

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPCR No. 8 of 2014**

Purushottam Chandra S/o Shri Pitambar Prasad Chandra
Aged About 31 Years R/o Village Beladula Police Station
Jaijaipur, Civil And Revenue Distt. Janjgir-Champa C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Govt. Of C.G.,
Department Of Home (Police), Mantralaya, New Raipur,
C.G.
2. Inspector General Of Police (Administration), Police Head
Quarter, Raipur, C.G.
3. Superintendent Of Police Distt. Janjgir-Champa C.G.
4. Smt. Usha Sondhia (Town Inspector) Officer Incharge
Police Station Jaijaipur (Incharge Police Station At
Relevant Time) Distt. Janjgir-Champa, At Present Town
Inspector Police Station Bagbahar, Distt. Jashpur, C.G.
5. Mangesh Deshpande Town Inspector Posted At Distt.
Special Branch Rajnandgaon, Distt. Rajnandgaon, C.G.
6. B.R. Dahariya, Sub-Inspector, Sakti, Distt. Janjgir-
Champa, C.G.
7. Jitendra Rajput Sub-Inspector Saragaon, Distt. Janjgir-
Champa, C.G.
8. Shiv Sharma Constable Batch Number 499, Distt. Janjgir-
Champa, Through Superintendent Of Police, Distt.
Janjgir-Champa, C.G.
9. Jay Lahre, Constable Batch Number 54, Jaijaipur At
Present Posted Dabhra, Distt. Janjgir-Champa, Through
Superintendent Of Police, Distt. Janjgir-Champa, C.G.
10. Ashwani Sidar, Constable Batch Number 400, Jaijaipur At
Present Mulmula, Distt. Janjgir-Champa, Through
Superintendent Of Police, Distt. Janjgir-Champa, C.G.
11. Virendra Kunwar Constable, Batch Number 535, Birra,
Distt. Janjgir-Champa, Through Superintendent Of Police,
Distt. Janjgir-Champa, C.G.

12. Ghanshyam Markam Constable Batch Number 449, Distt. Janjgir-Champa, Through Superintendent Of Police, Distt. Janjgir-Champa, C.G.

13. Har Prasad Manhar Constable, Batch Number 330, Janjgir, Distt. Janjgir-Champa, Through Superintendent Of Police, Distt. Janjgir-Champa C.G.

14. Raju Kashyap, Constable, Batch Number 806, Hasod, Distt. Janjgir-Champa, Through Superintendent Of Police, Distt. Janjgir-Champa, C.G.

---- Respondents

For Petitioner	: Shri Yogesh Kumar Chandra, Advocate.
For Respondents No.1 to 3	: Shri Suresh Khakharia, Dy. A.G. with Shri Neeraj Kumar Sharma, Dy. G.A.
For Respondents No. 4, 5, 6 & 8 to 14.	: Shri Lekhram Dhruw, Advocate.
For Respondent No.7	: Shri Sunil Otwani, Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/12/2015

Heard.

1. This petition has been filed by the petitioner for issuance of appropriate directions to initiate criminal prosecution against respondents No.4 to 14 and also for payment of compensation for the injury sustained by him and also for compensation for custodial injury.

2. The petitioner's case is that suspecting petitioner's involvement in a matter of alleged murder of one Shashi Bhushan Chandra, the petitioner was taken into custody on 18.08.2012 by police officials of police station- Jaijaipur, District Janjgir-Champa.

3. The petitioner has made serious allegation in the petition that after he was taken into custody, he was bitterly beaten by hands, fists and club, due to which, he sustained severe injury

allover his body. He was taken to hospital on 19.08.2012 whereafter, he was referred to district hospital at Janjgir-Champa where he received treatment in connection with the injuries sustained by him.

4. The petitioner has placed on record the medical treatment papers, photographs of injuries and documents relating to his treatment, admission and treatment in the hospital. Number of photographs have also been placed on record.

5. The submission of learned counsel for the petitioner is that the custodial violence, to which, the petitioner was subjected as a suspected accused, apart from being an act of misconduct on the part of the police officials also amounts to a criminal overt act. Despite petitioner having submitted his report making serious allegation against number of police officials to whom, he alleged to have assaulted and injured him, no action has been taken by the State authorities to launch prosecution. Therefore, this petition has been filed.

6. Learned counsel for the State submits that in connection with the alleged incident of assault and violence during custody, the departmental enquiry has already been initiated against the erring officials and thus, the State has already taken cognizance of the complaint and opened enquiry and in some cases, order has been passed and enquiry is still going on.

7. Learned counsel appearing for respondents No.4 to 14 denied all the allegations and their respective counsel submit that as far as these respondents are concerned, they are not involved in the alleged incident. Learned counsel for respondent No.7 submits that in the departmental enquiry against punishment imposed on him, he has preferred an appeal and his case is that he was not even in the concerned police station-Jaijipur where the alleged incident of violence on the petitioner took place.

8. Likewise, learned counsel for the respondents also denies

all the allegations and submit that they are not involved in the alleged incident and they have been falsely implicated.

9. The petitioner having been taken into custody on 18.08.2012 is not in dispute by State in its reply. The documents relating to injury in examination treatment which have been placed on record by the petitioner clearly show that the petitioner sustained number of injuries, details and nature of which have been narrated in the treatment papers.

10. The combination of aforesaid two overwhelming facts clearly makes out a case of detailed investigation into allegation of criminal overt act as alleged by the petitioner. The petitioner has made serious allegations. The case does not appear to be frivolous. He was taken into custody and thereafter, he was bitterly beaten up due to which, he sustained injury. Therefore, the matter ought to be investigated on the report of the petitioner. Learned counsel for the State could not satisfy the Court by referring to any document or averment in the reply that any offence has been registered.

11. Custodial violence cannot be ignored. The State and the Police is custodian of life and liberty of citizen. Even in a matter where a person is taken into custody being a suspect criminal, his right to life is not lost. Assuming for argument sake that it was within the authority of the police official to take the petitioner into custody, being suspect of having committed an offence, it did not give authority to any one much less the police officials to subject the petitioner to violence as has been reflected in the present case.

12. The material which have been placed on record are sufficient to direct inquiry into serious allegation in the matter by a senior police officer to be appointed by Superintendent of police-Jaijaipur, Distirct Janjgir-Champa. The petitioner's report shall be examined and a detailed investigation shall be carried out by an officer not below the rank of Deputy Superintendent of

Police as per the direction of the Superintendent of Police. While examining the petitioner's allegation of criminal overt act, the officer shall act in accordance with the guidelines issued by the Supreme Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and others**, (2014)2 SCC 1

13. It goes without saying that in the event of registration of criminal case against those who are found to be prima facie involved in the alleged commission of offence leading to registration of crime against them, this order shall not come in the way to raise such defence as may be available to them under the law.

14. On the face of it, the petitioner sustained severe injury which is an act of violence while in the custody. Therefore, looking to the facts and circumstances of the case and reserving the petitioner to claim appropriate compensation, this Court deems it proper to award of compensation of Rs.50,000/- to the petitioner in view of law laid down by the Supreme Court in the cases of Rudul Sah v. State of Bihar and another, AIR 1983 S.C. 1086, Bhim Singh v. State of Jammu and Kashmir, AIR 1986 S.C. 494, Nilabati Behra v. State of Orissa, AIR 1993 S.C. 1960, D.K.Basu v. State of West Bengal, AIR 1997 S.C. 610.

15. Accordingly, the petition is disposed off.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E