HIGH COURT OF TRIPURA
AGARTALA

W.P.(C)(PIL) 5/2021

Sri Bhaskar Debbarma, son of late Priya Ranjan Debbarma, resident of Dhaleswar Road No. 7, Agartala, P.O. Dhaleswar, P.S. East Agartala, District-West Tripura, PIN - 799007.

….**Petitioner(s)**

Versus

1. The State of Tripura, represented by the Chief Secretary, Department of Home, Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti**,** P.O.-Kunjaban, P.S.-East Agartala, Sub-Division-Agartala, Dist. West Tripura.

2. The Director General of Police, Government of Tripura, having his office at Police Head Quarter, Fire Brigade Chowmuhani, Agartala, P.O.-Agartala, District-West Tripura, PIN-799001.

3. The Superintendent of Police, West Tripura, having his office at Police Head Quarter, Fire Brigade Chowmuhani, Agartala, P.O.-Agartala, District - West Tripura, PIN - 799001.

4. The Principal Secretary, Department of Home, New Secretariat Building, Gorkhabasti, P.O. Kunjaban, District-West Tripura, Pin - 799001.

5. Shri Shailesh Kumar Yadav, D.M. & Collector, Government of Tripura, having his office at Office of DM & Collector, Mantri Bari Road, Agartala, West Tripura, Pin - 799001.

6. State Executive Committee of Tripura State Disaster Management Authority, represented by its Chairman having his office at New Secretariat Complex, Gorkhabasti, P.O.-Kunjaban, P.S.-East Agartala, Sub-Division-Agartala, Dist. West Tripura.

7. The Chairman, State Executive Committee, having his office at New Secretariat Complex, Gorkhabasti, P.O.-Kunjaban, PS- East Agartala, Sub-Division- Agartala, District- West Tripura

8. The Chief Secretary, Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti, P.O.- Kunjaban, P.S.-East Agartala, Sub-Division-Agartala, Dist. West Tripura.

9. The Officer-In-Charge, West Agartala Police Station, having his office at West Agartala Police Station, Post Office Chowmuhani, Agartala, West Tripura, Pin - 799001.

….**Respondent(s)**

For Petitioner (s)	:	Ms. R. Guha, Advocate Mr. M. Debnath, Advocate
For Respondent(s)	:	Mr. SS Dey, Advocate General Mr. S. Kar Bhowmik, Sr. Advocate Ms. A. Chakraborty, Advocate Mr. E.L. Darlong, Advocate

W.P.(C) 346/2021

Sri Sarvadanad Jha, son of late Sudhir Chandra Jha, resident of village-Gualabasti, Khejur Bagan, near High Court of Tripura, P.O Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura.

….**Petitioner(s)**

- Versus -

1. The State of Tripura, represented by the Chief Secretary, General Administration (Personnel & Training) Department, Government of Tripura, having his office at Secretariat Building, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Sadar, District- West Tripura, PIN-799006.

2. The Chief Secretary, General Administration (Personnel & Training) Department, having his office at Secretariat Building, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Sadar, District- West Tripura, PIN- 799006.

3. The Director General of Police, Government of Tripura, having his office at Fire Brigade Chowmuhani, P.O- Agartala P.S-West Agartala, Sub-Division-Sadar, District- West Tripura, PIN-799001.

4. The District Magistrate, West Tripura, having his office at Office Lane, P.O-Agartala P.S-West Agartala, Sub-Division-Sadar, District- West Tripura, PIN-799001.

5. The Superintendent of Police, West Tripura District, having his office at Fire Brigade Chowmuhani, P.O- Agartala P.S-West Agartala, Sub-Division- Sadar, District- West Tripura, PIN-799001.

6. The Officer-in-Charge, West Agartala Police Station, P.O-Agartala, P.S-West Agartala, Sub-Division- Sadar, District- West Tripura, PIN-799001...

…**Official Respondents**

7. Sri Sailesh Kumar Yadav, son of not known holding the post of District Magistrate, West Tripura Agartala, having his office at Office Lane, P.O-Agartala P.S-West Agartala, Sub-Division- Sadar, District- West Tripura, PIN-799001

…**Private Respondent**

For Petitioner (s)	:	Mr. Somik Deb, Sr. Advocate Mr. P. Chakraborty, Advocate
For Respondent(s)	:	Mr. SS Dey, Advocate General Mr. S. Kar Bhowmik, Sr. Advocate Ms. A. Chakraborty, Advocate Mr. E.L. Darlong, Advocate

W.P.(C) 350/2021

Sri Swapan Kumar Deb, S/O- Lt. Dr. Bimal Kanta Deb, resident of Dhaleshwar, Kalyani, P.S- East Agartala, Agartala, West Tripura, Pin-799004

….**Petitioner(s)**

Versus

1. The State of Tripura, to be represented by the Principal Secretary, Department of Home, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, Pin-799006.

2. The Chief Secretary & Chairman, State Executive Committee, office of the Chief Secretary, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, Pin 799006

3. The Director General of Police, Government of Tripura, office of the DGP, Akhaura Road, Agartala, West Tripura

4. The Superintendent of Police, West Tripura, Government of Tripura, office of the SP, West Tripura, Akhaura Road, Agartala, West Tripura, PIN-799001.

5. The Officers in Charge, West Agartala Police Station / West Agartala Women Police Station, Govt. of Tripura, Agartala, West Tripura.

6. **The District Magistrate & Collector,** West Tripura District, Government of Tripura, office of the DM & Collector, West Tripura, Agartala, Office Lane, Agartala, Pin-799001

7. **Dr. Shailesh Kumar Yadav**, IAS, the then DM & Collector, West Tripura District, (Notice to be served through the O/o the Chief Secretary, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN 799006)

… **Respondent(s)**

For Petitioner (s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. S. Bhattacharjee, Advocate
For Respondent(s)	:	Mr. SS Dey, Advocate General Mr. S. Kar Bhowmik, Sr. Advocate Ms. A. Chakraborty, Advocate Mr. E.L. Darlong, Advocate

Date of hearing	:	**21.02.2024**
Date of delivery of Judgment & order	:	**22.05.2024**
Whether fit for reporting	:	**Yes**

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH

Judgment & Order

(Arindam Lodh,J)

In this batch of writ petitions, the petitioners have criticized the action of the District Magistrate & Collector, West Tripura, Agartala, Sri Sailesh Kumar Yadav, the respondents no.4 and 7 in WP(C) No.346/2021 and respondents no.6 and 7 in WP(C) No.350/2021(here-in-after referred to as D.M., West Tripura, for convenience) in discharge of his official duty during Covid-19/Pandemic period and tried to stamp his role as an abuse of power compelling the present petitioners to file the present writ petitions claiming compensation.

For the sake of convenience, all the writ petitions are taken up and heard together since common questions of law and facts are involved and have been disposed of by this common judgment.

2. The reliefs sought for in the above three writ petitions are separately reproduced hereunder:

"W.P.(C) (PIL) 05 of 2021:-

(i) Admit the instant writ petition filed for interest of public at general;
(ii) Issue Rule NISI;
(iii) A Rule be issued out of and under the seal of this Hon'ble Court commanding the Respondents and each one of them to show cause why a writ of or in the nature of Mandamus shall not be issued, mandating the Respondents to restore law and order in the State of Tripura through proper adjudication of law in the Department of police and as well in home and administration;
(iv) A Rule be issued out of and under the seal of this Hon'ble Court commanding the Respondents and each one of them to show cause why a writ of or in the nature of Prohibition shall not be issued, against Respondent no. 5, Sri Shailesh Kumar Yadav, IAS, DM & Collector, Agartala, West Tripura, prohibiting him from such act of abusing his power;
(v) A Rule be issued out of and under the seal of this Hon'ble Court commanding the Respondents and each one of them to show cause why a writ of or in the nature of Certiorari shall not be issued, calling for all the Orders and/or Records and/or Documents and/or Notifications passed in regard to Disaster Management Act, 2005 and/or Epidemic Act, 1897 and/or The Epidemic Diseases (Amendment) Ordinance, 2020 and/or any other Order in relation in Lockdown, night curfew or any other Order passed to manage the Pandemic situation;
(vi) A Rule be issued out of and under the seal of this Hon'ble Court commanding the Respondents and each one of them to show cause as to why a writ of or in the nature of Quo Warranto shall not be issued, that what authority did Respondent No. 5 had to misuse and abuse his official authority exceeding all the humane boundaries of decency and morality;
(vii) A Rule be issued out of and under the seal of this Hon'ble Court commanding the Respondents and each one of them to show cause why a writ of or in the nature of Mandamus shall not be issued, directing the other Respondents to take appropriate action against Respondent No. 5 and the members of his team who accompanied Respondent No. 5 and carried out his illegal orders with full knowledge and ill intentions;
(viii) A Rule be issued out of and under the seal of this Hon'ble Court commanding the Respondents and each one of them to show cause why a writ of or in the nature of Mandamus shall not be issued, directing the Respondents Nos. 1 to 4 and 6 to 9 directing to take appropriate criminal action against the Respondent No. 5;
(ix) Cost and incidental of this petition be borne by the Respondents;
(x) Pass any other Order(s) and/or directions may be passed as this Hon'ble Court may deem fit and proper;"

"W.P.(C) 350 of 2021:-

(i) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to treat the written complaint, dated, 27.04.2021, lodged by the Petitioner as FIR under the appropriate provisions of law. (Annexure- 6 to the writ petition).
(ii) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to compensate the Petitioner & other members of the marriage party by paying Rs. 50 lakhs as public law remedy for wrongful restrain and illegal detention of the Petitioner and other members of the marriage party in the intervening night of 26.04.2021-27.04.2021 in violation of right to privacy, right to life and health and right to liberty guaranteed under Aritle-19 & 21 of the Constitution of India.
(iii) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby direct judicial enquiry by any sitting District Judge of the State of Tripura to conduct inquiry regarding the illegal storming of the Manikya Court marriage hall by the Respondent No 7 and others on 26.04.2011 and atrocities committed by the Respondent No 7 and others in the marriage hall.
(iv) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby direct the Respondents Nos 1 & 2 to take necessary step for initiation of departmental proceeding against the Respondent No-7, Dr. Shailesh Kumar Yadav, for misconduct.
(v) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby quashing & cancelling the FIR, dated, 28.04.2021, registered vide 2021WAG076, U/s- 188 of IPC & Section-51 of Disaster Management Act, 2005."

"W.P.(C) 346 of 2021:-

i. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued for directing the respondents, to transmit the records, relevant to the subject matter of this writ petition, for rendering substantive and conscionable justice to the petitioner;

ii. **Issue Rule, calling upon the State respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for mandating/directing them, to take appropriate punitive & legal action, against the respondent No.7 & his escort team members, including a direction for arresting the respondent No.7 & his escort team members, initiating a departmental proceeding against them, to monitor the investigation from time to time, in connection with the criminal case, instituted by the petitioner, against the gruesome incident that had happened on 26.04.2021 (detailed supra), and for directing the official respondents, to take appropriate measures, in connection therewith;**
iii. **In the Ad-interim, and thereafter, in the Interim, after hearing the parties, an Order, in terms of Relief ii. supra;**
iv. **Call for the records appertaining to this petition;**
v. **After hearing the parties, be pleased to make the Rule Absolute in terms of i, to iii above;**
vi. **Costs of and incidental to this proceeding;"**

3. Background facts:

We have observed at the opening paragraph of this judgment that all the above three writ petitions are premised on seminal and identical facts and circumstances.

3.1. A marriage ceremony was organized at night on 26.04.2021 at Agartala city's two well-known marriage halls, namely, 'Golap Bagan' and 'Manikya Court' situated adjacent to each other. During the solemnization of marriage, suddenly the D.M., West Tripura, raided the two aforesaid marriage halls at about 11:00 p.m. to 11:15 p.m. and allegedly disrupted the performance of the marriage ceremony most illegally, and unauthoratively abused his power in a manner unbecoming of a Government servant holding such a responsible post. It is alleged that the D.M., West Tripura misbehaved with the civilians, bride and groom, their parents and guests who participated to bless the couples. During such raid, the D.M., West Tripura, chocked the neck of the invitees and threw filthy languages towards them and subsequently, under his direction, the police personnel caused arrest of the invitees, family members, both bride and groom along with women and children. The entire incident was allegedly videographed and was made viral through social media. Thereafter, the petitioners filed complaints before the appropriate authorities to take punitive action against the said D.M., West Tripura.

3.2. Since the incident was highlighted broadly, the State Government had constituted a Committee to inquire into the aspect and to submit its report. In course of inquiry, the State Government by its order dated 02.05.2021 relieved said D.M., West Tripura from his post. Thereafter, WP(C)(PIL) 05 of 2021 along with W.P(C) 346 of 2021 were filed before this court. On 03.05.2021, a Division Bench of this court took up both the matters, and after seeking some further instructions had passed the following order:

> **"Looking to the sensitivity of the issues involved, we had heard the cases in camera where the advocates appearing for the parties and the parties themselves were allowed to remain present. As a culmination of the discussion that took place in camera, we are prima facie of the view that the issues require for the consideration. However, we must make it clear that in these petitions, there are several prayers, <u>many of which we are not inclined to entertain</u>. For example, the request is made by both the petitioners for action against not only the District Magistrate but his team, who had visited the marriage halls. We are not inclined to consider any action against any of the team members of the District Magistrate since they were merely carrying out the orders issued to them by their superior. Even if there is any lacuna in issuing such orders or exceeding of the jurisdiction by the authority, this support staff cannot be made answerable for their actions. At the time when the entire country is facing an extremely difficult situation of managing corona virus spread, we would certainly not send signals to the foot soldiers that carrying out the orders of their superiors can expose them to inquiries.**
>
> **The learned Advocate General during the discussions in the camera had clarified that he was not defending any of the actions of the District Magistrate, nevertheless, he was of the opinion that the incident as is projected in the video clips available in the social media does not bring out the correct facts and that it would not be correct to attach the blame for the unfortunate incident on the District Magistrate. However, prima facie, he did not dispute the language used by the District Magistrate during the incident which in our prima facie opinion was inappropriate, that the District Magistrate did tear away a copy of the permission granted by him for conducting the marriage ceremony when it was shown to him by one of the members of the family and that he had also used strong derogatory words against the police officials, who according to him, were liable to enforce the lockdown guidelines and curfew timings which according to him, they had deliberately failed to do in the present case. At this ex parte stage, however, we would refrain from making any definitive or conclusive observations with respect to the misdeeds or demeanor of either the District Magistrate or the family members and guests present at the marriage hall.**
>
> **Going by the press reports, we have noticed that the District Magistrate has made public statements on more occasions than one about the alleged incident. We would request him not to go public with respect to the said incident till further orders.**
>
> **Learned Advocate General requested that publication of any news in relation to the present Court proceedings may be prevented. His apprehension is that certain quarters may deliberately sensationalize the issue. We are not inclined to issue any such general gag order. Freedom of press is a valuable fundamental right and relates to the right of the people of excess to information. Such right cannot be lightly curtailed. We, however, assure learned Advocate General of two things. One, no amount of sensationalization of the issue from any quarter would hamper our judgment and secondly, if any instance of any publication which is either contemptuous or is defamatory is brought to our notice, the same can always be dealt with on case to case basis. In any case, we expect the media to be responsible and publish the news as truthfully as the events have taken place. Issue notice to the respondents, returnable for 05.05.2021.**
>
> **Learned counsel, Ms. Ayantika Chakraborty waived notice on behalf of the official respondents in both the petitions.**
>
> **By way of interim measures following directions are issued:**
>
> **(i) We are of the strong prima facie view that in order to conduct an impartial fact finding inquiry regarding the incident and the role played by the D.M.; which is absolutely imperative; it would be essential that he is shifted out of Agartala. Any such inquiry would necessarily require recording of statements of witnesses. It would be difficult for many witnesses to come forward and to give truthful account of the incident if the D.M. is retained at Agartala. We would strongly request the learned Advocate General to take instructions from the Government on this aspect of the matter and revert back to the Court on the next date of hearing with necessary instructions.**

(ii) The District Magistrate shall not make any public statements in any form including to media be it electronic, print or social media in relation to the incident of the night of 26th April, 2021 and the subsequent inquiry which is pending against him.

(iii) Until further orders, the inquiry instituted against the District Magistrate shall not proceed further

(iv) The District Magistrate shall also place on record any order of suspending the license of the marriage halls if he has passed after 26th of April, 2021 incident.

(v) The petitioners as well as the learned Advocate General shall supply the information and documents as provided in the earlier part of this order."

3.3. From the order dated 03.05.2021, it is reflected that the Division Bench though curtailed some actions of the D.M.,West Tripura, but, at the same time had ordered that the inquiry initiated against the District Magistrate vide order dated 02.05.2021 shall not proceed further until the next order of the Court. In that meanwhile, another writ petition being W.P(C) 346 of 2021 was filed by the priest engaged for solemnization of marriage, who was allegedly assaulted by the D.M., West Tripura. Again the matters were taken up by the Division Bench on 05.05.2021, and on that date, the Division Bench had expanded the inquiry committee by including a retired District Judge and directed the said committee to conduct a detailed inquiry and make specific report in that respect.

3.4. After conducting detailed inquiry, the inquiry committee had submitted its report on 26.05.2021 and after going through the findings/observations of the inquiry committee, the same Division Bench by its order dated 02.06.2021 directed the inquiry committee to carry out further inquiry into the incident and submit its report. However, the inquiry committee did not carry out any further inquiry. Accordingly, vide order dated 20.08.2021, the Court had appointed Sri Bamdeb Majumder, a former District Judge of the State Judiciary as one-man Committee to carry out further inquiry. The Order dated 20.08.2021 is as under:

"We have no option but to supersede this committee and constitute a new committee which shall carry out further inquiries from the stage the existing committee has reached. We, therefore, appoint Sri Bamdeb Majumder, a former District Judge as one-man committee, who shall carry out further inquiries and submit a further report. **It is clarified that the materials already collected by the present inquiry committee and the reports submitted shall form part**

of the record and the newly constituted one-man inquiry committee shall conduct further inquiry in continuation of the inquiry so far conducted."

3.5. After conclusion of the inquiry, report was submitted by Sri Bamdeb Majumder, before this court on 04.10.2021, and the same was accepted by this court. On 03.03.2023 when the matters were taken up, CDs had been displayed in the open court in presence of learned counsel appearing for the parties, and thereafter, this court had observed certain acts allegedly committed by the D.M., West Tripura on the alleged date, time and place, which are reflected in the Order dated 30.03.2023, appeared to be the kind of behavior not befitting to the dignity and integrity to the post. After such display, learned counsel appearing on behalf of the D.M., West Tripura questioned the video clippings as regards its admissibility and authenticity. However, this court had directed the D.M., West Tripura to file his explanation by way of an affidavit in that respect, which was subsequently submitted by him on 25.04.2023 denying the contents and completely disputing the genuinity and veracity of the said video-footages/clippings.

3.6. From the prayers made by the petitioners in the writ petitions, it is evident that the petitioners had sought for taking appropriate criminal action against the D.M., West Tripura and his team who visited the marriage hall and allegedly involved in the entire episode as discussed here-in-above.

4. We have heard learned counsel appearing for the parties at length. We have also gone through all the documents relating to the instant matter.

5. <u>Submissions on behalf of the petitioners in WP(C) No. 350/2021</u>:

Mr. Roy Barman, learned senior counsel appearing for the petitioner in W.P.(C) 350 of 2021 submitted that the restrictions of Covid situation had been strictly maintained by all the invitees and the family members during solemnization of the marriage. It was further submitted by learned senior

counsel that the permission for the marriage issued by the D.M., West Tripura during Corona Night Curfew was in force from 10.00 p.m. to 5.00 a.m. and despite issuance of such permission in the night at about 11.20 p.m. the D.M., West Tripura, escorted with more than 100 persons of armed force and reporters, visited the marriage hall and caused havoc rampage in the marriage hall by humiliating, abusing and assaulting both the male and female members present in the marriage and even the children were not spared. It was further submitted by learned senior counsel that the D.M., West Tripura violating the mandates of Statute also harassed the female members and the children in the said marriage hall. Learned senior counsel further submitted that the D.M., West Tripura had deliberately torn the permission paper issued by himself infront of all when the same was shown to him by the father of the bride. Learned senior counsel also has pressed upon the CDs which were displayed in the open court, which according to learned senior cousnel clearly demonstrates the vindictive act of the D.M., West Tripura on the alleged date, time and place of the incident. It was further submitted by learned senior counsel that the Inquiry Report gave a clear finding that the marriage ceremony was being carried out in strict compliance of the terms and conditions of the Corona restrictions. Learned senior counsel has further argued that since there was violation of human rights and fundamental rights as regards the petitioners, hence, the petitioners are entitled to be compensated adequately. Learned senior counsel also has argued that the report of the fact-finding committee was never challenged by the D.M., West Tripura and that the D.M., West Tripura has exceeded his jurisdiction.

To add to the above submissions, Mr. Deb, learned senior counsel argued that the action taken by the District Magistrate could not be stated to be in 'good faith' as enshrined under Section 73 of the Disaster Management Act. Mr. Deb, learned senior counsel further argued that due to the act of the District Magistrate, the petitioners had suffered harassment where right to life and personal liberty of the petitioners guaranteed under Article-21 of the Constitution of India had been violated, and, as such, the learned senior counsel for the petitioners urged this court to grant adequate compensation in favour of the petitioners.

6. <u>Submissions on behalf of the respondents-State and respondent-DM</u>:

6.1. The State-respondents as well as respondent- D.M., West Tripura have submitted their counter affidavits. Learned Advocate General appearing for the respondents-State has not disputed the factual contentions of the writ petitions, on the contrary, learned Advocate General has disputed the admissibility of the CD. Added to it, learned Advocate General has further submitted that at the prevailing situation of Corona, the D.M., West Tripura had performed his duties diligently to safeguard the State from further spreading of pandemic. The D.M., West Tripura had taken a strict view to disperse the gathering, and thus, he had not committed any offence.

6.2. On the other hand by filing counter affidavit, respondent- D.M., West Tripura had denied all the allegations/contentions brought forth in the writ petitions. Learned senior counsel Mr. Kar Bhowmik, appearing for the respondent- D.M., West Tripura has submitted that on reaching the spot when the D.M., West Tripura found gathering of more than 100 persons being unmasked he with *bona fide* intention decided to disperse off the

unlawful gathering, but, no person was touched or hit and no religious sentiment was hurt. It was further submitted by learned senior counsel that the D.M., West Tripura was duty bound to follow the restrictions imposed during Corona night curfew. Learned senior counsel further submitted that the intention of the respondent- D.M., West Tripura was only to enforce the law embodied in Section 144 Cr.P.C. & the Disaster Management Act, 2005 which were in force at that relevant point of time and no legal action can be imposed upon him. It was further submitted by learned senior counsel that the actions taken by the D.M., West Tripura were on good faith and as such he is liable to be protected under Section 73 of the Disaster Management Act.

6.3. Furthermore, the D.M., West Tripura, by filing affidavit-in-opposition contended that at that relevant point of time prohibition under Section 144 Cr.P.C. was in force within the AMC area, and the permission given by him was valid only till 10 p.m. In the affidavit-in-opposition the District Magistrate had denied the other allegations. He has also submitted that since after the incident or raid in the alleged night, the D.M., West Tripura had lodged complaint against the petitioners before the concerned police station.

6.4. In the affidavit-in-opposition, the respondent- D.M., West Tripura, in para 22 had asserted that '*the marriage party at Golap Bagan was being performed with a large number of invitees in violation of the orders, attended the marriage. The organizer of marriage not only violated the order in force U/s 144 CrPC by conducting the gathering beyond 10 pm but also violated the marriage permission passed under the Disaster Management Act by inviting and gathering more than 50 persons in total from 7 pm onward continuing till the DM visited the spot*'. Further, the

respondent- D.M., West Tripura had asserted that *all actions taken by the respondent were actions taken in "Good Faith" and as such the respondent is liable to be protected under Section 73 of the Disaster Management Act, 2005.*

7. <u>Analysis on factual and legal aspects</u>:

7.1. In the above backdrops of the facts, it is relatable to mention that regarding the said incident, a PIL had been filed followed by two other writ petitions wherein the prayers/reliefs sought for are same and identical.

7.2. At the very inception, the State Government had forthwith relieved Dr. Sailesh Kumar Yadav from his post as D.M., West Tripura, and formed an inquiry committee. Thereafter, when the writ petitions were heard on 03.05.2021, this court considering the sensitivity of the prevailing situation at that relevant time refrained from entertaining all the prayers made by the petitioners in the writ petitions and also refrained from making definite or conclusive observation against the alleged acts and deeds of the concerned District Magistrate. What this court had done was that it passed an order of inclusion of a District Judge in the said Committee. After inquiry the said Committee submitted its report. However, being dis-satisfied with the report of the said inquiry committee, this court vide order dated 20.08.2021 had superseded the said committee by way of constituting a one man Committee by one former District Judge to make an inquisitorial inquiry who had submitted report on 04.10.2021 before this court. On 20.12.2021 in pursuance of an interlocutory application filed by the State-respondents, this court permitted the State to provide suitable posting to the concerned Magistrate to any appropriate place other than West Tripura District.

7.3. Noticeably, on the basis of the complaint made by the petitioners, the concerned police station had registered FIR against the respondent-DM. The respondent-DM also had lodged complaints against some persons including the petitioners in WP(C) 346 of 2021 and WP(C) 350 of 2021. It was submitted at the time of hearing that the proceedings have been in seisin. In view of this, the prayers made in WP(C)(PIL) 5 of 2021, WP(C) 346 of 2021 and WP(C) 350 of 2021, as regards the registration of the complaints lodged by the petitioners in WP(C) 346 of 2021 and WP(C) 350 of 2021, have already meted out, and no further order is necessary as because criminal proceedings are pending before the criminal courts of competent jurisdiction. After prolonged submissions of learned counsel appearing on behalf of the petitioners and after perusal of the orders, this court is now confined to only with the debatable question, as to whether the petitioners are entitled to get any compensation for infringement of their constitutional rights under Article 21 of the Constitution of India.

7.4. At the outset, if we go through the permission issued by the D.M., West Tripura dated 23.04.2021, it would conclusively be seen that the permission for the said marriage was issued by him on 23.04.2021 under Disaster Management Act, 2005, with certain terms and conditions to be followed adhering to the lockdown measures, and the said order was valid only for the solemnization of the marriage on 26.04.2021, but no time limit was mentioned by the District Magistrate in the said order for accomplishment of the marriage on 26.04.2021. With reference to that, the restrictions under Section 144 Cr.P.C. with regards the Corona Night Curfew issued vide Order dated 22.04.2021 by the District Magistrate, Government of Tripura, demonstrates that the *Corona Night Curfew was imposed*

between 10 p.m. to 05.00 a.m. every day within AMC area w.e.f. 22.04.201 to 01.05.2021. As per the submissions of learned counsel for the writ petitioners, the mishap took place at around 11.20 p.m. wherein the District Magistrate by tearing his own order dispersed the invitees and family members from the marriage hall without completion of the marriage, which curtailed the rights of the writ petitioners.

7.5. The permission was issued by the District Magistrate on 23.04.2021 under Disaster Management Act. Pertinently, prior to issuance of the order dated 23.04.2021, the Government of Tripura had issued an order dated 20.04.2021 putting some restrictions on Corona Night Curfew under Section 22(2)(h) of the Disaster Management Act, 2005. In the said order it was clearly mentioned that the violators shall be prosecuted as per Section 51 to 60 of the Disaster Management Act, 2005 besides Section 188 of the IPC. Thus, it would be relevant to look at Sections 51 to 60 of the Disaster Management Act, 2005, which read as under:-

"51. Punishment for obstruction, etc.—Whoever, without reasonable cause—
(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or
(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,
shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.
52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.
53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.
54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.
55. Offences by Departments of the Government.—
(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed

without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.
57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.
58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:
Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.
(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.—For the purpose of this section—
(a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.
59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.
60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by—
(a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or
(b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid."

Further, Section 188 of the IPC, reads as under:

"188. Disobedience to order duly promulgated by public servant.
Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,
shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;
and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
***Explanation*.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm."**

7.6. Here, complaint was lodged by some local inhabitants which forced the D.M., West Tripura to come to the marriage hall and with regard to the said incident, the District Magistrate on 28.04.2021 lodged an FIR with the

Superintendent of Police, West Agartala with notation "Violation of order under Section 144 Cr.P.C." and requested the SP, West to register a case under relevant sections of IPC and Disaster Management Act. Section 144 Cr.P.C. reads as under:

> **"144. Power to issue order in urgent cases of nuisance or apprehended danger.**
>
> **(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquillity, or a riot, or an affray.**
> **(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.**
> **(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.**
> **(4) No order under this section shall remain in force for more than two months from the making thereof:**
> **Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.**
> **(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.**
> **(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).**
> **(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing."**

7.7. Section 188 of the IPC prescribes punishment for disobedience to order duly promulgated by public servant, which reads as under:

> **"188. Disobedience to order duly promulgated by public servant: Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management disobeys such direction,**
> **shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;**
> **and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.**
> **Explanation:- It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows the order which he disobeys, and that his disobedience produces, or is likely to produce, harm".**

Section 144 Cr.P.C. prohibits public gatherings in a given jurisdiction. This statutory provision empowers the District Magistrate to impose the said law during anticipated emergencies.

7.8. In the counter affidavit, the District Magistrate has averred that he has done all the actions in "Good Faith" against the writ petitioners as enumerated under Section 73 of the Disaster Management Act, 2005. Section 73 of the Disaster Management Act, 2005, reads as under:

> **"73. Action taken in good faith.—No suit or prosecution or other proceeding shall lie in any court against the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any officer or employee of the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any person working for on behalf of such Government or authority in respect of any work done or purported to have been done or intended to be done in good faith by such authority or Government or such officer or employee or such person under the provisions of this Act or the rules or regulations made thereunder."**

8. It is now required to look into the Order dated 30.03.2023 passed by this court wherein this Court after displaying the CD in presence of learned counsel for the parties had identified certain acts committed by the District Magistrate, which are as under:

> **"1. He [Mr. Shailesh Kumar Yadav] entered into the premises of a functional hall where marriage is being performed with the permission orders of DM & Collector with force by more than 20 persons including his personal staffs and also police personnel along with photographers during COVID-19 period without following COVID protocol.**
> **2. He has physically slapped with his right hand on the left hand of the on duty police officer in uniform in an offensive manner.**
> **3. He took the photographs of the police officer without his permission.**
> **4. He used derogatory words against the police officer saying "Bloody" "Sala".**
> **5. He walked into the dining area of functional hall and made chaos in the dining hall and scattered the persons who were taking their meal and evacuated the dining area.**
> **6. He entered into the room in which the bride was accompanied by other ladies, where they were getting ready for the wedding preparation and disrespectfully cleared the room.**
> **7. He also entered into the marriage pandal (Wedding stage) and physically beat the priest (পুর োহিত). He entered into the room where the bride groom was getting ready and has physically necked him out from room.**
> **8. He went towards the ceremonial dais and entered into an argument with an elderly lady appears to be the head of the family and also a person who was with her and he necked him out from the stage and the another person who was standing along with him, he throttled his neck with both hands and pushed him aside.**
> **9. He also directed the police who were accompanied with him to arrest and take all the persons who were therein the marriage more particularly, all the family members to the custody.**
> **10. Physically handled the person who was in "green" colour dress, necked him and directed the police to arrest him and that person was arrested upon his instruction and subsequently, the gentleman was forwarded to the police station in the police jeep.**
> **11. He torned the permission order into pieces which is given by himself for performing the wedding and thrown it expressing disrespect towards the persons surrounding in the marriage ceremony.**
> **12. Overall duty of the officer was in such a manner which was unwarranted. When there was strict COVID-19 protocol, it is not understood as to how the D.M. & Collector could entered into the wedding premises with a group of approximatly 30 persons without he himself following COVID protocol.**
> **13. He entered into the premises without assistance of any woman police personnel since, it is well known that he is entering into a marriage function, where women, children and men would be available. 14. Instead of creating chaos in the function hall and stopped performing of marriage, he could have verified and permitted the wedding with the permitted number of persons."**

9. To controvert the argument regarding admissibility of the CD, as argued by learned senior Counsel Mr. Kar Bhowmik, Ms. R. Guha, learned

counsel appearing in W.P.(C) (PIL) has submitted that Section 65A of the Indian Evidence Act provides a special provision for electronic records to be considered as evidence, while Section 65B of the Act governs their admissibility through a deeming fiction. Accordingly, when electronic records are submitted as evidence in the court, they are treated as "documents" under the Evidence Act, subject to the conditions specified in Section 65B(4). Ms. Guha, learned counsel has submitted that the entire act and activities of the District Magistrate were videographed by the invitees and reporters in their mobiles or other electronic gazette and the same footages had been collected from those sources. Further, learned counsel submitted that the act and commission of the District Magistrate on the alleged date were aired on various news channels/news papers and other social sites, and the same were not disputed or questioned or challenged by the District Magistrate. Learned counsel further submitted that the pictures recorded in the videos were collected by the petitioners and stored in a compact disc without any editing or manipulation, and hence, the said electronic evidence is admissible as per law. Learned counsel for the petitioner Ms. Guha, further submitted that when the Hon'ble Court had evolved/recorded some of the act and activities of the District Magistrate by displaying the CDs in open court, learned senior counsel defending the District Magistrate did not oppose the same and prior to that the recording/findings of the Hon'ble Court after displaying the CDs was also not put under challenge by learned senior counsel for the District Magistrate. In the above circumstances, those documents in the form of CDs should not be questioned as inadmissible in the light of the provision embodied in Section 65-B of the Evidence Act. In support of her contentions, Ms. Guha,

learned counsel placed reliance upon the decisions of Hon'ble Supreme Court in ***Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and others***, reported in ***(2020) 7 SCC 1*** and ***Shafhi Mohammad vs. State of Himachal Pradesh***, reported in ***(2018) 2 SCC 801)***. We have meticulously gone through the cited judgments.

9.1. We have the advantage to take note of the judgment and the principles laid down by a three-Judge Bench of the Supreme court in ***Anvar P.V. v. P.K. Basheer and Others,*** reported in ***(2014) 10 SCC 473*** where question was raised as regards admissibility of a document in the form of CD by the defence, and it was held that Section 65-B is a complete code in itself for the admissibility of electronic evidence and shall not be affected by other provisions of the Evidence Act. In ***Anvar P.V.(supra)*** it has also be held that "*…if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act, the same is admissible in evidence, without compliance with the conditions in Section 65-B of the Evidence Act.*" Justice Nariman clarified that this dictum should be read by omitting the words "*under Section 62 of the Evidence Act."* This is because Section 65-B is a complete code for electronic evidence and shall supersede other provisions such as Section 62.

9.2. In ***Shafhi Mohammad (supra)***, the Hon'ble Supreme Court while dealing with the standard of proof, authenticity and admissibility of electronic evidence, in paras 20 to 30, has held as under:-

> **"20. An apprehension was expressed on the question of applicability of conditions under Section 65B(4) of the Evidence Act to the effect that if a statement was given in evidence, a certificate was required in terms of the said provision from a person occupying a responsible position in relation to operation of the relevant device or the management of relevant activities. It was submitted that if the electronic evidence was relevant and produced <u>by a person who was not in custody of the device from which the electronic document</u> was generated, requirement of such certificate could not be mandatory. It was submitted that Section 65B of the Evidence Act was a procedural provision to prove relevant admissible evidence and was intended to supplement the law on the point by declaring that any information in an electronic record, covered by the said provision, was to be deemed to be a document and admissible in any proceedings without further proof of the original.**

This provision could not be read in derogation of the existing law on admissibility of electronic evidence.

21. We have been taken through certain decisions which may be referred to. In *Ram Singh and Others v. Col. Ram Singh, 1985 (Supp) SCC 611*, a Three-Judge Bench considered the said issue. English Judgments in *R. v. Maqsud Ali, (1965) 2 All ER 464*, and *R. v. Robson, (1972) 2 ALL ER 699*, and American Law as noted in *American Jurisprudence 2d (Vol.29) page 494*, were cited with approval to the effect that it will be wrong to deny to the law of evidence advantages to be gained by new techniques and new devices, provided the accuracy of the recording can be proved. Such evidence should always be regarded with some caution and assessed in the light of all the circumstances of each case. Electronic evidence was held to be admissible subject to safeguards adopted by the Court about the authenticity of the same. In the case of tape-recording it was observed that voice of the speaker must be duly identified, accuracy of the statement was required to be proved by the maker of the record, possibility of tampering was required to be ruled out. Reliability of the piece of evidence is certainly a matter to be determined in the facts and circumstances of a fact situation. However, threshold admissibility of an electronic evidence cannot be ruled out on any technicality if the same was relevant.

22. In *Tukaram S. Dighole v. Manikrao Shivaji Kokate, (2010) 4 SCC 329*, the same principle was reiterated. This Court observed that new techniques and devices are order of the day. Though such devices are susceptible to tampering, no exhaustive rule could be laid down by which the admission of such evidence may be judged. Standard of proof of its authenticity and accuracy has to be more stringent than other documentary evidence.

23. In *Tomaso Bruno and Anr. v. State of Uttar Pradesh, (2015) 7 SCC 178*, a Three-Judge Bench observed that advancement of information technology and scientific temper must pervade the method of investigation. Electronic evidence was relevant to establish facts. Scientific and electronic evidence can be a great help to an investigating agency. Reference was made to the decisions of this Court in *Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1 and State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600*.

24. We may, however, also refer to judgment of this Court in *Anvar P.V. v. P.K. Basheer and Others, (2014) 10 SCC 473*, delivered by a Three-Judge Bench. In the said judgment in para 24 it was observed that electronic evidence by way of primary evidence was covered by Section 62 of the Evidence Act to which procedure of Section 65B of the Evidence Act was not admissible. However, for the secondary evidence, procedure of Section 65B of the Evidence Act was required to be followed and a contrary view taken in *Navjot Sandh (supra)* that secondary evidence of electronic record could be covered under Sections 63 and 65 of the Evidence Act, was not correct. There are, however, observations in para 14 to the effect that electronic record can be proved only as per Section 65B of the Evidence Act.

25. Though in view of Three-Judge Bench judgments in Tomaso Bruno and Ram Singh (supra), it can be safely held that electronic evidence is admissible and provisions under Sections 65A and 65B of the Evidence Act are by way of a clarification and are procedural provisions. If the electronic evidence is authentic and relevant the same can certainly be admitted subject to the Court being satisfied about its authenticity and procedure for its admissibility may depend on fact situation such as whether the person producing such evidence is in a position to furnish certificate under Section 65B(h).

26. Sections 65A and 65B of the Evidence Act, 1872 cannot be held to be a complete code on the subject. In *Anvar P.V. (supra)*, this Court in para 24 clarified that primary evidence of electronic record was not covered under Sections 65A and 65B of the Evidence Act. Primary evidence is the document produced before Court and the expression "document" is defined in Section 3 of the Evidence Act to mean any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

27. The term "electronic record" is defined in Section 2(t) of the Information Technology Act, 2000 as follows:

> **"2.(1)(i) "Electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche."**

28. The expression "data" is defined in Section 2(o) of the Information Technology Act as follows:

> **"2(1)(o) "Data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer."**

29. The applicability of procedural requirement under Section 65B(4) of the Evidence Act of furnishing certificate is to be applied only when such electronic evidence is produced by a person who is in a position to produce such certificate being in control of the said device and not of the opposite party. In a case where electronic evidence is produced by a party who is not in possession of a device, applicability of Sections 63 and 65 of the Evidence Act cannot be held to be excluded. In such case, procedure under the said Sections can certainly be invoked. If this is not so permitted, it will be denial of justice to the person who is in possession of authentic evidence/witness but on account of manner of proving, such document is kept out of consideration by the court in absence of certificate under Section 65B(4) of the Evidence Act, which party producing cannot possibly secure. Thus, requirement of certificate under Section 65B(h) is not always mandatory.

> **30. Accordingly, we clarify the legal position on the subject on the admissibility of the electronic evidence, especially by a party who is not in possession of device from which the document is produced. Such party cannot be required to produce certificate under Section 65B(4) of the Evidence Act. The applicability of requirement of certificate being procedural can be relaxed by Court wherever interest of justice so justifies."**

9.3. Pertinently, ***Anvar P.V.(supra)***, was a judgment of three-Hon'ble Judges of the Supreme Court and ***Shafhi Mohammad (supra)*** was a two-Judge Bench decision, where a different view has been taken than that of the view of ***Anvar P.V.(supra)***. While in ***Anvar P.V(supra)***, the three-Judge Bench of the Supreme Court categorically held that *fulfillments of the essential conditions embodied in Section 65-B of the Evidence Act is a condition precedent*, in ***Shafhi Mohammad (supra)***, the two-Judge Bench of the Supreme Court held that *whenever the interest of justice required, the requirement of a certificate could be done away with under Section 65-B(4) of the Evidence Act*. Thereafter, the case of ***Arjun Panditrao (supra)*** came up before another Division Bench of the Supreme Court when the said Bench faced with these two conflicting decisions, and since the two-Judge Bench in ***Shafhi Mohammad (supra)***, had taken a contrary view than that of the view taken by the three-Judge Bench in ***Anvar P.V.(supra)***, the Bench made reference to the larger bench of the Supreme Court forming an opinion that the decision of the two-Judge Bench in ***Shafhi Mohammad (supra)*** might need re-consideration by a Bench of a larger strength and also for dealing with the interpretation of Section 65-B of the Indian Evidence Act, 1872. On such reference, the larger Bench being constituted (by three Hon'ble Judges) and while taking into consideration in both its earlier decisions in ***Shafhi Mohammad (supra)*** and ***Anvar P.V.(supra)***, the larger Bench had taken note of various provisions of Information & Technology Act, 2000 alongwith Section 65-B and 65-B(4) of the Evidence Act, and in the ultimate analysis, the Hon'ble Supreme Court in ***Arjun Panditrao (supra)*** held that

the law laid down in ***Shafhi Mohammad (supra)*** was incorrect. It is reiterated that certificate under Section 65-B(4) is a condition precedent and has correctly held in ***Anvar P.V.(supra)*** and incorrectly "clarified" in ***Shafhi Mohammad (supra)***. It was further held that oral evidence in place of such certificate would not suffice as Section 65-B(4) is a mandatory requirement of law and declared the decision in ***Shafhi Mohammad (supra)***, ***Tomaso Bruno and another vs. State of Uttar Pradesh***, reported in ***(2015) 7 SCC 178***, as *per in curiam*.

9.4. While interpreting the various provisions of Information & Technology Act, 2000 and Section 65-B and 62 and 65-B(4) of the Evidence Act, the Supreme Court in ***Arjun Panditrao (supra) at paras 46, 51, 60, 61, 73, 73.1., 73.2, 73.3 and 73.4,*** had observed and held in the manner as under:

> **"46. Resultantly, the judgment dated 03.04.2018 of a Division Bench of this Court reported as *(2018) 5 SCC 311*, in following the law incorrectly laid down in *Shafhi Mohammed (supra),* must also be, and is hereby, overruled.**
> **51. On an application of the aforesaid maxims to the present case, it is clear that though Section 65B(4) is mandatory, yet, on the facts of this case, the Respondents, having done everything possible to obtain the necessary certificate, which was to be given by a third-party over whom the Respondents had no control, must be relieved of the mandatory obligation contained in the said sub-section.**
> **60. It may also be seen that the person who gives this certificate can be anyone out of several persons who occupy a 'responsible official position' in relation to the operation of the relevant device, as also the person who may otherwise be in the 'management of relevant activities' spoken of in Sub-section (4) of Section 65B. Considering that such certificate may also be given long after the electronic record has actually been produced by the computer, Section 65B (4) makes it clear that it is sufficient that such person gives the requisite certificate to the "best of his knowledge and belief" (Obviously, the word "and" between knowledge and belief in Section 65B(4) must be read as "or", as a person cannot testify to the best of his knowledge and belief at the same time).**
> **61. We may reiterate, therefore, that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in *Anvar P.V. (supra)*, and incorrectly "clarified" in *Shafhi Mohammed (supra)*. Oral evidence in the place of such certificate cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law. Indeed, the hallowed principle in *Taylor v. Taylor (1876) 1 Ch.D 426*, which has been followed in a number of the judgments of this Court, can also be applied. Section 65B(4) of the Evidence Act clearly states that secondary evidence is admissible only if lead in the manner stated and not otherwise. To hold otherwise would render Section 65B(4) otiose.**
> **73. The reference is thus answered by stating that:**
> **73.1. *Anvar P.V. (supra)*, as clarified by us hereinabove, is the law declared by this Court on Section 65B of the Evidence Act. The judgment in *Tomaso Bruno (supra)*, being *per in curiam*, does not lay down the law correctly. Also, the judgment in SLP (Crl.) No. 9431 of 2011 reported as *Shafhi Mohammad (supra)* and the judgment dated 03.04.2018 reported as (2018) 5 SCC 311, do not lay down the law correctly and are therefore overruled.**
> **73.2. The clarification referred to above is that the required certificate under Section 65B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where the "computer" happens to be a part of a "computer system" or "computer network" and it becomes impossible to physically bring such system or network to the Court, then the only means of providing information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). The last sentence in *Anvar P.V. (supra)* which reads as "…if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act…" is thus clarified; it is to be**

read without the words "under Section 62 of the Evidence Act,…" With this clarification, the law stated in paragraph 24 of *Anvar P.V. (supra)* does not need to be revisited.

73.3. The general directions issued in paragraph 64 of this judgment shall hereafter be followed by courts that deal with electronic evidence, to ensure their preservation, and production of certificate at the appropriate stage. These directions shall apply in all proceedings, till rules and directions under Section 67 C of the Information Technology Act and data retention conditions are formulated for compliance by telecom and internet service providers.

73.4. Appropriate rules and directions should be framed in exercise of the Information Technology Act, by exercising powers such as in Section 67C, and also framing suitable rules for the retention of data involved in trial of offences, their segregation, rules of chain of custody, stamping and record maintenance, for the entire duration of trials and appeals, and also in regard to preservation of the meta data to avoid corruption. Likewise, appropriate rules for preservation, retrieval and production of electronic record, should be framed as indicated earlier, after considering the report of the Committee constituted by the Chief Justice's Conference in April, 2016."

10. Having perused the aforesaid analysis of various aspects relating to interpretation made by the Hon'ble Supreme Court in ***Arjun Panditrao (supra),*** the submissions advanced by Ms. Guha, learned counsel for the petitioner in W.P.(C) (PIL) 5 of 2021, is hereby repealed holding that the certification for adducing electronic evidence is a condition precedent and compliance of requirements of Section 65-B and 65-B(4) is mandatory in nature and cannot in any way be diluted.

11. In the instant case, the Judges in the Court only directed the Registry to display the CDs as produced by the petitioners. It was not a trial. The court never asked any of the stakeholders who are parties to the CDs and/or part and parcel of the preparation of the said CDs. So, the CDs have not been duly proved by the statutorily recognized methods as specified in Sections 65-A or 65-B of the Evidence Act. In the instant case, this court had not adopted any methods to safeguard the authenticity or genuinity of the CDs.

12. The word "if" makes well of difference. It suggests that prior to the admission of electronic evidence or "documents" thereof, the same must be satisfied with its authenticity and accuracy. Furthermore, in ***Tomaso Bruna (supra)***, the Supreme Court was very categoric to hold that procedure for its admissibility may depend on fact situation. One of such situations would be that the person concerned who produces such evidence should be in a position to furnish certificate under Section 65-B(4) of the Evidence Act. In

this case, CDs displayed were produced by the petitioners and naturally, they are not the persons who are eligible to furnish certificate. Moreso, we have noticed that Ms. Guha, learned counsel, has candidly submitted that those CDs were collected from social media and internet. In this fact situation, we are unable to satisfy the authenticity and accuracy of the CDs.

13. As we have said earlier that the paramount contentions advanced by the petitioners in the writ petitions are common in nature, and therefore, separate narration of facts and grounds raised are not required. The pristine question remains as to whether the petitioners are entitled to get any compensation for infringement of their constitutional rights to life and personal liberty, as envisaged under Article 21 of the Constitution of India.

14. Onto this issue, learned senior counsel Mr. Roy Barman, has placed his reliance upon the decisions of the Hon'ble Supreme Court in ***S. Nambi Narayan vs. Siby Mathews and ors***. reported in ***(2018) 10 SCC 804***; ***Nilabati Behera (Smt) alias Lalita Behera (through the Supreme Court Legal Aid Committee) vs. State of Orissa and ors.***, reported in ***(1993) 2 SCC 746***; ***D.K. Basu vs. State of W.B., reported in (1997) SCC 416***.

14.1. The Hon'ble Supreme Court while discussing the remedy of compensation, in paragraphs 41, 42 and 43 of ***S. Nambi Narayan (supra)*** has observed thus:-

> **"41. In *Sube Singh v. State of Haryana [(2006)3SCC178]* , the three-Judge Bench, after referring to the earlier decisions, has opined:-**
>
> > **"38. It is thus now well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in the enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of the Code of Criminal Procedure."**
>
> **42. *In Hardeep Singh v. State of Madhya Pradesh [(2012)1 SCC 748*], the Court was dealing with the issue of delayed trial and the humiliation faced by the appellant therein. A Division Bench of the High Court in intra-court appeal had granted compensation of Rs. 70,000/-. This Court, while dealing with the quantum of compensation, highlighted the suffering and humiliation caused to the appellant and enhanced the compensation.**
>
> **42. In the instant case, keeping in view the report of the CBI and the judgment rendered by this Court in *K. Chandrasekhar [(1998)5 SCC 223]*, suitable compensation has to be awarded, without any**

trace of doubt, to compensate the suffering, anxiety and the treatment by which the quintessence of life and liberty under Article 21 of the Constitution withers away. We think it appropriate to direct the State of Kerala to pay a sum of Rs. 50 lakhs towards compensation to the appellant and, accordingly, it is so ordered. The said amount shall be paid within eight weeks by the State. We hasten to clarify that the appellant, if so advised, may proceed with the civil suit wherein he has claimed more compensation. We have not expressed any opinion on the merits of the suit."

14.2. Further, the Hon'ble Supreme Court while discussing the remedy of compensation, in paragraphs 41, 42 and 43 of ***S. Nambi Narayan (supra)*** has observed thus:-

"21. We may also refer to Article 9(5) of the International Covenant on Civil and Political Rights, 1966 which indicates that an enforceable right to compensation is not alien to the concept of enforcement of a guaranteed right. Article 9(5) reads as under:-
"Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."
22. The above discussion indicates the principles on which the Court's power under Articles 32 and 226 of the Constitution is exercised to award monetary compensation for contravention of a fundamental right. This was indicated in Rudul Sah and certain further observations therein adverted to earlier, which may tend to minimise the effect of the principle indicated therein, do not really detract from that principle. This is how the decisions of this Court in Rudul Sah and others in that line have to be understood and Kasturilal distinguished therefrom. We have considered this question at some length in view of the doubt raised, at times, about the propriety of awarding compensation in such proceedings, instead of directing the claimant to resort to the ordinary process of recovery of damages by recourse to an action in tort. In the present case, on the finding reached, it is a clear case for award of compensation to the petitioner for the custodial death of her son."

14.3. The Hon'ble Supreme Court in ***D.K. Basu (supra)***, in paragraphs 44, 45 and 54, has observed as under:

"44. The claim in public law for compensation for unconstitutional deprivation of fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages of tortious acts of the public servants. Public law proceedings serve a different purpose than the private law proceedings. Award of compensation for established infringement of the indefeasible rights guaranteed under Article 21 of the Constitutions is remedy available in public law since the purpose of public law is not only to civilise public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved. Grant of compensation in proceedings under Article 32 or 226 of the Constitution of India for the established violation or the fundamental rights guaranteed under Article 21, is an exercise of the Courts under the public law jurisdiction for penalising the wrong door and fixing the liability for the public wrong on the State which failed in the discharge of its public duty to protect the fundamental rights of the citizen.
45. The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much, as the protector and custodian of the indefeasible rights of the citizens. The courts have the obligation to satisfy the social aspirations of the citizens because the court and the law are for the people and expected to respond to their aspirations. A Court of law cannot close its consciousness and aliveness to stark realities. Mere punishment of the offender cannot give much solace to the family of the victim - civil action for damage is a long drawn and cumber some judicial process. Monetary compensation for redressal by the Court finding the infringement of the indefeasible right to life of the citizen is, therefore, useful and at times perhaps the only effective remedy to apply balm to the wounds of the family members of the deceased victim. Who may have been the bread winner of the family.
xxx
Thus, to sum up, it is now a well accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is nor available and the citizen must revive the amount of compensation from the State, which shall have the right to be indemnified by the wrong doer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is

> **duty bound to do, That award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will. of course, depend upon the peculiar facts of each case and no strait jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, in addition to the traditional remedies and not it derrogation of them. The amount of compensation as awarded by the Court and paid by the State to redress The wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."**

15. The order dated 23.04.2021 issued by the D.M., West Tripura itself shows that the D.M., West Tripura had restricted the number of guests shall be limited within 50. Further, from the show-cause notice issued by the D.M., West Tripura dated 27.04.2021 and also from the affidavit-in-opposition filed by the D.M., West Tripura, it is seen that there was presence of about 100 persons in the Golap Bagan Marriage Hall, but the petitioners nowhere in their additional affidavits had denied or disputed the allegations of the D.M., West Tripura in regards the number of invitees in the said marriage hall, but the petitioners had elaborately contended that the marriage was being conducted maintaining all precautions relating to the Corona situation and there was no breach of the conditions of the Order dated 23.04.2021 though the marriage function was prohibited beyond 10.00 p.m.. Now, the debatable question is as to whether the gathering in the marriage hall was limited to 50 or more. On to this issue, this court is of the opinion that when on a question of fact there is serious dispute which cannot be decided without taking evidence, the Writ Court in exercise of its extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India has no mechanism to test the veracity and decide such disputed question of facts raised in a writ petition. In our opinion, it will be a dangerous proposition to hold one guilty on the basis of uncertified and/or unauthenticated video clippings gathered from different sources including social media. It is true that this Court under the Order dated 30.03.2023 had

made some observations, but, those observations were merely the reflections, which were screened.

16. The State has notified restriction by way of issuance of prohibitory order in terms of the provisions embodied in Section 144 Cr.P.C. Curfew was also imposed. The D.M., West Tripura was only given the responsibility of enforcing the restrictions imposed by the State, to say it otherwise, the D.M., West Tripura is the only enforcing/implementing agent of all the restrictions imposed by the State. We should not be unmindful that the D.M., West Tripura had entered into the marriage halls after receipt of some complaints of unbearable noise originated from these marriage halls, which naturally needed to be addressed. Further, if it is viewed from legal point of view, then, there should not be any quarrel at the bar that any permission given in violation of law or statutory restrictions will not be treated as a valid permission and is void *ab initio*.

17. Disaster Management Act, 2005 (for short, referred to as 'the Act, 2005'), has overriding effect on all statutes. The object of Section 73 of the Act of 2005 is to protect and give a kind of assurance to an honest and sincere public officer authorized to act under the said Act in discharge of his official duty and responsibility fearlessly and to the best of his ability to the public duty. In the instant case indisputably the DM had entered into the marriage halls after 11.15 p.m. i.e. much after commencement of the Corona Curfew time i.e. 10 p.m.. The DM being the authorized person, was under the statutory obligation to take stock of the situation and to prevent any violation of the restrictions imposed, and in the event of being noticed of such violation, he had the statutory duty to act upon it in the interest of the

public by way of strict adherence to the statutory restrictions under the Act of 2005 vis-à-vis the prohibitory order under Section 144 Cr.P.C.

17.1. In the case of ***Devinder Singh vs. State of Punjab***, reported in ***(2016) 12 SCC 87***, the Hon'ble Supreme Court at para 39.2 held that " *Once act or omission has been found to have been committed by public servant in discharging his duty it must be given liberal and wide construction so far its official nature is concerned…….".*

Again at para 39.3. of the said decision, it was held that *"Even in facts of a case when public servant has exceeded in his duty, if there is reasonable connection it will not deprive him of protection under section 197 Cr.P.C. There cannot be a universal rule to determine whether there is reasonable nexus between the act done and official duty nor it is possible to lay down such rule".*

17.2. In the case in hand, even if for a minute if we believe the submissions of learned counsel appearing for the petitioners that the concerned DM had exceeded his duty, it would not deprive him of protection under Section 73 of the Act, 2005, if such was in discharge of his official duties and functions since such act had reasonable nexus to prevent unlawful gathering which might cause harm to the health and hygiene of the persons present in the gathering as well as others. It is equally true and also forthcoming that it was the solemn duty and responsibility on behalf of the respondent-DM to take all necessary measures to enforce the restrictions embodied in the prohibitory order and in compliance of the relevant laws of the land in force. According to us, non-performance of the statutory duties and responsibilities definitely would have made the respondent-DM liable for dereliction of his official duties. In ***A. Sreenivasa Reddy vs. Rakesh***

Sharma and another, reported in ***(2023) 8 SCC 711; AIR 2023 SC 3811*** [SCC p.23 para 61], the Hon'ble Supreme Court observed *"The "safe and sure test" is to ascertain if the omission or neglect to commit the act complained of would have made the public servant answerable for the charge of dereliction of his official duty…".*

17.3. Here, we may profitably refer the decision of a Constitution Bench of the Supreme Court in ***Matajog Dobey vs. H.C. Bhari***, reported in ***AIR 1956 SC 44 ; (1955) 2 SCR 925***, wherein it was held that "*where a power is conferred or a duty is imposed by statute or otherwise and there is nothing said expressly inhibiting the exercise of the power or the performance of the duty by any limitations or restrictions, it is reasonable to hold that it carries with it the power of doing all such acts or employing such means are reasonably necessary for such execution, because it is a rule that when law commands a thing to be done, it authorizes the performance of whatever may be necessary for executing its command".*

17.4. This principle has already been settled when this decision was followed by the Hon'ble Supreme court in ***Suresh Kumar Bhikamchand Jain vs. State of Maharastra***, reported in ***(1998) 1 SCC 205***; ***1998 SCC (Cri) 1***, and ***Gouri Sankar Prasad vs. State of Bihar***, reported in ***(2000) 5 SCC 15***.

17.5. In ***Matajog Dobey (supra)***, the constitution Bench held that "*there must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty.*"

[Emphasis supplied]

17.6. In a very recent case, titled as ***Amod Kumar Kanth vs. Association of victim of Upahar Tragedy and another***, reported in ***2023 SCC Online 578***, the Hon'ble Supreme court had observed [SCC p.18, para 28]

> **"The State functions through its officers. Functions of the State may be sovereign or not sovereign. But each of the functions performed by every public servant is intended to achieve public good. It may come with discretion. The exercise of the power cannot be divorced from the context in which and the time at which the power is exercised or if it is a case of an omission, when the omission takes place."**

In the instant case, violation of the statutory restrictions on the part of the petitioners imposed under the Act, 2005 and under Section 144 Cr.P.C. is apparent.

17.7. Now, whether in discharge of his official duties and functions, the DM abused his power or acted in excess of his power, is a matter to be decided by a fact finding court i.e. in the proceeding before the criminal courts.

17.8. It was argued before us that in the report submitted by the one-man committee constituted by this court had found the concerned DM acting in excess of his power, but, we should not lose our sight that the 3 Members Committee constituted earlier to the formation of one-member committee did not find any abuse of power exercised by the concerned DM. In view of these conflicting reports comprising opinions, it would be improper for this court to come to a finding that the guilt of the concerned officer i.e. the DM, has been established.

17.9. At the cost of repetition, the CDs displayed in the open court and the observations made therein by this court at the interlocutory stage cannot be taken into account as gospel truth in absence of certification of those CDs by the competent authority, as enshrined under Section 65 of the Evidence Act. Added to it, Ms. Guha, learned counsel for the petitioner in

WP(C)(PIL) 05 of 2021, categorically submitted that those clippings in the CDs displayed before this court were the amalgamation of various video-clippings gathered from the social media. So, the said CDs, cannot by any stretch of imagination, be treated as primary evidence. In this circumstance, the contents of the CDs must be proved by way of adducing evidence before the appropriate criminal courts and not by the writ court. In furtherance thereof, the inquiry made against the respondent-DM was not conducted under the Commissioner of Inquiries Act nor those would be termed as adversarial inquiry, and those inquiries were inquisitorial nature only formed part of the record to assist the court at the time of passing final order when this court would definitely take into account the evidentiary value of those reports. Moreso, since it was an inquisitorial inquiry, the respondent-DM was not asked to remain present during recording of the statements of the petitioners and other witnesses to the incident. Only on 17.05.2021, one of the members of the inquiry committee asked the respondent-DM to appear before the Committee on 21.05.2021 to make his statement about the incident. In response to the said communication, the respondent-DM submitted a representation on 21.05.2021 to the inquiry committee requesting to provide copies of the statements recorded by the witnesses to the incident to give appropriate reply, and also to allow him at least one week time after receiving copies of such statements/videos and other materials, which were being relied upon by the inquiry committee. In the said representation, the respondent-DM has further stated that since already a criminal case was registered against him, any disclosure of his defence would prejudice him to face the criminal trial. Accordingly, the inquiry committee supplied copies of the statements of the petitioners and other

witnesses recorded by the inquiry committee. Thereafter, the respondent-DM submitted his statement on 23.05.2021 wherein he has stated that all his actions during that night were bonafide and his only intention was to save the lives of the people of Agartala and to control the spread of Covid-19 virus.

17.10. That apart, this court only had given an opportunity to the petitioners to explain about the observations made by this court on the basis of the contents displayed in the CDs by way of affidavit, and in response to that, the respondent-DM had denied and disputed the veracity of such contents.

17.11. In this situation, if this court indicts the respondent-DM for any of his action that would not only be prejudicial to him, but also he would be condemned unheard. It is settled proposition of law that no one should be condemned unheard i.e. without affording reasonable opportunities to defend himself. There is yet another important aspect, as we said earlier, that the criminal cases are pending before the competent courts of criminal jurisdiction and there are cases and counter cases against the petitioners as well as the respondent-DM, in that event, it would amount to denial of right to fair trial. The conduct of respondent-DM is also subject matter of disciplinary authority.

17.12. Now, question falls for consideration as to whether in the light of the facts and circumstances, narrated here-in-above, it would be proper to award compensation in favour of the petitioners in WP(C) 346 of 2021 and WP(C) 350 of 2021, for the damages allegedly they suffered. Here, we may gainfully refer to a decision of the Apex Court in ***Municipal Corporation of Delhi vs. Uphaar Tragedy Victims Association***, reported in ***(2011) 14 SCC***

481. While considering granting of award towards damages, the Hon'ble Apex court held as under:

> **"54. It is evident from the decisions of this Court as also the decisions of English and Canadian Courts that it is not proper to award damages against public authorities merely because there has been some inaction in the performance of their statutory duties or because the action taken by them is ultimately found to be without authority of law. In regard to performance of statutory functions and duties, the courts will not award damages unless there is malice or conscious abuse. ……."**

17.13. It is not the case here that the respondent-DM being the authorized State functionary had entered into the marriage halls out of any malafide intention and he abused his power consciously with the intention to harass the members of the marriage party.

18. It is a settled proposition of law that an authority cannot issue orders/office memorandums/executive instructions in contravention of statutory rules or orders supplanting the statutory instructions. In other words, office memorandum or executive instructions, in our opinion, cannot override, amend or supersede statutory order or rules.

18.1. Section 144 Cr.P.C. grants authority to the DM or any other Executive Magistrate in any State or territory to issue an order prohibiting the assembly of four or more individuals in a specific area. The legislative intention to preserve public peace and tranquility without lapse of time acting emergently, if warranted, giving thereby paramount importance to societal needs by even overriding temporarily private rights keeping in view public interest, is patently in-built in Section 144 of the Cr.P.C. The power vested in the Executive shall be invoked considering the need for immediate prevention or that speedy remedy is desirable and directions as contemplated are necessary to protect the interest of others or to prevent danger to human life, health or safety or disturbance of public tranquility.

18.2. On careful reading of the provisions of Section 144 Cr.P.C. alongwith other constitutional provisions and the judicial pronouncement of the Hon'ble Supreme Court of India, it can undisputedly be stated that Section 144 Cr.P.C. is a power to be exercised by the specified authority to prevent disturbance of public order or tranquility and harmony by taking immediate steps and when desirable, to take such preventive measures.

18.3. The duty to maintain law and order lies on the concerned authority and, thus, there is nothing unreasonable in making it the initial judge of emergency. All this is coupled with a fundamental duty upon the citizens to obey such lawful orders as well as to extend their full co-operation in maintaining public order and tranquility.

18.4. The language of Section 144 Cr.P.C. does not contemplate grant of any time for implementation of the directions relating to the prevention or prohibition of certain acts for which the order is passed against the person(s). It is settled Rule of Law that wherever provision of a statute does not provide for a specific time, the same has to be done within a reasonable time. Again reasonable time cannot have a fixed connotation. It must depend upon the facts and circumstances of a given case. There may also be cases where the order passed by the authority concerned under Section 144 Cr.P.C. requires to be executed forthwith, as delay in its execution may frustrate the very purpose of such an order and may cause disastrous results like disturbance of public order and public tranquility.

18.5. Text of Section 144(1) Cr.P.C. would show that mere opinion of the Magistrate as to the existence of sufficient ground for proceeding would be enough. In ***Babulal Parate vs. State of Maharashtra***, reported in ***AIR 1961 SC 884***, the Hon'ble Supreme Court held that *power can be used*

even in anticipation of danger, but it should be based on sufficient materials which show that immediate prevention of certain acts is necessary to preserve public safety.

18.6. The gist of action under Section 144 Cr.P.C. is the urgency of the situation, its efficacy is to prevent some harmful occurrences. As it is possible to act absolutely and even *ex parte* it is obvious that the emergency must be sudden and the consequences sufficiently grave. Without it, the exercise of power would have no justification.

18.7. In the instant case, the DM on consideration of emergent situation due to outbreak of Covid-19 in different parts of West Tripura District posing a major threat to public health, hygiene and safety of the people and being fully satisfied that immediate prevention and speedy remedy was desirable and having found there was sufficient ground for imposing certain restrictions, by order dated 22.04.2021 imposed Section 144 Cr.P.C. throughout West Tripura District for enforcement of the following prohibitory measures:

> **"Corona Night Curfew**
> **1) Corona night curfew is hereby imposed between 10 P.M. to 05 A.M. everyday in Agartala Municipal Corporation area w.e.f. 10 PM of 22nd April, 2021 till 05 AM of 01st May, 2021;**
> **2) Any gathering or movement of individuals & vehicles shall remain strictly prohibited between 10.00 PM (night) to 05:00 AM (morning);**
> **3) Functioning of Shops, Offices, Marriage halls, Restaurants, Cinema halls, gymnasium, swimming pools, entertainment parks, theaters, bars and auditoriums, assembly halls and similar places are prohibited during the said night curfew hours;**
> **4) Social/Political/sports event/entertainment/academic/Cultural/religious functions/ other gatherings of all kinds within Agartala Municipal Corporation area are prohibited during the said night curfew hours;"**

18.8. On perusal of the aforesaid order dated 22.04.2021 imposing certain restrictions, as stated here-in-above, it was categorically stated that corona night curfew was imposed between 10 PM to 5 AM everyday w.e.f. 10.00 PM of 22nd April, 2021 till 5.00 AM of 1st May, 2021. All gatherings

or movements of individuals and vehicles were strictly prohibited between 10 PM night to 5.00 AM morning. It was further ordered that marriage halls and similar places were also prohibited during the said night curfew hours. All social gatherings and entertainment and other sorts of gatherings within Agartala Municipal Corporation area were prohibited during the said night curfew hours. Obviously, the order dated 22.04.2021 is a statutory order imposed under Section 166 Cr.P.C. and is statutorily enforceable. Every citizen was under obligation to abide by the said prohibitory order. The said prohibitory order imposed under Section 144 Cr.P.C. is a part of various lock-down measures declared by the Government.

18.9. At this juncture, we have also noticed the order dated 20.04.2021 which was issued by the Chief Secretary and Chairman, State Executive Committee, Tripura State Disaster Management Authority, Government of Tripura (Annexure 1 to W.P.(C)(PIL) 5 of 2021, in exercise of power conferred under Section 22(2)(h) of the Disaster Management Act, 2005 directed the District Magistrate, West Tripura to issue an order under Section 144 Cr.P.C. and to impose corona night curfew. Under Order dated 20.04.2021, maximum 100 persons might be allowed in marriage/birthday and other social functions both in public or private place. It is pertinent to mention here that the order dated 22.04.2021 imposing prohibitions/restrictions under Section 144 Cr.P.C. was the outcome of the Order dated 20.04.2021.

18.10. From both the aforesaid Orders, we find that solemnization of marriage was not prohibited totally. Such solemnization of marriage might be permitted by the District Magistrate. In the instant case also the DM had issued a letter dated 23.04.2021 whereby and whereunder permission for

marriage between *Shibani Deb* and *Amit Singh* was given scheduled on 26.04.2021 at Manikya Court Palace. On careful perusal of the said permission order, we find that the applicant, Swapan Kumar Deb, was asked to adhere to the lock-down measures and one of the conditions, as mentioned in Condition no. (f) is that *the said permission was valid only for non-containment zone as are notified by the DM*. Another condition was that the number of guests would not be more than 50 persons. The conditions stipulated in the said permission are as under:

> **"a) Wearing of face cover/mask is compulsory at all times for all persons attending the marriage ceremony;**
> **b) All persons at the venue shall ensure social distancing as per the guidelines issued by the MOHFW;**
> **c) Sufficient quantity of handwash and sanitize preferably with touch free mechanism should be made available at all entry and exit points of the venue;**
> **d) The number of Guests shall not be more than 50 persons;**
> **e) The guests invited for lunch/dinner should be staggered in multiple batches;**
> **f) This permission is valid only for Non Containment Zone area as notified by the undersigned."**

18.11. As we said earlier that prohibitory order under Section 144 Cr.P.C. is a part of one of the lock down measures, which had to be adhered by any means and cannot be violated.

18.12. Corona Night Curfew between 10.00 PM (night) to 5.00 AM (morning) every day in Agartala Municipal Corporation area imposed by the DM was one of the lockdown measures and mandatorily be observed by every citizen in social gathering of any kind including the marriage halls. At the cost of repetition, it is once again stated that all gatherings or movement of individual or vehicles were strictly prohibited between 10.00 PM (night) to 5.00 AM (morning).

18.13. On cumulative consideration of all the aforesaid 3 orders, according to us, permission for solemnization of marriage was granted by the DM, but, such permission was not intended to violate the statutory orders

by the Chief Secretary in the capacity of Tripura State Executive Committee under the National Disaster Management Act, 2005 and the Order under Section 144 Cr.P.C. In our view, it will not be proper, rather unjustified, to hold that order for permission for solemnization of marriage was in relaxation of both the statutory orders dated 20.04.2021 and 22.04.2021. As a corollary, gatherings after the statutory time i.e. after 10.00 PM beyond the statutory numbers as prohibited under Section 144 Cr.P.C. would obviously amount to violation of prohibitory order issued by the DM.

18.14. It has not escaped our notice that Sri Swapan Kumar Deb, the petitioner in W.P(C) 350 of 2021, who was the applicant, seeking permission for the marriage, was categorically asked to adhere to the lockdown measures, apart from the conditions that were stipulated in the permission order.

18.15. It is admitted fact that the DM entered into the marriage hall at about 11.30 PM i.e. after 10 PM when he noticed those violations of conditions mentioned in the permission order dated 23.04.2021.

18.16. In our considered view, the spirit of the prohibitory order was that there should not be any gathering during the corona night curfew, as imposed between 10 PM (night) to 5 AM (morning). In other words, it can simply be said that the guests/invitees/persons must leave the place of marriage before commencement of the night curfew.

18.17. On perusal of the Order dated 23.04.2021 granting permission, it is apparent that under Condition no.(d), it was mentioned that "*the number of guests shall not be more than 50 persons".* It does not mean that the DM had permitted 50 numbers of guests to stay in the marriage hall beyond 10 P.M. i.e. commencement of corona night curfew time. However, the bride

and the bridegroom and their parents as well as the priests were not prohibited to remain present during solemnization of the marriage since their presence during solemnization of the marriage was necessary according to Hindu rites and customs. The petitioners nowhere in the writ petitions have stated that at the relevant point of time, i.e. at 11.15 P.M. the presence of guests were less than 50(fifty) at the marriage hall (Manikya Court). As such, permission for solemnization of marriage, according to us, was not a license to allow guests even after commencement of corona night curfew i.e. after 10 P.M.. Here both the couples being Hindus their solemnization of marriage was being performed according to Hindu rituals i.e. Hindu rites and customs. According to Hindu rituals, **solemnization of marriage** means and refers to a formal requirement of performing a marriage i.e. performance of "Hom" and 'Saptapadi' by a priest in presence of parents of the bride and the bridegroom. Needless to say, in normal situation such solemnization of marriage is performed in presence of invitees also, but, in the circumstances of the present case, presence of guests beyond stipulated corona night curfew i.e. after 10 P.M. was categorically prohibited. It was not that the said fact was not known to the applicant, Sri Swapan Kumar Deb, and it is implicit in the order of permission itself.

18.18. As we discussed in the preceding paragraphs that preservation of public peace and tranquility is the primary function of the government and the power under Section 144 Cr.P.C. is conferred on the Executive Magistrate enabling them to perform that function effectively during emergent situations, and as such, it may *become necessary for the Executive Magistrates, to override temporary private rights and in a given situation the power must extend to restraining individuals from doing acts perfectly*

lawful in themselves, for it is obvious that when there is a conflict between the public interest and private rights, the former must prevail. ***[Gulam Abbas and ors. vs. State of UP and ors., reported in (1982) 1 SCC 71; AIR 1981 SC 2198; 1981 CrLJ 1835***]. Similar observations are made in the case of ***State vs. Parveen Bhai***, reported in ***(2004) 4 SCC 684; AIR 2004 SC 2081; 2004 CrLJ 1825***.

[*Emphasis supplied*]

18.19. Now coming to the question as regards the fact that the guests/ invitees including women and children were detained in police station, we have perused the affidavit-in-opposition filed by the respondents no. 2, 3 and 9. The said affidavit-in-opposition was sworn in by AIG (Crime) serving under the Government of Tripura, wherein it is categorically stated at para 8 "*that, no person were either arrested or detained in connection with the incident at Golap Bagan marriage Hall or Manikya Court marriage Hall on the intervening night of 26th and 27th of April, 2021. However, some members of the families were found present in the aforesaid two marriage halls after the departure of the then DM and Collector Sri Shailesh Kr. Yadav and who did not have vehicles to return home during curfew hours were escorted by the Government vehicles to West Agartala Women PS and West Agartala PS for safe shelter and allowed to go after the respective families were fetched by their vehicles. It is categorically stated that none of the aforesaid persons were either arrested or unduly detained at police station, as alleged*". In view of the aforesaid statements, we perused the records of the above writ petitions and we found that the petitioners could not produce a scrap of paper wherefrom it could be revealed that any of the invitee or guest including women and children were arrested and illegally

detained at the police station. There is neither any arrest memo nor there is any detention order.

18.20. As per legal Dictionary by Farlex, '**arrest**' means "*a seizure or forcible restraint; an exercise of the power to deprive a person of his or her liberty; the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge."* The term '**detention**" can be defined as *"When the Police Officer or any other Authority or any individual hold or detain an individual or group of persons under the suspicion of an illegal act but does not charge them with the crime is known as the Detention."*

18.21. In the instant case, the respondents no. 2, 3 and 9, who are police officials, have categorically asserted that the invitees/guests were only taken to the police station for their safety and security since no vehicles were found infront of the said two marriage halls. The persons brought to the police station from the said marriage halls were neither arrested nor unduly detained and they were allowed to go after the respective families were fetched by their vehicles. So, there is no support in the submissions of learned counsel appearing for the petitioners that the invitees/ guests were illegally detained in the police station. That apart, this being a disputed question of fact, cannot be decided by this court that the women and children were illegally detained in the police station during night. Mere bringing the women and children alongwith other guests/invitees would not amount to infringement of fundamental rights, as provided under Article 21 of the Constitution of India. We are unable to accept the submission of learned Counsel appearing for the petitioners that the police officials could have made alternative arrangement instead of taking them to the police station. In

our view, in the above facts and circumstances, it would be unwise to hold that the police authorities infringed fundamental right and liberty of the invitees/guests as enshrined under Article 21 of the Constitution of India in the wake of specific pleas of the respondents that they were taken to the police station for their safe passage.

18.22. In the instant case, the permission given by the D.M., West Tripura was nothing, but, *an administrative order, and as such, it cannot supersede the order issued under the authority of National Disaster Management Act, 2005 vis-a-vis the prohibitory order under Section 144 Cr.P.C. by adding something therein not contemplated under the statutory order as has been observed by Hon'ble Supreme Court* in ***Sant Ram Sharma vs. State of Rajasthan***, reported in ***AIR 1967 SC 1910 : (1968) 1 SCR III***.

[Emphasis supplied]

18.23. Administrative instructions if not carried into effect for good reasons cannot confer a right. [see ***P.C. Sethi vs. Union of India***, reported in ***(1975) 4 SCC 67*** : ***(1975) 3 SCR 201***]

18.24. We have given our conscious thought to the submissions of learned counsel appearing for the petitioner that with the prayer for permission for solemnization of the marriage, the applicant, Swapan kumar Deb, have also annexed the invitation card whereunder the date and time for reception was specifically mentioned at '7 PM onwards' on 26.04.2021 and the DM knowingfully well the said time for solemnization had granted permission under Order dated 23.04.2021. In view of this submission, we carefully perused the said invitation card enclosed to the writ petition. It revealed that in the said card it was mentioned "Biya Muharrat" (Auspicious time): 9.00 P.M. to 1.00 P.M and reception of guests/invitees would commence from 7.00 P.M. onwards. According to dictionary meaning "Biya

Muharrat" means *auspicious time*. So, for solemnization of marriage on 26.04.2021 auspicious time was 9.00 P.M. to 1.00 P.M.. In the permission order, it was also mentioned that the applicant must adhere to all lock-down measures. According to us, the time and date mentioned in the invitation letter was just an intimation to District Magistrate as regards auspicious time for performance of rituals in the process of solemnization of marriage; but, that does not in any way means and connotes that such time would be stretchable beyond 10.00 P.M. in view of the conditionalities indicated in the permission order which included that the applicant must adhere to all lock-down measures during the marriage ceremony. Furthermore, such permission did not grant license to the petitioner, Swapan Kumar Deb and other guests to violate the prohibitory order issued by the DM in exercise of power conferred under Section 144 Cr.P.C. Similarly, vehicular pass was issued not to violate the restrictions of Corona night curfew. It was intended to meet the emergent situations in case of extreme need keeping in view the concerns of the newly married couples including their parents and priests.

19. The order issued by the authority in its administrative capacity cannot override the order issued under certain statute/Act/rules framed by the State in exercise of its delegated legislative power. An administrative order must be consistent with the statutory rules or notification.

20. Now, considering the reliefs sought for in W.P.(C)(PIL) 05 of 2021, wherein it was prayed by the petitioner for taking appropriate action against the then District Magistrate, West Tripura, we find that the Government of Tripura has already transferred the then DM & Collector, West Tripura, Dr. Sailesh Kumar Yadav from his post and placed his service to another department, which was also informed to this court. More so,

criminal cases have been registered against the then DM & Collector, West Tripura, namely, Dr. Sailesh Kumar Yadav, respondent no. 5 in W.P.(C)(PIL) 05 of 2021. So, the prayers made by the petitioner in W.P.(C)(PIL) 05 of 2021 have been fulfilled by the State Government.

20.1. Almost similar prayers have been made by the petitioner in W.P.(C) 346 of 2021, though in the meantime punitive and legal action has already been taken against the then DM & Collector, West Tripura, Dr. Sailesh Kumar Yadav.

21. In W.P.(C) 350 of 2021, the petitioner has prayed for compensation alongwith a prayer for conducting departmental inquiry against Dr. Sailesh Kumar Yadav, the then DM & Collector, West Tripura. In this regard, learned Advocate General has submitted that departmental proceeding has already been initiated against the respondent-DM, Dr. Sailesh Kumar Yadav. An inquiry was also conducted in terms of the directions of this court and report has already been submitted.

21.1. The other prayer made in W.P.(C) 350 of 2021 is for granting compensation and in support of the prayer for granting compensation, learned counsel for the petitioner has placed reliance upon the judgments as referred to in *para 15* of this judgment.

21.2. We have perused the facts of the judgments, as referred to by learned counsel appearing on behalf of the petitioners. It is found that the Hon'ble Supreme Court had granted compensation on the basis of proven facts of arrest, illegal detention and police atrocities infringing the right and liberty of the person concerned. The principles laid down in the cited judgments on behalf of the petitioners for granting compensation were based on the face of the facts of those cases, but, facts of the instant cases are quite

different and distinct from the **proven or established facts** of those cases when the State machineries acted in such a manner and design that clearly infringed the rights and liberties of the persons victimized for illegal and arbitrary action.

21.3. On the question of granting of compensation, we may profitably refer to a decision of the Hon'ble Supreme Court in ***Sube Singh vs. State of Haryana and ors.***, reported in ***(2006) 3 SCC 178***, where three-Judge Bench at para 38 had observed thus:

> **"38. It is thus now well settled that award of compensation against the State is an appropriate and effective remedy for redress of <u>an established infringement</u> of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under section 357 of Code of Civil Procedure."**
>
> **[underlined for emphasis]**

21.4. In ***Sube Singh (supra)***, the Hon'ble Supreme Court having taken note of the case of ***M.C. Mehta vs. Union of India***, reported in ***(1987) 1 SCC 395***, while considering the question as to whether compensation can be awarded in a petition under Article 32 of the Constitution of India, observed thus:

> **"40. In *M.C. Mehta vs. Union of India [1987 (1) SCC 395]*, a Constitution Bench of this Court while considering the question whether compensation can be awarded in a petition under Article 32, observed thus : (SCC pp.408-09, para 7)**
>
> > **"We must, therefore, hold that Article 32 is not powerless to assist a person when he finds that his fundamental right has been violated. He can in that event seek remedial assistance under Article 32. The power of the court to grant such remedial relief may include the power to award compensation in appropriate cases. We are deliberately using the words "in appropriate cases" because we must make it clear that it is not in every case where there is a breach of a fundamental right committed by the violator that compensation would be awarded by the court in a petition under Article 32. The infringement of the fundamental right must be gross and patent, that is, incontrovertible and ex facie glaring and either such infringement should be on a large scale affecting the fundamental rights of a large number of persons, or it should appear unjust or unduly harsh or oppressive on account of their poverty or disability or socially or economically disadvantaged position to require the person or persons affected by such infringement to initiate and pursue act in the civil courts. Ordinarily, of course, a petition under Article 32 should not be used as a substitute for enforcement of the right to claim compensation for infringement of a fundamental right through the ordinary process of civil court. It is only in exceptional cases of the nature indicated by us above, that compensation may be awarded in a petition under Article 32. .... If we make a fact analysis of the**

> **cases where compensation has been awarded by this Court, we will find that in all the cases, the fact of infringement was patent and incontrovertible, the violation was gross and its magnitude was such as to shock the conscience of the court and it would have been gravely unjust to the person whose fundamental right was violated, to require him to go to the civil court for claiming compensation.**
>
> **(emphasis supplied)".**

21.5. Again, in ***Sube Singh (supra)***, the said Bench had taken note of the principles laid down in ***Nilabati Behera vs. State of Orissa***, reported in ***(1993) 2 SCC 746***, has observed thus:

> **"41. In Nilabati Behera [(1993) 2 SCC 746] this Court put in a word of caution thus: (SCC p.769, para 35):**
>
> **"Of course, relief in exercise of the power under Article 32 or 226 would be granted only (when) it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible. ....Law is in the process of development and the process necessitates developing separate public law procedures as also public law principles. It may be necessary to identify the situations to which separate proceedings and principles apply and the courts have to act firmly but with certain amount of circumspection and self-restraint, lest proceedings under Article 32 or 226 are misused as a disguised substitute for civil action in private law.**
>
> **(emphasis supplied)"**

21.6. Having discussed its earlier decisions, the three-Judge Bench of the Hon'ble Supreme Court in ***Sube Singh (supra)*** had delineated the principles of granting compensation as under (SCC p.201, para 46):

> **"46. In cases where custodial death or custodial torture or other violation of the rights guaranteed under Article 21 is established, courts may award compensation in a proceeding under Article 32 or 226. However, before awarding compensation, the Court will have to pose to itself the following questions : (a) Whether the violation of Article 21 is patent and incontrovertible, (b) whether the violation is gross and of a magnitude to shock the conscience of the court, (c) whether the custodial torture alleged has resulted in death or whether custodial torture is supported by medical report or visible marks or scars or disability. Where there is no evidence of custodial torture of a person except his own statement, and where such allegation is not supported by any medical report or other corroboration evidence, or where there are clear indications that the allegations are false or exaggerated fully or in part, courts may not award compensation as a public law remedy under Article 32 or 226, but relegate the aggrieved party to the traditional remedies by way of appropriate civil/criminal action."**

21.7. To summarize the above principles it is settled by the Apex Court that compensation can be awarded on the basis of **established / proven facts**, which is absent here. The reports of the inquiry committee constituted by this Court even revealed that there was no proof that any of the invitees/guests including the parents of the bride or the bridegroom or the priest were arrested. The report has said that there was no "*arrest memo*" which clearly suggests that none of the persons were arrested. Furthermore,

there is no iota of evidence to prove that any of the invitees/guests including the parents of the bride and the bridegroom and the couples were illegally detained at the police station. On the contrary, it is categorical stand of the State-respondents that they had taken the invitees/guests to the police station considering their safety and security and to give them a safe passage to their respective houses since there was no vehicle found infront of the marriage halls. It is pertinent to mention herein that the invitees/guests present in another marriage hall, namely, 'Golap Bagan' were also brought to the police station, but, none of them lodged any complaint to the police station complaining abuse of power either by the respondent-DM or by any of the police officials of the State.

[underlined for emphasis]

21.8. In view of the discussions made here-in-above and the reasons recorded, it would not be just and proper to grant any compensation in favour of the petitioner in W.P(C) 350 of 2021 at this stage.

21.9. Liberty always is reserved with the parties to take recourse of such relief for compensation on established facts of guilt, if held by the appropriate courts of law. The criminal courts of competent jurisdiction being fact finding courts would explore the truthfulness of any of the abuse or excess of power executed by the respondent-DM in discharge of his official duties, or he acted/proceeded on good faith within the ambit of Section 73 of the Act, 2005. Facts of the alleged abuse of power by the respondent-DM and the high-handedness of State instrumentalities are yet to be established by the competent criminal courts in the pending criminal cases. Accordingly, we direct the concerned criminal courts to proceed with the criminal cases expeditiously.

21.10. Having taken into account all aspects, prayer for granting compensation is rejected at this stage.

22. In the light of aforesaid discussion on legal and factual aspects, all the above writ petitions have been dismissed by this common judgment in the manner as indicated here-in-above.

Pending application(s), if any, also stand disposed.

(ARINDAM LODH,J) **(APARESH KUMAR SINGH, CJ)**

HIGH COURT OF TRIPURA
सत्यमेव जयते

SAIKAT KAR
Digitally signed by SAIKAT KAR
Date: 2024.05.28 14:14:51 +05'30'