



2026:KER:78637

W.P.(Crl.)No.639/2024

-1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

WEDNESDAY, THE 14TH DAY OF OCTOBER 2026 / 22ND ASWINA, 1948WP(CRL.) NO. 639 OF 2024PETITIONER:

THE STATE OF KERALA REPRESENTED BY DEPUTY
SUPERINTENDENT OF POLICE
CRIME BRANCH PALAKKAD,
PIN - 678004

BY ADVS.PUBLIC PROSECUTOR
DIRECTOR GENERAL OF PROSECUTION
P.NARAYANAN, SPL. G.P. TO DGP AND ADDL. P.P.
SHRI.SAJJU.S., SENIOR G.P.
SHRI.M.MUHAMMED SHAFI,
ADDL.STATE PUBLIC PROSECUTOR

RESPONDENTS:

- 1 GOVT OF INDIA
UNIQUE IDENTIFICATION AUTHORITY OF INDIA (UIAI),
GOVERNMENT OF INDIA REP BY ADDITIONAL SOLICITOR GENERAL
OF INDIA,HIGH COURT OF KERALA THIRD FLOOR, SOUTH WING,
KHANIJA BHAVAN NO. 49,
RACECOURSE ROAD,
BENGALURU-560 001 F
- 2 DEPUTY DIRECTOR
UNIQUE IDENTIFICATION AUTHORITY OF INDIA (UIAI),
GOVERNMENT OF INDIA,
THIRD FLOOR,
SOUTH WING, KHANIJA BHAVAN,
NO. 49, RACECOURSE ROAD,
BANGALURU, PIN - 560001
- 3 UNION OF INDIA
UNION OF INDIA REPRESENTED BY SECRETARY TO MINISTRY OF



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-:2:-

ELECTRONICS AND INFORMATION TECHNOLOGY,
PIN - 110003

4 ADDL.R4.HEAD
CENTRE FOR DEVELOPMENT OF ADVANCED COMPUTING (CDAC) ,
PB NO : 6520, VELLAYAMBALAM,
THIRUVANANTHAPURAM - 695033 -SUO MOTO IMPEADED VIDE
ORDER DATED 29/05/2025 IN WP(C)NO.639/2024

BY ADVS.SHRI.SUVIN R.MENON, SENIOR PANEL COUNSEL
O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 23.09.2026, THE COURT ON 14.10.2026 DELIVERED THE
FOLLOWING:



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J U D G M E N T

A middle aged couple, one Gopalakrishnan @ Rajan and his wife Ammukkutty @ Thankamani, were brutally assassinated in the night of 14.11.2016 at their residence at Kannukurissi, a small hamlet, coming under the limits of Sreekrishnapuram Police Station, Palakkad. The double murder was obviously for robbing three sovereigns of gold and cash amounting to Rs.4,000/-. The investigations conducted by the local police and the Crime Branch led to the apprehension of one Mr Rajendran whose fingerprint matched with the fingerprint collected from the scene of crime. However, the investigating agency was not able to trace the other culprits who were there along with the above said person in the commission of that dastardly crime. Though the investigating agency embarked upon a comparison of the six sample fingerprints collected from the scene of crime with that of more than 1200 persons, they were unable to trace out the other offenders. In the above precarious situation, the investigating agency sought the assistance of Unique Identification Authority of India (UIDAI) for comparing the above suspects' fingerprints with Aadhaar database to try



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whether the whereabouts of the persons whose finger prints matched with it could be found out, but the UIDAI rejected the above request. It is in the above circumstances that the State of Kerala represented by the Investigating Officer in the aforesaid crime has filed this writ petition for a direction to the UIDAI to compare the above fingerprints with the fingerprint data of the said authority and to disclose the information so gathered to the Investigating Officer.

2. Heard the learned Additional Director General of Prosecution for the petitioner and the learned Central Government Senior Panel Counsel and the learned DSGI representing the respondents.

3. The learned Central Government Senior Panel Counsel strongly opposed the relief sought for by the petitioner stating two reasons. Firstly, it is contended that the law does not permit sharing the biometric and other information stored by the UIDAI in its database. Secondly, it is pointed out that there are technology constraints to match the static fingerprint collected through imprint of fingerprint on the paper or other material with Aadhaar database. It is further argued by the learned Central Government Senior Panel Counsel that if the request of the petitioner is allowed, it would give rise to the opening of a floodgate



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of requests and applications by investigating agencies seeking the comparison of suspected fingerprints with the fingerprints of more 130 crores of people kept with confidentiality by the UIDAI.

4. As regards the contention of the respondents about the proscription of law in sharing the information from the Aadhaar database, it has to be stated that Sections 28, 29 & 33 of the Aadhaar (Targeted delivery of financial and other subsidies, benefits and services) Act, 2016 (*'Aadhaar Act', for short*) govern the field. Section 28 of the Aadhaar Act deals with the security and confidentiality of the information secured in the Aadhaar database. Section 29 of the said Act contains the restriction on sharing information. Section 33 deals with the exceptional circumstances which would warrant the disclosure of information in certain cases. The Section last mentioned hereinabove, is extracted hereunder for the sake of convenience and easy reference.

"33. Disclosure of information in certain cases.—(1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or sub-section (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a [Judge of a High Court]:



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Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority [and the concerned Aadhaar number holder].

[Provided further that the core biometric information shall not be disclosed under this sub-section.]

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made in the interest of national security in pursuance of a direction of an officer not below the rank of [Secretary] to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee."

As per the above provision of law the embargo contained under Sections 28 & 29 of the Aadhaar Act have no applicability in a case where disclosure of information is sought pursuant to an order of a court not inferior to that of a Judge of a High Court. However, the first proviso to



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the said Section mandates giving an opportunity of hearing to the Authority and the Aadhaar number holder concerned before passing an order in the above regard. The second proviso forbids the disclosure of core biometric information.

5. As regards the first proviso of giving an opportunity of hearing to the Aadhaar Authority and Aadhaar number holder, it has to be stated that the Aadhaar Authority (UIDAI) is already heard in this writ petition through the learned Central Government Standing Counsel. But, the other requirement to hear the Aadhaar number holder has no applicability in the facts and circumstances of this case since there was no need for the investigating agency to seek the help of UIDAI, if they were aware of the whereabouts of the persons whose identity information are sought to be collected. Therefore, the above requirement of the said proviso could only be considered as redundant, in the facts and circumstances of this case.

6. As regards the second proviso which would bar the disclosure of core biometric information, it has to be stated that the investigating agency is not seeking the transmission of any fingerprints, iris or any other biometric information of any person from the UIDAI. On the other



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hand, the only request of the investigating agency is that the UIDAI may compare the suspects' fingerprints handed over to them with the fingerprints available in their database and to inform the investigating agency the whereabouts of those persons whose fingerprints were found matching with the above suspects' fingerprints. Once the whereabouts of those persons whose fingerprints matched with the fingerprints collected from the crime scene are conveyed to the investigating agency, it is up to them to proceed further with the further steps of investigation pertaining to the collection of fingerprints from those persons and its comparison, which are permissible in criminal investigation. Therefore, the embargo contained in the second proviso to Section 33 of the Aadhaar Act has no applicability in the present case.

7. The learned Central Government Standing Counsel representing the UIDAI relied on the decision of the Hon'ble Supreme Court in ***K.S. Puttaswami & Anr. v. Union of India & Anr.*[(2019) 1 SCC 1]** and argued that the right to privacy of crores of citizens get infringed if the request of the petitioner is allowed. In answer to the above argument, the learned Additional Director General of Prosecution pointed out that the investigating agency does not want the UIDAI to



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compare the suspects' fingerprint with the fingerprints of the entire population of India, and that a comparison of the fingerprints of those persons of Coimbatore District in Tamil Nadu would suffice since the investigating agency is of the firm belief that the other offenders involved in the aforesaid crime are remaining in exile in the above District.

8. The argument of the learned Central Government Standing Counsel representing the UIDAI that the law laid down by the Hon'ble Supreme Court in **K.S. Puttaswami's** case (supra) would forbid the collection of information from UIDAI cannot be accepted in view of the conclusions drawn by the Hon'ble Supreme Court in the last portion of the aforesaid judgment which is extracted hereunder:

"In view of above discussions, we arrive at following conclusions:

- (1) The requirement under Aadhaar Act to give one's demographic and biometric information does not violate fundamental right of privacy.*
- (2) The provisions of Aadhaar Act requiring demographic and biometric information from a resident for Aadhaar Number pass three - fold test as laid down in Puttaswamy (supra) case, hence cannot be said to be unconstitutional.*
- (3) Collection of data, its storage and use does not violate fundamental Right of Privacy.*
- (4) Aadhaar Act does not create an architecture for pervasive surveillance.*



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(5) Aadhaar Act and Regulations provides protection and safety of the data received from individuals.

(6) S.7 of the Aadhaar is constitutional. The provision does not deserve to be struck down on account of denial in some cases of right to claim on account of failure of authentication.

(7) The State while enlivening right to food, right to shelter etc. envisaged under Art.21 cannot encroach upon the right of privacy of beneficiaries nor former can be given precedence over the latter.

(8) Provisions of S.29 is constitutional and does not deserve to be struck down.

(9) S.33 cannot be said to be unconstitutional as it provides for the use of Aadhaar data base for police investigation nor it can be said to violate protection granted under Art.20(3).

(10) S.47 of the Aadhaar Act cannot be held to be unconstitutional on the ground that it does not allow an individual who finds that there is a violation of Aadhaar Act.

(11) S.57, to the extent, which permits use of Aadhaar by the State or anybody corporate or person, in pursuant to any contract to this effect is unconstitutional and void. Thus, the last phrase in main provision of S.57, i.e. "or any contract to this effect" is struck down.

(12) S.59 has validated all actions taken by the Central Government under the notifications dated 28.01.2009 and 12.09.2009 and all actions shall be deemed to have been taken under the Aadhaar Act.

(13) Parental consent for providing biometric information under Regulation 3 & demographic information under Regulation 4 has to be read for enrolment of children between 5 to 18 years to uphold the constitutionality of Regulations 3 & 4 of Aadhaar (Enrolment and Update) Regulations, 2016.



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(14) R.9 as amended by PMLA (Second Amendment) Rules, 2017 is not unconstitutional and does not violate Art.14, Art.19(1)(g), Art.21 & Art.300A of the Constitution and S.3, S.7 & S.51 of the Aadhaar Act. Further R.9 as amended is not ultra vires to PMLA Act, 2002.

(15) Circular dated 23.03.2017 being unconstitutional is set aside.

(16) Aadhaar Act has been rightly passed as Money Bill. The decision of Speaker certifying the Aadhaar Bill, 2016 as Money Bill is not immuned from Judicial Review.

(17) S.139 - AA does not breach fundamental Right of Privacy as per Privacy Judgment in Puttaswamy case.

(18) The Aadhaar Act does not violate the interim orders passed in Writ Petition (C) No. 494 of 2012 and other Writ Petitions."

It is clear from conclusion No.9 hereinabove that the collection of information in connection with the investigation of a crime is excluded from the legal embargo related to right to privacy discussed in the aforesaid case. Therefore, the argument that the law laid down by the Hon'ble Supreme Court in **K.S. Puttaswami's** case (supra) proscribes the request of the petitioner, is totally unfounded.

9. As regards the technical difficulty stated to be there in the comparison of the suspects' fingerprints, the learned Additional Director General of Prosecution pointed out that the officials from CDAC (additional fourth respondent) had already confirmed that the above hurdle could be overcome since the fingerprints in existing JPEG format



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could be successfully converted into the required binary format using their available software and the NAFIS system. That being so, the other objection of the respondents 1 & 2 against the technology constraints to match the static fingerprint collected through imprint of fingerprint on the paper or other material with Aadhaar database, would no longer subsist.

10. Having regard to the above facts and circumstances of the case, I am of the view that this is a fit case where a direction has to be given to the respondents 1 & 2 to compare the suspects' fingerprints with the fingerprints stored in their database for Coimbatore District in Tamil Nadu and to give information to the petitioner about the whereabouts of those persons whose fingerprints are found matching with the suspects' fingerprints.

In the result, the writ petition stands allowed as follows:

- (i) The respondents 1 & 2 are hereby directed to compare the suspects' fingerprints conveyed to them in binary format by the petitioner with the fingerprints stored in the database of UIDAI for Coimbatore District in Tamil Nadu, and to inform the petitioner the whereabouts of those persons whose fingerprints are found matching with the suspects' fingerprints.



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(ii) It is made clear that the order in this regard is passed by this Court considering the exceptional facts and circumstances of this case, and that this cannot be cited as a precedent to follow the same course in other cases which may arise in future.

(sd/-)

G. GIRISH, JUDGE

DST



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APPENDIX

PETITIONER EXHIBITS

EXHIBIT P1	THE TRUE COPY OF THE FIR IN CRIME NO. 753/2016 SREEKRISHNAPURAM , PALAKKAD
EXHIBIT P2	THE TRUE COPY OF LETTER DATED 11-03-2024 RECEIVED FROM THE DEPUTY DIRECTOR UNIQUE IDENTIFICATION AUTHORITY OF INDIA