



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE G.S. AHLUWALIA**

**ON THE 18<sup>th</sup> OF OCTOBER, 2024**

**WRIT PETITION No. 31360 of 2023**

***AKHILESH PANDEY***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri Abhishek Pandey – Advocate for the petitioner.*

*Shri Vijayendra Singh Choudhary – Government Advocate for respondents No.1 to 4/State.*

*Shri Satyam Agrawal – Advocate for respondent No.5.*

*None for respondents no. 6 to 10 though served.*

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**ORDER**

According to office report, except respondent no.7, the respondents no. 6, 8, 9 and 10 were served on 7-2-2024 whereas respondent no.7 was served on 9-1-2024. Still they have decided to remain ex-parte. Under these circumstances, the respondents no. 6 to 10 are proceeded Ex-parte.

2. With the consent of Counsel for the Petitioner and respondents no. 1 to 5, the matter is heard finally.

3. This petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

7.1 Writ of Mandamus and directed the Authorities to take appropriate action against delinquent police officers under the supervision of the Hon'ble High Court, who had made a conspiracy against the



petitioner to log a false and fabricated FIR in the atrocity act and various sections.

- 7.2 Be pleased to call for the entire record.
- 7.3 Be pleased to direct respondent no.2, 3, 4 to decide on the pending representation as submitted by the petitioner.
- 7.4 Be pleased to pass necessary and appropriate order in the interest of justice which the Hon'ble High Court may deem to be fit.
- 7.5 Be pleased to award compensation to the illegal detention for their wrongful arrest in the interest of justice.

**4.** Before dealing with the facts of the case, this Court would like to refer to para 31 to 33 of Judgment passed by Supreme Court in the case of **Prakash Kadam and others v. Ramprasad Vishwanath Gupta and Another, reported in (2011) 6 SCC 189 has held as under :**

**31.** This idea of matsyanyaya (the maxim of the larger fish devouring the smaller ones or the strong despoiling the weak) is frequently dwelt upon by Kautilya, the *Mahabharata* and other works. It can be traced back to the *Shatapatha Brahmana*, XI 1.6.24 where it is said “whenever there is drought, then the stronger seizes upon the weaker, for the waters are the law,” which means that when there is no rain the reign of law comes to an end and matsyanyaya begins to operate.

**32.** Kautilya says, “if danda be not employed, it gives rise to the condition of matsyanyaya, since in the absence of a chastiser the strong devour the weak”. That in the absence of a king (arajaka) or when there is no fear of punishment, the condition of matsyanyaya follows is declared by several works such as the *Ramayana II*, CH. 67, *Shantiparva* of *Mahabharata* 15.30 and 67.16, *Kamandaka II*. 40, *Matsyapurana* 225.9, *Manasollasa II*. 20.1295, etc.

**33.** Thus in the *Shantiparva* of *Mahabharata*, Vol. 1 it is stated:

“Raja chen-na bhavellokey prithivyaam dandadharakah  
Shuley matsyanivapakshyan durbalaan balvattaraah”

This shloka means that when the King carrying the rod of punishment does not protect the Earth then the strong persons



destroy the weaker ones, just like in water the big fish eat the small fish. In the *Shantiparva* of *Mahabharata* Bhishma Pitamah tells Yudhishtir that there is nothing worse in the world than lawlessness, for in a state of matsyanyaya, nobody, not even the evil doers are safe, because even the evil doers will sooner or later be swallowed up by other evil doers.

5. It is submitted by counsel for petitioner that petitioner was illegally detained and badly beaten by Police Authorities inside the Police Station Bhalumada, Distt. Anuppur, on 17/09/2023 and he was released on 18/09/2023 i.e. after 12 hours after serving a notice under Section 41-A of Cr.P.C. Thus, this petition is against Police Atrocities in Police Station Bhalumada Distt. Anuppur itself.

6. It is submitted that on 17/09/2023 at about 10:30 PM, the villagers stopped the movement of trucks of the company where petitioner was working. It is the claim of petitioner that since he was the in-charge of the Company, therefore he also went to the spot where respondent No.10 was already present. Petitioner asked the respondent No.10 about the matter, then respondent No.10 demanded illegal gratification of Rs.5,000/-. Accordingly, petitioner got angry and shouted at respondent No.10. In response to that, respondent No.10 started beating the petitioner. Thereafter all the staff of the Police Station reached the spot and petitioner was taken to Police Station at 12:03 PM where he was taken into a room by respondent No.7 with a Bamboo stick. It is claimed that no CCTV camera was installed in the said room. Petitioner was brutally beaten. Thereafter, respondents including respondent No.5 hatched a conspiracy and lodged the false FIR against the Petitioner.

7. It is submitted that under Right to Information Act petitioner has obtained the footage of CCTV cameras installed inside the Police



Station Bhalumada. It is the case of the Petitioner that from the CCTV footages, it is clear that petitioner was brought by Police to the Police Station, Bhalumada. Initially he was directed to take out all his belongings. Although petitioner had tendered apology but respondent No.7 came inside the room along with thick Bamboo stick. Petitioner was taken by some of the police personnel including respondent No.7 in the adjoining room where no CCTV camera was installed. He was brutally beaten. After hearing his screams, even other Police personnel also rushed inside the Police Station. Even relatives/friends of the petitioner who had already reached to the Police Station and were standing outside the Police Station also rushed inside the Police Station. However, they were ousted. Thereafter petitioner was lifted by the Police personnel in badly injured condition and was brought outside the Police Station Bhalumada. Thereafter a conspiracy was hatched under the leadership of respondent No.5 and the uniform of respondent No.10 was deliberately torn by one of the Constable. Respondent No.10 also caused injuries on the back of his neck in order to show that injuries were caused by the petitioner. Even in the conversation which was going on between respondent No.5 and the complainant/ respondent No.10, respondent No.10 had specifically stated that he was not beaten by petitioner and even no injury was caused by petitioner and only a scuffle (*Jhuma-Jhatki*) was done by the petitioner. However, at the insistence of respondent No.5, false FIR was lodged. Even respondent No.5 had directed the Police personnel present in the Police Station to re-write the complaint in order to make out the offence more serious. One of the Constables had also suggested that respondent No.10 should



also allege that his gold chain was snatched so that offence of *Loot* can also be added. Initially respondent No.10 showed his hesitation in taking out his gold chain but thereafter he took out the chain by himself but ultimately, the Police did not register the offence for *loot*. Thus, it is submitted that not only false FIR has been registered against the petitioner but he was also brutally beaten by the Police personnel inside the room of the Police Station. He was also beaten by respondent No.10 on the spot.

**8.** *Per contra*, petition is vehemently opposed by counsel for respondents No.5. It is submitted by Shri Satyam Agrawal that when the Police received an information regarding blockage of road, then respondent No.10 went to the spot where he was abused by petitioner. Petitioner had also pushed the respondent No.10. Petitioner was brought to Police Station. It is incorrect to say that he was brutally beaten. He was lifted by Police personnel because petitioner was refusing to undergo medical examination. In fact, Doctor had opined that no injury was found on the body of the petitioner. Respondent No.10 had acted in exercise of his right of private defence on the spot. Even otherwise, respondent Nos.7 and 10 have been placed under suspension whereas departmental enquiry has been initiated against some of the other respondents. It is fairly conceded that no criminal offence has been registered against any of the Police personnel.

**9.** However, the return filed by the respondent no. 5 is also important. In para 2 of the return, the respondent no. 5 has claimed that some villagers had staged *Chhaka Jam* and accordingly, the Petitioner reached on the spot, for getting the vehicles released. Therefore, the



contention of the Petitioner, that he went to spot in the capacity of in-charge of the Company is supported by respondent no.5. When the respondent no. 10 reached on the spot, the petitioner started using abusive language. The Petitioner was in inebriated condition. The Petitioner also pushed the respondent no. 10. A scuffle took place and therefore, the Petitioner was taken to police station and FIR was lodged against him. When the Petitioner was taken to Police Station, then his brother namely Malkhan and other family members of Petitioner also reached there and created various hindrances. The brother of the Petitioner is a terminated Police Officer. The Petitioner had refused to undergo the Medical Examination.

**10.** It is not out of place to mention here that the Pen Drive containing the clippings of Video footage of CCTV cameras installed inside the Police Station Bhalumada were also supplied to respondent no. 5, but the respondent no. 5 has not made any comment with regard to the contents of those Video Clippings. Therefore, the silence maintained by respondent no. 5 in this regard shall be taken into consideration at later stage.

**11.** *Per contra*, counsel for the State has also opposed the allegations made in the Writ Petition. It is submitted that since, charge sheet has been filed against the Petitioner, therefore, false allegations have been made by him in order to create a defence in the Trial. It is further submitted that Petitioner has a criminal History and as many as 14 cases were registered against him. It is further submitted that an enquiry was done by S.D.O. (P) Anuppur and every allegation made by Petitioner was found to be false.



**12.** The Petitioner has filed rejoinder and claimed that in all the criminal cases, he has been acquitted.

**13.** Heard learned counsel for the parties.

**14.** Petitioner has filed two pen drives containing the CCTV footages of Police Station which were supplied by Police Department under Right to Information Act, whereas respondent No.5 has filed one pen drive containing the footage of fight between petitioner and respondent No.10 on the road.

**15.** Since pen drives which have been filed by petitioner contain multiple video files, therefore counsel for petitioner was directed to point out the relevant files so that the same can be played in the open Court.

**16.** Accordingly, at the request of counsel for the petitioner, file containing No. xxxx2228, xxxx1025, xxxx2617, xxxx0539, xxxx5343, xxxx0847, xxxx3605, xxxx3934 and xxxx0154 were played in the open Court. Similarly, at the request of Shri Satyam Agrawal, file containing No. xxxx2145 relied upon by the petitioner was also played in the open Court. The video clipping filed by respondent Nos.5 was also played in the open Court. The video of incident which took place on the road has been relied upon by respondents themselves, therefore the authenticity of said video cannot be doubted and therefore, it is held that it is un-doctored and un-manipulated video.

**17.** When the video was played, it was found that it doesnot contain the entire episode and it starts where the Petitioner and respondent no. 10 were standing and talking to each other. It is the allegation of Petitioner that the respondent no. 10 had demanded Rs. 5,000/- must



have taken prior to the Video clipping relied upon by the respondent no.5. As per the Video Clipping, petitioner was having hot-talk with respondent No.10. He also used abusive language and he also pushed respondent No.10. Thereafter, respondent No.10 started beating the Petitioner in a brutal manner. Even after throwing on the ground, respondent No.10 had kicked the head of Petitioner also. Since this video of assault by respondent No.10 has been relied upon by respondent No.10, therefore it is treated to be true.

**18.** It is the stand of the Petitioner, that since, the respondent no. 10 demanded Rs. 5000/- therefore, he used abusive language. The possibility of this defence shall also be considered.

**19.** Now the only question for consideration is as to whether act of respondent No.10 in brutally beating the petitioner on the spot can be justified under the facts and circumstances of the case or not?

**20.** Before considering the said aspect, this Court would like to consider the law regarding distinction between use of excessive force and self defence.

**21.** The Supreme Court in the case of **Extra-Judicial Execution Victim Families Assn. v. Union of India**, reported in **(2016) 14 SCC 536** has held as under :

**Use of excessive force and retaliation**

**200.** At the outset, a distinction must be drawn between the right of self-defence or private defence and use of excessive force or retaliation. Very simply put, the right of self-defence or private defence is a right that can be exercised to defend oneself but not to retaliate. This view was reiterated but expressed somewhat differently in *Rajesh Kumar v. Dharamvir* when it was said: (SCC p. 503, para 20)

“20. ... To put it differently, the right is one of defence and not of requital or reprisal. Such being the nature of right, the High





Court could not have exonerated the accused persons of the charges levelled against them by bestowing on them the right to retaliate and attack the complainant party.”

(emphasis in original)

**201.** A similar opinion was expressed somewhat more lucidly in *V. Subramani v. State of T.N.* when it was said: (SCC p. 367, para 15)

“15. ... Due weightage has to be given to, and hypertechnical approach has to be avoided in considering what happens on the spur of the moment on the spot and keeping in view normal human reaction and conduct, where self-preservation is the paramount consideration. But, if the fact situation shows that in the guise of self-preservation, what really has been done is to assault the original aggressor, even after the cause of reasonable apprehension has disappeared, the plea of right of private defence can legitimately be negated. The court dealing with the plea has to weigh the material to conclude whether the plea is acceptable. It is essentially, as noted above, a finding of fact.”

**202.** In *Rohtash Kumar v. State of Haryana* this Court cautioned against the use of retaliatory force even against a dreaded criminal. It was held: (SCC p. 297, para 10)

“10. ... It also appears that he [the appellant] was declared absconder. But merely because a person is a dreaded criminal or a proclaimed offender, he cannot be killed in cold blood. The police must make an effort to arrest such accused. In a given case if a dreaded criminal launches a murderous attack on the police to prevent them from doing their duty, the police may have to retaliate and, in that retaliation, such a criminal may get killed. That could be a case of genuine encounter. But in the facts of this case, we are unable to draw such a conclusion.”

**203.** Finally, reference may be made to *Darshan Singh v. State of Punjab* wherein this Court held: (SCC p. 345, para 31)

“31. When there is real apprehension that the aggressor might cause death or grievous hurt, in that event the right of private defence of the defender could even extend to causing of death. A mere reasonable apprehension is enough to put the right of self-defence into operation, but it is also a settled position of law that a right of self-defence is only a right to defend oneself and not to retaliate. It is not a right to take revenge.”



**204.** From the above, it is abundantly clear that the right of self-defence or private defence falls in one basket and use of excessive force or retaliatory force falls in another basket. Therefore, while a victim of aggression has a right of private defence or self-defence (recognised by Sections 96 to 106 IPC) if that victim exceeds the right of private defence or self-defence by using excessive force or retaliatory measures, he then becomes an aggressor and commits a punishable offence. Unfortunately occasionally, use of excessive force or retaliation leads to the death of the original aggressor. When the State uses such excessive or retaliatory force leading to death, it is referred to as an extra-judicial killing or an extra-judicial execution or as this Court put it in *People's Union for Civil Liberties v. Union of India* it is called "administrative liquidation". Society and the courts obviously cannot and do not accept such a death caused by the State since it is destructive of the rule of law and plainly unconstitutional.

**Whether the Petitioner had started using abusive language against respondent no.10 without any provocation by the Respondent no.10 or the respondent no.10 had made some illegal demands?**

**22.** It is the stand of respondent no . 5 himself, that after the road was blocked by the villagers, the Petitioner went to the spot in order to get the vehicles released. Thus, it is clear that even according to the respondent no. 5, the Petitioner was not the member of Unlawful Assembly.

**23.** As already pointed out, the video clipping relied upon by the respondent no. 5 is not complete and it starts from the stage where the petitioner was already having hot talk with the respondent no.10.

**24.** Now the only question for consideration is that what prompted the petitioner to use abusive language against the Respondent No. 10?

**25.** As already stated by respondent no. 5, the Petitioner had gone to the spot for release of the vehicles whereas the *Chaka Jam* was staged



by Villagers. The respondent no. 10 was also sent to control the *Chakka Jam*. Thus, it is clear that the purpose of Petitioner as well as of Respondent no. 10 for reaching to the spot was same and they had no conflicting interests. Thus, it is clear that there was otherwise, no reason for the Petitioner to use abusive language against the respondent no.10.

**26.** This Court has already held that the Video Clipping relied upon by the respondent no. 5 is not complete and it doesnot contain the video clipping of the incident which immediately took place prior to the use of abusive language by Petitioner.

**27.** As already held that since, purpose of Petitioner and the respondent no. 10 to reach to the spot was the same, therefore, it is clear that respondent no. 10 must have done something which annoyed the Petitioner. It is the case of the Petitioner that since, respondent no. 10 demanded an illegal gratification of Rs. 5000/-, therefore, he used abusive language against respondent no. 10. Under the facts and circumstances of this case, this Court is of the considered opinion, that it was the Respondent no. 10 who created an unwarranted situation which led to the entire incident.

**Whether the respondent no. 10 had acted in exercise of his right of private defence or he retaliated?**

**28.** In the previous paragraph, this Court has already reached to a conclusion, that facts and circumstances of the case indicates, that in fact it was the respondent no. 10 who provoked the petitioner to use abusive language.

**29.** If the facts of this case are considered, then it is clear that there was some incident of blockage of road by the villagers. As per the



Petitioner as well as according to the respondent no. 5, the petitioner went to the spot with an intention to get the vehicles released. Therefore, it is clear that presence of the petitioner on the spot was not for committing any offence, but it was for the protection of interest of his employer being the in-charge. As per the whatsapp video relied upon by the respondent no. 5 himself, petitioner was also there and he had some hot-talk with respondent No.10. Some abusive language was also used by the petitioner and petitioner also pushed the respondent No.10. Since, this Court has already come to a conclusion that it was the respondent no. 10 who created the unwarranted situation, therefore, prima facie it is held that use of abusive language and push the petitioner was on account of sudden and grave provocation by the respondent no.10. Thereafter the manner in which respondent No.10 had beaten the petitioner including throwing him on ground and kicking on his head, also justifies the stand of the Petitioner, that since, the demand of illegal gratification raised by the respondent no.10 was not fulfilled, therefore, he was assaulted. Thus, it is clear that excessive and brutal attack by the respondent no. 10 on the petitioner is also indicative of fact, that respondent no. 10 might be aggrieved. In other words, the act of the respondent no. 10 appears to be in retaliation and such an act cannot be permitted.

**30.** It is submitted by Shri Satyam Agrawal that since lot of persons had gathered there and respondent No.10 had apprehension that others may also assault him, therefore, he did not exceed his right of private defence and did not retaliate.

**31.** Considered the submissions made by Shri Satyam Agrawal in the



light of video clipping relied upon by respondent No. 5 himself.

**32.** The undisputed fact is that the Petitioner was not involved in *Chakka Jam* by the villagers, but in fact the petitioner had gone to the spot to get the vehicles released. Therefore, the Petitioner was never the member of any Unlawful Assembly.

**33.** Now the question is as to whether any other villager(s) who were present on the spot, joined the Petitioner to attack the respondent no.10?

**34.** When the hot-talk was going on between petitioner and respondent No.10, nobody interfered in that. When petitioner pushed the respondent No.10, nobody interfered. When respondent No.10 was brutally beating the petitioner, nobody touched respondent No.10. Thus there was no Unlawful Assembly to beat the respondent no. 10. In fact all the persons who were present on the spot, were involved in staging protest, whereas the Petitioner had gone to get the vehicles released.

**35.** Since this Court is not investigating the incident which took place on road, therefore this Court would not like to give any further finding except drawing a *prima facie* opinion that respondent No.10 by brutally beating the petitioner has exceeded his right of private defence as well as exceeded the jurisdiction given by law for maintaining the law and order situation. Therefore, video clipping relied upon by respondent No.5 is accepted but it is accepted against respondent No.10.

**Video clippings relied upon by petitioner**

**36.** At the outset, this Court would like to point out that all the video clippings which have been relied upon by the Petitioner are of inside the Police Station Bhalumada and were provided by Police Department under the Right to Information Act. Further none of the respondents



have raised any question with regard to the correctness of the Video Clippings relied upon by the Petitioner. Therefore, they are treated to be correct and un-doctored and un-manipulated.

**37.** The pen drive which has been provided by the Petitioner contains multiple video clippings, therefore, selected video clippings, which according to the Petitioner were necessary for adjudicating the facts of the case, were played in the open Court.

**38.** Before considering the Video Clippings, this Court would like to consider the law governing the field of police atrocities.

**39.** The Supreme Court in the case of **Prakash Kadam (Supra)** has held as under

**28.** We warn policemen that they will 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, however high. In the Nuremburg trials the Nazi war criminals took the plea that “orders are orders”, nevertheless they were hanged. If a policeman is given an illegal order by any superior to do a fake “encounter”, it is his duty to refuse to carry out such illegal order, otherwise he will be charged for murder, and if found guilty sentenced to death. The “encounter” philosophy is a criminal philosophy, and all policemen must know this. Trigger-happy policemen who think they can kill people in the name of “encounter” and get away with it should know that the gallows await them.

**40.** The Supreme Court in the case of **Pravat Chandra Mohanty v. State of Odisha**, reported in (2021) 3 SCC 529 has held as under :

**35.** The ratio of the judgment is that in event people holding public office abuse their position, it becomes a matter of great public concern. We fully endorse the above view of the Nagpur High Court.

**36.** Present is a case where the offence was committed by the in-charge of Police Station Purighat, as well as the Senior Inspector,



posted at the same police station. The police of a State is protector of law and order. The people look forward to the police to protect their life and property. People go to the police station with the hope that their person and property will be protected by the police and injustice and offence committed on them shall be redressed and the guilty be punished. When the protector of people and society himself instead of protecting the people adopts brutality and inhumanly beats the person who comes to the police station, it is a matter of great public concern. The beating of a person in the police station is the concern for all and causes a sense of fear in the entire society.

**37.** We may refer to the judgment of this Court in *Yashwant v. State of Maharashtra*, wherein this Court laid down that when the police is violator of the law whose primary responsibility is to protect the law, the punishment for such violation has to be proportionately stringent so as to have effective deterrent effect and instil confidence in the society. The following was laid down in para 34 : (SCC p. 584)

“34. As the police in this case are the violators of law, who had the primary responsibility to protect and uphold law, thereby mandating the punishment for such violation to be proportionately stringent so as to have effective deterrent effect and instil confidence in the society. It may not be out of context to remind that the motto of Maharashtra State Police is “*Sadrakshnaya Khalanighrahanaya*” (Sanskrit: “To protect good and to punish evil”), which needs to be respected. Those, who are called upon to administer the criminal law, must bear, in mind, that they have a duty not merely to the individual accused before them, but also to the State and to the community at large. Such incidents involving police usually tend to deplete the confidence in our criminal justice system much more than those incidents involving private individuals. We must additionally factor this aspect while imposing an appropriate punishment on the accused herein.”

**38.** The observations as quoted above are fully attracted in the facts of the present case. We, thus, are of the considered opinion that present is a case where this Court is not to grant leave for compounding the offences under Section 324 IPC as prayed for by the counsel for the appellants. The present is a case where the accused who were police officers, one of them being in charge of station and other Senior Inspector have themselves brutally



beaten the deceased, who died the same night. Their offences cannot be compounded by the Court in exercise of Section 320(2) read with sub-section (5). We, thus, reject the prayer of the appellants to compound the offence.

**41.** The Supreme Court in the case of **Ashwani Kumar v. Union of India**, reported in **(2020) 13 SCC 585** has held as under :

**37.** However, this is not to state that the courts would not step in, when required, to protect fundamental rights. It is indisputable that the right to life and the right to liberty are of foremost importance in a democratic state and, therefore, any form of torture would violate the right to life and is prohibited by Article 21 of the Constitution. Such action would be unconstitutional under Article 21 and would fail the test of non-arbitrariness under Article 14 of the Constitution. Indeed, the courts have been at the forefront in protecting and safeguarding individual rights. In 1982, on the basis of a letter written by a journalist complaining of custodial violence suffered by women prisoners in police lock-ups in the city of Bombay, this Court in *Sheela Barse v. State of Maharashtra* had issued the guidelines to safeguard the rights of arrested persons including female prisoners to afford them protection in police lock-ups from possible torture or ill-treatment. A person detained in a prison is entitled to live with human dignity and his detention in prison should be regulated by a procedure established by law which must be reasonable, fair and just. This can be done by applying, elucidating and even creatively expanding existing laws and principles on case-to-case basis. Judiciary while exercising its jurisdiction in this manner is not enacting or legislating but applying the Constitution and protecting fundamental rights under Article 21 of the Constitution.

**38.** This human right aspect was again highlighted in *Nilabati Behera v. State of Orissa* to state that the convicts, prisoners or undertrials must not be denuded of their fundamental rights under Article 21 and only such restrictions as are permitted by law can be imposed. It is the responsibility of the prison authority and the police to ensure that the person in custody is not deprived of his right to life, even if his liberty is circumscribed by the fact that the person is in confinement. Even limited liberty is precious and it is the duty of the State to ensure that even a person in custody





is dealt with in accordance with the procedure established by law. In *State of M.P. v. Shyamsunder Trivedi* this Court had highlighted that a sensitive and realistic rather than a narrow technical approach is required while dealing with cases of custodial crime. The court must act within its powers and as far as possible try that the guilty should not escape to ensure that the rule of law prevails.

**39.** We would take note of the judgment of this Court in *D.K. Basu* wherein the following directions/guidelines with respect to rights/custodial torture were issued: (SCC pp. 435-36, para 35)

“(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.



(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The “Inspection Memo” must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illaqa Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.”

**40.** The law in this regard is also laid down in Sections 330 and 331 IPC which relate to “voluntarily causing hurt to extort confession or to compel restoration of property” and “voluntarily causing grievous hurt to extort confession or to compel restoration of property” respectively.

**41.** In terms of the aforesaid edicts, legal jurisprudence has developed for providing compensation for the unconstitutional deprivation of fundamental right to life and liberty as a public remedy in addition to claims in private law for damages by tortious acts of public servants. In *D.K. Basu* the public law remedy for award of compensation was elucidated as arising from indefeasible rights guaranteed under Article 21 and justified



on the ground that the purpose of public law is not only to civilise public power but also to ensure that the citizens live under a legal system where their rights and interests are protected and preserved. For the grant of compensation, therefore, proceedings under Article 32 or 226 of the Constitution are entertained when violation of the fundamental rights granted under Article 21 is established. In such cases, claims of a citizen are tried on the principle of strict liability where defence of sovereignty may not be available. In *S. Nambi Narayanan v. Siby Mathews* where criminal proceedings were initiated against Nambi Narayanan but it was found that the prosecution story was a sham, compensation of Rs 50 lakhs was awarded for the anxiety suffered and maltreatment meted out to him.

**42.** We have no hesitation in observing that notwithstanding the aforesaid directions in *D.K. Basu* and the principles of law laid down in *Prithipal Singh v. State of Punjab* and *S. Nambi Narayanan*, this Court can, in an appropriate matter and on the basis of pleadings and factual matrix before it, issue appropriate guidelines/directions to elucidate, add and improve upon the directions issued in *D.K. Basu* and other cases when conditions stated in para 29 supra are satisfied. However, this is not what is urged and prayed by the applicant. The contention of the applicant is that this Court must direct the legislature, that is, Parliament, to enact a suitable standalone comprehensive legislation based on the UN Convention and this direction, if issued, would be in consonance with the Constitution of India. This prayer must be rejected in light of the aforesaid discussion.

**43.** Notwithstanding rejection of the prayer made by the applicant, we would in terms of the above discussion clarify that this would not in any way affect the jurisdiction of the courts to deal with individual cases of alleged custodial torture and pass appropriate orders and directions in accordance with law.

**42.** Now, this Court would like to consider the Video clippings which have been supplied to the Petitioner by the Police Department under the Right to Information Act, and which have not been disputed either by respondent no.5 or respondents no. 1 to 4. At the cost of repetition, the respondents no. 6 to 10 have remained ex-parte.



**43.** First video clipping containing the file No. as xxxx0154 is a video clipping of room inside the Police Station. Initially 2 or 3 Police personnel are standing there. All of a sudden head light of a vehicle is flashed inside the room which indicated that some vehicle had reached the Police Station. Thereafter, petitioner is brought by the Police personnel. The respondent no. 5 also follows them and started writing the details of the Petitioner. The Petitioner was also trying to explain by saying “that he works in the Company and he had received a phone call from Company”. Immediately, he was asked to take out his belongings and to keep it on the table and petitioner took out his mobile and other personal belongings and kept it on the table. The lockup is situated in the same room but the petitioner was not detained in the lockup.

**44.** It is submitted by Shri Satyam Agrawal that since petitioner was not formally arrested by that time, although he was taken into custody, therefore he was not kept in the lockup.

**45.** Whether this explanation given by Shri Satyam Agrawal is correct or not is left to be decided by the Trial Court.

**46.** Thereafter the Petitioner also explained to the respondent no. 5 that he has already tendered his apology but the same was not accepted by respondent no.5. The respondent no. 10 was also standing and his Uniform was not torn. Thereafter, the respondent no. 5 went outside the Police Station, Bhalumada. Thus, it is clear that respondent no. 5 was present in the Police Station Bhalumada. Thereafter, one Police personnel, according to the Petitioner he is respondent no.7, with thick Bamboo in his hand comes inside the room and took the petitioner to adjoining room which according to the petitioner does not contain any



CCTV camera. Some more Police personnel followed them and all of a sudden screams of one person were started coming out of the room. Some of the police personnel including the respondent no. 5, also came from outside and rushed to the room from where screams were coming. After hearing the screams, even brother of the petitioner also rushed inside the Police Station. However, brother of the petitioner was ousted by the Police personnel from the Police Station and it appears that the door of the Police Station was bolted (bolting of door is an assessment by the Court and it is not visible as it is outside the angle of the camera). Thus, it is clear that petitioner was badly beaten by the Police personnel in the presence of respondent no.5, inside the Police Station in a room which was not having CCTV camera. Petitioner was deliberately taken to a room because it was not having CCTV Camera. Therefore, it is clear that the Police personnel were intending to hide their illegal activities of assaulting the petitioner in a Police Station.

**47.** The next video clipping containing file No.xxxx2228 shows that friends and the brother of petitioner were standing outside the Police Station. The said camera was installed outside the Police Station. Even respondent no. 5 was also standing along with official bolero jeep. After some time, respondent no. 5 goes inside the Police Station Bhalumada, and few seconds thereafter, three Police personnel, out of whom two were in uniform and one was in civil dress, brought the petitioner from the Police Station by lifting him. They tried to make the petitioner to sit in the Bolero Jeep which was parked outside the Police Station but petitioner was not in a position to stand and he sat down on the road itself.



**48.** At this stage, it is submitted by Shri Satyam Agrawal that in fact for appreciating the video clipping of file No.xxxx2228, this Court should also watch the video clipping of file No.xxxx2145.

**49.** Accordingly, video clipping of file No.xxxx2145 was also played. It is also a video clipping of a corridor inside the Police Station. It appears that one Police personnel brought the petitioner outside the room, where he was beaten. The petitioner was not in a position to walk properly. Some talk took place between the petitioner and his brother. Since his brother was annoyed with the petitioner, therefore he slapped him. Later on, petitioner was unable to stand and laid down on the corridor itself and ultimately, he was lifted by the Police personnel and was taken out of the Police Station and the video clipping of Police personnel taking the petitioner out of the Police Station is contained in file No.xxxx2228.

**50.** It is submitted by Shri Satyam Agrawal, Advocate for the respondent no. 5, that since petitioner was not ready to undergo the medical examination, therefore, he was forcibly lifted by the police personnel to take him to the doctor. It is further submitted that on medical examination the doctor had not found any injury on the body of the petitioner.

**51.** The counsel for respondents no.5 to 10 could not explain as to why the petitioner was screaming and as to why the petitioner was beaten in the room by bamboo stick and why even other police personnel who were standing outside the police station rushed inside the police station after hearing the screams of the petitioner. Above all, why the petitioner was taken inside the room which was not having



CCTV cameras?

**52.** However, the defence taken by respondents no.5 is that in fact the petitioner was not ready to undergo medical examination, therefore, he was forcibly lifted by the police personnel will be considered after considering the video clipping of remaining files.

**53.** File No.xxxx0931 contains the video clipping that the respondent no. 10 was writing the complaint and some suggestions were being given by another police personnel.

**54.** File No.xxxx2617 contains the video clipping in which respondent no.5 was standing and minutely reading the complaint written by respondent no.10. Thereafter, he called the respondent no. 10 and enquired whether respondent no.10 was beaten or not? It was replied by respondent no. 10 that he was not beaten but told him that only scuffle (*Jhooma-jhatki*) took place. The respondent no. 5 also insisted that the respondent no. 10 should allege that his uniform was pulled by catching hold of his collar as a result his uniform got torn. The respondent no. 10 was also directed to write another complaint as there should not be any correction in the already written complaint. Thus, it is clear that the complaint was being prepared after due deliberations and after adding false allegations.

**55.** File No.xxxx5539 indicates that respondent no. 5 instructed that offence under SC/ST Act be also added and fresh complaint be obtained that since, it is already 1 A.M., therefore, FIR should be lodged immediately. The respondent no. 10 is seen going through his complaint which appears to be containing some corrections also. Thereafter, one police personal started correcting the complaint which



was already written by the respondent no.10. As per the CCTV footage, the complainant and the person who is in civil uniform are sitting on the chairs, whereas respondent no. 5 is also sitting on the chair and one ASI and two police personals including one Head Constable were standing. All of a sudden, one Head Constable went towards the complainant and unfortunately came in between the CCTV camera and the complainant however, from the actions of the Head Constable, it appears that he pulled the collar of the complainant to show that the uniform of the respondent no. 10 was torn by the Petitioner, but prior to the act of Head Constable, the uniform of the respondent no. 10 was in proper condition. Thus, it is clear that the uniform of respondent no. 10 was torn by one of the head constable in the presence and instigation of the respondent no. 5.

**56.** File No.xxxx5343 contains the video clipping in which the Town Inspector is sitting with one law book in his hand. He was talking to respondent no.10 and enquired whether respondent no. 10 belongs to S.C or ST category. It was replied by respondent no. 10 that he belongs to S.C. Category. Then it was replied by respondent no. 5 that he will have to under medical examination. Respondent no. 5 also expressed his anguish that no other police personal is supporting him to write proper FIR. When the respondent no. 10 informed that he did not suffer any injury, then it was replied by respondent no. 5 that old injuries should be mentioned. The respondent no. 5 also said that whether *Police ki Naak Kategi ki nahi and again said Naak Kategi ki nahi* and accordingly, respondent no.10 started scratching his neck and another police personal started writing details of injuries which even according





to respondent no. 10, the same were preexisting. Even otherwise, the Doctor in MLC of respondent no. 10 did not find any external injury except scratch marks on neck of respondent no.10 which were also self inflicted injuries.

**57.** File No.xxxx0847 contains the video clipping in which respondent no.5 is specifically directing respondent no.10 to request the doctor to mention the injuries by saying *Doctor Se Chot Likhwalena*.

**58.** File No.xxxx3605 contains certain discussion about distribution of amount which respondent no.10 would have received on account of offence against the member of SCST community.

**59.** File No.xxxx3934 contains the video clipping where one person is suggesting respondent no.10 that he should took out his gold chain, so that offence of loot can also be registered. Initially respondent no.10 showed hesitation and refused to hand over the chain, but later on took out his chain and handed over the same person who was suggesting respondent no.10 for the same. However, it appears that offence of loot was never registered.

**60.** The remaining video clippings which are in the pen drive were not played as none of the Counsels either for the Petitioner or the respondents requested for the same. All the above mentioned video clippings were played in the open Court in the presence of the counsel for respondents.

**61.** The counsel for the State gave up its defence and submitted that after watching and hearing video clipping, it is difficult for him to support the report submitted by S.D.O.(P) which has been relied upon by the respondents no.1 to 4 in their return and it is difficult to defend



the respondents no. 5 to 10.

**62.** The only defence of respondents no.5 was that in fact the petitioner was in a position to walk, but since he was not willing to go to the hospital, therefore, he was forcibly lifted by the police personnel.

**63.** Now the aforesaid defence shall be considered in the light of suggestion given by respondent no.5 to respondent no.10 that he should get injuries mentioned in the MLC.

**64.** The fact that petitioner was brought to the police station is undisputed. The fact that he was standing in a room with other police personnel is undisputed. The fact that petitioner was standing in a calm and cool condition in the police station is undisputed. The fact that one police personnel came inside the police station alongwith thick bamboo stick is also undisputed. The fact that the person who had come alongwith the thick bamboo stick took the petitioner to an adjoining room and they were followed by other police personnel is undisputed. The adjoining room where the petitioner was taken does not have CCTV camera is undisputed. After some time, screams of petitioner started coming out of that room is undisputed. After hearing the screams of the petitioner, some of the police personnel including respondent no. 5, who must be standing outside the police station also rushed inside that room of the police station is undisputed. After hearing the screams of the petitioner, the brother of petitioner also rushed inside the police station is undisputed. The brother of the petitioner was ousted from the room of the police station is also undisputed. The main door of the police station was bolted is also undisputed.

**65.** The counsel for the respondents were unable to meet out any of



the aforesaid undisputed facts. Why the petitioner was brutally beaten inside the police station has not been satisfactorily explained. Why the police personnel came inside the room alongwith a thick bamboo stick has not been explained. Thus, it is clear that the petitioner was brutally beaten by the police personnel inside the police station. Thereafter, the video clipping containing file no.xxxx2145 indicates that the petitioner was brought by the police personnel, but the petitioner was not in a position to stand. Although the petitioner was slapped by his brother, which according to the petitioner his brother was annoyed on account of the incident, which took place on the road, but thereafter it is clear that the petitioner was lying on the corridor and was not in a position to move and ultimately the police personnel lifted the petitioner and brought outside the police station and they tried to make the petitioner to sit in the Bolero jeep, but he was unable to sit in the jeep and ultimately, he sat down in a helpless condition on the road itself. This also happened in the presence of the respondent no. 5. Furthermore, in file no.xxxx0847 as well as other file, it is clear that the Town Inspector/respondent no.5 had enquired from respondent no.10 about the incident and the respondent no.10 had simply stated that a scuffle (*Jhooma-jhatki*) took place and he was not beaten. Accordingly, respondent no.5 insisted that serious allegations should be made to make out the offence serious otherwise, *Police Ki Naak Kategi Ki Nahi?*

**66.** Even a suggestion was given to respondent no.10 to tear his uniform and to cause self-inflicted injuries. Even respondent no.5 went to the extent of saying that *Naak Kategi*. Even respondent no.5 went to the extent of suggesting respondent no.10 to ensure that the injuries are



written by the doctor by saying *Doctor Se Chot Likhwa lena*. Thereafter, the video clipping also shows that respondent no.6 was insisting respondent no.10 to hand over his gold chain, so that the offence of loot may also be added and initially respondent no.10 hesitated in handing over his gold chain, but later on he handed over the gold chain to respondent no.6. However, ultimately the offence of loot was not added. Even there was a discussion with regard to distribution of compensation, which respondent no.10 would receive being the member of SC Community. Thus, it is clear that not only the petitioner was badly beaten inside the police station, but respondent nos.5 to 10 hatched a conspiracy to lodge a false FIR against petitioner by adding allegation which never took place on the spot. Furthermore, whatever conspiracy was hatched by respondents no.5 to 10 inside the police station before lodging of FIR was clarified by respondents themselves by filing a pen-drive containing videography of the incident, which took place on the road. Thus, it is clear that respondents have exceeded all their jurisdiction in not only badly beating the petitioner but also by registering false complaint against him.

**67.** Now the only question for consideration is “as to whether respondents/police authorities have taken a serious view of the matter or not?”

**68.** The respondents no. 1 to 4 in their return had claimed that an enquiry was got done from S.D.O.(P), Kotma, Distt. Anuppur, who has found that the complaint made by the Petitioner was false. The S.D.O.(P), Kotma, Distt. Anuppur also relied upon the complaint made by respondent no. 10 according to which he had sustained injuries on his



back, neck, chest, thumb etc. whereas it is clear from the different video clippings already referred herein above, that all the allegations made in the complaint allegedly made by respondent no.10 were false and were created and concocted at the instance of respondent no.5. The complaint allegedly written by respondent no. 10 was repeatedly corrected by the respondent no. 5. Therefore, it is clear that the police authorities, instead of correcting their house, has protected the police personals who are prima facie guilty of committing police atrocities on the petitioner, who was in the custody of the police. Thus, it is clear that the entire staff, including the respondents no. 5 to 10 is out and out to destroy the evidence and is trying to manipulate the things. This attempt of senior police officers in protecting the wrongdoer is a very serious matter, and it appears that without verifying the contents of the Pen Drive which was also filed by the petitioner alongwith the petition, a false stand was taken in the return. After watching the video clippings and hearing the audio, even the Counsel for the State was not in a position to justify the actions of the respondents no. 5 to 10 and was not in a position to defend the stand taken by respondents no. 1 to 4 in their return.

**69.** The Supreme Court in the case of **Ashwani Kumar (Supra)** has held that “Notwithstanding rejection of the prayer made by the applicant, we would in terms of the above discussion clarify that this would not in any way affect the jurisdiction of the courts to deal with individual cases of alleged custodial torture and pass appropriate orders and directions in accordance with law”. Therefore, it is clear that the respondents no. 5 to 10 are guilty of brutally beating the petitioner in the police station and creating a false and concocted complaint which they obtained from



respondent no. 10. The uniform of respondent no.10 was deliberately torn by fellow police personal with an intention to create a false evidence and that was done at the instance, instigation and in presence of respondent no. 5. Further more, the petitioner was brutally beaten by respondent no.10 on the road by way of retaliation. Without holding that respondent no. 10 had demanded illegal gratification of Rs. 5000/-, it is clear that some thing must have been done by respondent no. 10 which annoyed the petitioner, otherwise, the Petitioner had also gone to the spot against the blockage of road thereby restricting the free moment of trucks of the Company. Even the Petitioner tried to explain the respondent no. 5 that he had gone to the spot after receiving a phone call from Company. Therefore, it is clear that the respondents no. 5 to 10 have committed criminal act, but the police has very conveniently ignored the same and on the contrary, claimed that the complaint filed by petitioner was false. Accordingly, the Director General of Police is directed to immediately register FIR against the respondents no. 5 to 10 for the committing the above mentioned offences.

**70.** Further more, it is clear from the report of S.D.O. (P), Kotma Distt. Anuppur, that the respondents no. 5 to 10 and the entire police staff who was posted in police station Bhalumada Distt. Anuppur on 17-9-2023 has tried to manipulate the official record and have interfered with free and fair enquiry as well as investigation. Therefore, the Director General of Police, State of Madhya Pradesh is directed to immediately transfer the entire police staff who was posted in Police Station Bhalumada on 17-9-2023 to different places situated not less than 900 Km.s away from Anuppur. Since Anuppur is a border District, therefore, the distance of 900 Km.s has been consciously fixed, so that they should remain at a distance and different places, so that they cannot hatch conspiracy and cannot



manipulate the official record. Let the entire police staff be transferred within a period of 10 days from today.

**71.** Since, this Court has found that the petitioner was the victim of police atrocities inside the police station, therefore, it is held that he is also entitled for compensation. Since, no relief regarding payment of compensation has been sought, therefore, in absence of any notice to the respondents, the right of the petitioner to seek compensation by filing fresh petition is hereby protected. It is held that non-claiming of compensation in this petition shall not come in the way of any proceedings for claiming compensation even by filing separate writ petition.

**72.** The manner in which the respondents no. 5 to 10 have behaved either on the road or inside the police station, it is clear that the act done by them cannot be said to have reasonable nexus with discharge of their official duty.

**73.** The Director General of Police is directed to submit his report to the Registrar General of this Court with regard to registration of offence against the respondents no. 5 to 10 as well as transfer of entire staff of the police station Bhalumada, who were posted on 17-9-2023, including the respondents no. 5 to 10, within a period of 15 days from today. Failing which the Registrar General shall register a case for Contempt of Court.

**Conduct of the Doctor who medically examined the Petitioner**

**74.** It is submitted by Counsel for respondent no.5 that the petitioner was medically examined by the Doctor, and no injury was found on his body. From the video clippings, as well as the condition of the petitioner immediately after his beating in the police station, it is clear that he must have sustained multiple injuries, but according to Shri Satyam Agrawal, Counsel for respondent no. 5, the Doctor did not find



any injury on the body of the petitioner. Further more, respondent no. 5 was also suggesting the respondent no.10 to get the injuries mentioned in his MLC. Thus, it is clear that Doctor had also not discharged his duties properly and primarily with a view to safeguard the respondents no. 5 to 10, he certified that no injury was found. Had he found injuries on the body of the Petitioner, then the respondents no. 5 to 10 would have come under difficulty. It is made clear that the MLC of the Petitioner was not referred by any of the Counsels. Therefore, the Director General of Police is also directed to verify the medical report of the petitioner, and if it is found that no injuries were mentioned in the MLC of the petitioner, then shall also register a criminal case against the concerning Doctor for creating false and concocted MLC of the Petitioner. The Director General of Police shall also refer the case to the appointing authority of the concerning Doctor, so that departmental action be also taken against him.

**Conduct of S.D.O.(P), Kotma, Distt. Anuppur who gave clean chit to respondents no. 5 to 10**

75. The manner in which the respondents have tried to play fraud on the Court by submitting a false report, the Director General of Police is directed to conduct an enquiry into the fact finding report submitted by S.D.O.(P) and to register criminal case against him also, if facts so warrant.

**Non-installation of CCTV camera in one of the room of the Police Station**

76. Before concluding this order, this Court would like to consider the non-installation of CCTV camera in atleast one room of the Police





Station and that room was deliberately used by the Police Personals for assaulting the Petitioner.

### **Installation of CCTV Camera**

77. The Supreme Court in the case of **D.K. Basu v. State of W.B.**, reported in (2015) 8 SCC 744 has held as under :

31. There are, apart from the above, few other recommendations made by the Amicus like installation of CCTV cameras in all police stations and prisons in a phased manner, and appointment of non-official visitors to prisons and police stations for making random and surprise inspections. Initiation of human proceedings under Sections 302/304 IPC in each case where the enquiry establishes culpability in custodial death and framing of uniform definition of custodial death and mandatory deployment of at least two women constables in each district are also recommended by the Amicus.

32. As regards installation of CCTV cameras in police stations and prisons, with a view to checking human rights abuse, it is heartening to note that all the States have in their affidavits supported the recommendation for installation of CCTV cameras in police stations and prisons. In some of the States, steps appear to have already been initiated in that direction. In the State of Bihar, CCTV cameras in all prisons and in 44 police stations in the State have already been installed. So also the State of Tamil Nadu plans to equip all police stations with CCTV cameras. The State of Haryana has stated that CCTV cameras should be installed in all police stations, especially, at the entrance and in the lockups. The Union Territories of Andaman & Nicobar and Puducherry have also installed CCTV cameras in most of the police stations. Some other States also appear to be taking steps to do so. Some of the States have, however, remained silent and non-committal on the issue.

33. We do not for the present consider it necessary to issue a direction for installation of CCTV cameras in all police stations. We are of the opinion that the matter cannot be left to be considered by the State Governments concerned, having regard to the fact that several other State Governments have already taken action in that direction which we consider is commendable. All that we need say is that the State Governments may consider



taking an appropriate decision in this regard, and appropriate action wherever it is considered feasible to install CCTV cameras in police stations. Some of these police stations may be located in sensitive areas prone to human rights violation. The States would, therefore, do well in identifying such police stations in the first instance and providing the necessary safeguard against such violation by installing CCTV cameras in the same. The process can be completed in a phased manner depending upon the nature and the extent of violation and the experience of the past.

**78.** The Supreme Court in the case of **Shafhi Mohd. v. State of H.P.**, reported in **(2018) 5 SCC 311** has held as under :-

**13.** We may also refer to a connected issue already dealt with by this Court in *D.K. Basu v. State of W.B.* This Court directed that with a view to check human rights abuse CCTV cameras be installed in all police stations as well as in prisons. There is need for a further direction that in every State an oversight mechanism be created whereby an independent committee can study the CCTV camera footages and periodically publish report of its observations. Let the COB issue appropriate instructions in this regard at the earliest. The COB may also compile information as to compliance of such instructions in the next three months and give a report to this Court.

**79.** The Supreme Court in the case of **Paramvir Singh Saini v. Baljit Singh**, reported in **(2021) 1 SCC 184** has held as under :

**8.** The majority of the compliance affidavits and Action-Taken Reports fail to disclose the exact position of CCTV cameras qua each police station. The affidavits are bereft of details with respect to the total number of police stations functioning in the respective State and Union Territory; total number of CCTV cameras installed in each and every police station; the positioning of the CCTV cameras already installed; working condition of the CCTV cameras; whether the CCTV cameras have a recording facility, if yes, then for how many days/hours, have not been disclosed. Further, the position qua constitution of Oversight Committees in accordance with the order dated 3-4-2018<sup>2</sup>, and/or details with respect to the Oversight Committees already



constituted in the respective States and Union Territories have also not been disclosed.

**9.** Compliance affidavits by all the States and Union Territories are to be filed, as has been stated earlier, by either the Principal Secretary of the State or the Secretary, Home Department of the States/Union Territories. This is to be done by all the States and Union Territories, including those who have filed so-called compliance affidavits till date, stating the details mentioned in para 8 of this order. These affidavits are to be filed within a period of six weeks from today.

**10.** So far as constitution of Oversight Committees in accordance with our order dated 3-4-2018<sup>2</sup> is concerned, this should be done at the State and district levels. The State Level Oversight Committee (hereinafter referred to as “the SLOC”) must consist of:

- (i) The Secretary/Additional Secretary, Home Department;
- (ii) Secretary/Additional Secretary, Finance Department;
- (iii) The Director General/Inspector General of Police; and
- (iv) The Chairperson/member of the State Women’s Commission.

**11.** So far as the District Level Oversight Committee (hereinafter referred to as “DLOC”) is concerned, this should comprise of:

- (i) The Divisional Commissioner/Commissioner of Divisions/Regional Commissioner/Revenue Commissioner Division of the District (by whatever name called);
- (ii) The District Magistrate of the District;
- (iii) A Superintendent of Police of that District; and
- (iv) A mayor of a municipality within the District/a Head of the Zila Panchayat in rural areas.

**12.** It shall be the duty of the SLOC to see that the directions passed by this Court are carried out. Amongst others, the duties shall consist of:

- (a) Purchase, distribution and installation of CCTVs and its equipment;
- (b) Obtaining the budgetary allocation for the same;
- (c) Continuous monitoring of maintenance and upkeep of CCTVs and its equipment;



(d) Carrying out inspections and addressing the grievances received from the DLOC; and

(e) To call for monthly reports from the DLOC and immediately address any concerns like faulty equipment.

Likewise, the DLOC shall have the following obligations:

(a) Supervision, maintenance and upkeep of CCTVs and its equipment;

(b) Continuous monitoring of maintenance and upkeep of CCTVs and its equipment;

(c) To interact with the Station House Officer (hereinafter referred to as “the SHO”) as to the functioning and maintenance of CCTVs and its equipment; and

(d) To send monthly reports to the SLOC about the functioning of CCTVs and allied equipment.

(e) To review footage stored from CCTVs in the various police stations to check for any human rights violation that may have occurred but are not reported.

**13.** It is obvious that none of this can be done without allocation of adequate funds for the same, which must be done by the States’/Union Territories’ Finance Departments at the very earliest.

**14.** The duty and responsibility for the working, maintenance and recording of CCTVs shall be that of the SHO of the police station concerned. It shall be the duty and obligation of the SHO to immediately report to the DLOC any fault with the equipment or malfunctioning of CCTVs. If the CCTVs are not functioning in a particular police station, the SHO concerned shall inform the DLOC of the arrest/interrogations carried out in that police station during the said period and forward the said record to the DLOC. If the SHO concerned has reported malfunctioning or non-functioning of CCTVs of a particular police station, the DLOC shall immediately request the SLOC for repair and purchase of the equipment, which shall be done immediately.

**15.** The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a police station to entrust the SHO of the police station concerned with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made



responsible for CCTV data maintenance, backup of data, fault rectification, etc.

**16.** The State and Union Territory Governments should ensure that CCTV cameras are installed in each and every police station functioning in the respective State and/or Union Territory. Further, in order to ensure that no part of a police station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points; main gate of the police station; all lock-ups; all corridors; lobby/the reception area; all verandahs/outhouses, Inspector's room; Sub-Inspector's room; areas outside the lock-up room; station hall; in front of the police station compound; outside (*not inside*) washrooms/toilets; Duty Officer's room; back part of the police station, etc.

**17.** CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central Government shall clearly indicate that the best equipment available as of date has been purchased.

**18.** Whenever there is information of force being used at police stations resulting in serious injury and/or custodial deaths, it is necessary that persons be free to complain for a redressal of the same. Such complaints may not only be made to the State Human



Rights Commission, which is then to utilise its powers, more particularly under Sections 17 and 18 of the Protection of Human Rights Act, 1993, for redressal of such complaints, but also to Human Rights Courts, which must then be set up in each district of every State/Union Territory under Section 30 of the aforesaid Act. The Commission/Court can then immediately summon CCTV camera footage in relation to the incident for its safe keeping, which may then be made available to an investigating agency in order to further process the complaint made to it.

**19.** The Union of India is also to file an affidavit in which it will update this Court on the constitution and workings of the Central Oversight Body, giving full particulars thereof. In addition, the Union of India is also directed to install CCTV cameras and recording equipment in the offices of:

- (i) Central Bureau of Investigation (CBI)
- (ii) National Investigation Agency (NIA)
- (iii) Enforcement Directorate (ED)
- (iv) Narcotics Control Bureau (NCB)
- (v) Department of Revenue Intelligence (DRI)
- (vi) Serious Fraud Investigation Office (SFIO)
- (vii) Any other agency which carries out interrogations and has the power of arrest.

As most of these agencies carry out interrogation in their office(s), CCTVs shall be compulsorily installed in all offices where such interrogation and holding of accused takes place in the same manner as it would in a police station.

**20.** The COB shall perform the same function as the SLOC for the offices of investigative/enforcement agencies mentioned above both in Delhi and outside Delhi wherever they be located.

**21.** The SLOC and the COB (where applicable) shall give directions to all police stations, investigative/enforcement agencies to prominently display at the entrance and inside the police stations/offices of investigative/enforcement agencies about the coverage of the premises concerned by CCTV. This shall be done by large posters in English, Hindi and vernacular language. In addition to the above, it shall be clearly mentioned therein that a person has a right to complain about human rights violations to the National/State Human Rights Commission, Human Rights Court or the Superintendent of Police or any other authority empowered to take cognizance of an offence. It shall



further mention that CCTV footage is preserved for a certain minimum time period, which shall not be less than six months, and the victim has a right to have the same secured in the event of violation of his human rights.

**22.** Since these directions are in furtherance of the fundamental rights of each citizen of India guaranteed under Article 21 of the Constitution, and since nothing substantial has been done in this regard for a period of over 2½ years since our first order dated 3-4-2018<sup>2</sup>, the Executive/Administrative/police authorities are to implement this order both in letter and in spirit as soon as possible. Affidavits will be filed by the Principal Secretary/Cabinet Secretary/Home Secretary of each State/Union Territory giving this Court a firm action plan with exact timelines for compliance with today's order. This is to be done within a period of six weeks from today.

**80.** This Court in the case of **Prosecutrix (Minor) through her Natural Guardian Vs. State of M.P. and others** reported in **2021 (3) MPLJ (Cri) 339** has held as under :

182. Accordingly, the Director General of Police, State of Madhya Pradesh is directed to immediately implement the directions given by the Supreme Court in the case of Paramvir Singh (Supra). The Superintendent of Police, Gwalior is directed to ensure that every Police Station situated within his jurisdiction has not only the CCTV cameras in working order but the cameras must be installed in such a manner that every room of the concerning Police Station is covered by the CCTV camera.

**81.** It appears, that the Director General Of Police did not take care of direction issued by this Court to Superintendent of Police Gwalior to ensure that CCTV Cameras must be installed in such a manner that every room of the concerning Police Station is covered by the CCTV camera and did not ensure that the same direction is implemented in every Police Station situated in the entire State.

**82.** In the present case, the Superintendent of Police, Anuppur did not



care to ensure the compliance of directions given by Supreme Court in the case of **Paramvir Singh (Supra)**. This shows dereliction of duties on the part of Superintendent of Police, Anuppur. Therefore, the Director General of Police, State of Madhya Pradesh is directed to ensure that each and every room of the Police Station is fitted with CCTV Camera with audio facility. The Director General of Police, State of M.P. is directed to immediately call report from every Superintendent of Police of each District to the effect as to whether any room or space within the Police Station (so situated in their respective District has any black spot (without CCTV Camera) and should ensure that every room and every space within the Police Station is fitted with CCTV Cameras within a period of 3 months from today. The Director General of Police, State of M.P. is directed to ensure that report from every Superintendent of Police is received by him within a period of one month from today, and thereafter, every space including every room situated in respective Police Station be brought within the coverage area of CCTV Camera, within a period of two months from thereafter. In future if it is found that in a Police Station an area was left outside the coverage area of CCTV camera, then such lapse shall be considered as Contempt of Court, and action shall be taken against the Superintendent of Police of the said District and also S.H.O. of concerning Police Station for Contempt of Court.

**83.** The Director General of Police is directed to submit his report with regard to installation of CCTV cameras at every place in all the Police Stations of the State of M.P. latest by 18-2-2025. In case if the report is not submitted then the Registrar General of this Court is





directed to register a separate case for Contempt of Court.

**84.** With aforesaid observations, this petition is **allowed** with cost of Rs. **1,20,000/-** to be deposited by respondents no. 5 to 10 in the Registry of this Court within a period of 1 month from today. Rs. 40,000/- shall be deposited by respondent no. 5, Rs. 20,000/- shall be deposited by the ASI who took the petitioner in the room with thick bamboo stick, Rs. 20,000/- by respondent no.10 and Rs. 20,000/- by Head Constable who pulled the Uniform of respondent no.10 and Rs. 10,000/- each by the remaining two respondents, failing which the Registrar General is directed not only to start proceedings for recovery from the defaulter, but shall also register a separate case for Contempt of Court. The cost so deposited by the respondents no. 5 to 10 shall be paid to the petitioner, if any application for withdrawal is made.

**85.** Let a copy of this order be immediately sent to Director General of Police, State of Madhya Pradesh for necessary information and compliance. Shri Vijayendra Singh Choudhary – Government Advocate is also directed to immediately communicate this order to Director General of Police, State of Madhya Pradesh for necessary information and compliance.

**(G.S. AHLUWALIA)**  
**JUDGE**

S.M.