HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

(Th. Virtual Mode)

WP(C) PIL No. 14/2025

CJ Court

Reserved on: 18.11.2025
Pronounced on: 23.12.2025
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Whether the operative part or full judgment is pronounced: **Full judgment.**

Mehbooba Mufti,
Age 66 years, President, Jammu and Kashmir Peoples Democratic Party D/O Lt. Mufti Mohd. Sayeed R/O JKPDD Office, Polo View, Srinagar. …..Appellant(s)/Petitioner(s)

Through: Mr. Aditya Gupta, Advocate.

Vs

1. **Union of India**
   Through Home Secretary Central Secretariat, New Delhi
2. **Union Territory of Jammu & Kashmir**
   Through Home Secretary, Civil Secretariat, Jammu.
3. **Director General of Police (J&K)**
   Police Headquarters, Srinagar.
4. **Director General of Prisons (J&K) Srinagar.**

…. Respondent(s)

Through: Mr. T. M. Shamsi, DSGI with
Mr. Faizan Majeed Ganaie Advocate for R-1
Ms. Maha Majeed, Assisting Counsel vice Mr. Mohsin S. Qadri Sr. AAG for R- 2 to 4Mr. Faheem Nisar Shah, GA.

Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

'OSWAL-J'

1. The petitioner, President of Jammu and Kashmir Peoples Democratic Party and former Chief Minister of the erstwhile State of Jammu and

Kashmir, has filed this petition in purported public interest, primarily for directing the respondents to immediately repatriate and transfer forthwith all undertrial prisoners belonging to J&K, presently lodged in the various prisons outside the Union Territory of Jammu and Kashmir, to jails within the Union Territory of J&K, unless the jail authorities place before this Court the specific reasons demonstrating unavoidable/compelling necessity for keeping them in prisons outside Jammu and Kashmir. Additionally, the petitioner has also sought the framing and enforcement of an access protocol ensuring minimum weekly family interviews in person, unrestricted privileged lawyer-client interviews, subject to reasonable regulations and no denial on cost/escort pretexts. Further, directions are also sought to be issued to the Legal Service Authorities to monitor and file quarterly compliance reports. The petitioner has also sought the fixing of outer timelines for recording of evidence and preventing adjournments attributable to custody logistics. Simultaneously, the petitioner has further sought the indulgence of this Court to constitute a Two-Member Oversight and Grievance Redressal Committee of retired District Judge and Member of State Legal Service Authority to audit undertrial locations, family contact logs, lawyer-interview registers and production orders and recommend disciplinary action for non-compliance and submit bi-monthly status reports to this Court. The petitioner has also sought a direction for issuance of reasonable travel and accommodation reimbursement for one family member per month to meet the under-trial lodged outside the UT of J&K.

2. The petitioner has claimed in Para-1 of the petition that "a **lot of family members of under-trials have requested her to take up the issues raised by her in this petition with the Government and she accordingly took up the matter with the Government and has also urged the Government on the issue of return of the under-trial prisoners lodged in jails outside J&K**." The petitioner has pleaded that there is continuing practice of lodging under-trials belonging to J&K to prisons outside the Union Territory, though FIRs are registered and trials are being conducted, within the UT of J&K. It is also urged by her that post 05.08.2019, numerous residents of Jammu and Kashmir facing investigation or trial in J&K have been lodged in prisons outside the UT and their detention in the prisons located at a quite long distance from their respective homes, is defeating their rights to access courts, family visits and counsel conferences. The petitioner further asserts that she has submitted a representation to the Union of India and has also placed on record some material downloaded from internet.

3. Heard learned counsel for the parties in extenso and perused the record.

4. In **People's Union for Democratic Rights v. Union of India**, **AIR 1982 SC 1473**, the Hon'ble Apex Court examined the concept and underlying purpose of 'Public Interest Litigation' and made the following thematic observations:

> "Public interest litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the

> other and that other opposing such claim or resisting such relief. **Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and unredressed.** That would be destructive of the rule of law which forms one of the essential elements of public interest in any democratic form of Government. The rule of law does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the status quo under the guise of enforcement of their civil and political rights."
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> "**Public interest litigation, as we conceive it, is essentially a cooperative or collaborative effort on the part of the petitioner, the State or public authority and the court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them**."
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> **(emphasis added)**

5. This extraordinary jurisdiction was, in fact, developed by the Constitutional Courts precisely because they encountered countless situations where judicial intervention was found necessary to protect the interests of individuals belonging to vulnerable sections of the society, who because of socio-economic disadvantages were unable to approach the Court for relief and also in the matters involving larger public interest, such as protection of environment etc. In this context, it would be apposite to take note of the observations of the Hon'ble Supreme Court of India in **"State of Uttaranchal vs. Balwant Singh Chaufal and Ors.", (2010) 3 SCC 402,** the relevant paras are extracted as under:

> **"31.** According to our opinion, the public interest litigation is an extremely important jurisdiction exercised by the Supreme Court and the High Courts. The Courts in a number of cases have given important directions and passed orders which have brought positive changes in the country. **The Courts' directions**

> **have immensely benefited marginalised sections of the society in a number of cases. It has also helped in protection and preservation of ecology, environment, forests, marine life, wildlife, etc. etc. The Courts' directions to some extent have helped in maintaining probity and transparency in the public life.**
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> **32.** This Court while exercising its jurisdiction of judicial review realised that **a very large section of the society because of extreme poverty, ignorance, discrimination and illiteracy had been denied justice for time immemorial and in fact they have no access to justice. Predominantly, to provide access to justice to the poor, deprived, vulnerable, discriminated and marginalised sections of the society, this Court has initiated, encouraged and propelled the public interest litigation.** The litigation is an upshot and product of this Court's deep and intense urge to fulfil its bounden duty and constitutional obligation.
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> **36.** Public interest litigation is not in the nature of adversarial litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice which is the signature tune of our Constitution. The Government and its officers must welcome public interest litigation because it would provide them **an occasion to examine whether the poor and the downtrodden are getting their social and economic entitlements or whether they are continuing to remain victims of deception and exploitation at the hands of strong and powerful sections of the community and whether social and economic justice has become a meaningful reality for them or it has remained merely a teasing illusion and a promise of unreality, so that in case the complaint in the public interest litigation is found to be true, they can in discharge of their constitutional obligation root out exploitation and injustice and ensure to the weaker sections their rights and entitlements**.
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> (emphasis added)

6. With the passage of time, the tool of Public Interest Litigation, originally devised by the Constitutional Courts for the benefit of the marginalized, under privileged and vulnerable sections of society, has been subjected to

misuse and abuse. Litigants began employing it for their personal gain, vengeance, or other ulterior, political purposes, which were not in alignment with the objectives of this extraordinary jurisdiction. The misuse of this restorative and extraordinary jurisdiction by litigants drew a serious response/retort from the Hon'ble Supreme Court of India, in its numerous decisions. In "**Dattaraj Nathuji Thaware vs. State of Maharashtra"** reported in **2005 (1) SC 590**, the Hon'ble Supreme Court of India has issued a note of caution that *"the Public Interest Litigation must not devolve into "politics interest litigation", "private interest litigation', or "publicity interest litigation.* The relevant para is extracted as under:

> "12. **Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest, an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not be publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind.** Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold**,** and in appropriate cases with exemplary costs."
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> (Emphasis added)

7. Subsequently, the Hon'ble Supreme Court, in case titled **"State of Uttaranchal vs. Balwant Singh Chaufal and others**" (supra), after reviewing the historical trajectory of PIL in India and citing numerous instances, where it served as an effective tool to protect and preserve the public interest in various other countries as well, expressed its concern regarding the abuse of Public Interest Litigation. Consequently, it issued a slew of directions, which are reproduced below:

> (*1*) **The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.**
> (*2*) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.
> (*3*) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.
> (*4*) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.
> (*5*) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.
> (*6*) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.
> (*7*) **The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation**.
> (*8*) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.
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> **(emphasis added)**

8. In the judgments cited above (supra), the Hon'ble Supreme Court of India has established the necessary guardrails for Courts entertaining Public

Interest Litigation. While entertaining the petitions, the Courts are obligated to do more than simply ensure that such litigations are not based on vague and general allegations. They must also ascertain the petitioner's purpose, motive, and locus standi in filing the Public Interest Litigation. It would also be profitable to take note of the observations of the Hon'ble Supreme Court of India in "**State of Jharkhand v. Shiv Shankar Sharma", (2022) 19 SCC 626**, the relevant paragraphs are extracted as under:

> This Court in Ashok Kumar Pandey v. State of W.B. had this to say on the credentials of the person who files a PIL, has stated as under :
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> > "*4.* When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. **Public interest litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it also becomes a tool in unscrupulous hands to release vendetta and wreak vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or poke one's nose into for a probe.** It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. **A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration.** These aspects were highlighted by this Court in *Janata Dal case* and *Kazi Lhendup Dorji* v. *CBI*. **A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective.**
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12. **Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta.** As indicated above, Court must be careful to see that a body of persons or a member of the public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. **The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.**

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14. The Court has to be satisfied about (*a*) the credentials of the applicant; (*b*) the prima facie correctness or nature of information given by him; (*c*) **the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests;** (*i*) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (*ii*) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motive, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. **It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of *pro bono publico*, though they have no interest of the Public or even of their own to protect.**

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16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. **It is shocking to note that Courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large**

number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in *Duryodhan Sahu* v. *Jitendra Kumar Mishra* , this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of official documents. Whenever such frivolous pleas are taken to explain possession, the Courts should do well not only to dismiss the petitions but also to impose exemplary costs. If would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts."

18. Furthermore, the allegations which were made by the petitioner are vague, very much generalised and not at all substantiated by anything worthy to be called an evidence. Allegations of corruption and siphoning off money from shell companies are nothing but a bald allegation, without substantiating the allegations in any manner whatsoever and is therefore only asking the Court to direct the Central Bureau of Investigation or the Directorate of Enforcement to investigate the matter. This is nothing but an abuse of the process of the court.

19. The courts cannot allow its process to be abused for oblique purposes, as was observed by this Court in *Ashok Kumar Pandey* v. *State of W.B.* In *Balwant Singh Chaufal* [*State of Uttaranchal* v. *Balwant Singh Chaufal*, this Court had discussed the three stages of a PIL which has been discussed above. Then this Court in *Balwant Singh Chaufal* states as to how this important jurisdiction i.e. PIL has been abused at para 143 by observing as under :

"*143*. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. **We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps**

> **to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.**"

This Court then refers to *Holicow Pictures (P) Ltd.* v. *Prem Chandra Mishra* which has relied on the judgment of this Court in *Janata Dal* v. *H.S. Chowdhary* , at para 10 said as under :

> "**It is depressing to note that on account of such trumpery proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters — government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenu expecting their release from the detention orders, etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffing their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system."**
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> (Emphasis added)

9. If the petitioner's claim in the instant matter is assessed against the legal parameters established by the Hon'ble Supreme Court in the judgments (ibid), it is found that the petitioner, in Para 1 of the petition has made 'general and vague averments' that **"a lot of family members of under-**

trials have requested her to take up the issues raised by her in this petition with the Government of J&K." The petitioner has miserably failed to specify the particulars of such families and of those under-trial prisoners, whose cause the petitioner has claimed to project through the medium of this petition and has not even mentioned the nature of the cases in which the under-trial prisoners have been detained in prisons out of the Union Territory of Jammu and Kashmir. Neither the petitioner has produced nor challenged the specific transfer orders concerning undertrial prisoners from Union Territory of Jammu and Kashmir, currently detained outside the Union Territory of Jammu and Kashmir. Detention of the undertrials in the prisons outside the home Union Territory of Jammu and Kashmir is not a universal practice but is based on individual orders issued by the competent authority in the peculiar facts and circumstances of the case, which are individual specific. Lacking material documents and grounded in ambiguity, the petition seeks to invoke the writ jurisdiction on the basis of incomplete and unsubstantiated facts, clearly unveiling its political undercurrents. We cannot lose sight of the fact that the petitioner is the President of the Jammu and Kashmir Peoples Democratic Party, a prominent political party in the Union Territory of Jammu and Kashmir but in opposition at present.

10. Further, it appears that the instant petition has been initiated by the petitioner for the explicit purpose of garnering political advantage and positioning herself as a crusader of justice for a particular demographic.

11. We also cannot remain oblivious to the violent past, which the residents of Jammu and Kashmir have passed through, because of forces hostile to the unity and integrity of this great country. In fact, the petitioner too recognises the special circumstances of Jammu and Kashmir, when in relief part of this petition, she states that the undertrials be detained in the prisons in U.T of Jammu and Kashmir, unless the Jail Authorities furnish reasons before this court demonstrating 'unavoidable and compelling necessity' in exceptional cases. The detailing of such exceptional cases has been conveniently ignored by the petitioner. The Public Interest Litigation cannot be allowed to be utilised as an instrument for advancing partisan or political agendas or transforming the Court into a political platform. Public Interest Litigation is also not a mechanism for gaining political leverage, and the Courts cannot serve as a forum for electoral campaigns. While political parties possess manifold legitimate avenues to engage with the electorate, courts cannot be employed as an instrument for achieving electoral advantage.

12. Notwithstanding the aforementioned vagueness and the ulterior motive that prompted the petitioner to approach the Government and this Court, it is deemed appropriate to observe that under-trials, whose cause, the petitioner claims to have projected in this petition, are facing trials before the respective courts. Judicial avenues were/are available to such undertrials for the redressal of any grievance concerning their detention. The omission on their part to avail themselves of these legal remedies is an indicative of the fact that they are not genuinely aggrieved by their

retention in the prisons outside the UT of Jammu and Kashmir. Additionally, a robust legal aid framework exists under the Legal Services Authorities Act, monitored by the Hon'ble Supreme Court and the High Court. Under this framework, any prisoner aggrieved by illegal State action is provided access to counsel to challenge the legality of such action. Since an institutional mechanism is already in place to protect the rights of these undertrial prisoners and none of the person(s) alleged to be aggrieved of his/their detention in prisons outside the Union Territory of Jammu and Kashmir, has/have approached this Court even through this institutional framework, the petitioner, in her capacity as a leader of the political party, lacks the standing to espouse their cause.

13. It is worth mentioning here that this Court also has come across few cases where the under-trial prisoners, being aggrieved of their transfer from one prison to another, have approached this Court against such transfers. Even otherwise, a purely individual grievance pertaining to a prisoner's rights cannot typically form the subject matter of Public Interest Litigation, as if any undertrial prisoner is aggrieved of his detention in the prisons outside the U.T of Jammu and Kashmir, he can approach the court and the validity of the order in respect of his detention in the prisons outside the Union Territory of Jammu and Kashmir can be examined. The petitioner's request for omnibus directions is legally unsustainable, particularly as no specific transfer orders have been challenged or even brought on record for the Court's consideration. Given that the affected undertrials have raised no grievance regarding their transfer to prisons outside U.T of

Jammu and Kashmir, the petitioner stands as a third-party stranger to the cause and has no locus standi to invoke the Court's jurisdiction.

14. So far as the general conditions of the under-trials in the prisons are concerned, in **Re: Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700**, the Hon'ble Supreme Court while addressing issues such as over-crowding, inadequate staff and absence of effective institutional mechanism for under-trial review, has issued slew of guidelines to ensure proper medical care and basic amenities affecting the prison population.

15. A PIL is maintainable only upon a prima facie showing of public interest. Where such interest is in doubt or compromised by extraneous considerations, the Court must decline to interfere, as preventing the abuse of legal process is, in itself, a matter of significant public interest.

16. In light of what has been said and discussed above, the present petition is found to be misconceived and is, accordingly, **dismissed**.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
23.12.2025
Sahil Padha

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No