

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

**WRIT PETITION [CRIMINAL] NO. \_\_\_\_\_ OF 2019**

[Under Article 32 of the Constitution of India read with Order XXXVIII, Rule 12 (1) (d) & 2 of The Supreme Court Rules, 2013)

**BETWEEN:**

1.

...1<sup>st</sup> Petitioner

2.

...2<sup>nd</sup> Petitioner

**AND**

1. Union of India,  
Rep. by its Secretary,  
Ministry of Home & Affairs,  
North Block, New Delhi. ..Respondent No. 2
2. Chief Secretary,  
Government of Telangana,  
Block C, 3rd Floor, Telangana Secretariat,  
Khairatabad, Hyderabad, Telangana. ...Respondent No. 2
3. Director General of Police,  
Government of Telangana,  
Lakdi Pool Police Headquarters,  
Hyderabad-500004, Telangana. ...Respondent No. 3
4. V.C. Sajjanar, IPS,  
Commissioner of Police, Cyberabad,  
P/21, Old Mumbai Hwy,  
Next to Care Hospital 2-48,  
Sri Shyam Nagar,  
Telecom Nagar Extension,  
Gachibowli, Hyderabad,

Telangana 500032

...Respondent No. 4  
All are contesting Respondents

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA READ WITH ORDER XXXVIII, RULE 12 (1) (D) & 2 OF THE SUPREME COURT RULES, 2013 TO (a) ISSUE AN APPROPRIATE WRIT OR ORDER OR DIRECTION ESPECIALLY IN THE NATURE OF WRIT OF CERTIORARIFIED MANDAMUS CALLING FOR THE RECORDS OF 2<sup>ND</sup> TO 4<sup>TH</sup> RESPONDENTS/TELANGANA STATE AUTHORITIES PERTAINING TO THE FAKE ENCOUNTER KILLING OF ALLEGED 4 RAPE ACCUSED BY THE POLICE PERSONALS OF 4<sup>TH</sup> RESPONDENT, V.C. SAJJANAR, IPC, CYBERABAD POLICE COMMISSIONER, TELANGANA STATE AND ORDERED FOR REGISTRATION OF FIR FOR AN OFFENCE UNDER SECTION 302 OF IPC, AN INDEPENDENT INVESTIGATION AGAINST THE ABOVE SAID POLICE PERSONALS INCLUDING 4<sup>TH</sup> RESPONDENT, VC SAJJANAR, IPC, CYBERABAD POLICE COMMISSIONER WHO INVOLVED IN THE ABOVE SAID FAKE ENCOUNTER KILLING OF ALLEGED 4 RAPE ACCUSED SHALL BE CONDUCTED BY AN INDEPENDENT AGENCY LIKE CBI, SIT, CID OR ANY OTHER POLICE TEAM OF ANOTHER STATE POLICE UNDER THE SUPERVISION OF A SENIOR OFFICER (AT LEAST A LEVEL ABOVE THE HEAD OF THE POLICE PARTY ENGAGED IN THE ENCOUNTER AND GET THE CONCERNED POLICE OFFICIALS WHO INVOLVED IN FAKE ENCOUNTER BE BROUGHT BEFORE THE LAW; AND (B) ISSUE AN APPROPRIATE WRIT OR ORDER DIRECTING THE INDEPENDENT INVESTING AGENCY TO STRICTLY COMPLY WITH THE 16 GUIDELINES ISSUED BY THIS HON'BLE COURT IN THE CASE OF PUCL & ANR. VS. STATE OF MAHARASHTRA & ORS. REPORTED IN (2014) 10 SCC 635 IN REGARD TO THE INVESTIGATION OVER FAKE ENCOUNTER KILLING; FOR THE VIOLATION OF THE RIGHTS UNDER ARTICLE 14, 19 & 21 OF CONSTITUTION OF INDIA.

To, The Hon'ble The Chief Justice of India  
And His Companion Justice of the  
Supreme Court of India

The Humble Petition of the  
Petitioner above named

**MOST RESPECTFULLY SHOWETH:-**

1. The Petitioners as a regular practicing Advocates of this Hon'ble Court and as a PROBONO PUBLIC has filed the present Public Interest Litigation (PIL) Writ Petition under Article 32 of the Constitution of India before this Hon'ble Court to ISSUE AN APPROPRIATE WRIT OR ORDER OR DIRECTION ESPECIALLY IN THE NATURE OF WRIT OF CERTIORARIFIED MANDAMUS calling for the records of 2<sup>nd</sup> to 4<sup>th</sup> Respondents/Telangana State authorities

pertaining to the Fake Encounter killing of alleged 4 rape accused by the Police personals of 4<sup>th</sup> Respondent, V.C. Sajjanar, IPC, Cyberabad Police Commissioner, Telangana State and ordered for registration of FIR for an offence under section 302 of IPC, an Independent Investigation against the above said Police Personals including 4<sup>th</sup> respondent, VC Sajjanar, IPC, Cyberabad Police Commissioner who involved in the above said fake encounter killing of alleged 4 rape accused shall be conducted by an independent agency like CBI, SIT, CID or any other police team of another State Police under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter and get the concerned police officials who involved in fake encounter be brought before the law; and (b) ISSUE AN APPROPRIATE WRIT OR ORDER directing the independent investing agency to strictly comply with the 16 guidelines issued by this Hon'ble Court in the case of PUCL & Anr. vs. State of Maharashtra & Ors. reported in (2014) 10 SCC 635 in regard to the investigation over fake encounter killing; and for the enforcement of fundamental rights of equality life and liberty guaranteed under Article 14, 19 and 21 of the Constitution of large number of innocent small children who falls in to the abandoned/opened bore well/tube well and their parent due to state authorities failed and arbitrary action in this regard.

- 1A.** It is clarified that since one of the relief sought in the present PIL writ petition for registration of FIR, investigation and criminal action against Police personal who involved in the fake encounter killing and thus the nature of this Writ Petition is criminal in nature and hence the same has been filed as Criminal Writ Petition.

**1B.** The Respondents herein are the proper authorities representing the Government of India and concerned State police authorities that is responsible for their police personals involving in fake encounter killing. They are all covered by the definition of 'State' in Article 12 of the Constitution, and as such, the present Petition is maintainable against them.

**1C.** The relief mainly sought in the present WP against the respondent State authority is call for the records, registration of FIR against erring police official under section 302 of IPC and severe action against the police personal who involved in the fake encounter killing and further prayer was for the enforcement of fundamental rights of safety, security, life, liberty and equality of innocent under trial criminals and fellow citizens in the hand of police forces guaranteed by the Constitution under Article 14,19 & 21. Hence, the petitioner did not make any representation with the respondent's/State authority as the same is not necessary for writ of certiorarified mandamus for call for the records and for enforcement of fundamental rights and thus the present Writ Petition is filed.

## **2. FACTS OF THE CASE:**

The Brief Facts giving rise to the present petition are as follows: -

- 2.1 That nearly 99 encounters between the Mumbai police and the alleged criminals resulting in death of about 135 persons between 1995 and 1997 was raised.
- 2.2 That two judges bench of this Hon'ble Court vide its judgment and order dated 23.09.2019 in the case of PUCL & Anr. Vs. State of Maharashtra & Ors in Criminal Appeal No. 1255 of 1999 have issued 16 directions to be

followed in the case of independent investigation over the encounter death. A true copy of the judgment and order dated 23.09.2019 passed by this Hon'ble Court in the case of PUCL & Anr. Vs. State of Maharashtra & Ors in Criminal Appeal No. 1255 of 1999 is filed herein as **Annexure-P1 (Pages**

- 2.3 That again 3 judges bench of this Hon'ble Court vide its order dated 18.07.2019 in the case of the M/s. Andhra Pradesh Police Officers Association Vs. A.P. Civil Liberties Committee in Civil Appeal No. 5646 of 2019 while upholding the 16 directions have been issued by this Hon'ble Court earlier have again held that the directions issued by this Hon'ble Court to be treated as law under Article 141 of the Constitution. A true copy of the order dated 18.07.2019 passed by this Hon'ble Court in the case of the M/s. Andhra Pradesh Police Officers Association Vs. A.P. Civil Liberties Committee in Civil Appeal No. 5646 of 2019 is filed herein as **Annexure-P2 (Pages**
- 2.4 That in the night hours of 28<sup>th</sup> November, 2019, there was an case of rape and murder of one Veterinarian doctor in the Talangana District. When this rape and murder news reached to the public it was shocked in the minds of larger public all over the nation. The larger public and young girls and boys student and other sector of people started to protest against the police and demanded severe punishment for the criminals. It is pertinent to note that the concerned police station was refused to take immediate action and to register case when the victim's family went to the police station to lodge a complaint prior to the rape and murder.
- 2.5 It is submitted that the concerned police personals have claimed that they have arrested 4 accused persons within 24 hours.

- 2.6 The daily English newspaper namely The Times of India, news report item dated 30.12.2019 downloaded from its website revealed that "Telangana Veterinarian doctor's rape and murder 4 accused namely Mohammed Arif, Chintakunta Chennakeshavulu, Jollu Shiva and Jollu Naveen have arrested by the police and sent to 14 days judicial custody. A true copy of the daily English newspaper namely The Times of India, news report item dated 30.12.2019 downloaded from its website is filed herein as **Annexure-P3 (Pages**
- 2.7 The another daily English newspaper namely The Hindu, news report item dated 06.12.2019 downloaded from its website revealed a shocking a news that "All four accused in Hyderabad vet rape and murder case shot dead". The Cyberabad Police Commissioner namely the 4<sup>th</sup> Respondent herein V.C. Sajjanar IPS, while speaking to the media said that the accused persons Naveen and Shiv started pelting stone at the policemen and tried to snatch their rods when they were taken to the crime spot for recreating the crime scene. Arif and Chennakeshwalu snatched two 0.9 mm short pistols from the special party and started firing. The police had to fire in relation, and killed all the four of them, he added. The news further claims that the exchange of fir tookplace between 5.45 am to 6.15 am. A true copy of the daily English newspaper namely The Hindu, news report item dated 06.12.2019 downloaded from its website is filed herein as **Annexure-P4 (Pages**
- 2.8 The another daily English newspaper namely Indian Express, news report item dated 06.12.2019 downloaded from its website says that the Cyberabad Police Commissioner addressed the media and claimed that all

the four accused were taken to Chatanapally where they had burnt the women's body for crime reconstruction when they allegedly tried to escape by attacking the cops. All this happened within 3 to 10 minutes after the four accused were brought to the spot ." A true copy of the daily English newspaper namely The Indian Express, news report item dated 06.12.2019 downloaded from its website is filed herein as **Annexure-P5 (Pages**

2.9 Hence, the present PIL Writ Petition is filed.

**3. GROUND:**

The Petitioner seeking relief on the following grounds: -

3.1. Because this Hon'ble Court in the case of "PUCL & Anr. vs. State of Maharashtra & Ors". reported in (2014) 10 SCC 635 has held and observed that:-

"7. Article 21 of the Constitution of India guarantees "right to live with human dignity". Any violation of human rights is viewed seriously by this Court as right to life is the most precious right guaranteed by Article 21 of the Constitution. The guarantee by Article 21 is available to every person and even the State has no authority to violate that right.

11. In some of the countries when a police firearms officer is involved in a shooting, there are strict guidelines and procedures in place to ensure that what has happened is thoroughly investigated. In India, unfortunately, such structured guidelines and procedures are not in place where police is involved in shooting and death of the subject occurs in such shooting. We are of the opinion that it is the constitutional duty of this Court to put in place certain guidelines

adherence to which would help in bringing to justice the perpetrators of the crime who take law in their own hands.

14. Union of India in its counter affidavit has given its comments to the guidelines framed by the High Court and so also to the guidelines suggested by learned counsel for PUCL. Union of India has expressed its reservation on certain guidelines on diverse counts including the practical difficulties in their implementation. As regards States and Union Territories, their views are not uniform on the guidelines framed by the High Court and also the guidelines suggested by PUCL. In respect of some of the guidelines, some States and Union Territories have toed the line of Union of India in not accepting the same on the ground of practical difficulties in their implementation. Few States have highlighted the procedure that is being followed by them when any death or encounter takes place. As regards investigation in such cases, some of the States have highlighted that the investigation of such cases cannot be done by officers / employees of the same police station and it is ensured that investigation of such cases is done by some higher officer. On the other hand, few States / Union Territories have stated that initial investigation may be conducted by the local police because local police is acquainted with the modus operandi of local criminals and crime.

16. Article 21 of the Constitution provides "no person shall be deprived of his life or personal liberty except according to procedure established by law". This Court has stated time and again that Article



21 confers sacred and cherished right under the Constitution which cannot be violated, except according to procedure established by law. Article 21 guarantees personal liberty to every single person in the country which includes the right to live with human dignity.

17. In line with the guarantee provided by Article 21 and other provisions in the Constitution of India, a number of statutory provisions also seek to protect personal liberty, dignity and basic human rights. In spite of Constitutional and statutory provisions aimed at safeguarding the personal liberty and life of a citizen, the cases of death in police encounters continue to occur. This Court has been confronted with encounter cases from time to time. In the case of "Chaitanya Kalbagh and Ors. V. State of UP and Ors. Reported in (1989) 2 SCC 314), this Court was concerned with a writ petition filed under Article 32 of the Constitution wherein the impartial investigation was sought for the alleged killing of 299 persons in the police encounters. The Court observed that in the facts and circumstances presented before it, there was an imperative need of ensuring that the guardians of law and order do in fact observe the code of discipline expected of them and that they function strictly as the protectors of innocent citizens.

18. In R.S. Sodhi Advocate v. State of U.P. and Ors.; [ 1994 Supp (1) SCC 143], a writ petition was brought to this Court under Article 32 of the Constitution relating to an incident in which 10 persons were reported to have been killed in what were described as "encounters" between the Punjab militants and the local police. The

Court observed, "Whether the loss of lives was on account of a genuine or a fake encounter is a matter which has to be inquired into and investigated closely". The Court entrusted the investigation to the Central Bureau of Investigation (for short, "the CBI") to ensure that the investigation did not lack credibility.

19. In the case of Satyavir Singh Rathi vs. State through CBI reported in (2011) 6 SCC 1), the matter before this Court arose from the First Information Report (for short, "FIR") registered against police personnel involved in a shoot-out for an offence punishable under Sections 302/34 of the Indian Penal Code (for short, "IPC"). In the complaint, it was alleged that the police officials had surrounded the car and had fired indiscriminately and without cause at the occupants, killing the two and causing grievous injuries to the third. This Court concurred with the High Court and the trial Court on the conviction under Section 302 IPC and rejected the defence set up by the accused persons relying on Exception 3 in Section 300 IPC as it was found to be not in good faith or due discharge of their duty.

20. In the case of Prakash Kadam and ors. Vs. Ramprasad Vishwanath Gupta and Anr. Reported in (2011)6 SCC 189, the allegation was that the accused persons decided to eliminate the deceased in a false police encounter. The Court noted that this was a very serious case wherein prima facie some police officers and staff were engaged by some private persons to kill their opponent and the police officers and the staff acted as contract killers for them. The Court warned policemen that they would not be excused for

committing murder in the name of "encounter" on the pretext that they were carrying out the orders of their superior officers or politicians. The Court said that the "encounter" philosophy is a criminal philosophy.

21. In Om Prakash case (supra), the allegation against the accused persons was that the complainant's son was killed by them in a fake police encounter. The Court, however, held that the encounter was a genuine one though NHRC guideline for photography of the autopsy was not complied with.

22. A two-Judge Bench of this Court in B.G. Verghese vs Union of India and ors. Reported in (2013) 11 SCC 525, dealt with two writ petitions. In Writ Petition (Criminal) No.31/2007, it was stated that during the years 2003-2006, 21 police encounter killings took place in the State of Gujarat. It was alleged that the so-called police encounters were fake and the persons were killed by the police officials in cold blood. In the writ petition a prayer was made for ordering an inquiry into all the cases of police encounters, which, according to the petitioner, were fake in order to establish the rule of law and to bring out the truth in each case. In the other Writ Petition (Criminal) No. 83/2007, the allegation related to the killing of one person in a police encounter. It was alleged that this too was an instance of fake encounter in which the victim was killed by the officers of the crime branch of police in cold blood and in a premeditated manner. The prayer was made in the writ petition to order an independent investigation by a special investigation team

into all the fake encounters. During the pendency of the matter before this Court, the State of Gujarat had constituted a Monitoring Authority and Special Task Force for investigation of police encounters. Since the former Judge of this Court was appointed as Chairman of the Monitoring Authority, the Court requested the Chairman of the Monitoring Authority to look into all the cases of alleged fake encounters as enumerated in the two writ petitions and to have them thoroughly investigated so that full and complete truth comes to light in each case.

23. In the case of "Rohtash Kumar vs State of Haryana reported in (2013) 14 SCC 290, again a two-Judge Bench of this Court was confronted with killing of a person in an encounter by the police officials. Having found that the death took place in the fake police encounter, the Court directed an independent investigating agency to conduct the investigation so that guilty could be brought to justice.

24. The above cases have been referred only by way of illustration to show that killings in police encounters require independent investigation. The killings in police encounters affect the credibility of the rule of law and the administration of the criminal justice system.

25. We are not oblivious of the fact that police in India has to perform a difficult and delicate task, particularly, when many hardcore criminals, like, extremists, terrorists, drug peddlers, smugglers who have organized gangs, have taken strong roots in the society but then such criminals must be dealt with by the police in an efficient

and effective manner so as to bring them to justice by following rule of law. We are of the view that it would be useful and effective to structure appropriate guidelines to restore faith of the people in police force. In a society governed by rule of law, it is imperative that extra-judicial killings are properly and independently investigated so that justice may be done”.

3.2. Because this Hon'ble Court in the case of "PUCL & Anr. vs. State of Maharashtra & Ors". reported in (2014) 10 SCC 635 has issued 16 guidelines and directions to the concerned authorities to follow following requirement/conditions in the matter of investigating police encounters in the case of death as the standard procedure for thorough, effective and independent investigation:

“(1) Whenever the police is in receipt of any intelligence or tip-off regarding criminal movements or activities pertaining to the commission of grave criminal offence, it shall be reduced into writing in some form (preferably into case diary) or in some electronic form. Such recording need not reveal details of the suspect or the location to which the party is headed. If such intelligence or tip-off is received by a higher authority, the same may be noted in some form without revealing details of the suspect or the location.

(2) If pursuant to the tip-off or receipt of any intelligence, as above, encounter takes place and firearm is used by the police party and as a result of that, death occurs, an FIR to that effect shall be registered and the same shall be forwarded to the court under Section 157 of the Code without any delay. While forwarding the report under

Section 157 of the Code, the procedure prescribed under Section 158 of the Code shall be followed.

(3) An independent investigation into the incident/encounter shall be conducted by the CID or police team of another police station under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter). The team conducting inquiry/investigation shall, at a minimum, seek:

(a) To identify the victim; colour photographs of the victim should be taken;

(b) To recover and preserve evidentiary material, including blood-stained earth, hair, fibers and threads, etc., related to the death;

(c) To identify scene witnesses with complete names, addresses and telephone numbers and obtain their statements (including the statements of police personnel involved) concerning the death;

(d) To determine the cause, manner, location (including preparation of rough sketch of topography of the scene and, if possible, photo/video of the scene and any physical evidence) and time of death as well as any pattern or practice that may have brought about the death;

(e) It must be ensured that intact fingerprints of deceased are sent for chemical analysis. Any other fingerprints should be located, developed, lifted and sent for chemical analysis;

(f) Post-mortem must be conducted by two doctors in the District Hospital, one of them, as far as possible, should be Incharge/Head

of the District Hospital. Post-mortem shall be videographed and preserved;

(g) Any evidence of weapons, such as guns, projectiles, bullets and cartridge cases, should be taken and preserved. Wherever applicable, tests for gunshot residue and trace metal detection should be performed.

(h) The cause of death should be found out, whether it was natural death, accidental death, suicide or homicide.

(4) A Magisterial inquiry under Section 176 of the Code must invariably be held in all cases of death which occur in the course of police firing and a report thereof must be sent to Judicial Magistrate having jurisdiction under Section 190 of the Code.

(5) The involvement of NHRC is not necessary unless there is serious doubt about independent and impartial investigation. However, the information of the incident without any delay must be sent to NHRC or the State Human Rights Commission, as the case may be.

(6) The injured criminal/victim should be provided medical aid and his/her statement recorded by the Magistrate or Medical Officer with certificate of fitness.

(7) It should be ensured that there is no delay in sending FIR, diary entries, panchnamas, sketch, etc., to the concerned Court.

(8) After full investigation into the incident, the report should be sent to the competent court under Section 173 of the Code. The trial,

pursuant to the chargesheet submitted by the Investigating Officer, must be concluded expeditiously.

(9) In the event of death, the next of kin of the alleged criminal/victim must be informed at the earliest.

(10) Six monthly statements of all cases where deaths have occurred in police firing must be sent to NHRC by DGPs. It must be ensured that the six monthly statements reach to NHRC by 15th day of January and July, respectively. The statements may be sent in the following format along with post mortem, inquest and, wherever available, the inquiry reports: (i) Date and place of occurrence. (ii) Police Station, District. (iii) Circumstances leading to deaths: (a) Self defence in encounter. (b) In the course of dispersal of unlawful assembly. (c) In the course of affecting arrest. (iv) Brief facts of the incident. (v) Criminal Case No. (vi) Investigating Agency. (vii) Findings of the Magisterial Inquiry/Inquiry by Senior Officers: (a) disclosing, in particular, names and designation of police officials, if found responsible for the death; and (b) whether use of force was justified and action taken was lawful.

(11) If on the conclusion of investigation the materials/evidence having come on record show that death had occurred by use of firearm amounting to offence under the IPC, disciplinary action against such officer must be promptly initiated and he be placed under suspension.



(12) As regards compensation to be granted to the dependants of the victim who suffered death in a police encounter, the scheme provided under Section 357-A of the Code must be applied.

(13) The police officer(s) concerned must surrender his/her weapons for forensic and ballistic analysis, including any other material, as required by the investigating team, subject to the rights under Article 20 of the Constitution.

(14) An intimation about the incident must also be sent to the police officer's family and should the family need services of a lawyer / counselling, same must be offered.

(15) No out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/recommended only when the gallantry of the concerned officers is established beyond doubt.

(16) If the family of the victim finds that the above procedure has not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality by any of the functionaries as above mentioned, it may make a complaint to the Sessions Judge having territorial jurisdiction over the place of incident. Upon such complaint being made, the concerned Sessions Judge shall look into the merits of the complaint and address the grievances raised therein.

32. The above guidelines will also be applicable to grievous injury cases in police encounter, as far as possible.

33. Accordingly, we direct that the above requirements / norms must be strictly observed in all cases of death and grievous injury in police encounters by treating them as law declared under Article 141 of the Constitution of India”.

3.3. Because this this Court in the case of “Om Prakash and Ors. Vs. State of Jharkhand through the Secretary, Department of Home, Ranchi 1 and Anr”. Reported in (2012) 12 SCC 72, para 42 has held that:-

“42. It is not the duty of the police officers to kill the accused merely because he is a dreaded criminal. Undoubtedly, the police have to arrest the accused and put them up for trial. This Court has repeatedly admonished trigger-happy police personnel, who liquidate criminals and project the incident as an encounter. Such killings must be deprecated. They are not recognized as legal by our criminal justice administration system. They amount to State-sponsored terrorism. But, one cannot be oblivious of the fact that there are cases where the police, who are performing their duty, are attacked and killed. There is a rise in such incidents and judicial notice must be taken of this fact. In such circumstances, while the police have to do their legal duty of arresting the criminals, they have also to protect themselves. The requirement of sanction to prosecute affords protection to the policemen, who are sometimes required to take drastic action against criminals to protect life and property of the people and to protect themselves against attack. Unless

unimpeachable evidence is on record to establish that their action is indefensible, mala fide and vindictive, they cannot be subjected to prosecution. Sanction must be a precondition to their prosecution. It affords necessary protection to such police personnel. The plea regarding sanction can be raised at the inception”.

- 3.4. Because in violation of the aforesaid guidelines or observations of this Hon'ble Court in the above said cases the respondent police official and conducted illegal fake encounter and killed 4 alleged rape accused in Cyberabad area in the Telangana State. There is a clear chance of the tampering the witnesses and evidence by the respondent police official in the case of fake encounter killing.
- 3.5. Because of the fake encounter killing of nearly 99 encounters between the Mumbai police and the alleged criminals resulting in death of about 135 persons between 1995 and 1997 was raised, this Hon'ble Court have issued above said 16 directions in order to prevent the fake encounter killings in the hands of erring police official. But the respondents police authorities have allowed its police personal to do illegal encounter killing only to please the public.
- 3.6. Because there is no meaning of 16 directions order of two judges bench of this Hon'ble Court dated 23.09.2019 in the case of PUCL & Anr. Vs. State of Maharashtra & Ors in Criminal Appeal No. 1255 of 1999 remaining in stature book without any strict compliance and if allowed fake encounter killings to continue.
- 3.7. Because the respondent authorities not at all bothers about the latest judgment of three judges bench of this Hon'ble Court's order dated

18.07.2019 in the case of the M/s. Andhra Pradesh Police Officers Association Vs. A.P. Civil Liberties Committee in Civil Appeal No. 5646 of 2019 while upholding the 16 directions have been issued by this Hon'ble Court earlier have again held that the directions issued by this Hon'ble Court to be treated as law under Article 141 of the Constitution.

- 3.8. Because of the utter failure of the local police, in the night hours of 28<sup>th</sup> November, 2019, the victim Veterinarian doctor in the Talangana District was raped and murdered. When this rape and murder news reached to the public which was shocked in the minds of larger public all over the nation as like Nirbhaya case. The larger public and young girls and boys', student and other sector people started to protest against the police and demanded severe punishment like death penalty to the criminals. It is pertinent to note that the concerned local police was refused to take immediate action and to register case against unknown accused, when the victim's family member went to the police station to lodge a complaint prior to the rape and murder stating that his daughter was missing last several hours. But the concerned local police replied that your daughter might have gone up along with some one. These are all coming in news. Because of these reasons, the larger public went against the police. In order to divert the minds of the larger public reactions, it is submitted that the concerned police personals have claimed that they have arrested 4 accused persons within 24 hours. Having recording the statements of all the 4 alleged accused persons, and having taken 14 days judicial custody, the respondent police taken the 4 alleged accused in the spot where the victim was raped and murdered and killed 4 alleged accused persons in the name of encounter. The police they themselves executed death sentence without any due process of law i.e.

without making and framing charges, without producing evidences and witnesses, without conducting trial, without examining and cross examining and without there being on order of sessions, thereafter the Hon'ble High Court confirmation over death penalty and thereafter this Hon'ble Court's confirmation.

- 3.9. Because the daily English newspaper namely The Times of India, news report item dated 30.12.2019 downloaded from its website revealed that "Telangana Veterinarian doctor's rape and murder 4 accused namely Mohammed Arif, Chintakunta Chennakeshavulu, Jollu Shiva and Jollu Naveen have arrested by the police and sent to 14 days judicial custody. The another daily English newspaper namely The Hindu, news report item dated 06.12.2019 downloaded from its website revealed a shocking a news that "All four accused in Hyderabad vet rape and murder case shot dead". The Cyberabad Police Commissioner namely the 4<sup>th</sup> Respondent herein V.C. Sajjanar IPS, while speaking to the media said that the accused persons Naveen and Shiv started pelting stone at the policemen and tried to snatch their rods when they were taken to the crime spot for recreating the crime scene. Arif and Chennakeshwalu snatched two 0.9 mm short pistols from the special party and started firing. The police had to fire in relation, and killed all the four of them, he added." The news further claims that the exchange of fir took place between 5.45 am to 6.15 am. The another daily English newspaper namely Indian Express, news report item dated 06.12.2019 downloaded from its website says that the Cyberabad Police Commissioner addressed the media and claimed that all the four accused were taken to Chatanapally where they had burnt the women's body for crime reconstruction when they allegedly tried to escape by attacking the

cops. All this happened within 5 to 10 minutes after the four accused were brought to the spot. All these news items clearly establishes that with the help of the high level police officer may be with the help of 4<sup>th</sup> respondent, Mr. VC Sajjanar IPS who is specialist in encounter killing as per his past records, have killed all these alleged 4 rape and murder accused in the early morning hours on the occurrence place only to satisfy the larger public anguish or might have killed these alleged 4 accused to protect the real culprit.

- 3.10. Because no one including the investigating agency like police has right to punish any accused without due process of law. The Court alone after applying all the procedure and law and affording an opportunity all the right of free and fair trial and hearing can impose punishment of imprisonment or death sentence. Here the respondent police have become hero in the public domain as they have killed the rapists. When the Cyberabad Police Commissioner addressing the media his body language clearly establish that he or his police team has no regret to the encounter 4 killings. But his body language reflects that he and his police team have achieved like anything and he and his police team have got very high regards and respects from the larger public. The public surrounding the encounter spot throwing the garlands to this police commissioner for their commission of fake encounter. If this type of activities allowed, then there is no meaning of civilized societies and there is no hope that we all are governed by rule of law.
- 3.11. Because there is a clear chance of destroying the evidences available against the respondent's police officers who are involved in the fake encounter killing, it is therefore, this Hon'ble Court may be restrain the

concerned police officers from respective official duties in the present case till the disposal of the this case and till the completion of the independent investigation. Since, there is a chance of tampering evidences and destroying the material documents and evidences by the concerned police officers who are in high level, this Hon'ble Court may be hear this PIL writ petition on an urgent basis and pass an appropriate order accordingly in the interest of justice.

- 3.12. Because of the aforesaid facts, circumstances and grounds, this Hon'ble Court may be pleased to ordered for registration of FIR, an Independent Investigation against the above said Police Personals including 4<sup>th</sup> respondent, VC Sajjanar, IPC, Cyberabad Police Commissioner who involved in the above said fake encounter killing of alleged 4 rape accused shall be conducted by an independent agency like CBI, SIT, CID or any other police team of another State Police under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter and get the concerned police officials who involved in fake encounter be brought before the law; and directing the independent investing agency to strictly comply with the 16 guidelines issued by this Hon'ble Court in the case of PUCL & Anr. vs. State of Maharashtra & Ors. reported in (2014) 10 SCC 635 in regard to the investigation over fake encounter killing

**4. NATURE OF INJURY CAUSED OR5 LIKELY TO BE CAUSED TO THE PUBLIC:**

The action of respondent police officials in killing alleged 4 rape accused in a fake encounter will cause the fundamental rights of life, liberty, safety, security, law and order and equality guaranteed under Article 19, 21 and

14 of the Constitution of large number of innocent public are likely to be caused.

**5. NATURE AND EXTENT OF PERSONAL INTEREST, IF ANY, OF THE PETITIONER:**

The Petitioners are a regular practicing Advocate of this Hon'ble court has no personal interest over this present PIL Writ Petition against the Respondent/State Authority. Purely a Fundamental right of innocent under trial criminal and fellow citizens who are victimized in the hands of police official for their fake encounter killing.

**6. DETAILS OF LEGAL NEXUS OF PETITIONER WITH PRESENT PIL:**

The Petitioners have not involved in any civil, criminal or revenue litigation in legal nexus with the issue(s) involved in the Public Interest Litigation:

**7. DECLARATION OF REPRESENTATION MADE & CONCERNED GOVERNMENT AUTHORITY APPROACHED IF ANY & ITS RESULT:**

The relief mainly sought in the present WP against the respondent State authority is call for the records, registration of FIR against erring police official under section 302 of IPC and severe action against the police personal who involved in the fake encounter killing and further prayer was for the enforcement of fundamental rights of safety, security, life, liberty and equality of innocent under trial criminals and fellow citizens in the hand of police forces guaranteed by the Constitution under Article 14,19 & 21. Hence, the petitioner did not make any representation with the respondent's/State authority as the same is not necessary for writ of certiorarified mandamus for call for the records and for enforcement of fundamental rights and thus the present Writ Petition is filed.



**8. AFFIDAVIT OF NO PERSONAL GAIN OR MOTIVE:**

The Petitioners have filed an affidavit stating that there is no personal gain, private motive or oblique reason in filing the Public Interest Litigation with this petition. The Petitioner further states that the petitioner has spent his own money for this PIL Writ Petition.

**9. COURT MAY IMPOSE EXEMPLARY COSTS IF ANY:**

The issue involved in the present WP is a purely a legal issues and it is filed in the larger public interest and to protect their fundamental rights of equality. The Court may impose exemplary costs on the petitioner(s) if it finds that the petition was frivolous or instituted with oblique or mala fide motive or lacks bona fides.

**10. DECLARATION OF NO CASE FILED EARLIER:**

That the petitioners state that no other similar petition has been filed before this Hon'ble Court or before any other Court earlier either by the Petitioners or any other persons.

**11. PRAYER:**

In view of the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Court may be pleased to: -

- a) ISSUE AN APPROPRIATE WRIT OR ORDER OR DIRECTION ESPECIALLY IN THE NATURE OF WRIT OF CERTIORARIFIED MANDAMUS calling for the records of 2<sup>nd</sup> to 4<sup>th</sup> Respondents/Telangana State authorities pertaining to the Fake Encounter killing of alleged 4 rape accused by the Police personals of 4<sup>th</sup> Respondent, V.C. Sajjanar, IPC, Cyberabad

Police Commissioner, Telangana State and ordered for registration of FIR, an Independent Investigation against the above said Police Personals including 4<sup>th</sup> respondent, VC Sajjanar, IPC, Cyberabad Police Commissioner who involved in the above said fake encounter killing of alleged 4 rape accused shall be conducted by an independent agency like CBI, SIT, CID or any other police team of another State Police under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter and get the concerned police officials who involved in fake encounter be brought before the law; and

- b) ISSUE AN APPROPRIATE WRIT OR ORDER directing the independent investing agency to strictly comply with the 16 guidelines issued by this Hon'ble Court in the case of PUCL & Anr. vs. State of Maharashtra & Ors. reported in (2014) 10 SCC 635 in regard to the investigation over fake encounter killing; and
- c) Pass such other and further order or orders 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 PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN & FILED BY

Place: New Delhi  
Drawn on: 06.12.2019  
Filed On: 07.12.2019

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION [CRIMINAL] NO. \_\_\_\_\_ OF 2019

IN THE MATTER OF:

G.S. Mani & Anr.

...Petitioners

-Versus-

Union of India & Ors.

.... Respondents

AFFIDAVIT

1. That I am a regular practicing Advocate of this Hon'ble Court and the 1<sup>st</sup> Petitioner in person in the above matter and well conversant with the facts and circumstances of the case from the judgments & records/documents/news items available in the internet and official website of this Hon'ble Court and High Court and I am competent to swear this affidavit.
2. That I say that the facts stated and contents in pages B to of the List of Dates and at paragraphs 1 to 11 at page Nos. to of the Writ Petition and I.A. for Permission to appear and argue as Petitioner in Person are true and correct to the best my knowledge from the study and from the knowledge of this legal profession. The averments, facts and grounds raised in the WP are legal grounds.
3. That I am a regular practicing Advocate of this Hon'ble Court and I have no personal gain, private motive or oblique reason in filing the present Public Interest Litigation, further I have spent my own money for filing this PIL Writ Petition and thus I could not engage any other counsel as am able to argue the case as in person. I undertake to bear any exemplary costs imposed if any by the court if it is found this WP is found frivolous.
4. That the annexures appended to the above WP are true copies of their respective originals downloaded from the internet website.
5. That the facts stated in paragraph 1 to 4 above are true and correct.

DEPONENT

Verification:

I, the above named deponent states that the contents of this affidavit are true and correct to the best of my knowledge and belief. Nothing material concealed nor any wrong statements made herein. Verified at New Delhi on this 7<sup>th</sup> day of December, 2019.

DEPONENT

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION [CRIMINAL] NO. \_\_\_\_\_ OF 2019

IN THE MATTER OF:

G.S. Mani & Anr.

...Petitioners

-Versus-

Union of India & Ors.

... Respondents

1. That I am a regular practicing Advocate of this Hon'ble Court and the 2<sup>nd</sup> Petitioner in person in the above matter and well conversant with the facts and circumstances of the case from the judgments & records/documents/news items available in the internet and official website of this Hon'ble Court and High Court and I am competent to swear this affidavit.
2. That I say that the facts stated and contents in pages B to of the List of Dates and at paragraphs 1 to 11 at page Nos. to of the Writ Petition and I.A. for Permission to appear and argue as Petitioner in Person are true and correct to the best my knowledge from the study and from the knowledge of this legal profession. The averments, facts and grounds raised in the WP are legal grounds.
3. That I am a regular practicing Advocate of this Hon'ble Court and I have no personal gain, private motive or oblique reason in filing the present Public Interest Litigation, further I have spent my own money for filing this PIL Writ Petition and thus I could not engage any other counsel as am able to argue the case as in person. I undertake to bear any exemplary costs imposed if any by the court if it is found this WP is found frivolous.
4. That the annexures appended to the above WP are true copies of their respective originals downloaded from the internet website.
5. That the facts stated in paragraph 1 to 4 above are true and correct.

DEPONENT

Verification:

I, the above named deponent states that the contents of this affidavit are true and correct to the best of my knowledge and belief. Nothing material concealed nor any wrong statements made herein. Verified at New Delhi on this 7<sup>th</sup> day of December, 2019.

DEPONENT

**Central Government Act**

**Article 32 in The Constitution Of India 1949**

32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause ( 1 ) and ( 2 ), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause ( 2 )

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution

//True Copy//

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION  
Crl.M.P. NO. /2019  
IN  
WRIT PETITION [Criminal] NO. \_\_\_\_\_ OF 2019

IN THE MATTER OF:

G.S. Mani & Anr. ...Petitioners

-Versus-

Union of India & Ors. .... Respondents

APPLICATION FOR PERMISSION TO APPEAR & ARGUE AS PETITIONER IN  
PERSON

To,

The Hon'ble Chief Justice of India and  
His Companion Justices of Hon'ble  
Supreme Court of India  
The Humble Petition of the  
Petitioner above named

**MOST RESPECTFULLY SHOWETH:-**

1. The Petitioner as a regular practicing Advocate of this Hon'ble Court and as a PROBONO PUBLIC has filed the present Public Interest Litigation (PIL) Writ Petition under Article 32 of the Constitution of India before this Hon'ble Court to ISSUE AN APPROPRIATE WRIT OR ORDER OR DIRECTION ESPECIALLY IN THE NATURE OF WRIT OF CERTIORARIFIED MANDAMUS calling for the records of Respondents/authorities pertaining to the steps and disciplinary action including the action registration of FIR against the police personal who involved in, participated illegal protest and agitation in and around The Head Quarters of Commissioner of Police, Delhi Police, ITO, New Delhi to India Gate via Supreme Court on 05.11.2019 against Advocates fraternity in violation of S. 3 of The Police Forces (Restriction of Rights) Act, 1966 and direct the respondents/authority to register FIR, initiate disciplinary proceedings and action of suspension and termination against the police personal who indulged, involved and participated in the



above said illegal protest and agitation conducted on 5.11.2019 in the capital city of New Delhi; and (b) ISSUE AN APPROPRIATE WRIT OR ORDER constituting a Special Investigation Team (SIT) headed by a retired Judge of Hon'ble Supreme Court of Hon'ble High Court of Delhi to conduct investigation, register FIR and take action against all the police personal who participated in the protest and agitation on 5.11.2019 and get them be punished; and (c) ISSUE AN APPROPRIATE WRIT OR ORDER OR DIRECTION directing the respondents/authority to ensure the law and order is maintained in the State and safety and security of innocent lawyers who continuously attacked by some police personnel is protected

2. That all the facts and circumstances has been narrated in the Writ Petition and in order to avoid repetition of the same, the petitioner craves indulgence of this Hon'ble Court to rely on the facts stated in the Writ Petition for this application also.
3. The accompanying application for permission to appear and argue the case as 1<sup>ST</sup> Petitioner in Person on the following facts, reasons and grounds for himself and behalf of other 2<sup>nd</sup> petitioner as well.
4. The 1<sup>st</sup> Petitioners is a regular practicing Advocate of this Hon'ble Court as he had appeared and argued in number of cases as a leading counsel and so many orders and reported judgments obtained from this Hon'ble Court.
5. That since the 1<sup>st</sup> petitioners is an Advocate and well known the factual aspect and legal aspects involved in the present PIL Writ Petition and the 1<sup>st</sup> petitioner cannot engage an eminent senior competent Advocate before this Hon'ble Court as eminent senior competent Advocate fees before this

Hon'ble Court per day is about more than Rs.5 lakhs and thus, if Court engage any counsel I will not accept.

6. The 1<sup>st</sup> Petitioner is not having any personal interest over this present PIL Writ Petition against the Respondent/State Authority.
7. That in the present case, no political allegation or charges leveled against any respondents. The arbitrary exercise of the State is challenged.
8. That as per the settled law, every citizen is an aggrieved person against the violation of fundamental rights of fellow citizen and arbitrary exercise of State as defined by our Constitution.
9. It is therefore, from aforesaid facts and circumstances, the present application is filed and this Hon'ble Court may be pleased to permit the 1<sup>st</sup> petitioner to appear and argue the case as Petitioner in person for himself and on behalf of the other 2<sup>nd</sup> Petitioner as well in the interest of justice, equity and good consciousness.

PRAYER:

In view of the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Court may be please to:

- (a) Permit the Petitioners to appear and argue as Petitioner in Person in the above PIL Writ Petition for himself and on behalf of 2<sup>nd</sup> petitioner and
- (b) Pass such other and further order or orders 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 PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN & FILED BY

G.S.MANI,  
Petitioner in Person

Place: New Delhi  
Drawn on: 06.12.2019  
Filed On: 07.12.2019

**SECTION: WP (PIL)**

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) No. OF 2019

IN THE MATTER OF:

G.S. Mani & Anr. ....Petitioners

/VERSUS/

Union of India & Ors. ...Respondents

**LIST OF DOCUMENTS**

<b><u>Sl. No.</u></b>	<b><u>Particulars</u></b>	<b><u>Copies</u></b>	<b><u>Court fees</u></b>
1.	Writ Petition with affidavit	1+3	
2.	CrI.M.P. No. /2019 Application for Permission to appear & argue As Petitioner in person	1+3	
3.	Annexure P-1 to P6	1+3	
4.	Memo of Appearance	1	
	Total		----- nil -----

Filed by

Filed on: 07.12.2019

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO. \_\_\_\_\_ OF 2019

[Under Article 32 of the Constitution of India read with Order XXXVIII, Rule 12 (1) (d) & 2 of The Supreme Court Rules, 2013)

IN THE MATTER OF:

G.S. Mani & Anr.

...Petitioners

-Versus-

Union of India & Ors.

.... Respondents

With

CrI.M.P. No. \_\_\_\_\_ /2019:

Application for Permission to appear & argue as Petitioner in Person.

PAPER BOOK

[FOR INDEX KINDLY SEE INSIDE]

PETITIONER IN PERSON: G.S . MANI,

SPECIAL POWER OF ATTORNEY

in my capacity constitute and appoint and by these presents do make, constitute, nominate and authorize and hereby appoint

my  
colleague, as a special power of attorney and authorize hi in respect of PIL Writ Petition (Criminal) No. /2019 vide Diary No. /2019; G.S. Mani & Ors. Vs. UOI & Ors., to appear and argue the matter in person, sing on my behalf all type of documents in the Hon'ble Supreme Court of India, as for the acts and deeds to represent me before all the court/s and further to do all the litigation, file written statement, declarations, any other documents required for the purpose of the case or withdraw the case.

That the Special Power of Attorney has been given in full knowledge of these petitioners to my colleague Mr. G.S. Mani, 1<sup>st</sup> Petitioner in Person, who has represented these petitioners even prior to this filing and since the similar relief sought by all these petitioner arising out of common facts and circumstances, I hereby nominate and appoint Mr. G.S. Mani, to do all such as stated in this Special Power of Attorney before the Hon'ble Supreme Court of India.

I hereby rectify, ratify and approve all hi acts, deed or his delegates, acts with respect to the aforesaid case.

In acknowledgement, whereof I have signed the present special power of attorney.

In witnesses, in acknowledgement whereof, I have put My signature on the present special power of attorney on this 7<sup>th</sup> day of December, 2019 at New Delhi in the present of following witnesses:-

WITNESSES:-

- 1.
- 2.

EXECUTANT-

PRADEEP KUMAR YADAV

2<sup>nd</sup> Petitioner in Person

Dy. No. ....../2019

**DECLARATION**

All defects have been duly cured. Whatever has been added/deleted/modified in the petition is the result of curing of defects and nothing else. Except curing the defects, nothing has been done. Paper books are complete in all respects.

Signature:-----

Advocate-on-Record/

Petitioner(s) in-person -----

Date: -----

Contact No.:-----