

ITEM NO.36

COURT NO.16

SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Suo Motu Writ Petition (Cr1.) No(s).1/2019

**IN RE : ALARMING RISE IN THE NUMBER OF  
 REPORTED CHILD RAPE INCIDENTS**

WITH

**W.P.(C)No.819/2019 (PIL-W)**  
**(With appln. for intervention and exemption from filing O.T.)**

Date : 16-12-2019 These petitions were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE DEEPAK GUPTA**  
**HON'BLE MR. JUSTICE ANIRUDDHA BOSE**

By Courts Motion

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**Ms. Bhavana Duhoon, Adv.**  
**Mr. Manan Bansal, Adv.**

**Mr. Krishna Dev Jagarlamudi, Adv.**

**Mr. Surinder S. Rathi, Registrar (E-Committee)**  
**Mr. Rakesh Kumar Singh, Judicial Officer**

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High Court of Bombay	Mr. Aniruddha P. Mayee, AOR Mr. A. Rajarajan, Adv. Mr. Sanjeev Kumar Choudhary, Adv.
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Mr. Raghvendra Kumar, Adv.  
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**UPON hearing the counsel the Court made the following  
 O R D E R**

There are three issues being dealt with in this petition but today this Court shall deal with only with issue of setting up of exclusive POCSO (Protection of Children from Sexual Offences) Courts in this Country. On 15.7.2019, this Court had noticed that there are large number of POCSO cases pending throughout the country and we had requested that data be collected with regard to the

number and pendency of such cases. Thereafter, Shri Surinder S. Rathi, Registrar (E-Committee), Supreme Court of India, had collected information and submitted the same to this Court on 25.7.2019. This Court passed a detailed order on 25.7.2019, relevant portion of which reads as follows:

"(i) In each district of the country, if there are more than 100 cases under the POCSO Act, an exclusive/designated special Court will be set up, which will try no other offence except those under the POCSO Act.

(ii) Such Courts will be set up under a Central scheme and will be funded by the Central Government, which fund will not only take care of the appointment of the Presiding Officer, but also the appointments of support persons, Special Public Prosecutors, Court staff and infrastructure including creation of child-friendly environment and vulnerable witness Court rooms, etc.

(iii) While drawing up the panel(s) of support persons in each district which should not exceed a reasonable number keeping in mind the total number of cases to be tried by the special Court to be set up in each district, care should be taken to appoint persons who are dedicated to the cause and apart from academic qualifications are oriented towards child rights; are sensitive to the needs of a child and are otherwise child friendly. The same standards would also apply in the matter of appointment of Special Public Prosecutors."

This Court had directed that in any District where there are more than 100 cases, an exclusive Court should be set up only to deal with POCSO cases and will not try any other offence except those under the POCSO Act. We had directed that such Court should be set up under the central scheme and would be fully funded by the Central Government.

The reason for ordering of setting up exclusive POCSO Courts is that these Courts are to deal with children who

are sexually abused. These children who have been abused need to be dealt with great sensitivity and empathy. They cannot be dealt with like or along with other litigants and victims in Courts. Therefore, the need to set up exclusive Courts dealing with crimes relating to the POCSO Act

Thereafter on 1.10.2019, the States and Registrar Generals of all the High Courts were directed to file affidavits on or before 7.11.2019, in a chart setting out the following information

- "1. Number of Districts in the State
2. Number of Districts in which the POCSO cases are more than 100
3. Number of Districts where POCSO cases are more than 200 or multiples of 200 i.e. 400, 600, 800 etc.
4. Number of exclusive POCSO Courts already functioning, if any.
5. Number of POCSO Courts actually notified.
6. Number of Special Public Prosecutors, if any, exclusively assigned for POCSO Courts."

The States and Registrar Generals of almost all the High Courts submitted the requisite information and thereupon, Shri Rathi prepared a comprehensive report which has been taken into consideration by this Court on 13.11.2019. On that date we had noted with concern that in 20% of the cases even investigation has not been completed within one year. We had also noticed that about 2/3<sup>rd</sup> cases were pending trial for more than one year. We had, therefore, requested the State Governments and the Union of India to do all that was required to ensure that all stages of investigation and trial are completed well within the period prescribed under the POCSO Act. Fresh affidavits have been filed only by 18 States and Union Territories.

We shall now deal with the issue of setting up exclusive POCSO Courts in each State. We make it clear



that, in this order, reference to "district(s)" would mean "judicial district(s)".

The parameters to be followed while setting up exclusive POCSO Courts will be : (i) In districts where there are more than 100 POCSO cases pending, at least one exclusive POCSO Court shall be set up; (ii) In districts having more than 300 POCSO cases pending, at least two exclusive POCSO Courts shall be set up.

We shall be laying down separate criterion for the States of the Uttar Pradesh and West Bengal, in the latter part of the order in view of the extremely high pendency of POCSO cases in these two States.

#### Andhra Pradesh

Unfortunately Andhra Pradesh has not filed an affidavit pursuant to our order dated 13.11.2019. However, from the report of the Amicus Curiae as well as the report submitted by Shri Rathi, out of the 13 districts in the State of Andhra Pradesh, there are 8 districts where there are more than 100 POCSO cases and it has been stated that in all these 8 districts, exclusive POCSO Courts are functioning. In fact, it appears that in all these 8 districts there are more than 200 cases. Therefore, keeping in view the parameters laid down by this Court, we direct that in all the districts where there are more than 300 cases, another exclusive POCSO Court will be set up.

We direct the State of Andhra Pradesh to provide necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and to ensure that Courts start functioning at the earliest and not later than 1.3.2020.

As per the status report filed by the Union of India, it has offered to fund 8 exclusive POCSO Courts, however, the State has not given its concurrence as yet.

We direct the State of Andhra Pradesh to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release of funds.

List on 6.3.2020.

#### Arunachal Pradesh

There are very few POCSO cases in the State of Arunachal Pradesh and no specific directions are required at this stage.

#### Assam

There are 27 districts in the State of Assam and out of these 27 districts, there are 12 districts which have more than 100 POCSO cases and 3 districts have more than 200 POCSO cases. In the State of Assam it appears that the Courts of District and Sessions Judges have been declared to be POCSO Courts. There are no exclusive POCSO Courts. In the compliance report filed by the Union of India today, it has been mentioned that the State of Assam did not even respond to the queries of the Central Government. We have been passing orders for the last five months to ensure that the children suffer from sexual abuse, do not suffer even more by having the trial delayed. The State of Assam has neither filed affidavit nor responded to the queries of the Central Government. Learned counsel appearing for the State of Assam submits that due to the law and order situation prevailing in the State of Assam, she has been unable to get the information. As a special case, the State of Assam is given time upto 6.1.2020 to file report. While submitting the report, the authorities concerned will ensure that at least 1 exclusive POCSO Court as ordered by this Court is set up and in those districts where there are

more than 100 POCSO cases pending; and at least two exclusive POCSO Courts are set up in districts where more than 300 POCSO cases are pending.

The matter shall be taken up on 8.1.2020.

Bihar :

There are 38 districts in the State of Bihar. In the State of Bihar, there are more than 100 POCSO cases in 17 districts and more than 200 POCSO cases in another 17 districts.

We direct the State of Bihar to provide the necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and the Courts as per the parameters set out in this order will start functioning at the earliest, and not later than 1.3.2020.

As per the status report filed by the Union of India, it has offered to fund 30 exclusive POCSO Courts in the State of Bihar. The Union of India has already made its intention clear that funds will be made available for these Courts. According to the status report no communication from the State of Bihar has been received by the Union of India for release of funds in terms of the orders passed by this Court. We direct the State of Bihar to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

List on 6.3.2020.

Delhi :

As per the status report filed by the Union of India, it has offered to fund 8 exclusive POCSO Courts and the funds for the same have also been released.

No orders are required at this stage. Fresh status report be filed on or before 1.3.2020.

List on 6.3.2020.

Chhattisgarh :

In the State of Chhattisgarh, which has 23 civil districts. 11 districts have more than 100 POCSO cases and 3 have more than 200 cases. In the affidavit filed, it is stated that 11 POCSO Courts have been notified and 4 have been earmarked for trial of both rape and POCSO cases. We cannot permit the exclusive POCSO Courts to take up other matters. Therefore, we direct the State of Chhattisgarh to ensure that in all the districts which have more than 100 cases, at least one exclusive POCSO Court is set up in those districts; and in districts which have more than 300 POCSO cases, at least 2 exclusive POCSO Courts along with support staff are set up.

As per the status report filed by the Union of India, it has offered to fund 11 exclusive POCSO Courts and the funds for the same have also been released.

We direct the State of Chhattisgarh to provide the necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and the Courts as per the parameters set out in this order will start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

Goa :

No orders are required at this stage.

Gujarat :

In Gujarat there are 32 districts, 13 having more than 100 POCSO cases and 10 having more than 200 POCSO cases. There are 24 exclusive POCSO Courts and 11 Courts try rape and POCSO cases. We direct the State of Gujarat to ensure that in all the districts which have more than

100 POCSO cases, at least one exclusive POCSO Court is set up; and in districts which have more than 300 POCSO cases, at least 2 exclusive POCSO Courts along with support staff are set up.

As per the status report filed by the Union of India, it has offered to fund 24 exclusive POCSO Courts and the funds for the same have also been released.

We direct the State of Gujarat to provide the necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and the Courts as per the parameters set out in this order will start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

Haryana :

The State of Haryana has not even cared to respond to our order dated 13.11.2019. There are 22 judicial districts, out of which 12 have more than 100 cases and 2 have more than 200 cases. What the State of Haryana has done is to nominate all Courts of Sessions Judges and Additional Sessions Judges as POCSO Courts. This is totally against the spirit of our earlier order referred to above. We had directed that exclusive POCSO Courts with exclusive Public Prosecutors should be set up and the State of Haryana seems to be sleeping over the matter. In the status report filed by the Union of India, 12 exclusive POCSO Courts are to be set up by the State and funds have been released by the Department of Justice.

We, therefore, direct the State of Haryana to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

According to the status report filed by the Union of India, the State has to set up 12 exclusive POCSO Courts but have received no communication from the Government for release of funds in terms of the orders passed by this Court. We direct the State of Haryana to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

List on 6.3.2020.

Himachal Pradesh :

List on 6.3.2020.

No further orders are required at this stage.

As per the status report filed by the Union of India, it has offered to fund 3 exclusive POCSO Courts in the State of Himachal Pradesh. However, no information has been received by the Union of India from the State in this regard.

We direct the State of Himachal Pradesh to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

Union Territory of Jammu & Kashmir :

Keeping in view the peculiar situation of the Union Territory of Jammu & Kashmir, we direct that fresh affidavit be filed by the State as well as the Registrar General of the High Court on or before 6.1.2020.

List on 8.1.2020.

**Jharkhand :**

There are 24 judicial districts and in six districts there are more 100 cases. The State has already set up 8 exclusive POCSO Courts, therefore, no further orders are required at this stage.

According to the status report filed by the Union of India, the State has to set up 8 exclusive POCSO Courts and the funds for the same have been released by the Union of India.

List on 6.3.2020.

**Karnataka :**

In the State of Karnataka, there are 30 districts and as per the affidavit of the State, there are 17 districts which have more than 100 POCSO cases and as per the affidavit of the High Court, there are 18 such districts. As per the State affidavit there are 8 districts which have more than 200 POCSO cases, whereas as per the High Court affidavit, there are 9 such districts.

We, therefore, direct the State of Karnataka to ensure that in all the districts which have more than 100 cases at least one exclusive POCSO Court is set up and in those districts which have more than 300 POCSO cases, at least 2 exclusive POCSO Courts are set up along with support staff. They can avail of the benefit of the scheme floated by the Central Government. According to the status report of the Union of India funds has been released for setting up of 17 exclusive POCSO Courts.

We, therefore, direct the State of Karnataka to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

**Kerala :**

In Kerala there are 14 judicial districts. As per the information placed on record by the Registrar General of the High Court, there is one district which has more than 100 POCSO cases and 13 districts which have more than 200 POCSO cases. The State has set up only one exclusive POCSO Court in Ernakulam. In the other 13 districts, the District and Sessions Courts have been designated as POCSO Courts. This is against the spirit of our earlier orders referred to hereinabove.

According to the status report of the Union of India, funds for setting up 14 exclusive POCSO Courts have been released by the Department of Justice. We also direct the State of Kerala to ensure that in all the districts which have more than 100 cases, at least one exclusive POCSO Court is set up; and in those districts which have more than 300 POCSO cases at least 2 exclusive POCSO Courts along with support staff are set up.

We, therefore, direct the State of Kerala to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

**Madhya Pradesh :**

The State of Madhya Pradesh has not cared to file response either to the order of this Court dated 25.7.2019 or to the order dated 13.11.2019. None represents the State of Madhya Pradesh before us today. This is a deplorable state of affairs. We are dealing with a serious issue of child right and the State cannot abdicate its responsibility. We, therefore, impose exemplary costs of Rs.10 lakhs on the State of Madhya Pradesh, which shall be



deposited with the Madhya Pradesh State Legal Services Authority to be used exclusively for enhancing facilities in POCSO Courts. The High Court of Madhya Pradesh has filed an affidavit which reveals that there are 50 judicial districts in the State out of which 18 districts have more than 100 POCSO cases and 20 have more than 200 POCSO cases. It is stated that there are 28 exclusive POCSO Courts functioning in the State; keeping in view the parameters laid down above that there should be at least one exclusive POCSO Court in the districts wherever there are 100 POCSO cases; and at least 2 exclusive POCSO Courts wherever there are more than 300 POCSO cases.

As per the status report filed by the Union of India, it has offered to fund 26 exclusive POCSO Courts in the State of Madhya Pradesh. The funds for the same have already been released.

We, therefore, direct the State of Madhya Pradesh to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

Maharashtra :

There are 33 districts in the State of Maharashtra, out of which 4 have more than 100 POCSO cases and 26 districts have more than 200 POCSO cases. The status report of the Union of India shows that funds have been released for setting up 30 POCSO Courts.

As per the status report filed by the Union of India, it has offered to fund 30 exclusive POCSO Courts in the State of Maharashtra. The funds for the same have already been released.

We, therefore, direct the State of Maharashtra to

ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

List on 6.3.2020.

Manipur :

No further orders are required at this stage.

Meghalaya :

The State of Meghalaya has 11 districts, out of which one has more than 100 POCSO cases pending; and one has more than 200 POCSO cases pending. The State of Meghalaya has set up 4 exclusive POCSO Courts.

As per the status report filed by the Union of India, it has offered to fund 5 exclusive POCSO Courts in the State of Meghalaya. However, the State has not given its concurrence as yet.

The State of Meghalaya is at liberty to approach the Union of India for release of funds.

Nagaland :

No further orders are required at this stage.

Odisha :

There are 30 judicial districts in the State of Orissa, out of which 4 districts have more than 100 POCSO cases and 20 with more than 200 POCSO cases.

As per the status report filed by the Union of India, it has offered to fund 22 exclusive POCSO Courts in the State of Odisha. The funds for the same have already been released.

Applying the criteria set out hereinabove of setting up at least one POCSO Court in districts having more than

100 POCSO cases and at least two exclusive POCSO Courts in districts with more than 300 POCSO Courts, the State shall ensure that any additional POCSO Courts required shall be set up.

We, therefore, direct the State of Odisha to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 28.2.2020.

List on 6.3.2020.

Punjab :

In the State of Punjab, there are 22 districts in all, out of which in one district there are more than 100 POCSO cases and one district with more than 233 (less than 300 cases). Therefore, only two exclusive POCSO Courts are required to be set up in the State of Punjab.

As per the status report filed by the Union of India, it has offered to fund 2 exclusive POCSO Courts in the State of Punjab. The funds for the same have already been released.

We, therefore, direct the State of Punjab to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 28.2.2020.

List on 6.3.2020.

Rajasthan :

In the State of Rajasthan, there are 35 districts, out of which 12 districts have more than 100 cases and 14 have more than 200 cases. It has been pointed out that there are 56 exclusive POCSO Courts in the State of

Rajasthan, one in every district. According to the counsel appearing for the High Court of Rajasthan these Courts are dealing with POCSO cases and also rape cases, whereas according to the counsel for the State of Rajasthan, they are dealing with only POCSO cases.

We make it clear that as far as POCSO cases are concerned, they should be dealt with by exclusive POCSO Courts which should not deal with any other matters, as directed in our earlier order. We also make it clear that it is for the High Court and the State to decide in consultation with each other as to whether in those districts where there are less than 100 cases, there should be an exclusive POCSO Court or a Court which deals with both POCSO and rape cases. But wherever there are more than 100 POCSO cases, there should be at least one such Court dealing exclusively with POCSO cases and where there are more than 300 or more POCSO cases, there should be at least two Courts dealing with POCSO cases. We are happy to note that there are 56 Special Public Prosecutors in the State of Rajasthan dealing with POCSO cases exclusively. According to us, more than setting up of Courts, it is rationalization which has to be done in the State of Rajasthan.

As per the status report filed by the Union of India, it has offered to fund 26 exclusive POCSO Courts in the State of Rajasthan. The funds for the same have already been released.

We direct the State to ensure that exclusive POCSO Courts as per the parameters set out hereinabove are set up in the State, if not already done.

We, therefore, direct the State of Rajasthan to ensure that the State in consultation with the Chief Justice of the High Court complies with this order.

List on 6.3.2020.

Sikkim :

No orders need be passed at this stage.

Tamil Nadu :

In the State of Tamil Nadu, there are 32 judicial districts, out of which 16 districts have more than 100 POCSO cases and 8 have more than 200 cases. The response of the State of Tamil Nadu is that all Mahila Courts including Fast Track Courts, are notified to try POCSO Courts. It has further been stated that orders have been issued for setting up 16 Courts exclusively to deal with POCSO cases. Mahila Courts dealing with POCSO cases is not in consonance with our earlier order. We make it clear that in whichever districts there are more than 100 POCSO cases, at least one exclusive POCSO Court has to be set up and in every district where there are more than 300 POCSO cases or more; at least two exclusive POCSO Courts will have to be set up.

According to the status report filed by the Union of India, the State has set up 16 exclusive POCSO Courts but have received no communication from the Government for release of funds in terms of the orders passed by this Court. We direct the State of Tamil Nadu to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release of funds.

Mr. Tushar Mehta, learned Solicitor General of India assures that as soon as the information is received from the States, after verification of the same funds will be released.

We, therefore, direct the State of Tamil Nadu to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure

available with all support staff on or before 31.1.2020 and the Courts as per the parameters set out hereinabove are set up and start functioning at the earliest, at least not later than 28.2.2020.

List on 6.3.2020.

Telangana :

There are 10 districts, out of which one has 100 POCSO cases and 9 districts have 200 POCSO cases. The State on affidavit has stated that 9 Fast Tract Special Courts have been set up exclusively to deal with POCSO cases. We direct both the State and the High Court of Telangana to ensure that no cases other than POCSO are marked to these Courts.

As per the status report filed by the Union of India, it has offered to fund 10 exclusive POCSO Courts in the State of Telangana. However, the State of Telanagana has not given its concurrence as yet. We direct the State of Telangana to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

We further direct that the exercise shall be carried out by the State and the High Court to determine whether more exclusive POCSO Courts are required in terms of our criteria laid down by this Court hereinabove.

In case more such Courts are required, the same shall be set up by the State in consultation with the Chief Justice of the High Court and all infrastructure should be made available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

**Tripura :**

There is only one district with more than 100 cases and exclusive POCSO Court has already been set up, hence no further orders are required at this stage.

As per the status report filed by the Union of India, it has offered to fund 1 exclusive POCSO Court in the State of Tripura. The funds for the same have already been released.

**Uttarakhand :**

In the State of Uttarakhand one district has more than 100 POCSO cases and 3 districts with more than 200 such cases. The State has 4 exclusive POCSO Courts and 4 more such Courts are notified under the central scheme.

As per the status report filed by the Union of India, it has offered to fund 4 exclusive POCSO Courts in the State of Uttarakhand. The funds for the same have already been released.

We, therefore, direct the State of Uttarakhand to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

List on 6.3.2020.

**Mizoram :**

There are 11 districts in all, out of which one has more than 200 POCSO cases. The State of Mizoram is in the process of setting up three exclusive POCSO Courts.

We, therefore, direct the State of Mizoram to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than

1.3.2020.

According to the status report filed by the Union of India, the State has to set up 1 exclusive POCSO Courts but have received no communication from the Government for release of funds in terms of the orders passed by this Court. We direct the State of Mizoram to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release of funds.

List on 6.3.2020.

The costs imposed by this Court earlier stand waived.

Uttar Pradesh and West Bengal :

There are two States, State of Uttar Pradesh and the State of West Bengal, for which we have to pass separate orders keeping the extremely deplorable state of affairs with regard to the POCSO Courts in both the States. It seems that these States are not concerned with the rights of children. More than four months have elapsed since orders having been passed by this Court. Virtually no efforts have been made to set up POCSO Courts. The situation is alarming in these two States and if special orders are not passed with regard to these two States, we may reach a situation where the judicial system in relation to POCSO case comes to grinding halt and if that happens, then the Rule of Law will break down and people will resort to revenge and violence outside the Court rooms. That has to be avoided at any cost. If the Rule of Law breaks down, only anarchy will prevail. We cannot have 'Kangaroo Courts' conducting trials of these cases.

For the State of Uttar Pradesh and State of West Bengal, we lay down the following criteria :

One exclusive POCSO Court in districts with



upto 300 POCSO cases pending;

two exclusive POCSO Courts in districts with 301 to 600 POCSO cases pending;

three exclusive POCSO Courts in districts with 601 to 1000 POCSO cases pending; and

four exclusive POCSO Courts in districts with 1000 or more POCSO cases pending.

### Uttar Pradesh

There are 74 districts in the State of Uttar Pradesh. It is shocking that in all the 74 districts, there are more than 100 POCSO cases pending. The total number of POCSO cases pending in the State of Uttar Pradesh is 44,000. This is virtually more than 25% of the total pendency of the POCSO cases in the country. There are no exclusive POCSO Courts set up in the State of Uttar Pradesh till date. The Union of India in its status report has identified 74 POCSO Courts and we have been informed that funds have also been released. The 74 Courts are going to be exclusively supported by the Central Government but the need for more such Courts in the State of Uttar Pradesh is going to be there and these Courts will have to be funded by the State of Uttar Pradesh. If the State of Uttar Pradesh cannot take care of the law and order situation and reduce the number of POCSO cases, then the State must take the responsibility and ensure that these trials take place as early as possible.

The status report filed by the Union of India discloses that under the central scheme 218 Courts have been sanctioned for the State of Uttar Pradesh, out of which 74 are exclusively for POCSO cases and even for the remaining the Central Government has given liberty to earmark them exclusively for POCSO cases. In 5 districts there are more than 100 POCSO cases, in 18 districts there

are more than 200 cases, in 19 districts there are more than 400 cases, in 16 districts there are more than 600 cases, in 6 districts there are more than 800 cases and in 10 districts there are more than 1000 cases pending. These figures are disputed by the State of Uttar Pradesh, but the dispute is insignificant. The State has high pendency of number of POCSO cases in the State.

We direct the Chief Secretary of the State of U.P. to sit with the Registrar General of the Allahabad High Court and determine the number of exclusive POCSO Courts required in terms of the criteria laid down hereinabove. If the number of courts required is more than the number funded by the Union government, the State is directed to provide necessary funds for extra courts.

We, therefore, direct the State of U.P. to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

List on 6.3.2020.

#### West Bengal

In the State of West Bengal there are 20 judicial districts, out of which one has more than 100 POCSO cases, two have more than 200 POCSO cases, 9 districts have 200 to 400 POCSO cases, 4 districts have between 400 to 600 POCSO cases, one district has 1000 to 1200 POCSO cases, one district has 1200 to 1600 POCSO cases, one district has 1600 to 2000 POCSO cases.

We direct the Chief Secretary of the State of West Bengal to sit with the Registrar General of the Calcutta High Court and determine the number of exclusive POCSO Courts required in terms of the criteria laid down hereinabove. If the number of courts required is more than

the number funded by the Union government, the State is directed to provide necessary funds for extra courts.

We, therefore, direct the State of West Bengal to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

After such meetings we direct the State of West Bengal to approach the Union of India for release of funds and we direct the Union of India to ensure that funds in terms of the criteria laid down by us and also in terms of our order dated 25.7.2019 are released to the State of West Bengal within two weeks of the requisite information being supplied to it.

List on 6.3.2020.

Union Territories of Chandigarh, Dadra & Nagar Haveli, Daman & Diu and Puducherry :

No directions are required to be passed for these union territories at this stage.

Union Territory of Andaman & Nicobar :

There are 226 cases pending, therefore, as per the criteria laid down, they should have atleast one exclusive POCSO Court in the Union Territory of the Andaman & Nicobar.

We direct the Union Territory to ensure that such Courts are set up with all infrastructure and the support staff on or before 31.1.2020 and the Courts start functioning at the earliest, at least not later than 1.3.2020.

List on 6.3.2020.

After the order had been dictated Mr. Rahul Kaushik, Advocate, appeared for the State of Madhya Pradesh and requested that some more time may be granted to file an affidavit. He may file a proper application giving the reasons, as to why the affidavit was not filed earlier. He may file an affidavit in terms of our earlier orders and thereafter we may consider reducing the costs imposed earlier.

Exclusive Public Prosecutors for POCSO Cases and Human Rights Courts:

On 8.1.2020 this Court will also take up the issue of exclusive Public Prosecutors for POCSO courts and the facilities of Forensic Science Laboratories. With regard to the issue of Human Right Court, the matter will come up on 23.3.2020.

Trial:

Mr. Tushar Mehta, learned Solicitor General of India has brought to our notice an order dated 9.12.2019 passed by Shri Dharmesh Sharma, the District & Sessions Judge (West), seeking a clarification whether the case should be tried by him or by the Magistrate, if it is found by him that the cases are specifically triable by the Court of a Magistrate. Keeping in view the earlier orders and the nature of offence and the fact that the cases are interconnected with each other, we direct Shri Dharmesh Sharma to continue with all the five cases.

There are two letters written to us by the daughter of the accused. We request the Registry to supply copies of both the letters to the learned Amicus Curiae and learned Solicitor General in sealed cover. We will take up the issue on 8.1.2020.

We direct the Medical Superintendent, All India Institute of Medical Sciences that Shri Mahendra Singh, Advocate, who is in the state of coma as of now, shall be kept in AIIMS till further orders. The issue in relation to victim's health position shall also be heard on 8.1.2020. By that date, the Medical Superintendent of the AIIMS shall submit status report with regard to Advocate Shri Mahendra Singh. The Registrar (Judicial) may inform the Medical Superintendent, All India Institute of Medical Sciences of this portion of the order.

(Parveen Kumari Pasricha)  
Branch Officer

(Sarita Purohit)  
AR-cum-PS