

No. K7- 151490 /2019/PHQ
Police Headquarters
Thiruvananthapuram
Dated: -10-2019

Circular No. 30 /2019

Sub:-Judgment of the Hon'ble Supreme Court of India *in Union of India Vs. State of Maharashtra* [Review Petition (Criminal) No.275/2018 in Criminal Appeal No.416 of 2018] – directions with regard to investigation of Cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - reg.

Ref:- 1. Judgment dated 20-03-2018 of the Hon'ble Supreme Court in the case *Dr.Subhash Kashinath Mahajan V. the State of Maharashtra* [Criminal Appeal No.416 of 2018].
2. Judgment dated 01-10-2019 of the Hon'ble Supreme Court in Review Petition (Criminal) No.275/2018 in Criminal Appeal No.416 of 2018.

Hon'ble Supreme Court of India while dealing with the provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 had, vide judgment 1st cited, issued prospective guidelines at paragraph 83 of the judgment, which are extracted hereunder:

“i) Proceedings in the present case are clear abuse of process of court and are quashed.

ii) There is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act if no *prima facie* case is made out or where on judicial scrutiny the complaint is found to be *prima facie mala fide*. We approve the view taken and approach of the Gujarat High Court in Pankaj D Suthar (supra) and Dr. N.T. Desai (supra) and clarify the judgments of this Court in Balothia (supra) and Manju Devi (supra);

iii) In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a non-public servant after approval by the S.S.P. which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinized by the Magistrate for permitting further detention.

iv) To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.

v) Any violation of direction (iii) and (iv) will be actionable by way of disciplinary action as well as contempt.”

The Union of India has filed review petition for review of the above judgment dated 20.3.2018. *Consequently, Hon’ble Supreme Court vide judgment 2nd cited had recalled direction Nos.(iii) and (iv) issued by the Hon’ble Court vide paragraph 83 of the judgment 1st cited and as a result direction No.(v) of the judgment 1st cited has also been rendered redundant.* The relevant pages of the judgments cited are enclosed for information and strict compliance.

Loknath Behera, IPS,
Director General of Police &
State Police Chief.

Encl:-Copies of relevant pages of judgments vide references cited.

To

1. All SHOs of all Police Stations.
2. All Officers in List B- for information and urgent necessary action.
3. CAs to all Officers in PHQ (Hard Copy),
4. DD, PR for information & n/a

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