal Services Authority to ensure award and payment of compensation to all victims under Section 357A CrPC, NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes 2018, and the Manipur Victim Compensation Scheme 2019;
 - b. Where the victim is deceased, the next of kin should be identified for the payment of compensation;
 - c. A report of compliance be filed before this Court within six weeks with full particulars of the case, victim/witness, compensation awarded, date of payment and the persons to whom the payment was made;
 - d. The Member-Secretary NALSA shall monitor together with the three-Judge Committee on measures taken for witness protection, compensation and the rehabilitation and treatment of victims; and
 - e. Issuing directions to the State of Manipur to settle compensation for damages caused to the movable and immovable properties of persons affected by violence; and

f. The updated status report shall be filed before this Court on a fortnightly basis.

22. The State of Manipur and the Union Government have indicated that there are eleven FIRs involving cases of sexual violence against women and children. Details of the statement tendered by the Director General of Police, Manipur, who was present in Court, under its directions, are reproduced below:

| "SI No | FIR No. & Section | Police station | District |
|--------|---|-------------------|--------------|
| 1 | FIR No. 94(5)2023 PRT-PS u/s 147/ 148/ 149/302 IPC. | Porompat PS | Imphal East |
| 2 | FIR No. 541(6)2023 PRT-PS u/s 326/354/366/375/302/34 IPC Corresponding to FIR No. ZERO (65)(5)2023 SKL PS u/s 326/ 354/ 366/ 375/ 302/ 34 IPC | Porompat PS | Imphal East |
| 3 | FIR No. 110 (06) 2023 NSK PS u/s 153A / 398 / 427 / 436 / 448 / 302 / 354 / 364 / 326 / 34 IPC Corresponding to FIR No. ZERO (91) (5)23 SKL PS u/s 153A / 398 / 427 / 436 / 448 / 302 / 354 / 364 / 326 / 376 / 34 IPC & 25 (1-C) A. Act. | Nongpok Sekmai PS | Thoubal |
| 4 | FIR No. 815(7)2023 PRT-PS u / s 354 / 307 / 364 / 376 / 376D / 506 / 34 IPC & Sec 3 SC / ST (PoA) Act 1989 Corresponding to ZERO FIR No. 0(930) (7)2023 KPI-PS u / s 354 / 307 / 364 / 376 / 376D / 506 / 34 IPC & Sec 3 SC / ST (PoA) Act 1989 | Porompat PS | Imphal East |
| 5 | FIR No. 93(5)2023 PRT-PS U/S 147/ 148/ 149/ 326/354 IPC Corresponding to ZERO FIR No. 00(5)2023 WPS-CCP u/s 143/148/307 /326/ 354/397/34 IPC, 25(1-B) Arms Act & 3(2)(iii) of SC/ST (POA) Act | Porompat PS | Imphal East |
| 6. | FIR No. 79(5)2023 LPS u/s 148/ 149/ 302 IPC Corresponding to FIR No. 00(5)2023 CCP-PS u/s 143/ 148/ 427/ 436/ 354/ 34 IPC registered and then transferred to Lamphel -PS on18/07/2023. | Lamphel PS | Imphal West |
| 7 | FIR No. 245(5)2023 SJM-PS u/s 147/149/354/427 IPC & 3(i)(ix) SC & ST (Prevention of Atrocities) Act. | Singjamei PS | Imphal West |
| 8 | FIR No. 81(5)2023 SJM-PS u/s 354/34 IPC & 27 Arms Act. | Singjamei PS | Imphal West |
| 9 | FIR No. 499(7)2023 SJM-PS u/s 143/ 148/ 506/124-A/ 307/ 354/ 436/ 397/ 34 IPC & Sec 3(2) (iii) of SC & ST (Prevention of Atrocities Act). (Transferred from WPS-CCP) | Singjamei PS | Imphal West |
| 10 | i) FIR No. 584(7)2023 IPS U/s 366/ 368/ 34 IPC & ii) FIR No. 1009(7)2023 LPS U/S 365/34 1PC. | Imphal PS | Imphal West |
| 11 | FIR No. 117(6)2023 YPI/PS U/S 147 / 148 / 149 / 325 / 354 / 307 / 427 / 400 / 34 IPC. | Yaingangpok pi PS | Imphal East" |

23. Apart from the above eleven FIRs, the petitioners have adverted to the following six FIRs:

| "S.No. | Date | FIR No |
|--------|------------|----------------------------|
| 1. | 17.05.2023 | Zero FIR 79(5) 2023 SKL-PS |
| 2. | 14.06.2023 | FIR No. 0(680)(6) KPI-PS |

| | | |
|----|------------|---|
| 3. | 08.06.2023 | FIR No. 00(06) 2023 SKT – PS |
| 4. | 17.05.2023 | FIR No. 146(5) 2023 LPS and FIR No. 147(5) 2023 LPS. These two FIRs are separate FIRs filed by two victims but relate to the same incident. |
| 5. | 21.07.2023 | FIR No. 00(07) 2023 CCP-PS |
| 6. | 09.07.2023 | FIR No. 00(07) 2023 CCP - PS” |

24. The above statement which has been tendered on behalf of the petitioners in the petition filed by the **Zomi Students Federation** shall be duly scrutinized. In the event that these FIRs involve offences of a similar nature to those which have been referred to the CBI, similar action in that regard shall be taken within two weeks. This Court shall be apprised of the action taken in this regard by way of a status report filed within three weeks.

25. In order to ensure the fairness of the investigation, the following directions are issued:

a. The process of investigation shall be monitored by this Court. For this purpose, this Court appoints Shri Dattatray Padsalgikar, former Director General of Police, Maharashtra to supervise the investigation by the CBI into the FIRs transferred to it and the investigation by the investigative machinery of the State into the remaining FIRs;

b. For the purpose of ensuring proper investigation of the FIRs which are transferred to the CBI, the Union Ministry of Home Affairs shall place at the disposal of the CBI five officers drawn from the States of Rajasthan, Madhya Pradesh, Jharkhand, Odisha and NCT of Delhi at least of the rank of Deputy Superintendent of Police. At least one of these five officers shall be a woman. For this purpose, the Directors General of Police of the above States shall nominate an officer at least of the rank of Deputy Superintendent of Police for deputation to the CBI. On deputation, the officers shall perform their functions under the overall structure of the CBI and submit periodical information and reports as may be required by Shri Dattatray Padsalgikar, the officer appointed by this Court for supervising the investigation. They shall abide by the directions as may be issued in that regard by him from time to time; and

c. Shri Dattatray Padsalgikar is also requested to investigate the allegations that certain police officers colluded with perpetrators of violence (including sexual violence) during the conflict in Manipur. The Union Government and the State Government shall provide any assistance required in order to carry out this investigation. The findings shall be submitted to this Court in the form of a report.

26. The State of Manipur has, in its submission before the Court, indicated that in order to ensure that the investigation into the FIRs is conducted in a time bound manner, the following SITs shall be constituted:

“For FIRs related to murder and/or any other heinous crime, the SITs are proposed to be headed by an officer not below the rank of SP and such SITs will also include the following :-

- i. 02 (two) Inspectors
- ii. 06 (six) Sub-Inspectors
- iii. 12 (twelve) Constables.

For FIRs related to rape, outraging of modesty and such other sexual offences, the SITs are proposed to be headed by an officer not below the rank of SP and such SITs will also include the following :-

- i. At least 01 (one) female Inspector

- ii. At least 02 (two) female Sub-Inspectors
- iii. At least 04 (four) Women PCs.

For other FIRs, SITs headed by an officer not below the rank of Dy SP will be constituted. The composition of these SITs will be as follows:

- i. 02 (two) Inspectors
- ii. 06 (six) Sub-Inspectors
- iii. 12 (twelve) Constables.

For the districts of Churachandpur, Kangpokpi, Imphal West, Imphal East, Bishnupur and Kakching, there will be 06 (six) SITs in each district with the above composition.

For Thoubal and Tengnoupal districts, there will be 03 (three) SITs each with the above composition.

These SITs will be supervised weekly by an officer of the rank of DIG/ IG/ ADG.

In addition, the DGP will also monitor these cases fortnightly.

In total, 42 (forty-two) nos. of SIT teams of Manipur Police are being proposed to tackle these cases in a focused and timely manner.”

27. In order to ensure proper monitoring and supervision of the investigation by the police authorities, the Union Ministry of Home Affairs shall make available, on deputation, one officer of the rank of Police Inspector drawn from the States of Rajasthan, Madhya Pradesh, Odisha, Jharkhand, Maharashtra and NCT of Delhi. The Ministry of Home Affairs shall also nominate, on deputation, at least fourteen officers not below the rank of Superintendent of Police to be in charge of the respective SITs. The investigation by the SITs constituted for the State of Manipur shall also be monitored and supervised by Shri Dattatray Padsalgikar, the officer appointed by this Court for the purpose. The following directions are issued in this regard:

- a. In cases where the FIR relates to a sexual offence (rape, outraging the modesty of a woman, etc.) in addition to any other crime (murder, grievous hurt, etc.), the SIT which consists of women officers (Inspectors / SubInspectors / PCs as described by the State of Manipur in the extract above) shall be in charge of the entire investigation;
- b. The SIT will visit each relief camp within the area assigned to it and make it known that it is an impartial body which is accepting complaints of violence (including sexual violence). This is necessary because many survivors / victims may not approach the police machinery of their own accord, especially in the aftermath of sectarian violence which may have resulted in the loss of family members and homes, displacement, and trauma to their own bodies and minds;
- c. Where sexual offences are being investigated, the SITs shall follow all prescriptions in law intended to prevent the re-traumatization of women, including the second proviso to Section 161(3) CrPC. The SITs shall comply with the directions issued by this Court with regard to the investigation of sexual offences including the directions issued in **Nipun Saxena v. Union of India**⁷ and **XYZ v. State of Madhya Pradesh**.⁸
- d. The SITs constituted by the State of Manipur shall not consist exclusively of members belonging to either one of the communities involved in the clashes in Manipur;

⁷ (2019) 2 SCC 703

⁸ 2022 INSC 799

e. Should the officer appointed by this court require any further assistance of supervising officers at the DIG level or otherwise, a requisition in that regard shall be submitted to the Union Ministry of Home affairs for necessary action;

f. In the course of monitoring the investigation, Shri Dattatray Padsalgikar will ensure that, depending on the facts of each case, the FIRs are registered by invoking relevant penal provisions. Illustratively, some of the provisions are set out below:

Indian Penal Code 1860

| S.No. | Section | Description |
|-------|-----------|---|
| 1. | 117 | Abetting commission of offence by the public or by more than ten persons. |
| 2. | 121 | Waging or attempting to wage war or abetting waging of war against the Government of India |
| 3. | 121A | Conspiracy to commit offences punishable by section 121 |
| 4. | 122 | Collecting arms, etc, with intention of waging war against the Government of India. |
| 5. | 124A | Sedition |
| 6. | 145 | Joining or continuing in unlawful assembly, knowing it has been commanded to disperse. |
| 7. | 147 | Punishment for rioting |
| 8. | 149 | Every member of unlawful assembly guilty of offence committed in prosecution of common object. |
| 9. | 151 | Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse. |
| 10. | 153A | Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc, and doing acts prejudicial to maintenance of harmony. |
| 11. | 186 | Obstructing public servant in discharge of public functions. |
| 12. | 302 | Punishment for murder. |
| 13. | 324 | Voluntarily causing hurt by dangerous weapons or means. |
| 14. | 326 | Voluntarily causing grievous hurt by dangerous weapons or means. |
| 15. | 332 | Voluntarily causing hurt to deter public servant from his duty. |
| 16. | 353 | Assault or criminal force to deter public servant from discharge of his duty. |
| 17. | 354 | Assault or criminal force to woman with intent to outrage her modesty. |
| 18. | 354A | Sexual harassment and punishment for sexual harassment. |
| 19. | 354B | Assault or use of criminal force to woman with intent to disrobe. |
| 20. | 376 | Punishment for rape. |
| | 376(2)(g) | Punishment for rape committed during communal or sectarian violence. |
| | 376-A | Punishment for causing death or resulting in persistent vegetative state of victim. |
| | 376-C | Sexual intercourse by a person in authority. |
| | 376-D | Gang rape. |
| 21. | 392 | Punishment for robbery. |
| 22. | 395 | Punishment for dacoity. |
| 23. | 436 | Mischief by fire or explosive substance with intent to destroy house, etc. |
| 24. | 447 | Punishment for criminal trespass. |
| 25. | 456 | Punishment for lurking house-trespass or house-breaking by night. |
| 26. | 457 | Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment. |
| 27. | 458 | Lurking house-trespass or house-breaking by night after preparation of hurt, assault, or wrongful restraint. |
| 28. | 505 | Statements conducing to public mischief. |
| 29. | 120B | Punishment of criminal conspiracy. |

Prevention of Damage to Public Property Act 1984

| S.No. | Section | Description |
|-------|---------|--|
| 1 | 3 | Mischief causing damage to public property. |
| 2 | 4 | Mischief causing damage to public property by fire or explosive substance. |

Arms Act 1959

| S.No. | Section | Description |
|-------|---------|----------------------------------|
| 1. | 25 | Punishment for certain offences. |

Unlawful Activities (Prevention) Act 1967

| S.No. | Section | Description |
|-------|---------|---------------------------------|
| 1. | 15 | Terrorist act |
| 2. | 16 | Punishment for terrorist act. |
| 3. | 18 | Punishment for conspiracy, etc. |

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989

| S.No. | Section | Description |
|-------|---------|--|
| 1. | 3 | Punishment for offences of atrocities. |

28. The officer nominated by this Court shall, in the course of monitoring the investigation, issue all appropriate directions including:

- a. Providing qualified legal assistance during the course of investigation;
- b. Making investigations time-bound;
- c. Timely recording of statements under Section 161 and Section 164 CrPC including with proper support persons/facilitators under the High Court of Manipur guidelines for recording of evidence of vulnerable witnesses, if required, through video conferencing or automatic transcription;
- d. Provision for legal aid counsel to the victims during the course of the investigation; and
- e. Maintenance of secrecy of the materials collected during the investigation and maintenance of the anonymity of the victims / survivors of sexual violence in the status reports submitted to this Court.

29. The Union of India and the State of Manipur shall:

- a. Ensure that all the areas which are vulnerable to sectarian violence and riots are identified and monitored so that preventive measures are effectively put into place;
- b. Disseminate information regarding and widely publicize the constitution of the SITs and the constitution of the three-Judge Committee by this Court in all villages, towns, and districts of Manipur as well as in every relief camp that has been set up, in a language that is comprehensible to all residents of Manipur. This information must be made available even to those who are not in possession of a radio, newspaper subscription, smartphone, or television; and
- c. Take stock of the number of arms missing or looted from the armouries of the state and of these, the number of arms which have been recovered. Formulate and implement a plan to recover any missing arms.

30. Shri Dattatray Padsalgikar and the three-Judge Committee appointed by this Court shall submit reports to this Court within a period of two months, elaborating on the

progress which has been made. This Court shall issue further directions at that stage for the shifting of the trials outside the State of Manipur, as may be required and for consequential directions.

31. List the proceedings on 13 October 2023.

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