

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CRIMINAL) NO. 68 OF 2016  
(A Writ Petition under Article 32 of Constitution of India)

**IN THE MATTER OF:**

STATUS OF PARTIES

Youth Bar Association of India  
Through its National President -  
Sanpreet Singh Ajmani, (Advocate)  
S/o. S. Bhupendra Singh, (Advocate),  
R/o- Ajmani Bhawan, Ambica Vihar,  
Haldwani, Nainital, Uttarakhand

Sole Petitioner

VERSUS

1. Union of India,  
Through Secretary, Department of  
Home, North Block, Central  
Secretariat, New Delhi,  
Delhi.110001
2. State of Andhra Pradesh  
Through Chief Secretary,  
Government of Andhra  
Pradesh Secretariat Building  
Hyderabad-500 001
3. State of Arunachal Pradesh  
Through Chief Secretary  
Government of Arunachal Pradesh,  
Secretariat Itanagar-791 111
4. State of Assam  
Through Chief Secretary,  
Government of Assam Block-C 3rd  
Floor Secretariat, Dispur, Guwahati.
5. State of Bihar  
Through Chief Secretary  
Government of Bihar Old Secretariat  
Patna-800 015
6. State of Chhattisgarh

Respondent no. 1

Respondent no. 2

Respondent no. 3

Respondent no. 4

Respondent no. 5

Respondent no. 6

Through Chief Secretary  
Government of Chhattisgarh D K S  
Bhavan, Room No. 207 Mantralay,  
Raipur-492 001.

7. State of Goa Respondent no. 7

Through Chief Secretary,  
Government of Goa Secretariat,  
Porvoriam, Goa-403001

8. State of Gujarat Respondent no. 8

Through Chief Secretary  
Government of Gujarat Block No.1,  
3rd floor New Sachivalaya Complex,  
Gandhinagar-382010

9. State of Haryana Respondent no. 9

Through Chief Secretary  
Government of Haryana Secretariat  
Chandigarh-160 001.

10.State of Jharkhand Respondent no. 10

Through Chief Secretary  
Government of Jharkhand  
Secretariat, Ranchi, 834001.

11.State of Karnataka Respondent no.11

Through Chief Secretary  
Government of Karnataka Vidhana  
Sabha Bangalore-560001

12.State of Kerala Respondent no.12

Through Chief Secretary  
Government of Kerala Secretariat.  
Thiruvanthapuram.

13.State of Maharashtra Respondent no.13

Through Chief Secretary  
Government of Maharashtra  
Room No.518, 5th Floor Main  
Building Mantralaya, Mumbai-400032

14.State of Madhya Pradesh Respondent no. 14

Through Chief Secretary  
Government of Madhya Pradesh  
Vallabh Bhavan Bhopal-462003.

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|---|------------------|
| 15. State of Manipur<br>Through Chief Secretary<br>Government of Manipur Room No.171<br>South Block Secretariat<br>Imphal-795001. | Respondent no.15 |
| 16. State of Meghalaya<br>Through Chief Secretary<br>Government of Meghalaya Main<br>Secretariat Building Shilong-793001.         | Respondent no.16 |
| 17. State of Mizoram<br>Through Chief Secretary<br>Government of Mizoram Civil<br>Secretariat, Block -C,<br>Aizwal-796001.        | Respondent no.17 |
| 18. State of Nagaland<br>Through I G,<br>Nagaland Police Headquarters, P.R.<br>Hills, Kohima, 797001, Nagaland.                   | Respondent no.18 |
| 19. State of Odisha<br>Through Principal Secretary<br>Home Department,<br>Government of Odisha,<br>Bhubaneswar.                   | Respondent no.19 |
| 20. State of Punjab<br>Through Secretary<br>Department of Governance<br>Reforms, SCO, 162-<br>164, Sector, 34-A, Chandigarh       | Respondent no.20 |
| 21. State of Rajasthan<br>Through Chief Secretary,<br>Secretariat, Jaipur,<br>Rajasthan. 302005.                                  | Respondent no.21 |
| 22. State Of Sikkim<br>Through secretary, Department of<br>Home, Government of Sikkim, New<br>Secretariat, Gangtok.               | Respondent no.22 |
| 23. State of Tamil Nadu,<br>Through Chief Secretary,  | Respondent no.23 |

Government of Tamil Nadu  
Secretariat Chennai-600009.

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| <p><b>24.</b>State of Uttarakhand<br/>Through Chief Secretary<br/>Government of Uttarkhand<br/>Uttarakhand Secretariat 4B<br/>Shubhash Road Dehradun - 248001</p>    | <p>Respondent no.24</p> |
| <p><b>25.</b>State of Tripura<br/>Through Chief Secretary,<br/>Government of Tripura, New<br/>Secretariat Complex, PO:<br/>Secretariat-799010, Agartala.</p>         | <p>Respondent no.25</p> |
| <p><b>26.</b>State of West Bengal<br/>Through Chief Secretary<br/>Nabanna Bhavan, HRBC Building,<br/>325, Sarat Chatterjee Road,<br/>Howrah, West Bengal 711102.</p> | <p>Respondent no.26</p> |

**A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF MANDAMUS, APPROPRIATE ORDER OR DIRECTION DIRECTING THE RESPONDENTS TO UPLOAD EACH AND EVERY 'FIRST INFORMATION REPORT' LODGED IN ALL THE POLICE STATIONS WITHIN THE TERRITORY OF UNION OF INDIA IN THE OFFICIAL WEBSITE OF THE POLICE OF ALL STATES, AS EARLY AS POSSIBLE PREFERABLY WITHIN 24 HOURS FROM THE TIME OF LODGING.**

To  
The Hon'ble Chief Justice of India  
And his companion Judges of the  
Supreme Court of India at New Delhi

The humble Petition of the  
Petitioner above-named.

**MOST RESPECTFULLY SHOWETH:**

1. That the petitioner is filing the present Writ Petition for issuance of Writ in nature of Mandamus, an order or direction directing the respondents to upload every 'First Information Report' lodged in all the police stations within the territory of India on the official website of police of all states as early as possible preferably within 24 hours from the time of lodging of such FIR.
- 1A. That the petitioner is an association registered under Society Registration Act, 1860 bearing registration no. 24/2013-2014 dated 14.05.2013 titled as 'YOUTH BAR ASSOCIATION OF INDIA' having Registration Address as 2<sup>nd</sup> Floor, Savitri City Center, Jail Road, Chauraha, Haldwani, District- Nainital, Uttarakhand and postal address as Chamber no. 111, R.K.Jain Block, Supreme Court of India, New Delhi, Email:youthbarassociationofindia@gmail.com, Phone number: 011-23071371. Registration certificate of the petitioner association has been filed. Present petition has been filed through its national president Sanpreet Singh Ajmani, Advocate R/o- Ajmani Bhawan, Ambika Vihar, Haldwani, Nainital, Uttarakhand and an authority letter has been granted to him on behalf the society. Authority Letter granted to Sanpreet Singh Ajmani on behalf of society and PAN card bearing no. AJHPA3210E has also been filed.
- 1B. That the petitioner earlier approached Hon'ble High Courts under Article 226 of Constitution of India in same cause for issuance of Writs confined to territorial jurisdiction of concerned state only while the present petition is being filed under Article 32 of Constitution of India for issuance of Writs to the states and

territories which are not covered by the orders of the Hon'ble High Courts in and as such the present Writ Petition is maintainable.

2. That this is the first Writ-Petition being filed by the petitioners and no other Writ-Petition has been filed by him in this Hon'ble Court arising out of same or similar cause of action. The cause of action for filing the present petition accrued to the petitioner on 30.10.2015 when the petitioner, came to know that the F.I.R is being uploaded in the website of the police only in few states on the direction issued by the Hon'ble High Courts and as such the petitioner sought kind indulgence of this Hon'ble Court so that this scheme may be implemented in whole of India.
3. That the F.I.R is a public document, however, to obtain a copy of F.I.R from the police is not an easy task for the general public. Therefore, if the F.I.R is put to websites it would be in the larger public interest and the same will also avoid many difficulties being faced by the general public. That there is no legal nexus of petitioner with the issue involved in the present public interest litigation. The petitioner association has given a detailed representation on 25.11.2015 to the government authorities. The undersecretary to the Government of India vide letter dated 14<sup>th</sup> December 2015 has replied that the same representation has been forwarded to Ministry of Law & Justice, however nothing has been done so far in the abovementioned cause. Letter of the undersecretary has been annexed with the petition as ann. P-5.
4. That at the very outset, attention of this Hon'ble Court is drawn to the Judgment dated 06.12.2010 passed by the Hon'ble High Court of Delhi in WP(Crl.) No. 468/2010 wherein his lordships

have extensively dealt with the present issue and have been pleased to issue following directions:-

- “(A) An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under Section 207 of the Cr.P.C.*
- (B) An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report can submit an application through his representative/agent/parokar for grant of a certified copy before the concerned police officer or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the court. On such application being made, the copy shall be supplied within twenty-four hours.*
- (C) Once the First Information Report is forwarded by the police station to the concerned Magistrate or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate inhered u/s. 207 of the Cr.P.C.*
- (D) The copies of the FIR, unless reasons recorded regard being had to the nature of the offence that the same is sensitive in nature, should be uploaded on the Delhi Police website within twenty-four hours of lodging of the FIR so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances.*

- (E) *The decision not to upload the copy of the FIR on the website of Delhi Police shall not be taken by an officer below the rank of Deputy Commissioner of Police and that too by way of a speaking order. A decision so taken by the Deputy Commissioner of Police shall also be duly communicated to the Area magistrate.*
- (F) *The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR.*
- (G) *In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation with the Commissioner of Police who shall constitute a committee of three high officers and the committee shall deal with the said grievance within three days from the date of receipt of the representation and communicate it to the grieved person.*
- (H) *The Commissioner of Police shall constitute the committee within eight weeks from today.*
- (I) *In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused / his authorized representative / parokar to file an application for grant of certified copy before the court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned court*



*not beyond three days of the submission of the application.*

- (J) *The directions for uploading the FIR on the website of the Delhi Police shall be given effect from 1st February, 2011.”*

True copy of Judgment and order dated 06.12.2010 passed by the Hon’ble High Court of Delhi in WP (Crl.) No. 468/2010 is annexed herewith as **ANNEXURE NO. P-1** at pages **48-85**.

5. That The Hon’ble High Court of Himachal Pradesh has also made it mandatory for the Police to bring the First Information Report (FIR) under public domain by uploading it on the official website of police department. The court has directed that FIR’s be uploaded on the website with effect from January 26, 2015 since they are a public document and should not be kept out of public domain.

True typed copy of Judgment and order dated 19.12.2014 passed by the Hon’ble High Court of Himachal Pradesh in Cr. MMO No. 276 of 2014 is annexed herewith as **ANNEXURE NO.P-2** at pages **86-119**.

6. That the Hon’ble High Court of Uttarakhand has also admitted the Writ Petition preferred by the Petitioner seeking identical relief for the State of Uttarakhand.

True copy of admission order dated 04.03.2015 passed by the Hon'ble High Court of Uttarakhand is annexed herewith as **ANNEXURE NO.P-3** at pages **120**.

7. That the Hon'ble High Court of Judicature of Allahabad has also made it mandatory for the Police to bring the First Information Report (FIR) under public domain by uploading it on the official website of police department. Court said that with regard to exceptional cases such information should not be provided. The exception follows where there is need to protect the identity of victim, for proper investigation of the case and for protection of witnesses.

True copy of Judgment dated 19.11.2015 passed by the Hon'ble High Court of Allahabad in PUBLIC INTEREST LITIGATION (PIL) No. - 59532 of 2015 is annexed herewith as **ANNEXURE NO.P-4** at pages **121-126**.

8. That the petitioner made a detailed representation to Union of India with regard to cause of action of the present Writ Petition. The undersecretary to the Govt. of India has replied on the representation.

True copy of letter by the undersecretary to Govt. of India dated 14.12.2015 has been annexed herewith as **ANNEXURE NO. P-5** at pages **127**.

9. That it is now high time that the Police Department of entire nation be also directed to upload the First Information Report in the website for the following legal grounds. Apart from the below mentioned legal grounds there is one more important aspect that to obtain the copy of the FIR from the Police, is an uphill task. The Police authorities exploit the person requesting for the copy of the FIR for unlawful gains.

10. The scheme under Section 154 of the Cr.P.C. requires a police officer to reduce in writing any information given to him disclosing the commission of a cognizable offence. It is also incumbent that the FIR is to be signed by the person giving it. The said provision being relevant for the present purpose is reproduced herein below:

“Section 154 - Information in cognizable cases-

(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance

thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

- (2) A copy of the information as recorded under subsection (1) shall be given forthwith, free of cost, to the informant.
- (3) Any person, aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in subsection (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

11. That on a close scanning of the anatomy of Section 154 of the Cr.P.C., it is clear as crystal that certain conditions are to be satisfied for recording of the first information.
12. That the Apex Court in *State of Haryana & Ors. v. Ch. Bhajan Lal & Others*, AIR 1992 SC 604 has enumerated the conditions which are sine qua non for recording the First Information Report. It appropriate to reproduce the relevant paragraph from the said decision:

“31. Be it noted that in Section 154(1) of the Code, the legislature in its collective wisdom has carefully and cautiously used the expression "information" without qualifying the same as in Section 41(1)(a) or (g) of the Code wherein the expressions, "reasonable complaint" and "credible information" are used. Evidently, the non qualification of the word "information" in Section 154(1) unlike in Section 41(1)(a) and (g) of the Code may be for the reason that the police officer should not refuse to record an information relating to the commission of a cognizable offence and to register a case thereon on the ground that he is not satisfied with the reasonableness or credibility of the information. In other words, 'reasonableness' or 'credibility' of the said information is

not a condition precedent for registration of a case. A comparison of the present Section 154 with those of the earlier Codes will indicate that the legislature had purposely thought it fit to employ only the word "information" without qualifying the said word. Section 139 of the Code of Criminal Procedure of 1861 (Act XXV of 1861) passed by the Legislative Council of India read that 'every complaint or information' preferred to an officer incharge of a police station should be reduced into writing which provision was subsequently modified by Section 112 of the Code of 1872 (Act X of 1872) which thereafter read that 'every complaint' preferred to an officer incharge of a police station shall be reduced in writing. The word 'complaint' which occurred in previous two Codes of 1861 and 1872 was deleted and in that place the word 'information' was used in the Codes of 1882 and 1955 which word is now used in Sections 154, 155, 157 and 190(c) of the present Code of 1973(Act II of 1974). An overall reading of all the Codes makes it clear that the condition which is sine-qua-non for recording a First Information Report is that there must be an

information and that information must disclose a cognizable offence.”

13. That the Section 155 of the Cr.P.C. provides for information as to non- cognizable cases and investigation of such cases. Section 156 of the Cr.P.C. deals with the police officer’s power to investigate into cognizable cases. After investigation, when a final report is submitted by the police, the Magistrate has a role under Section 156(3) of the Cr.P.C.

Wherever the Magistrate chooses to take cognizance, he can adopt certain alternatives as has been stated by a three-Judge Bench of the Apex Court in Tula Ram & Ors. v. Kishore Singh, AIR 1977 SC 2401.

14. That Section 157 of the Cr.P.C. deals with the procedure for investigation. The said provision is reproduced herein below:

Section 157 - Procedure for investigation-

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his

subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that—

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer (to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements to that subsection, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to



the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

15. Section 207 of the Cr.P.C. which deals with the supply of copies to the accused is as follows:

Section 207. Supply to the accused of copy of police report and other documents.-

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:-

- (i) the police report;
- (ii) the first information report recorded u/s. 154;
- (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under subsection (6) of section 173;
- (iv) the confessions and statements, if any, recorded under section 164;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

16. To understand the present provision and the authorities in the field, it is apposite to refer to Section 173(4) of the Code of Criminal Procedure, 1898. It read as follows:

173(4). After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1) and of the first information

report recorded under section 154 and of all other documents or relevant extracts thereof, on which the prosecution proposes to rely, including the statements and confessions, if any, recorded under section 164 and the statements recorded under sub-section (3) of section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

17. That on a reading of the said provision, it is luculent that there was a statutory duty on the police officer to furnish to the accused free of cost copies of the police report, first information report under Section 154 and all other documents and relevant extracts after forwarding the report and before the commencement of the enquiry or trial but the legislature thought it appropriate to introduce Section 207 to confer the power on the Magistrate to supply copies of the documents specified in the section to the accused free of cost. This is an obligation and a duty cast upon the Magistrate to see that they are furnished. We may hasten to clarify that we are presently only concerned with the supply of the copy of the FIR. In the course of our discussion, we will refer to the decisions to show how the courts had dealt with the right of an accused to get a copy of the FIR on payment of legal fees at any stage even earlier than the stage under Section 173(4) of the old Code.

18. That lodging of FIR, launching of criminal prosecution, investigation, facilitation of the trial by enabling the accused to defend himself and speedy trial are the sacred pillars of dispensation of the criminal justice system.

19. That in Emperor v. Kampu Kuki, (1902) 11 Cal W N 554, Chief Justice Prinsep and Mr. Justice Henderson observed thus:

The first information if recorded as directed by S.154 at the time that it is made, is of considerable value at the trial because it shows on what materials the investigation commenced and what was the story then told.

20. That in Thulia Kali v. The State of Tamil Nadu, AIR 1973 SC 501, it has been held thus:

12. First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eye witnesses present

at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay the report not only gets bereft of the advantage of spontaneity danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation....”

21. That the lodging of FIR has an object. The Apex Court in *Hasib v. State of Bihar*, AIR 1972 SC 283 has observed thus:

“4. The principal object of the first information report from the point of view of the informant is to set the criminal law in motion and from the point of view of the investigating authorities is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party.”

22. That in *Vidyadharan v. State of Kerala*, (2004) 1 SCC 215, it has been held that delay in lodging of FIR cannot be a ground to arouse suspicion and it can only be so when the delay is unexplained. Similar view has also been expressed in *State of Punjab v. Ramdev Singh*, AIR 2004 SC 1290. When the delay is not satisfactorily explained, the same creates doubt as to the genuineness of the prosecution. It has been ruled in *State of*

Punjab v. Ajaib Singh & Ors., AIR 2004 SC 2466 that if the explanation is not satisfactory in the facts of the case, the same might have been due to long deliberation questioning on its credence and acceptability.

23. That it is apposite to note that once an FIR is lodged and the conditions precedent are satisfied, it is the statutory duty of the police to investigate a cognizable offence and in case it is not investigated, the informant can taken recourse to other modes as provided under the Cr.P.C. but we have dealt with the aforesaid provisions only to highlight the significance of lodging an FIR and the duty of the investigating authority under the Code.
24. That the recording of an FIR is an official act of a public official in discharge of his official duties and, therefore, it becomes a public document within the meaning of Section 74 of the Evidence Act, 1872. Any person has right to inspect, shall give to that person on demand a certified copy thereof in terms of Section 76 of the Evidence Act, 1872. The under Sections 437, 438 and 439 of the Cr.P.C., an accused is required to satisfy the Court in respect of the matters specified therein before the Court may admit the accused to bail and such right cannot be exercised by the accused in the absence of knowing the substance of the

allegations made against the accused if a copy of the FIR is denied.

25. In this connection it is pertinent to refer to Section 74 and 76 of the Evidence Act. It reads as follows:

*74. Public documents.*

*The following documents are public documents:-*

*(1) documents forming the acts, or records of the acts-*

*(i) of the sovereign authority.*

*(ii) of official bodies and tribunals, and*

*(iii) of public officers, legislative, judicial and executive, [of any part of India or of the Commonwealth], or of a foreign country;*

*(2) public records kept [in any State] of private documents.*

*76. Certified copies of Public Documents-*

*Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officers with his name and his official title, and shall be sealed, whenever such officer is*

*authorized by law to make use of a seal; and such copies so certified shall be called certified copies.*

*Explanation - Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.*

26. That the Division Bench of Allahabad High Court in *Shyam Lal v. State of U.P. and Others*, 1998 CrL. L.J. 2879 has ruled that the First Information Report is a public document.

27. That in *Chnnappa Andanappa Siddareddy and others v. State*, 1980 CrL. L.J. 1022, it has been held:

*‘The FIR being a record of the acts of the public officers prepared in discharge of the official duty is such a public document as defined under Section 74 of the Evidence Act. Under Section 76 of the Evidence Act, every public officer having the custody of a public document, which any person has a right to inspect is bound to give such person on demand a copy of it on payment of the legal fees therefore.’*

28. That in *Dhanpat Singh v. Emperor*, AIR 1917 Patna 625, it has been held thus:

*‘It is vitally necessary that an accused person should be granted a copy of the first information at the earliest possible*



*state in order that he may get the benefit of legal advice. To put difficulties in the way of his obtaining such a copy is only creating a temptation in the way of the officers who are in possession of the originals.'*

29. That the High Court of Calcutta in *Panchanan Mondal v. The State*, 1971 Crl.L.J. 875 has opined that the accused is entitled to a copy of the FIR on payment of legal fees at any stage. After so opining, the learned Judge proceeded to deal with the facet of prejudice in the following terms:

*'The question of prejudice of the accused on account of the denial of the copy of the FIR at the earlier stage therefore assumes greater importance and on a proper consideration thereof, I hold that it is expedient in the interests of justice that a certified copy of the first information report, which is a public document, should be granted to the accused on his payment of the legal fees therefor at any stage even earlier than the stage of S.173(4) of the Code of Criminal Procedure. At the later stage of accused will have the right to have a free copy but the same would not take away the right he already has in law to have a certified copy of the first information report on payment of the legal fees.'*

30. In *Jayantibhai Lalubhai Patel v. The State of Gujarat*, 1992 CrL.

L.J. 2377, the High Court of Gujarat has ruled thus:

*‘6. Whenever FIR is registered against the accused, a copy of it is forwarded to the Court under provisions of the Code; thus it becomes a public document.’*

31. The situation can be viewed from the constitutional perspective. Article 21 of the Constitution of India uses the expression personal liberty. The said expression is not restricted to freedom from physical restraint but includes a full range of rights which has been interpreted and conferred by the Apex Court in a host of decisions. It is worth noting, the great philosopher Socrates gave immense emphasis on personal liberty’. The State has a sacrosanct duty to preserve the liberties of citizens and every act touching the liberty of a citizen has to be tested on the anvil and touchstone of Article 21 of the Constitution of India, both substantive and also on the canons of procedural or adjective law. Article 22 of the Constitution of India also has significant relevance in the present context inasmuch as it deals with protection against arrest and detention in certain cases. For the sake of completeness, Articles 21 and 22 of the Constitution of India are reproduced below for ready reference:

*Article 21. Protection of life and personal liberty -*

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

*Article 22. Protection against arrest and detention in certain cases*

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*(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.*

*(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.*

*(3) Nothing in clauses (1) and (2) shall apply-*

*(a) to any person who for the time being is an alien enemy or*

*(b) to any person who is arrested or detained under any law providing for preventive detention.*

*(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless-*

*(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:*

*Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or (b) such person is detained in accordance with the provisions of any law made by Parliament under sub clauses (a) and (b) of clause (7).*

*(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.*

*(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.*

*(7) Parliament may by law prescribe-*

*(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);*

*(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and*

*(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).*

**32.** The Constitution Bench in *Shri Gurbaksh Singh Sibbia and others v. State of Punjab*, (1980) 2 SCC 565 has held thus:

*26. “No doubt can linger after the decision in Maneka Gandhi v. Union of India, (1978) 1 SCC 248, that in order to meet the challenge of Article 21 of the Constitution, the procedure established by law for depriving a person of his liberty must*

*be fair, just and reasonable. Section 438, in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a Constitutional challenge by reading words in it which are not to be found therein.”*

33. That in *Gudikanti Narasimhulu v. Public Prosecutor*, (1978) 1 SCC 240, it has been held thus:

*“the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right.”*

34. That in *Ranjitsing Brahmajeetsingh Sharma v. State of Maharashtra and another*, (2005) 5 SCC 294, while reiterating that presumption of innocence is a human right, the three-Judge Bench has held thus:

*“35. Article 21 in view of its expansive meaning not only protects life and liberty but also envisages a fair procedure.*

*Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefore.”*

35. That in *State of West Bengal and others v. Committee for Protection of Democratic Rights, West Bengal and others*, (2010)

3 SCC 571, the Apex Court has expressed thus:

*“68 (ii) Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and personal liberties except according to the procedure established by law. The said article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers. In certain situations even a witness to the crime may seek for and shall be granted protection by the State.”*

36. That in *Narendra Singh and another v. State of M.P.*, (2004) 10 SCC 699, the Apex Court has observed that presumption of innocence is a human right.

37. That in *Som Mittal v. Government of Karnataka*, (2008) 3 SCC 753, wherein it has been stated thus:

*“46. The right of liberty under Article 21 of the Constitution is a valuable right, and hence should not be lightly interfered with. It was won by the people of Europe and America after tremendous historical struggles and sacrifices. One is reminded to Charles Dickens’s novel A Tale of Two Cities in which Dr. Manette was incarcerated in the Bastille for 18 years on a mere lettre de cachet of a French aristocrat, although he was innocent.”*

38. The Apex Court in *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610, while emphasizing on personal liberty in a civilized society on the backdrop of constitutional philosophy especially enshrined under Articles 21 and 22(1) of the Constitution of India, has expressed thus:

*“22. The rights inherent in Articles 21 and 22(1) of the Constitution require to be jealously and scrupulously protected. We cannot wish away the problem. Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. If the functionaries of the Government become law breakers, it is bound to breed contempt for law and would encourage lawlessness and every man would have the*



*tendency to become law unto himself thereby leading to anarchism. No civilised nation can permit that to happen. Does a citizen shed off his fundamental right to life, the moment a policeman arrests him? Can the right to life of a citizen be put in abeyance on his arrest? These questions touch the spinal cord of human rights jurisprudence. The answer, indeed, has to be an emphatic 'No'. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, undertrials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law."*

39. That in the said case, regard being had to the difficulties faced by the accused persons and keeping in view the concept that the action of the State must be right, just and fairll and that there should not be any kind of torture, their Lordships issued the following directions:

*'We, therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures:*

*(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.*

*(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.*

*(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation center or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.*

*(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.*

*(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.*

*(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.*

*(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any, present on his/her body, must be recorded at that time. The –Inspection Memo must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.*

*(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in*

*custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory, Director, Health Services should prepare such a penal for all Tehsils and Districts as well.*

*(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illaqa Magistrate for his record.*

*(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.*

*(11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.*

40. That, the petitioner have no other alternative efficacious remedy but to take shelter of this Hon'ble Court to invoke it's jurisdiction under Article 32 of Constitution of India, on the following amongst other grounds.

#### **GROUND**

- I. Because a person who is booked under criminal law has a right to know the nature of allegations so that he can take necessary

steps to safeguard his liberty. It is imperative in a country governed by Rule of Law as crusaders of liberty have pronounced 'Give me liberty, or give me death'. Not for nothing it has been said that when a dent is created in the spine of liberty, it leads to a rainbow of chaos.

- II. Because the Hon'ble High Court of Delhi vide Order dated 06.12.2010, Himachal Pradesh High Court vide Order dated 19.11.2014, Allahabad High Court vide order dated 19.12.2015, and recently Madras High Court by Order dated 01.12.2015, has also already directed the Police to bring the First Information Report (FIR) under public domain by uploading it on the official website of police department.
- III. Because the scheme under Section 154 of the Cr.P.C. requires a police officer to reduce in writing any information given to him disclosing the commission of a cognizable offence. It is also incumbent that the FIR is to be signed by the person giving it.
- IV. Because section 207 of the Cr.P.C. specifies about the supply of copies to the accused, which reads as follows:

207. Supply to the accused of copy of police report and other documents.-

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:-

- (i) the police report;
- (ii) the first information report recorded u/s. 154;
- (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under subsection (6) of section 173;
- (iv) the confessions and statements, if any, recorded under section 164;
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

- V. Because it is apposite to refer to Section 173(4) of the Code of Criminal Procedure, 1898. It read as follows:

173(4). After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1) and of the first information report recorded under section 154 and of all other documents or relevant extracts thereof, on which the prosecution proposes to rely, including the statements and confessions, if any, recorded under section 164 and the statements recorded under sub-section (3) of section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

- VI. Because on a combine reading of the said provision, it is luculent that there was a statutory duty on the police officer to furnish to the accused free of cost copies of the police report, first information report under Section 154 and all other

documents and relevant extracts after forwarding the report and before the commencement of the enquiry or trial but the legislature thought it appropriate to introduce Section 207 to confer the power on the Magistrate to supply copies of the documents specified in the section to the accused free of cost. This is an obligation and a duty cast upon the Magistrate to see that they are furnished. We may hasten to clarify that we are presently only concerned with the supply of the copy of the FIR. In the course of our discussion, we will refer to the decisions to show how the courts had dealt with the right of an accused to get a copy of the FIR on payment of legal fees at any stage even earlier than the stage under Section 173(4) of the old Code.

- VII. Because lodging of FIR, launching of criminal prosecution, investigation, facilitation of the trial by enabling the accused to defend himself and speedy trial are the sacred pillars of dispensation of the criminal justice system.
- VIII. Because in *Emperor v. Kampu Kuki*, (1902) 11 Cal W N 554, Chief Justice Prinsep and Mr. Justice Henderson observed thus:

*The first information if recorded as directed by S.154 at the time that it is made, is of considerable value at the trial*



*because it shows on what materials the investigation commenced and what was the story then told.*

- IX. Because in *Thulia Kali v. The State of Tamil Nadu*, AIR 1973 SC 501, it has been held thus:

*“12. First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eye witnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay the report not only gets bereft of the advantage of spontaneity danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation.”*

- X. Because the lodging of FIR has an object. The Apex Court in *Hasib v. State of Bihar*, AIR 1972 SC 283 has observed thus:

*“4. The principal object of the first information report from the point of view of the informant is to set the criminal law in motion and from the point of view of the investigating authorities is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party.”*

- XI. Because in the case of *Vidyadharan v. State of Kerala*, (2004) 1 SCC 215, it has been held that delay in lodging of FIR cannot be a ground to arouse suspicion and it can only be so when the delay is unexplained. Similar view has also been expressed in *State of Punjab v. Ramdev Singh*, AIR 2004 SC 1290. When the delay is not satisfactorily explained, the same creates doubt as to the genuineness of the prosecution. It has been ruled in *State of Punjab v. Ajaib Singh & Ors.* AIR 2004 SC 2466 that if the explanation is not satisfactory in the facts of the case, the same might have been due to long deliberation questioning on its credence and acceptability.
- XII. Because recording of an FIR is an official act of a public official in discharge of his official duties and, therefore, it becomes a public document within the meaning of Section 74 of the

Evidence Act, 1872. Any person has right to inspect, shall give to that person on demand a certified copy thereof in terms of Section 76 of the Evidence Act, 1872. The under Sections 437, 438 and 439 of the Cr.P.C., an accused is required to satisfy the Court in respect of the matters specified therein before the Court may admit the accused to bail and such right cannot be exercised by the accused in the absence of knowing the substance of the allegations made against the accused if a copy of the FIR is denied.

- XIII. Because the Division Bench of Allahabad High Court in Shyam Lal v. State of U.P. and Others, 1998 CrL. L.J. 2879 has ruled that the First Information Report is a public document.
- XIV. Because in Chnnappa Andanappa Siddareddy and others v. State, 1980 CrL. L.J. 1022, it has been held thus:

*The FIR being a record of the acts of the public officers prepared in discharge of the official duty is such a public document as defined under Section 74 of the Evidence Act. Under Section 76 of the Evidence Act, every public officer having the custody of a public document, which any person has a right to inspect is bound to give such person on demand a copy of it on payment of the legal fees therefor.*

XV. Because In Dhanpat Singh v. Emperor, AIR 1917 Patna 625, it has been held thus:

*It is vitally necessary that an accused person should be granted a copy of the first information at the earliest possible state in order that he may get the benefit of legal advice. To put difficulties in the way of his obtaining such a copy is only creating a temptation in the way of the officers who are in possession of the originals.*

#### PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- a. To issue an appropriate writ in nature of mandamus, an order or direction directing the respondents to upload each and every 'first information report' lodged in all the police stations within the territory of India in the official website of the police of all states, as early as possible preferably within 24 hours from the time of lodging.
- b. Issue any other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL EVER PRAY TO THEIR LORDSHIPS.

DRAWN BY:

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