

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL PUBLIC INTEREST LITIGATION NO. 35 OF 2013**

Forum Against Oppression of
Women and Anr.

...Petitioners

Versus

Union of India & Ors.

...Respondents

WITH

(O.S.) PUBLIC INTEREST LITIGATION (LODG.) NO. 87 OF 2017

Majlis Manch, through Director
Flavia Agnes

...Petitioners

Versus

State of Maharashtra,
through the Principal Secretary,
Department of Women and Child

...Respondents

Mr. Mihir Desai a/w Mr. Vijay Hiremath for the Petitioners in
Cri.PIL/35/2013

Ms. Flavia Agnes a/w Mr. Prasad Shenoy for the Petitioners in
PIL(L)/87/2017

Mr. A. A. Kumbhakoni, A.G. a/w Mr. Abhay L. Patki, A.G.P and Ms. P. P.
Shinde, A.P.P for the Respondent-State

Ms. Neha Bhide for the Respondent No. 6 in CRPIL/35/2013

Mr. S. D. Kulkarni, Member Secretary a/w Mr. Sanjay Yadav, OSD for
MSLSA, are present

**CORAM : DR. MANJULA CHELLUR, C.J. &
M. S. SONAK, J.
THURSDAY, 30th NOVEMBER, 2017**

P.C. :

1. In this criminal PIL, the challenge was to the notified scheme titled as Manodhairya Scheme proposed by the State with regard to the compensation to be paid to the victims. By order dated 12th October, 2017, this Court constituted a Bench consisting of Smt. Justice Mridula R. Bhatkar and Shri Justice G. S. Kulkarni to look into the grievances made in the PIL as well as individual writ petitions and then evolve a model scheme. Upon constitution of such Committee, Hon'ble Members of the Committee took the matter to their heart spending lot of time to come out with a model Scheme. We also appreciate the efforts put in by learned Advocate General, who became the spokesperson for the State to evolve the present Scheme. We place on record our appreciation for the commendable response by the Committee as well as learned Advocate General. Learned counsel Mr. Mihir Desai as well as Ms. Flavia Agnes also participated along with the other NGOs in the deliberations, which took place before the Committee. After hearing all the parties concerned, after several discussions, Committee has proposed Manodhairya Scheme, 2017, a model Scheme, which is submitted to us through the Member Secretary, Maharashtra State Legal Services Authority.

2. By and large, all the parties concerned including the State through the Advocate General submit that they are satisfied with the proposals made in the Scheme.

3. We have also gone through the Scheme. So far as serial No.1, item Nos. (c)(ii), we are of the opinion that even in the case of non-earning woman, the relief must be up to Rs. 10 lacs.

Coming to certain difficulties expressed across the Bar, we note that whenever a statement is recorded under Section 164 of the Code of Criminal Procedure, the Magistrate keeps the statement with them and in terms of Apex Court judgment pertaining to Karnataka State, there is a direction not to issue copy of such statement recorded under Section 164 Cr.P.C. before filing of the charge-sheet. In that view of the matter, with reference to paragraph (e) at page 5 of the model Scheme, instead of production of victim's statement recorded under Section 164, it should be, if an intimation of recording of statement under Section 164 by Magistrate is sent, it is suffice for the purpose of paragraph (e) at page 5. Similarly, at

para (e) of page 5, it should also include the circumstance of statement of the victim if cannot be recorded for any genuine reason, then also, the benefits indicated at paragraph (e) can be considered.

4. With these changes in the model Scheme, since learned Advocate General, on instructions, submits that model Scheme is acceptable, we dispose of the PILs directing the respondent-authorities to issue Government Resolution accordingly within a month from today.

5. Across the Bar, it is brought to our notice that on account of heavy board, the recording of statement of victims under Section 164 Cr.P.C, is delayed and in some cases, upto a period of three months. If this is the factual situation, it would lead to injustice. Therefore, we direct Registrar General to issue direction to all the Judicial Magistrates First Class/Metropolitan Magistrate in the State of Maharashtra to record the statements under Section 164 of Cr. P.C expeditiously, as far as possible on the day of production itself, without any delay.

6. We place on record our appreciation for the efforts taken by Smt. Vinita Ved Singal, Secretary to the Department of Women and Child Development, who has clearly indicated in her affidavit how much money is available in the Department for the Scheme in question and under what circumstances, additional amount can be sought by the Legal Services Authority. We appreciate the efforts made by the Department of Women and Child Development headed by the Secretary Smt. Vinita Ved Singal. We take her affidavit as the undertaking from the Department. Placing the affidavit on record, in terms of above discussion and reasons, we dispose of both the PILs.

M. S. SONAK, J.

CHIEF JUSTICE