IN THE HIGH COURT OF KARNATAKA AT BANGALORE

(Memorandum of Writ Petition under Articles 226 and 227
of the Code of Criminal procedure)

WRIT PETITION NO. /2011(GM-POLICE)

BETWEEN:

Ms. A. Pushpa,
Also known and called as
Ma Nithya Supriyananda,
Nithyananda Dhyanapeetam,
Nithyanandapuri,
Off: Mysore Road,
Bidadi – 562 109,
Ramanagar District. .. PETITIONER

AND

1. State of Karnataka
   by the Chief Secretary,
   Vidhana Soudha,
   Bangalore.

2. The Home Secretary,
   Government of Karnataka,
   Vidhana Soudha,
   Bangalore.

3. The Director General and Inspector
   General of Police,
   Karnataka State,
   Nrupathunga Road,
   Bangalore.

4. The Superintendent of Police,
   Ramanagar District,
   Ramanagar.

5. The Sub-Inspector of Police,
   Bidadi Police Station,
   Ramanagar District.

Ma Nithya Supriyananda

6. The Superintendent of Police,
Central Bureau of Investigation,
Ganganagar,
Bellary Road,
Bangalore.

.. RESPONDENTS

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The Petitioner above named, humbly begs to state as follows:

1. The address of the petitioner for the service of process of this Hon'ble Court is as furnished above in the cause title. The address of the petitioner for the said purpose is also that of his Advocates M/s. C.V. Nagesh Associates, No.33, Patalamma Temple Street, Basavanagudi, Bangalore – 560 004.

2. The address of the respondents for the service of process of this Hon'ble Court is as furnished above in the cause title.

3. The petitioner is a native of M. Pudur Village, Kadalur District of Tamil Nadu. She holds a B.Tech., Degree in Production Technology from Anna University, Chennai. She is an Adi-Dravida by Caste. The Caste to which the petitioner belong, comes under Scheduled Caste community.

(a) Copies of the School Transfer Certificate, Higher Secondary Certificate and the Degree Certificate issued by Anna University in the Convocation held in December, 2004 are produced herewith and marked as **Annexure-A to C** respectively.

(b) The petitioner has also produced herewith the Caste/Community Certificate issued by the Tahsildar, Vriddhachalam,

Ma Nithya Supriyananda

Tamil Nadu, within whose jurisdiction, the petitioner was born/dwelling and the same is marked as **Annexure-D.**

4. The petitioner, despite acquiring a degree in Engineering with a I Class and despite being a member belonging to the Schedule Caste community and despite having scope and opportunity to join some service or the other with attractive placement, being influenced by the spiritual discourses of Swamy Nithyananda of Nithyananda Dhyanapeetam, joined the Ashram, during the year 2006 for spiritual realisation to do service to humanity. The petitioner also took initiation as a Brahmacharini and followed its strict vows and lead the life of celibacy by getting herself totally involved into it.

5. A certain Lenin, who also hails from the State of Tamil Nadu and who is a Goundar, which is an upper-caste in Tamil Nadu, also joined Nithyananda Dhyanapeetam sometime at or about the time the petitioner joined the said Institution. On his initiation into Brahmacharya, Lenin also became an Ashramite. Lenin on his becoming an Ashramite, began to talk to the petitioner to know more about her by questioning about her caste, native place, educational qualifications, family background among certain other things.

6. Although Lenin had taken initiation to Brahmacharya, his behaviour was completely and totally different from that of the other Ashramites. He was flirting and he used to take the photographs of the

Ma Nithya Supriyananda

Brahmacharinies and other women inmates of the Ashram. On more than one occasion, Lenin came to be warned by Brahmacharnies and the women inmates of the Ashram. As and when he was being told that they would complain to the Administrators of the Ashram, Lenin used to plead and beg for forgiveness and the inmates being spiritual in nature, used to forgive him under the bonafide impression that he would rectify his mistakes and blunders and conduct himself well in future.

7. During the month of July, 2009, few days later to Guru Poornima, the petitioner was required to carry the books relating to the discourses of Swamy Nithyananda from the Temple which is within the Ashram premises and store the same in the archives room which is in the Galleria godown of the Ashram. The petitioner then called the galleria go down through intercom. Lenin, who was in the Galleria godown, answered the call of the petitioner and confirmed his presence in the Galleria godown and told the petitioner that he would keep the place ready and open for the petitioner to store the books relating to the discourses of Swamy Nithyananda.

(a) The petitioner, immediately, thereafter, went to Galleria godown for the purpose of storing the books. The petitioner was surprised to find all the lights outside the Galleria being switched-off. She then called out to find as to whether anyone was inside. Lenin responded by saying that he is present and that the petitioner should get in and store the books in the place which was reserved for the storage. On her entry into the

Ma Nithya Supriyananda

Galleria Hall, the petitioner could notice Lenin playing on his computer by listening to some filmy songs. The petitioner then questioned him on his unwarranted conduct in playing on the computer and by listening to some filmy songs being an Ashramite and a spiritual person. Lenin responded to it by saying that by listening to the filmy songs, he would be knowing the present trend in society and it is for that reason, he is listening to the latest filmy songs. The petitioner who did not bother herself about it, then went to the store room in order to keep the books which she was carrying in the Almirah. However, the petitioner found the Almirah to be almost full and the Almirah not accommodating the books which she was carrying on for being stored in it. It was at this point of time, the petitioner heard Swamy Nithyananda Swamy's discourse being played by Lenin at high pitch in the Galleria hall. The petitioner presumed that some new CD was being tested for its Audio-Visual quality/clarity. The petitioner then noticed that Lenin being stationed just behind her and gazing at her. He was holding a small Can in his hand which the petitioner presumed to be something to do with the pesticides for being sprayed to cockroaches, mosquitoes, flies etc., Lenin then told the petitioner that the Can contains something different from pesticides and that the liquid is a new arrival and so saying, sprinkled the liquid from the Can on the face of the petitioner. The petitioner felt little drowsy and wanted to move out of that place immediately. Lenin then put his arm around the petitioner and held her in tight grip and gagged her mouth with his palm. The petitioner could

Ma Nithya Supriyananda

not scream for help. Little later, although the petitioner was able to scream, her voice got drowned in the high pitch of the Audio which was being played by Lenin in the Galleria hall. The petitioner then slipped into semi-conscious state. Sometime later, she recovered and realised that that she was lying on the floor without any clothes on her upper body and Lenin was found sitting on her stark naked and was taking her pictures by using his cell phone.

8. On slowly recovering from slumber/consciousness, the petitioner made an unsuccessful attempt to scream. The petitioner could not scream as her mouth was again gagged by Lenin with his hand. Lenin told the petitioner in sadistic pride that even if the petitioner were to scream, nobody would hear her voice and that the petitioner should quietly give into him and co-operate with him to fulfill his desires and further told the petitioner that he was no ordinary man and that he knows more about her family background and that hailing from a low Scheduled Caste community with no big connection in society, the petitioner cannot fight against him. Lenin then made an attempt to remove the clothes on the lower part of the body of the petitioner. While Lenin was attempting to do so, the petitioner with all the strength in her body, resisted the same. It was at that point of time a certain Sangamananda who was supposed to have accompanied her earlier, came to Galleria and having found the door of the Galleria being locked from inside and the light being switched off both in and outside the

Ma Nithya Supriyananda

Galleria and the light in the store-room being lit, peeped through the window and saw the ghastly act that was being committed by Lenin on the person of the petitioner. Sangamananda, immediately began to bang the door. Lenin quickly got up and dressed and ran out and vanished. Sangamananda helped the petitioner to put her dress and took the petitioner to Brahmacharinies dormitory. The petitioner who was completely drowsy and who could not even take her dinner that night and even the following day, continued to have a heavy feeling in her head and drowsiness and slept. Next day evening, Lenin called the petitioner on the inter-com and wanted her to attend the publication meeting in the Mission Office of the Ashram. He also told the petitioner that if the petitioner does not attend the meeting as before, he would commit suicide leaving behind a note stating that Swamy Nithyananda and the petitioner are responsible for his death and action needed against them be taken, so that, his soul would rest in peace. Reluctantly, the petitioner attended the meeting. On the conclusion of the meeting, Lenin showed to the petitioner the pictures he had taken on his cell phone and warned the petitioner not to disclose the incidence of the previous day to anyone, while threatening the petitioner that he would despatch the pictures to her parents and that he has already despatched the same to some of his friends for safety purposes and would release the same to the media and shift the blame on Swamy Nithyananda and his close disciples stating that he has committed such heinous acts on a lower caste girl etc., and that they would release the same to the media. The

Ma Nithya Supriyananda

petitioner got terribly scared and worried thinking that Lenin may put her semi-naked photographs which were taken by him on his cell-phone on the internet. She was totally disturbed and depressed. She was leading the life with constant fear. At one point of time, she was even contemplating to commit suicide not being able to withstand the threatened cruel act and the possibility of she being exposed to public shame in the event of Lenin putting his threats into action for one reason or the other. Sangamananda with whom the petitioner discussed her disturbed mental state, counseled her and gave her the courage and advised her to bring him to books.

9. While the petitioner was contemplating action against Lenin by setting the Criminal law into motion on being able to muster courage unto herself, on the morning of 30.12.2010 at about 8-00 A.M., while the petitioner was walking up towards the bus stop on the Bangalore-Mysore Highway along with Achalananda and her brother Thyagarajananda to go for a follow-up treatment at the hands of Dr. Shantha who has her Clinic in Basavanagudi, Bangalore, a car bearing registration No. TN-22-AB-6510 came to a screeching halt next to them and to her shock, Lenin along with two other persons whom the petitioner does not know, got down from the car and came towards the petitioner in a menacing manner and abused her in most filthy and vulgar language and questioned the petitioner of her intentions to institute legal action against him. The petitioner then told Lenin that she would certainly set

Ma Nithya Suprijananda

the law into motion against him in relation to the inhuman shameful and barbaric acts which he had committed on her person. It was at that point of time, Lenin abused the petitioner in Tamil by taking her caste. He also displayed a bottle containing some liquid claiming that the bottle contains concentrated acid and that he would pour the same on her face and disfigure her if she does not restrain herself from initiating any action against him. Immediately, thereafter, Thyagarajananda and Achalananda who were with the petitioner and few others who were walking along the road, surrounded Lenin and his two other associates and sensing trouble, while holding out threats to the life of the petitioner, got back into the car and moved the car towards Bangalore.

10. Sometime later, the petitioner got a complaint prepared and went to Bidadi police station and presented the same before the Sub-Inspector of Police who was available in the police station and sought for action against Lenin. The fifth respondent, P.S.I. refused to acknowledge the receipt of the complaint of the petitioner, let alone, registering the case against Lenin. The petitioner was made to move from pillar to post to have her grievance ventilated at the hands of the Law Enforcing Agency. The petitioner was asked to accompany the fifth respondent to Ramanagar, in his police jeep to meet the fourth respondent and to have a discussion with him. The petitioner refused to accompany the fifth respondent to Ramanagar in his police jeep and told the fifth respondent that she should be told as to why she should go to Ramanagar and if so,

Ma Nithya Suprijananda

for what purpose, before being asked to accompany him. The fifth respondent then told the petitioner that he spoke to the fourth respondent about her complaint and the course of action he needs to adopt in the matter as the Officer-in-charge of the police station and that the fourth respondent has asked him to bring the petitioner to his Office. Instead of accompanying the fifth respondent in his police jeep to the office of the Superintendent of Police. The petitioner went in a private car to Ramanagar. On reaching the Office of the fourth respondent, the petitioner was made to wait outside the Chambers of the fourth respondent for hours together. In the meantime, the petitioner could notice the entry of the Assistant Public Prosecutor attached to the Court of the J.M.F.C., Ramanagar, into the Chambers of the fourth respondent. The petitioner could also over-hear frantic telephone calls that were being made from inside the Chambers of the fourth respondent to more than one person. Little late in the night, the petitioner was asked to get back to Bidadi police station. On her coming back to Biadi police station, the petitioner was made to wait for an hour or so by the fifth respondent. The fifth respondent then gave an endorsement to the petitioner stating that the enquiries made by him with Lenin who is the accused in the case, have revealed that he is in Chennai and that the grievance of the petitioner would be looked into, after talking to him and his political Godfathers. The fifth respondent when questioned about his conduct in the above behalf threatened the petitioner and the persons who had accompanied her of putting them behind the bars by registering

Ma Nithya Supriyananda

a case of causing obstruction to him in the discharge of his duties. The helpless petitioner then left the premises of the police station.

(a) Copy of the complaint filed before the fifth respondent and the endorsement given by the fifth respondent to the petitioner are produced herewith and are marked as **Annexures E and F** respectively.

11. Although law enjoins a duty upon the Officer-in-charge of a police station, in exercise of the jurisdiction vested in him under Section 154 of the Code of Criminal procedure, to register a Case and to investigate into the complaint, in the event the complaint that is filed before him were to indicate the commission of a cognizable offence and in the event of the complaint of the complainant disclosing a non-cognizable offence, to refer the complaint to the jurisdictional Court after making an entry in the book kept in the police station, the fifth respondent, for reasons best known to him and which are inexplicable, has not only not chosen to register a Crime on the basis of the complaint of the petitioner, which discloses the commission of umpteen number of cognizable offence committed by the accused mentioned in the complaint including the one which is made penal under Section 376 read with Section 511 of the Code of Criminal Procedure and under Section 3 of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act but has also chosen to contact over phone the very person who has committed the ghastly crime against the petitioner, which, conduct was not warranted and unheard of. In fact, the fourth respondent who was very much aware of the

Ma Nithya Suprijananda

complaint filed by the petitioner before the fifth respondent, has also failed in the discharge of his duty as contemplated under Section 154(3) of the Code of Criminal procedure inasmuch as the fourth respondent has also failed to get a Crime registered and to investigate into it in exercise of the jurisdiction vested in him under law.

(a) It is a clear case of bucking and shelving of their duties and responsibilities on the part of the fourth and fifth respondent.

12. The petitioner, thereafter, represented to (i) the Chairman, Karnataka State Commission for Scheduled Castes and Schedules Tribes, (ii) The Womens' Commission, (iii) The Human Rights Commission, (iv) the National Commission for Scheduled Castes and Scheduled Tribes, (v) His Excellency the Governor of Karnataka, among others, seeking their intervention in the matter and for appropriate action not only against the accused who has committed the ghastly crime but also against the erring policemen who have not chosen to register a Crime despite the complaint filed by the petitioner disclosing the commission of more than one offence committed by the accused and which are made penal under more than one statute.

(a) Copies of the communications addressed to the above mentioned authorities are produced herewith and they are marked as **Annexures-F, G, H, J, K., respectively.**

Ma Nithya Supriyananda

13. The Karnataka State Commission for Scheduled Castes and Scheduled Tribes, Bangalore, through its communication dated 05.01.2011 addressed to the fourth and fifth respondents, directed them to issue a direction to the Officer-in-charge of a police station to register a Crime on the basis of the complaint that had been filed by the petitioner and to investigate into it, so that, the really guilty is brought to books and punished accordingly. The letter dated 05.01.2011, a copy of which was endorsed to the petitioner by the Secretary, Karnataka State Commission for Scheduled Castes and Scheduled Tribes, Bangalore, is produced herewith and marked as **Annexure-L.** Despite all these events, the fourth and fifth respondents have not chosen to register a Crime on the basis of the complaint of the petitioner and to investigate into it in exercise of the powers conferred upon them under Section 154 of the Code of Criminal Procedure. In fact, as already stated above, law enjoins a duty upon the fourth and fifth respondents to register a Crime and to investigate into it and in the event of the result of the investigation not disclosing the commission of any offence by the person against whom the complaint is filed to close the case and to submit a report to the said effect to the jurisdictional Court and if the grievance of the petitioner is found to be far from truth and a motivated one to initiate appropriate action against the petitioner herself.

14. The reason for the non-registration of the Crime on the basis of the complaint of the petitioner and its investigation is obviously well within

Ma Nithya Supriyananda

the knowledge of respondents 4 and 5 and are certainly inexplicable by the petitioner. Respondents 4 and 5, as is evident from the course of their conduct, appears to be hand-in-glove with the person who has committed the grave Crime, in respect of which Crime, the complaint came to be filed by the petitioner. If the conduct of respondents 4 and 5 remains unchecked, no one can walk get into the police station or approach Officers who are above in rank to an officer-in-charge of a seek for action against the offender who has committed a Crime. If a discretion is given to the Officer-in-charge of the police station and his higher-ups of either registering a Crime or refusing to register a Crime on the basis of a complaint which discloses the commission of a cognizable offence, no one would be safe and such a situation would lead to an anarchy and the rule of law would perish.

15. The stage at which the Officer-in-charge of a police station before whom the complaint is filed contacting the person against whom action is sought for would arise only after the registration of the Crime and in furtherance of the investigation of the Crime so registered. Every person who has been labelled as accused in the case if contacted before even registration of the Crime would certainly say that he has not committed any such Crime. If that be the case, no crime could be registered and investigated at the police station. The conduct of respondents 4 and 5 is baffling, besides being unknown to law.

Ma Nithya Suprijananda

16. The petitioner has unimpeachable evidence at her command which would indicate the commission of the Crime by the accused mentioned in her complaint. A fair, honest and a thorough investigation is absolutely necessary to bring the guilty to books. The facts narrated above would demonstrably indicate that the petitioner cannot continue to repose any faith or confidence in the investigation that would be done by the respondents 4 and 5 into the complaint of the petitioner. In fact, the respondents 4 and 5 have not initiated any action whatsoever against the culprit concerned and they seem to be hand-in-glove with him. The petitioner cannot also approach the jurisdictional Magistrate seeking for action since the grievance of the complaint warrants an investigation and since the Magistrate cannot order an investigation at the hands of any other Investigator other than the Officer-in-charge of the police station, i.e., the fifth respondent, in view of the limited jurisdiction vested in him under the provisions of the Code of Criminal procedure.

17. Not only for the reason that the respondents 4 and 5 have failed in their lawful duty but also for the reason that the petitioner cannot have the advantage of an honest and fair investigation at the hands of respondents 4 and 5, the petitioner has approached this Hon'ble Curt invoking the jurisdiction of this Hon'ble Court under Article 226 and 227 of the Constitution of India. In the humble opinion of the petitioner, this Hon'ble Court needs to exercise its jurisdiction in order to do complete justice to the parties involved in the case.

Ma Nithya Supriyananda

18. A speedy, impartial, fair, honest and a proper investigation by the State into the grievance of the petitioner is a paramount right and it is the bounden duty of the State to ensure that there is such speedy, impartial, fair, honest investigation by a proper Investigating Agency, so that, justice is done in the matter to the petitioner.

19. Respondents 4 and 5 have also made themselves liable to be dealt with consequent to the inaction on their part, inasmuch as they having not chosen to initiate any action on the complaint filed by the petitioner against the person named in the complaint. The petitioner, an hapless lady and a member belonging to Scheduled Caste/Scheduled Tribe Community and who had virtually suffered a hell at the hands of the person against whom the complaint is filed and who mustered courage unto herself in filing the complaint of an act of attempted rape on her person, certainly deserved a better treatment at the hands of the respondents 4 and 5, upon whom, law enjoins a duty to protect the life, liberty and property of the citizen of this Country. Respondents 4 and 5 having failed in the discharge of their lawful duties, have made themselves liable to be dealt with for their inaction and failure, in the discharge of their duties which resulted in miscarriage of justice to the petitioner.

Ma Nittya Supriyananda

Therefore, the petitioner above named, humbly prays that this Hon'ble Court be pleased to issue a Writ of mandamus or any other appropriate writ or direction to:

(1) the respondents 1 to 3 to hold an enquiry into the conduct of respondents 4 and 5 and thereafter to impose upon respondents 4 and 5 such penalty as is warranted;

(2) directing the fifth respondent to register a Crime on the basis of the complaint of the petitioner and which is marked as Annexure "E" and thereafter to transfer the F.I.R. to the sixth respondent for investigation and report as contemplated under Section 173 of the Code of Criminal Procedure.

(3) directing the sixth respondent to take over the investigation of the case that would be registered by the fifth respondent on the basis of the complaint of the petitioner as per Annexure-E, investigate into it and to submit a report to the jurisdictional Court.

(4) directing respondents 1 and 2 to pay such sum as this Hon'ble Court deems fit and proper to the petitioner as compensation for the mental agony and torture which she underwent consequent to the misconduct of respondents 4 and 5 as public servants in not accepting

Ma Nitya Supriyananda

her complaint and in not registering the complaint as a Crime and in not investigating into it and in making the petitioner to move from pillar to post without any sin or wrong on her part, in the ends of justice.

Bangalore:

Dated: -03-2011 ADVOCATE FOR PETITIONER

Ma Nithya Supriyananda