



**AFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

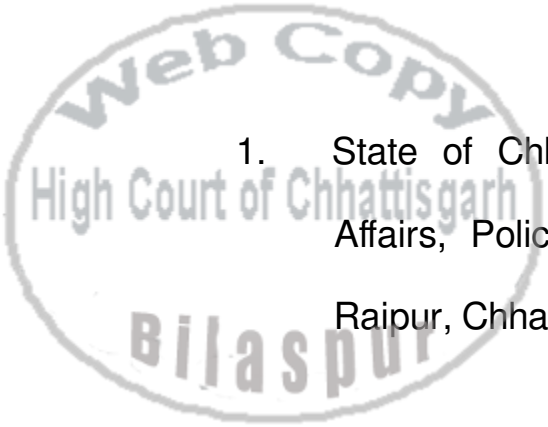
**WPCR No. 399 of 2023**

1. Smt. Anju Lal, W/o R.K. Lal, Aged About 55 Years, R/o Behind Green Gardens Colony, Nandan Vihar, Mangla, Bilaspur, District- Bilaspur, Chhattisgarh.
2. Deeksha Lal, D/o R.K. Lal, Aged About 26 Years, R/o Behind Green Gardens Colony, Nandan Vihar, Mangla, Bilaspur, District- Bilaspur, Chhattisgarh.

**---- Petitioners**

**Versus**

1. State of Chhattisgarh Through Secretary, Department of Home Affairs, Police Head Quater, Atal Nagar, Naya Raipur, District- Raipur, Chhattisgarh.
2. The Director General of Police, Police Head Quater, Atal Nagar, Naya Raipur, District- Raipur, Chhattisgarh.
3. The Inspector General of Police Bilaspur Division, Bilaspur, District Bilaspur, Chhattisgarh.
4. The Superintendent of Police Bilaspur, District Bilaspur, Chhattisgarh.
5. Police Station Civil Line, Bilaspur Through SHO, Civil Line Police Station, Bilaspur, District Bilaspur, Chhattisgarh.
6. K.K. Jagade S/o R.L. Jagade Aged About 47 Years R/o House No.





60, Behind Green Gardens Colony, Nandan Vihar, Mangla, Bilaspur,  
District- Bilaspur, Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)

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For Petitioners	:	Ms. Sameeksha Gupta, Advocate on behalf of Mr. Sajal Kumar Gupta, Advocate.
For Respondents/State	:	Mr. Sangharsh Pandey, Government Advocate.
For Respondent No. 6	:	Mr. Krishna Tandon, Advocate.

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**19.03.2024**

Heard Ms. Sameeksha Gupta, learned counsel holding the brief of Mr. Sajal Kumar Gupta, learned counsel for the petitioners. Also heard Mr. Sangharsh Pandey, learned Government Advocate, appearing for respondents No. 1 to 5/State and Mr. Krishna Tandon, learned counsel, appearing for respondent No. 6.

2. The present writ petition has been filed by the petitioners with the following prayers:

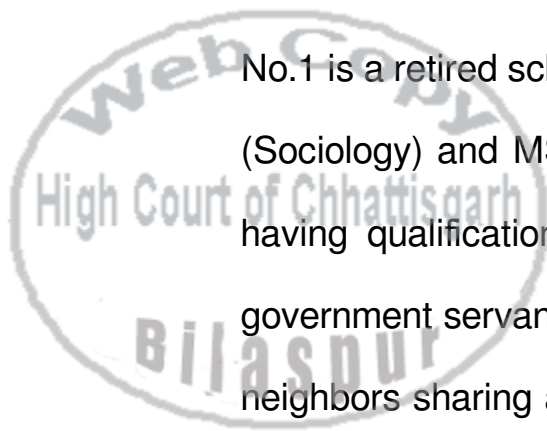
*"i. That the Hon'ble Court may kindly be pleased to issue an appropriate writ or direction to respondents No. 1 to 4 to take appropriate legal or disciplinary action against the liable officer of the Police Station Civil Line Bilaspur and appropriate legal action against the private respondent No. 6;*



*ii. That the Hon'ble Court may kindly be pleased to issue an appropriate writ or direction to the respondent State, taking note of suffering and humiliation suffered by the petitioners by granting a sum of Rs. 5,00,000/- (Rupees five lakhs only) towards compensation to each of the petitioners to be paid by the State of Chhattisgarh.*

*iii. Any other relief, which this Hon'ble Court deems, fit in the facts and circumstances may also be granted in favour of the petitioner."*

**3.** Learned counsel for the petitioners submits that the the petitioner No.1 is a retired school teacher having qualifications of M.A. (English), M.A. (Sociology) and MSW. The petitioner No. 2, is a young aspiring engineer having qualifications of B.E. Civil, MSW and B.Ed. and aspire to be a government servant in her field. The private respondent and petitioners are neighbors sharing a common road and the private respondent encroached the half part of the road. Being aggrieved by the conduct of the private respondent, the petitioner's family knocked on the doors of various revenue authorities and made various complaints and representations. Mr. R.K. Lal, who is the husband of petitioner and father of petitioner No. 1, a retired college professor preferred various complaints and representations before the revenue authorities. She also submits that on 16.09.2023 around 12.30 p.m. the Police Officers of Civil Line Police Station being hand in gloves with the private respondent arrested the petitioners from their place of residence and were taken to the Civil Line Police Station. However, various assertions have been made regarding the legality of the arrest and about the warrant of arrest and under which offence they were arresting the





petitioners, but the Police Officers of Civil Line Police Station did not give heed to any of the queries of the petitioners and arrest them arbitrary and illegally.

4. It is further submitted by the learned counsel for the petitioner that the paying guest students residing in the house of the petitioners came up for help and asked the Police Officers of Civil Line Police Station regarding the reason for arrest upon which the persons in *Khaki* arrogantly threatened the students by telling them to keep themselves away from the matter, otherwise they all also will have to face the dire consequences. Thereafter, the petitioners were taken to the Civil Line Police Station and were put under illegal detention in a separate room, without informing the reason for arrest; under which offence and also the right to approach legal aid or to inform their relatives about the arrest. She also submits that the petitioner No.1 made a number of assertions to know why she and her daughter were arrested, then petitioner No. 1 was subjected to Police atrocity in the hands of the Police Officers of Civil Line Police Station by dragging her inside the room when she tried to move outside by pulling her dupatta which got roped around her neck and was slapped as well inside the Police Station. The Police Officers of Civil Line Police Station took the petitioners before the Magistrate around 5.00 p.m. (worth mentioning that the petitioners were arrested around 12:30 p.m.) and directed the petitioners to wait for one hour and thereafter, the petitioners were sent to Central Jail Bilaspur.

5. Learned counsel for the petitioners submits that the petitioners had shown their willingness to furnish bail bond as well if at all required, however, the Police Officers of Civil Line Police Station deliberately and illegally did not give heed to same and put them behind jail. It is submitted that the Police Officers not only infringed the personal liberty and dignity



guaranteed under Article 21 of the Constitution of India to the petitioners, but subjected them to the police atrocities. She also submits that on the next day *i.e.* on 17.09.2023 in the evening around 6.00 p.m. without the right to a medical checkup, right of legal aid, right to know about the reason for arrest under which offence, right to know about bail, the petitioners were released from the illegal detention. Mr. R.K. Lal ran pillar to post to find out about her daughter and wife, but the officer of the Police Station Civil Line remained silent. After being released from illegal detention and subjected to Police atrocity, the petitioners try to know whether any FIR or Complaint was lodged against them, they checked the Citizen Portal of Chhattisgarh Police to know whether any FIR was lodged against them in Civil Line Police Station, Bilaspur from 15.09.2023 to 23.09.2023, but they did not find any FIR against them. Thereafter, they applied for a copy of the proceedings before the Magistrate.

6. Learned counsel for the petitioners submits that the worst case of violation of human rights took place during arrest made by the Police, the Hon'ble Apex Court in ***D.K. Basu vs. State of West Bengal***, reported in ***(1997) 1 SCC 416*** observed as under:

*20. In Joginder Kamar vs. State of U.P., [(1994) 4 SCC 260: 1994 SCC (Cri) 1172] considered the dynamics of misuse of police power of arrest and opined:*

*"No arrest can be made because it is lawful for the police officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another..... No arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a*



*complaint and a reasonable belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter."*

21. \*\*\*\*\* *A realistic approach should be made in this direction. The law of arrest is one of balancing individual rights, liberties and privileges on the one hand, and individual duties, obligations and responsibilities on the other; of weighing and balancing the rights, liberties and privileges of the single individual and those of individuals collectively; of simply deciding what is wanted and where to put the weight and the emphasis; of deciding which comes first – the criminal or society, the law violator or the law abider....."*

7. Learned counsel for the petitioners submits that the Hon'ble Apex Court in the matter of **D.K. Basu** (supra), after referring to the authorities in **Joginder Kumar vs. State of U.P.**, reported in (1994) 4 SCC 260. **Nilabati Behera (Smt.) Alias Lalita Behera Vs. State of Orissa & Others**, reported in (1993) 2 SCC 746 and **State of M.P. vs. Shyamsunder Trivedi**, reported in (1995) 4 SCC 262; the Hon'ble Apex Court laid down certain guidelines to be followed in cases of arrest and detention till legal provisions are made in that behalf as preventive measures. The said guidelines reads as follows:

*"(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 18 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 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 noticeboard."*

8. Learned counsel for the petitioners further submits that the Hon'ble Apex Court in the matter of **Arnesh Kumar vs. State of Bihar**, reported in **(2014) 8 SCC 273** referred to Section 41 of the Cr.P.C. analyzing the said provision, opined that a person accused of an offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on his satisfaction that such person had committed the offence. It has been further held that:

*"7.1..... A police officer before arrest, in such cases has to be further satisfied that such arrest, is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making*



*any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts. Eventually, the Court was compelled to State (SCC p. 279, para 7.3)*

*7.3 In pith and core, the police officer before arrest must put a question to himself, why arrest ? Is it really required ? What purpose it will serve ? What object it will achieve ? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 of the Cr.P.C.”*

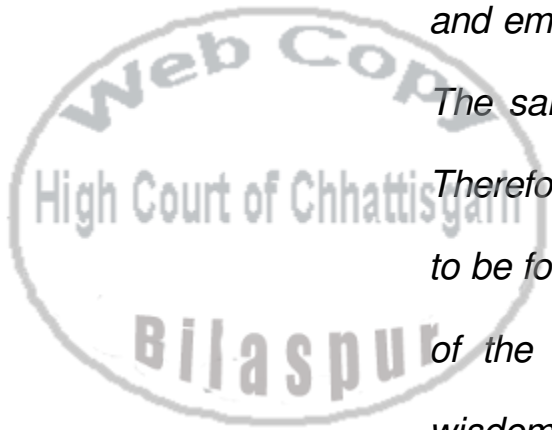
9. It is further submitted by the learned counsel for the petitioners that the Hon'ble Apex Court in the similar matter of ***Rini Johar vs. State of M.P.***, reported in ***(2016) 11 SCC 703*** related to police atrocity and illegal custody in which Hon'ble Apex Court held that the dignity of the petitioners, a doctor and a practicing advocate has been seriously jeopardized, and awarded the compensation of Rs. 5,00,000/ each held as under:

*“23. In such a situation, we are inclined to think that the*





*dignity of the petitioners, a doctor and a practicing advocate has been seriously jeopardized. Dignity, as has been held in Charu Khurana v. Union of India [Charu Khurana v. Union of India, (2015) 1 SCC 192 : (2015) 1 SCC (L&S) 161], is the quintessential quality of a personality, for it is a highly cherished value. It is also clear that liberty of the petitioner was curtailed in violation of law. The freedom of an individual has its sanctity. When the individual liberty is curtailed in an unlawful manner, the victim is likely to feel more anguished, agonised, shaken, perturbed, disillusioned and emotionally torn. It is an assault on his/her identity. The said identity is sacrosanct under the Constitution. Therefore, for curtailment of liberty, requisite norms are to be followed. Fidelity to statutory safeguards instil faith of the collective in the system. It does not require wisdom of a seer to visualise that for some invisible reason, an attempt has been made to corrode the procedural safeguards which are meant to sustain the sanguinity of liberty. The investigating agency, as it seems, has put its sense of accountability to law on the ventilator. The two ladies have been arrested without following the procedure and put in the compartment of a train without being produced before the local Magistrate from Pune to Bhopal. One need not be Argus-eyed to perceive the same. Its visibility is as clear as the cloudless noon day. It would not be erroneous to say that the enthusiastic investigating agency had totally*





*forgotten the golden words of Benjamin Disraeli:*

*“I repeat ..... that all power is a trust – that we are accountable for its exercise – that, from the people and for the people, all springs and all must exist.”*

.....

*27. In the case at hand, there has been violation of Article 21 and the petitioners were compelled to face humiliation. They have been treated with an attitude of insensibility. Not only there are violation of guidelines issued in D.K. Basu [D.K Basu vs. State of W.B., (1997) 1 SCC 416 : 1997 SCC (Cri) 92], there are also flagrant violation of mandate of law enshrined under Sections 41 and 41-A of the Cr.P.C. The investigating officers in no circumstances can flout the law with brazen proclivity. In such a situation, the public law remedy which has been postulated in Nilabati Behera [Nilabati Behera vs. State of Orissa, (1993) 2.SCC 746 : 1993 SCC (Cri) 527], Sube Smgh vs. State of Haryana [Sube Singh vs. State of Haryana, (2006) 3 SCC 178 : (2006) 2 SCC (Cri) 54], Hardeep Singh vs. State of M.P. [Hardeep Singh vs. State of M.P., (2012) 1 SCC 748 : (2012) 1 SCC (Cri) 684], comes into play. The constitutional courts taking note of suffering and humiliation are entitled to grant compensation. That has been regarded as a redeeming feature. In the case at hand, taking into consideration the totality of facts and circumstances, we think it appropriate to grant a sum of*





*Rs.5,00,000 (Rupees five lakhs only) towards compensation to each of the petitioners to be paid by the State of M.P. within three months hence. It will be open to the State to proceed against the erring officials, if so advised.”*

**10.** Learned counsel for the petitioners submits that in the present case also the petitioners were subjected to police atrocities and abuse of power by the police authorities by illegal detention, which infringed the personal liberty and dignity guaranteed under Article 21 of the Constitution of India. The illegal arrest is in violation of the due process of law, which seriously jeopardizes the dignity of the petitioners, the police authorities played with the liberty of the petitioners and caused trauma, pain and humiliation to the petitioners and her family. She also submits that the arresting officer failed to show that the petitioners committed any cognizable at all, but still curtailed the liberty of the petitioners by arresting them on 16.09.2023, which demonstrates abuse of power by the Police.

**11.** On the other hand, learned State counsel, appearing for respondents No. 1 to 5 and learned counsel, appearing for respondent No. 6 opposes the prayer made by the petitioners.

**12.** It is further submitted by the learned State counsel that an application was made on 15.09.2023 by Rampyare Lal Koshle who is resident of OM Nagar, Jarhabhata, District- Bilaspur, stating that he having title and possession over the land bearing Kharsa No. 1520/16 and 1520/17 of total area 3000 sq.ft. situated at Nandan Vihar Colony, Mangla, Bilaspur. Further, it has been stated that on the basis of demarcation report, on 16.09.2023 he is going to construct the boundary over the land and he has apprehension that the petitioners who was neighbor could create nuisance



and unpleasant situation on the spot, therefore, he had requested for proper police security to this aspect. He also submits that one Dinesh Bhagel who is the contractor and entrusted with the work of construction of boundary wall on the land of Rampyare Lal Koshle had also made complaint before the Station House Officer of Civil Line Police Station, District Bilaspur, alleging that on 16.09.2023, when construction work was started at Nandan Vihar, Mangla, District- Bilaspur, at that moment the petitioners came to the spot and started abusing with filthy language. Further, it has been stated that the petitioners hold the shirt collar of the complainant and threatened him for life.

**13.** Learned State counsel submits that as the above complaint was received at the concerned Police Station, the Police staff which includes female staff went to the spot and tried to resolve the dispute between the parties. It was also found that in presence of the Police staff, the petitioners have abused the complainant with filthy language. Further, the petitioners had abused and misbehaved with the Police staff. Looking to the unpleasant situation arisen on the spot and to prevent commission of any cognizable offence, the petitioners were arrested under section 151 of Cr.P.C and brought to the Police Station at 3.30 p.m. Further, the son of the petitioner No. 1 was intimated through mobile No. 898260000 regarding arrest of the petitioners. He also submits that after petitioners being arrested, Istagasha proceeding was initiated under Sections 151/107, 116(3) of the Cr.P.C. Statement of the complainant and petitioners was recorded and thereafter, the petitioners were produced before the City Magistrate, Bilaspur.

**14.** Learned counsel for the petitioners further submits that on production of the petitioners before the City Magistrate, the learned City Magistrate



initiated proceeding under Section 116(3) of the Cr.P.C. and as an immediate measure necessary for preventing of breach of peace, commission of any offence directed the petitioners to execute a bond of Rs.25,000/- each with same amount of securities. The petitioners failed to execute the specified bond before the learned City Magistrate, therefore, the learned City Magistrate, vide order dated 16.09.2023 directed to detain the petitioners in Jail. He also submits that on the very next day the petitioners were able to furnish the bond and securities amount to which they were released with immediate effect on the very next day. Hence, in light of the above submission, it is clear that there was direction by the City Magistrate to furnish bail bond and securities and the same was not complied by the petitioners, therefore, the allegation of the petitioners that the Police Officer of Civil Line Police Station deliberately has not accepted the furnished bail bond and send them to jail is incorrect and false. Further, it is hereby categorically denied by the respondent/State the allegation of the petitioners about the Police atrocities at Civil Line Police Station. As such allegations have been made in very casual manner and further the petitioners have not preferred any complaint before any higher authorities of the Police Department.

**15.** Learned State counsel submits that before the petitioners were taken into custody, the Jail Authority had conducted medical checkup of the petitioners on 16.09.2023. Therefore, in view of the above-submissions, the learned State counsel specifically and vehemently denies and disputes all the averments and submissions made against it in the writ petition to which learned counsel for the petitioners submits that the petitioners were arrested around 12.30 p.m. by the Police Officer of Civil Line Police Station and after a delay of five hours around 5.00 p.m. presented the petitioners



before the City Magistrate, Bilaspur and then in an arbitrary manner sent the petitioners to the Central Jail Bilaspur. Thereafter, on the next day *i.e.* on 17.09.2023 around 6.00 p.m.; after 30 hours of illegal arrest released from the Central Jail.

16. Learned counsel for the petitioners opposes the submission made by the learned State counsel that the learned City Magistrate initiated proceedings under Section 116(3) of the Cr.P.C. and directed the petitioners to execute a bond of Rs. 25,000/- each and the petitioners failed to execute the bond and the vide order dated 16.09.2023, the City Magistrate directed to detain the petitioners in jail to which learned counsel for the petitioners states that the petitioners had shown their intention to furnish bail and the family member of the petitioners ran pillar to post and showed intention along with all documents to get bail, but the petitioners were sent to Central Jail Bilaspur in an arbitrary and illegal manner to harass the petitioners; although after showing intention and willingness to get bail under Section 151 of the Cr.P.C.

17. She also placed a reliance of the judgment of the Hon'ble Apex Court in the matter of ***Ahmed Noormohmed Bhatti vs. State of Gujarat***, reported in ***(2005) 3 SCC 647***, held that a person is arrested under Section 151 of the Cr.P.C., the arresting authority may be exposed to proceedings under the law. Sub-section (2) lays down the rule that normally a person so arrested shall be detained in custody, not for a period exceeding 24 hours. However, the petitioners were detained for more than 30 hours without the right to get bail:

*"5. A mere perusal of Section 151 of the Code of Criminal Procedures makes it clear that the conditions under which a police officer may arrest a person without*





*an order from a Magistrate and without a warrant, have been laid down in Section 151. He can do so only if he has come to know of a design of the person concerned to commit any cognizable offence. A further condition for the exercise of such power, which must also be fulfilled is that the arrest should be made only if it appears to the police officer concerned that the commission of the offence cannot be otherwise prevented. The Section, therefore, expressly lays down the requirements for the exercise of the power to arrest without an order from a Magistrate and without warrant. If these conditions are not fulfilled and, a person is arrested under Section 151 of the Code of Criminal Procedure, the arresting authority may be exposed to proceedings under the law. Sub-section (2) lays down the rule that normally a person so arrested shall be detained in custody not for a period exceeding 24 hours. It, therefore, follows that in the absence of anything else, on expiry of 24 hours, he must be released. The release, however, is not insisted upon only when his further detention is required or authorized under any other provision of the Code of any other law for the time being in force. It, therefore, follows that if before the expiry of 24 hours of detention it is found that the person concerned is required to be detained under any other provision of the Code of Criminal Procedure, or of any other law for the time being in force, he may not be released and his detention may continue under*





*such law or such provision of the Code. The detention thereafter is not under Section 151 of the Code of Criminal Procedure but under the relevant provision of the Code or any other law for the time being in force as the case may be. Section 151, therefore, only provides for arrest of a person to prevent the commission of a cognizable offence by him. The provision by no stretch of imagination can be said to be either arbitrary or unreasonable or infringing upon the fundamental rights of a citizen under Articles 21 and 22 of the Constitution of India.”*

18. Learned counsel for the petitioners would also like to submit that Section 107 of the Cr.P.C. of sub-section (1) provides that whenever Executive Magistrate receives information under sub-section (1) such person has to be show-caused why he/she shall not be ordered to execute bond, but in the reply of the State in this regard does not declare any such mandate which has been followed. Therefore, the petitioners were unnecessary harassed by the respondents/State, hence, the petitioners deserve justice in the light of the judgments **D.K. Basu** (supra) and **Arnesh Kumar** (supra). The Section 107 of the Cr.P.C. of sub-section (1), reads as follows:

**“107. Security for keeping the peace in other cases. - (1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of**



*opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond [with or without sureties] for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.”*

19. We have heard learned counsel for the parties and perused the prayers and pleadings made in the writ petition along with the annexures annexed in this case.

20. The petitioners have sought compensation for wrongful detention and the Hon'ble Supreme Court in violation of Article 21 of the Constitution of India has awarded appropriate compensation to the persons compelled to face humiliation for wrongful detention. The word 'harassment' has been dealt by the Hon'ble Supreme Court in the matter of **Mehmood Nayyar Azam vs. State of Chhattisgarh**, reported in **2012 (8) SCC 1** in para 22 as under :

*“22. At this juncture, it becomes absolutely necessary to appreciate what is meant by the term “harassment”. In P. Ramanatha Aiyar’s Law Lexicon, Second Edition, the term “harass” has been defined, thus: -*

*“Harass. “injure” and “injury” are words having numerous and comprehensive popular meanings, as well as having a legal import. A line may be drawn between these words and the word “harass” excluding the latter from being comprehended within the word “injure” or “injury”. The synonyms of “harass” are: to*

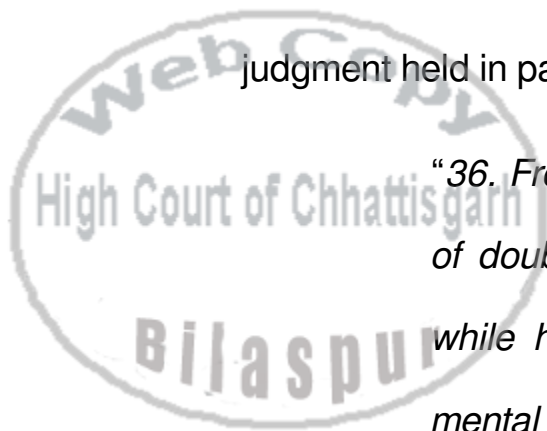


*weary, tire, perplex, distress tease, vex, molest, trouble, disturb. They all have relation to mental annoyance, and a troubling of the spirit.”*

*The term “harassment” in its connotative expanse includes torment and vexation. The term “torture” also engulfs the concept of torment. The word “torture” in its denotative concept includes mental and psychological harassment. The accused in custody can be put under tremendous psychological pressure by cruel, inhuman and degrading treatment.”*

**21.** The Hon’ble Supreme Court while emphasizing on dignity in the same judgment held in para 36 as under :

*“36. From the aforesaid discussion, there is no shadow of doubt that any treatment meted out to an accused while he is in custody which causes humiliation and mental trauma corrodes the concept of human dignity. The majesty of law protects the dignity of a citizen in a society governed by law. It cannot be forgotten that the Welfare State is governed by rule of law which has paramountcy. It has been said by Edward Biggon “the laws of a nation form the most instructive portion of its history.” The Constitution as the organic law of the land has unfolded itself in manifold manner like a living organism in the various decisions of the court about the rights of a person under Article 21 of the Constitution of India. When citizenry rights are sometimes dashed against and pushed back by the members of City Halls,*





*there has to be a rebound and when the rebound takes place, Article 21 of the Constitution springs up to action as a protector. That is why, an investigator to a crime is required to possess the qualities of patience and perseverance as has been stated in Nandini Sathpathy v. P.L. Dani, 1978(2) SCC 424.”*

22. The Hon'ble Supreme Court in the matters of ***Nilabati Behera (Smt.) Alias Lalita Behera*** (supra), ***D.K. Basu*** (supra), ***Sube Singh vs. State of Haryana & Others***, reported in ***(2006) 3 SCC 178***, ***Hardeep Singh vs. State of Madhya Pradesh***, reported in ***(2012) 1 SCC 748*** and ***Shreya Singhal vs. Union of India***, reported in ***(2015) 5 SCC 1***, held that the Investigating Officers in no circumstances can flout the law with brazen proclivity. It is also observed that the constitutional Courts taking note of suffering and humiliation are entitled to grant compensation.

23. From above discussion, in the light of the judgments passed by the Hon'ble Supreme Court in the matters of ***Nilabati Behera (Smt.) Alias Lalita Behera*** (supra), ***D.K. Basu*** (supra), ***Sube Singh*** (supra), ***Hardeep Singh*** (supra) and ***Shreya Singhal*** (supra) and the provision of law, it is quite vivid that on mere suspicion, a person cannot be arrested against whom the commission of cognizable or non-bailable offence is not made out and he cannot be remanded to judicial custody and under Section 107 of the Cr.P.C. of sub-section (1) provides that whenever Executive Magistrate receives information under sub-section (1) such person has to be show-caused why he/she shall not be ordered to execute bond, but in the reply of the State in this regard does not declare any such mandate which has been followed by the respondents/State. The above facts clearly reveal that the right of life and liberty of the petitioners enshrined under Article 21 of the



Constitution of India has been violated, therefore, the petitioners are entitled to get appropriate compensation. We deem it fit to award compensation of Rs. 1,00,000/- to petitioner No. 1, who is a retired teacher and Rs. 2,00,000/- to petitioner No. 2, who is a unmarried girl and aspiring Engineer having qualification in B.E. (Civil), MSW and B.Ed. and preparing for competitive exams and same shall be payable by the State Government to the petitioners within a period of 30 days from the date of receipt of a certified copy of this order.

**24.** Resultantly, the present writ petition is **allowed**.

**Sd/-**  
**(Ravindra Kumar Agrawal)**  
**Judge**

**Sd/-**  
**(Ramesh Sinha)**  
**Chief Justice**



Brijmohan/Abhishek



**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPCR No. 399 of 2023**

Smt. Anju Lal & Another

**Versus**

State of Chhattisgarh & Others

**Head-note**

The competent authority, in no circumstances can misuse the power granted to them under the law. Deviation from the prescribed norms and procedure with regard to arrest and detention which violates his personal liberty granted under Article 21 of the Constitution of India, shall entitle the aggrieved person for appropriate compensation.

