

ANIL K. NARENDRAN & ZIYAD RAHMAN A.A. JJ.

W.P.(C)No.11861 of 2021

Dated this the 11th day of June, 2021

ORDER

Anil K. Narendran, J.

On 30.04.2021, Bechu Kurian Thomas J. pointed out the larger public interest involved in the matter of safety of passengers on Railway Trains, taking note of an incident reported in the media on 29.04.2021 and 30.04.2021, both print and visual. As per media reports, on 28.04.2021 at 08.30 am, a 31 year old female passenger jumped off a moving train at Olipuram in Kanjiramattom, Ernakulam District, following an assailant attack, who sustained head injuries. She was attacked by the assailant immediately after Punalur-Guruvayur Passenger started moving from Mulanthuruthy Station, from where she boarded the train. The assailant is a notorious history-sheeter, who was booked in as many as eight cases for robbery in trains. The matter was placed before the Hon'ble Chief Justice for initiating *suo motu* proceedings, for considering enhancement of safety on passenger trains by use of modern technology.

2. By the order dated 26.05.2021, the Hon'ble Chief Justice directed Registry to initiate *suo motu* Public Interest

Litigation in the matter and place it before the Bench dealing with Public Interest Litigation. Accordingly, this matter is listed today before this Bench. The news reports appeared in Malayala Manorama daily dated 29.04.2021, the Hindu daily dated 30.04.2021 and the New Indian Express daily dated 30.04.2021 are marked as Exts.P3 to P5.

3. Heard the learned Assistant Solicitor General of India, learned Standing Counsel for Southern Railway and also the learned Senior Government Pleader. The learned Assistant Solicitor General of India would point out that the learned Standing Counsel for Southern Railway is authorised to represent the 1st respondent Union of India, Ministry of Railways.

4. Section 57 of the Railways Act, 1989 deals with the maximum number of passengers of each compartment. As per Section 57, subject to the approval of the Central Government, every railway administration shall fix the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment in Hindi, English and also in one or more of the regional languages

commonly in use in the areas served by the railway. Section 58 of the Act deals with earmarking of compartments, etc., exclusively for ladies. As per Section 58, every railway administration shall, in every train carrying passengers, earmark for the exclusive use of females, one compartment or such number of berths or seats, as the railway administration may think fit.

5. Section 59 of the Act deals with communications between passengers and railway servant in charge of train. As per Section 59, railway administration shall provide and maintain in every train carrying passengers, such efficient means of communication between the passengers and the railway servant in charge of the train as may be approved by the Central Government. As per the first proviso to Section 59, where the railway administration is satisfied that the means of communication provided in a train are being misused, it may cause such means to be disconnected in that train for such period as it thinks fit. As per the second proviso to Section 59, the Central Government may specify the circumstances under which a railway administration may be exempted from providing such means of communication in any train.

6. Clause (a) of Section 123 of the Act defines 'accident' to mean an accident of the nature described in Section 124. Clause (c) of Section 123, which defines 'untoward incident' read thus;

(c) 'untoward incident' means-

(1)(i) the commission of a terrorist act within the meaning of sub-section (1) of Section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloakroom or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.

7. Section 124 of the Act deals with extent of liability; and Section 124A deals with compensation on account of untoward incidents.

8. Sections 57, 58 and 59 of the Act are intended to secure safety of passengers, including female passengers, and Sections 123, 124 and 124A of the Act are intended to ensure

payment of compensation for loss occasioned by the death of, or injury to, a passenger as a result of an untoward incident, to such extent as may be prescribed. In **Kalandi Charan Sahoo v. South-East Central Railways [(2019) 12 SCC 387]** the Apex Court held that, Section 124A of the Railways Act warrants payment of compensation whenever an untoward incident occurs whether or not such an incident has occurred by any wrongful act, neglect or default on the part of the Railway Administration.

9. In **P. Nalla Thampy Thera v. Union of India [(1983) 4 SCC 598]**, a writ petition filed under Article 32 of the Constitution by a resident of Sultanbattery in the State of Kerala, describing himself as a commuter of the Indian Railways, it was alleged, *inter alia*, that despite several safety measures prescribed in the Indian Railways Act, 1890, on account of failure to fulfil the constitutional, statutory and commercial obligations by the Railways, adequate safety protection to the passengers and their properties is not available. The Apex Court held that, since Railways is a public utility service run on monopoly basis, there is no justification to run it merely as a commercial venture, with a view to making

profits. It is of paramount importance that the services should be prompt, efficient and dignified. The quality of the service should improve. Travel comforts should be ensured. Facilities in running trains should be ensured. Quality of accommodation and availability thereof should be ensured. The administration should remain always alive to the position that every bona fide passenger is a guest of the service. Ticketless travelling has to be totally wiped out. It is this class of passengers which is a menace to the system. Without any payment these law breakers disturb the administration and genuine passengers. Stringent laws should be made and strictly enforced to free the Railways from this deep-rooted evil. Security both to the travelling public as also to the non-travelling citizens must be provided and this means that accidents have to be avoided, attack on the persons of the passengers and preying on their property has to stop. Scientific improvements made in other countries and suitable to the system in our country must be briskly adopted. The obligations cast by the Railways Act and the Rules under it must be complied with.

10. In **P.A. Narayanan v. Union of India [(1998) 3 SCC 67]** the Apex Court was dealing with a case in which, the

wife of the appellant was at the relevant time working as a Senior Lecturer in English. On 03.01.1981, she left for her college and travelled by Harbour Line local train to Bandra from Kings Circle. From Bandra, she boarded Western Railway local train for Andheri. She was travelling on a first class railway pass in first class ladies' compartment. Before she could reach her destination at Andheri, she was criminally assaulted and also robbed of her gold chain, bangles and wristwatch between Bandra and Andheri Railway stations while the train was in motion. She pulled the alarm chain but despite of the ringing of the alarm bell neither the guard nor the motorman stopped the train. She ultimately succumbed to the injuries in the compartment. The appellant made a representation to the Chairman, Railway Board on 29.03.1981 requesting for compensation for the death of his wife. His representation was rejected and he was informed that the liability of the Railways could arise only in case of railway accidents and not where death takes place as a result of an attempted murder in a running train. The High Court dismissed his writ petition. The writ appeal also ended in dismissal. In Civil Appeal, the Apex Court held that, there is a common law duty of taking

reasonable care which must be attached to all carriers including the Railways. The standard of care is high and strict. On the facts of the case, the Apex Court held that there has been a breach of that duty and the negligence on the part of the Railway staff is writ large. Had the train been stopped and first-aid provided when the alarm chain was pulled, the possibility that the deceased may not have met her death, even after the assault in the course of robbery, is a possibility which cannot be totally rule out. The manner in which the Guard and the Motorman acted exposes a total casual approach on their part. Because of the failure of those Railway officials, a precious life has been lost. The Apex Court, in the established facts and circumstances of the case, keeping in view the evidence of the Guard and the Motorman, and with a view to do complete justice between the parties, awarded a sum of Rs.2,00,000/- as compensation to the appellant for the death of his wife, in addition to Rs.50,000/- which had been given by the State Government in 1981 as *ex gratia* in favour of the son of the appellant.

11. In **P.A. Narayanan**, the learned amicus curiae brought the attention of the Apex Court to the Railways Act,

1989, which came into force on 01.07.1990, and urged that the new Act which extensively modifies, amends and consolidates the old 1890 Act, unequivocally incorporates the concept of liability of the Railway administration for death and/or injury to passengers due to any 'untoward incident' while travelling in the train. Clause (c) of Section 123 of the Railways Act, 1989 defines an 'untoward incident' and *inter alia* provides the making of a violent attack or the commission of robbery or dacoity as an 'untoward incident'.

12. In **Sumatidevi M. Dhanwatay v. Union of India [(2004) 6 SCC 113]** the appellant, while travelling in First Class air-conditioned berth from Nagpur to Bombay by Howrah-Bombay Mail, was assaulted by some unauthorised passengers and her gold, silver, pearl, diamond and other valuables were taken away forcibly. They assaulted other bona fide passengers. They molested the women and even raped the young girl passengers. The appellant pulled the alarm chain, as a result of which, the train stopped at Igatpuri Station. She along with other bona fide passengers got down at that station. She approached the Railway Authorities for protection, but without any assistance. On reaching Bombay, she lodged a complaint

with the police about the incident. She approached the State Consumer Disputes Redressal Commission, Maharashtra by filing a complaint claiming compensation of Rs.9,32,256/-. The State Commission allowed the claim of the appellant partly, awarding a total compensation of Rs.1,41,756/-. The Railway Administration filed an appeal before the National Consumer Disputes Redressal Commission, which by the order under challenge in the Civil Appeal, set aside the order made by the State Commission. The Apex Court noticed that, before the State Commission, the only contention of the Railway Administration was that it was not responsible for the loss of luggage and injuries caused to the appellant. The State Commission, on consideration of the facts and circumstances of the case, recorded that the Railway Administration failed to take precaution and preventive measures. The appellant suffered injury and no protection or support was given to her. The Railway Administration, in spite of their prior knowledge, had not made any efforts or devised measures to curb lawlessness indulged in by the ticketless travellers. Having recorded such findings, the State Commission awarded compensation to the appellant. However, the National Commission, without

dislodging the reasons recorded by the State Commission and without giving reasons, upset the order of the State Commission simply stating that the finding of the State Commission could not be upheld that there was a deficiency in service on the part of the Railway Administration. However, in the impugned order, the National Commission has expressed its concern about the total absence of any steps having been taken by the Railway Administration to mobilise adequate Police force sufficiently beforehand when the occurrence of such mob violence on stations en route Nagpur to Bombay on Ambedkar Day has been a recurring phenomenon every year. The Apex Court found that the above observation of the National Commission also supports the position that there has been negligence on the part of the Railway Administration. The Apex Court held that the argument of the learned counsel for the respondents that the Railway Administration is not liable for the loss suffered by the appellant, cannot be accepted in the light of the decision in the case of **P.A. Narayanan [(1998) 3 SCC 67]**. That apart, under Section 124A of the Railways Act, 1989 the Railway Administration cannot escape the liability having regard to the facts and circumstances of the case and in the light of the

incident that had taken place. Accordingly, the Apex Court allowed the Civil Appeal, on payment of a cost of Rs.5,000/- and the impugned order was set aside.

13. The legal maxim '*salus populi suprema lex*' means welfare of the people is the highest law. The legal maxim '*salus reipublicae suprema lex*' means welfare of the State is the highest law.

14. In **Lala Ram (Died) by L. R. v. Union of India [(2015) 5 SCC 813]** the Apex Court held that, a welfare State must serve larger public interest. *Salus populi suprema lex*, means that the welfare of the people is the supreme law.

15. In **Rajani K.N. v. Ministry of Railways and others** [judgment dated 09.08.2016 in W.P.(C)No.4191 of 2011 and connected matters] the petitioners who are public spirited citizens sought directions to the Railway Administration to come out with a comprehensive and practical scheme and package to assure safety, security and protection to passengers who travel in ladies compartments in all the trains running, not only throughout the State, but during the entire journey. They have also sought for a direction to the respondents to allot beat police at all stations, where passenger trains pass by at night and

early morning. In the counter affidavit sworn to by the Chief Security Commissioner, Railway Protection Force, Southern Railway, Chennai on behalf of respondents 1 and 4 to 7 it was stated that the following measures have been adopted and implemented, to ensure safety and security of passengers, especially women passengers in trains and railway premises, viz.,

(a) Ladies coaches in maximum passenger trains running in Kerala State, are escorted by at least one RPF staff/GRP during the night hours.

(b) For the safety of women passenger in Kerala, three RPF Women Sub Inspectors and 46 RPF Women Head Constable/Constables have been exclusively deployed. Similarly GRP/Kerala are also deploying Women Police in ladies compartments and utilising the service of Kerala Local Police to escort the passenger trains.

(c) RPF Women Sub Inspectors and Women Head Constables/ Women Constables are regularly deployed at stations for the security of lady passengers.

(d) All India Security Help Line No.182 is functioning in all the Divisional Security Control Rooms of RPF, to attend to the security related issues/assistance, to ensure the safety and security of passengers.

(e) Efforts have been taken to popularise the RPF Help Line No.182 by pasting stickers in all the coaches of the trains and at the conspicuous places of Railway stations, to

facilitate the passengers to contact RPF personnel for security assistance.

(f) A short film titled "Dial 182" with English subtitle is produced for creating awareness among public about the all India passenger security Help Line No.182, meant to render timely assistance on all security related issues over Indian Railways. The above short film is in the social media sites such as Whats APP, Face book, You-Tube, Twitter, etc. with more than one crore viewers till date. The full version of the above short film is available in the link <https://www.youtube.com/watch?v=p985raSbL5A>.

(g) RPF staffs on platform duty are attending to ladies coaches on its arrival/departure at the originating station and attention is given to ladies found on railways alone.

(h) RPF staffs on access control duty are sensitising the women passenger through mega phone and public address system, not to sit near window wearing costly ornaments and beware of chain snatchers.

(i) Video coverage of general coaches are done at important and affected station to create moral fear among the anti social elements.

(j) CCTVs have been installed at important stations/junctions such as Trivandrum Central, Ernakulam Junction, Calicut under Integrated Security System. In Trichur, Quilon Junction, CCTVs are provided under Non-Integrated Security System to keep watch over the movements of anti-social elements and suspected persons in station premises. Further, 28 railway stations have been identified for installation of video surveillance system in the

State of Kerala, under "Nirbhaya" scheme and the same will be executed very soon.

(k) RPF staffs on train escort duty are provided with CUG mobile phone and walkie-talkie while traveling in the coaches adjacent to the ladies compartment, to provide security to the passengers especially to women passengers. The RPF escorts are attending the ladies compartment during halt of the train in the mid-section/stations.

(l) Officers in the ranks of Inspector, Sub Inspector and Assistant Sub Inspector are nominated for train escort duties for more effectiveness.

(m) Intensive drives are being conducted regularly by RPF against male passengers attempting to travel in ladies coaches etc. During the year 2015, 566 male persons travelling in female compartments were apprehended and prosecuted under relevant provisions of law and 1,258 beggars have been chased out during the year 2015 from trains/railway premises in the State.

(n) RPF "Crime Prevention Detection Squads (CPDS)" are functioning in the affected section/trains to prevent theft of passenger belongings etc. in all the divisions in the Southern Railway, including Trivandrum and Palghat divisions.

(o) In en-route, RPF staffs on platform duty are attending to the train formation, especially women coaches to provide safety and security to the passengers and to prevent crime against passengers.

(p) Various awareness campaigns are being conducted outside the railway stations also, to facilitate the women to

call RPF, in case of security related issues. In a mega awareness programme on "women passenger security" and enrolling of women/girl students aiming women security over railways at NSS College for Women organised at Trivandrum in which about 1500 college girl students including teaching and non-teaching staffs have participated. During the programme, awareness pamphlets printed in Malayalam and English were issued to the participants, while they are travelling in trains/in railway premises etc.

(q) Awareness campaigns are conducted to educate the passengers about the menace of drugging, theft of passenger belongings, robber, etc. and to take precautions to prevent such crime.

(r) A scheme, "Wish you a Happy Journey" has been launched by GRP/Kerala to facilitate the passengers, especially women passengers to lodge their complaint in trains without breaking their journey." (underline supplied)

16. By judgment dated 09.08.2016 the Division Bench of this Court disposed of W.P.(C)No.4191 of 2011 and connected matters recording satisfaction with the aforesaid arrangements already made by the Railway Administration, and with hope and trust that the aforesaid arrangements, which were stated to have been adopted and implemented, should be adhered to for all time to come. Before the Division Bench, the petitioners insisted that additional Railway Protection Force shall be

provided in order to safeguard the safety and security of the women passengers not only during night time, early hours, but also during day time. Further, the ladies compartments which are generally fixed at the end of the train need to be shifted to the middle of the train so as to have adequate safety and security for the helpless ladies travelling in it. The Division Bench found that, in case the strength of the Railway Protection Force is increased, the safety of the lady passengers can be maintained more effectively. Since the learned Standing Counsel for Southern Railways pointed out that there is some practical difficulty in fixing the ladies compartments in the middle of the train, the Division Bench directed that the said subject has to be looked into by the experts in the field, i.e., the concerned authorities of Department of Railways. Paras.5 to 8 of the said decision read thus;

“5. Learned counsel appearing on behalf of the petitioners submit that the afore-mentioned steps as are stated to have been implemented by railways are satisfactory. However, the petitioners insist that additional railway protection force shall be provided in order to safeguard the safety and security of the women passengers not only during night time, early hours, but also during day time. It is also contended by the petitioners that the ladies compartments which are generally fixed at the end of the

train need to be shifted to the middle of the train so as to have adequate safety and security for the helpless ladies travelling in it.

6. We accept the submissions made at the bar on behalf of the petitioners that the afore-mentioned two measures need to be taken at an early date. There cannot be any dispute that in case if the strength of the railway protection force is increased, the safety of the lady passengers can be maintained more effectively. So also in case the ladies compartments are fixed in the middle of the train, that will ensure additional security for the lady passengers.

7. However, the learned advocate appearing for the railways submits that there is some practical difficulty in fixing the ladies compartments in the middle of the train in as much as there is every likelihood that the male passengers as well as the hawkers and the persons working in the pantry will have to walk through the ladies compartments, in which event there will be no privacy for the lady passengers. Therefore, the said subject has to be looked into by the experts in the field, i.e., the concerned authorities of Department of Railways.

8. Be that as it may, since we are satisfied with the arrangements already made as mentioned supra and as we hope and trust that the afore-mentioned measures which are stated to have adopted and implemented should be adhered to for all time to come, we dispose of the writ petitions and the contempt case with the afore-mentioned observations. We also hope, that the Railways will make endeavour to improve further, on the measures mentioned supra."

17. Justice Verma Committee was constituted by the Government of India, vide Notification No.SO(3003)E dated 23.12.2012 to look into possible amendments of the Criminal Law to provide for quicker trial and enhanced punishment for criminals committing sexual assault of extreme nature against women. The immediate cause for the constitution of the Committee was the brutal gang rape of a young woman in Delhi, in a public transport vehicle, in the late evening of 16.12.2012. Chapter 10 of the report dated 23.01.2013 deals with provision of adequate safety measures and amenities in respect of women. After referring to the law laid down by the Delhi High Court in **Court on its Own Motion v. Union of India [(2007) 139 DLT 244]** and also the law laid down by the Apex Court in **Avishek Goenka v. Union of India [(2012) 5 SCC 321]** prohibiting the use of black films of any visual transmission of light percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses of all vehicles throughout the country, the Committee observed as follows in Para.6 of the report;

"6. A cursory glance on any of India's roads at any time of day or night will show that these directions of the Supreme Court are being openly flouted by all and sundry. It

saddens the Committee to note that the police forces of this country enforce these directions, and indeed law, only when orders are passed by various courts, and then again, only take action for a few days." (underline supplied)

18. In **Avishek Goenka [(2012) 5 SCC 321]** the Apex Court found that use of black films has proved to be a criminal's paradise and a social evil. The unanimous view of various police authorities right from the States of Calcutta, Tamil Nadu and Delhi to the Ministry of Home Affairs that use of black films on vehicles has jeopardised the security and safety interests of the State and the public at large. This certainly helps the criminals to escape from the eyes of the police and aids in commission of heinous crimes like sexual assault on women, robberies, kidnapping, etc. If these crimes can be reduced by enforcing the prohibition of law, it would further the cause of the rule of law and public interest as well. Therefore, the Apex Court directed the Home Secretary, Director General/Commissioner of Police of the respective States/Centre to ensure compliance with the directions contained in this judgment, which shall become operative and enforceable with effect from 04.05.2012.

19. In **Jijith and others v. State of Kerala and others [2019 (1) KHC 463 : 2018 SCC OnLine Ker 8262]** this Court

held that, in view of the provisions under Rule 100 of the Central Motor Vehicles Rules, 1989 and the law laid down by the Apex Court in **Avishek Goenka v. Union of India [(2012) 5 SCC 321]** and **Avishek Goenka (2) v. Union of India [(2012) 8 SCC 441]**, tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of a motor vehicle, either by pasting any material upon the safety glass or by fixing sliding 'cloth curtains', etc. are legally impermissible.

20. In **Saji v. Deputy Transport Commissioner [2019 (3) KHC 836 : 2019 SCC OnLine Ker 2047]** this Court held that the law laid down in **Jijith** is equally applicable in the case of transport vehicles owned/operated by KSRTC, KURTC and also Government vehicles.

21. In **Principal, Sabari PTB Smaraka H.S.S v. Additional Registering Authority and others [2020 (2) KHC SN 9 : 2020 (2) KLJ 662 : 2019 SCC OnLine Ker 7998]** this Court directed the Transport Commissioner, Kerala, among other things, to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle, including a Government vehicle, is permitted to

be used in any public place, after tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films upon the safety glass or by fixing sliding cloth curtains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules.

22. In the order dated 09.04.2021 in W.P.(C)No.23021 of 2018 [Principal, Sabari PTB Smaraka H.S.S], this Court noticed that, as evident from the statement filed on behalf of the Transport Commissioner, Kerala, on 23.03.2021, large number of vehicles are being permitted to be used in public place with cooling films and curtains, in contravention of the directions contained in the judgment of the Apex Court and this Court, prohibiting the use of such materials on the windscreen, rear window and side windows of motor vehicles. In the said order, this Court noticed that, even after the filing of the action taken report on 24.11.2020, large number of vehicles including Government vehicles are being permitted to be used in public place using cooling films, curtains, etc., which is evident from the fact that 5775 vehicles were booked for using cooling films, curtains, etc., in the special drive 'Operation Screen' conducted

for the period from 17.01.2021 to 20.01.2021. Paragraphs 11.13 and 11.14 of the order dated 09.04.2021 in W.P. (C)No.23021 of 2018 read thus;

“11.13. In the judgment dated 28.10.2019 (Paras. 126 to 131), this Court issued various directions to the additional 3rd respondent Transport Commissioner, who was directed to file an action taken report on or before 04.04.2020. On behalf of the additional 3rd respondent, the Joint Transport Commissioner (Enforcement) has filed action taken report on 24.11.2020. As evident from the statement filed by the Joint Transport Commissioner (Enforcement) on 23.03.2021, large number of vehicles were being permitted to be used in public place with cooling films and curtains, in contravention of the directions contained in the judgment of the Apex Court and that of this Court prohibiting the use of such materials on the windscreen, rear window and side windows of motor vehicles. The State Police Chief has to issue circular dated 14.12.2020, after the action taken report filed by the Joint Transport Commissioner (Enforcement) on 24.11.2020, directing removal of window curtains, bull bars, sun films, etc., from the vehicles of Police Department. The said circular was followed by circular dated 30.12.2020 issued by the Home Department, whereby all Government Departments are instructed to ensure that none of the vehicles under their administrative control use curtains/dark films or any materials, which affects the visual light transmission percentage, through the windscreens/windows.

11.14. The fact that 5775 vehicles were booked for using cooling films, curtains, etc., in the special drive 'Operation Screen' conducted for the period from 17.01.2021 to 20.01.2021 would make it explicitly clear that even after the filing of the action taken report on 24.11.2020, large number of vehicles including Government vehicles were being permitted to be used in public place using cooling films, curtains, etc.”

23. In **Avishek Goenka [(2012) 5 SCC 321]** the Apex Court prohibited the use of black films or any other materials upon the safety glasses, windscreens and side glasses of all vehicles throughout the country, since use of such films and other materials certainly help the criminals to escape from the eyes of the police and aids in commission of heinous crimes like sexual assault on women, robberies, kidnapping, etc. Even after nearly a decade, the directions issued by the Apex Court are being openly flouted by all.

24. In **Rajani K.N. v. Ministry of Railways and others** the Division Bench of this Court disposed of W.P.(C)No.4191 of 2011 and connected matters with the observations contained in paras. 5 to 8 extracted hereinbefore with hope and trust that the aforementioned measures, which are stated to have adopted and implemented, should be adhered to for all the time to come and the Railway Administration will make endeavor to improve

further on the said measures. The measures stated to have been adopted and implemented by the Railway Administration, to ensure safety and security of passengers, especially women passengers in trains and railway premises, includes deployment of RPF staff/GPR during night hours in ladies coaches, railway stations, etc.; video coverage of general coaches, installation of CCTVs at important stations/junctions and also the proposed video surveillance system under 'Nirbhaya Scheme' in 28 identified railway stations in State of Kerala, to keep watch over the movements of anti-social elements and suspected persons in station premises.

25. The incident reported in Exts.P3 to P5 news reports occurred on 28.04.2021 at 8.30 a.m., while a 31 year old woman passenger was travelling alone in D8 compartment of Punallur-Guruvayoor Passenger, immediately after the train started moving from Mulanthuruthy Station, from where she boarded the train. The security of passengers, including women passengers, on the board of trains can be ensured by installation of CCTV cameras inside the compartment, along with 'panic button' to alert the railway servants in-charge of the train or RPF/GRP personnel, if any, on duty.

26. In view of the law laid down by the Apex Court in **P. Nalla Thamby Thera [(1983) 4 SCC 598]** and **P.A. Narayanan [(1998) 3 SCC 67]** the Railway Administration has a duty to ensure the safety of the passengers, by taking necessary steps to prevent any attack on them by law breakers. Since the standard of care on the Railway Administration is high and strict, it has to take necessary steps to avert any 'untoward incident', as defined in clause (c) of Section 123 of the Railways Act, 1989, and to ensure the safety of passengers, including women passengers, by taking appropriate measures. The lives of people travelling in trains are precious for their families and also for the nation. Therefore, the Railway Administration has to take measures to avert an untoward incident like the one happened on 28.04.2021, in future.

27. Considering the public interest involved, Adv.R.Leela (Reg.No.K-1025/2001), a lawyer of this Court is appointed as Amicus Curiae to assist this Court in the matter.

28. Show the name of the learned Amicus Curiae in the cause list. Registry to serve a copy of this writ petition to the learned Amicus Curiae.

29. Advocate Shri. N.K. Subramanian, the learned Standing Counsel for Southern Railway, takes notice for respondents 1 to 4 and the learned Senior Government Pleader takes notice for respondents 5 and 6. The learned Standing Counsel for Southern Railway and the learned Senior Government Pleader seek four weeks' time to file statement/counter affidavit.

30. In the counter affidavit/statement, the respondents shall state as to whether the arrangements noted in the judgment of the Division Bench dated 09.08.2016 in W.P. (C)No.4191 of 2021 and connected cases are being adhered to and also the proposed measures like installation of video surveillance system under 'Nirbhaya Scheme' in 28 identified railway stations in State of Kerala have already been implemented.

List on 13.07.2021 for further consideration.

Sd/-

**ANIL K. NARENDRAN
JUDGE**

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**