HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

OWP No. 1240/2004

1. Anara Gupta, Aged 18 years D/O Sh. Ram Singh
2. Raj Rani, Aged 42 years W/O Ram Singh
3. Kumar Sambhav, Aged 26 years
4. Kumar Sangam Aged 15 years (minor)
5. Satyanibeshi, Age 13 years (Minor)
Ss/O Sh. Ram Singh
R/o Rehari Chungi, Jammu
(Petitioners No. 4 & 5 being minors through their mother petitioner No. 2, Raj Rani) **…..Petitioner(s)**

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Dhruv Pant, Adv.

v.

1. State of J&K, Home Department J&K Government through Financial Commissioner Civil Secretariat, Jammu
2. Director General of Police J&K State Police Headquarters, Jammu
3. Inspector General of Police, Jammu
4. Superintendent of Police (City), Jammu
5. SDPO, Police Station, Bakshi Nagar, Jammu
6. Station House Officer, Police Station, Women Cell, Canal Road, Jammu
7. S. P. Vaid, Inspector General of Police, Jammu
8. Prabat Singh, Superintendent of Police (City), Jammu
9. Tanvir Jeelani, SDPO, Police Station, Bakshi Nagar, Jammu
10. Kiran Bala, Station House Officer Police Station Women Cell, Canal Road, Jammu
11. Bansi Lal, Assistant Sub Inspector Police Station, Women Cell, Canal Road, Jammu
12. Darbari Lal, H. C. (Munshi) Police Station, Women Cell, Canal Road, Jammu

…..Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG for R- 1 to 6
Mr. Aayush Pangotra, Adv. for R-8.

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER
19.03.2024P

1. In this petition, the petitioners seek following reliefs:

(i) **Mandamus commanding the respondents to hand over the investigation of the case registered as FIR No. 25 of 2004 for commission of offences under Section 292/293 RPC, Section 4 Immoral Traffic Prevention Act, Section 7 Cinematographic Act, Section 67 I.T. Act, with Police Station Women Cell, Canal Road, Jammu now reportedly transferred to Crime Branch (J&K Police) Jammu, to the Central Bureau of Investigation, an independent agency for investigation.**

(ii) **Mandamus commanding the respondents No. 1 & 2 to further register a case of illegal confinement of the petitioners herein w.e.f. 24th October, 2004 to 4th November, 2004 against the Respondents No. 7 to 10 and also custodial torture of Petitioners No. 1 & 2 and hand over the investigation of the same to the Central Bureau of Investigation, an independent agency.**

(iii) **Mandamus commanding the respondents to pay interim compensation of Rs. 1.00 crore to the petitioners for breach of their fundamental rights of life and liberty, more particularly of petitioner No. 1 and 2, who are victims of custodial torture and violence at the hands of respondents No. 8 to 13. and**

(iv) **Prayer for initiating contempt proceedings against the respondents No. 7 to 12 in terms of the judgment passed by the Hon'ble Supreme Court of India in case titled "D.K. Basu v. State of West Bengal" for their having intentionally and deliberately keeping the petitioners in the illegal confinement and subjecting the petitioners No. 1 and 2 to severe custodial violence apart from causing severe mental harassment and torture and damaging the reputation of the petitioners beyond any reparable limits and more particularly for not following the mandatory guidelines prescribed by the Hon'ble Supreme Court of India in case titled "D.K. Basu v. State of West Bengal" reported as 1997 Vol. 1 SCC 416 in case of arrest of a person."**

2. Mr. Rahul Pant, learned senior counsel appearing for the petitioners submits that the present petition with regard to prayers (i) and (ii) has become infructuous in view of the fact that the investigation in the case registered as FIR No. 25 of 2004 was completed which culminated into filing of closure report. So far as prayer (iii) is concerned, it has been

submitted that petitioners have filed a Civil Suit for recovery of compensation from the respondents which is subjudice before the Court and that the present petition would survive only to the extent of prayer (iv), which is with regard to initiating the contempt proceedings against respondents No. 7 to 12 in terms of judgment passed by Hon'ble Supreme Court in case titled "**D. K. Basu v. State of West Bengal** reported as **1997 (1) SCC 416** for their having intentionally and deliberately keeping the petitioners in the illegal confinement and subjecting the petitioners No. 1 and 2 to severe custodial violence apart from causing severe mental harassment and torture and damaging their reputation beyond any reparable limits.

3. Since the petitioners have chosen to prosecute this petition only to the extent of initiating contempt proceedings, it will be in the interest of justice that petitioners shall be at liberty to file a separate and exclusive contempt petition for the same and that the proceedings of the present case are ordered to be closed. Mr. Pant, learned Sr. Counsel submits that limitation shall come in the way of the petitioners to file such a petition and prayed that an observation be made in this order so that period of limitation does not come in the way of the petitioners for filing a fresh contempt petition, if they choose so.

4. In the aforesaid background, the proceedings in the present petition are closed having been rendered infructuous, with liberty to the petitioners to file a fresh contempt petition and that the period spent in prosecuting the present petition shall not come in the way of the petitioners with regard to limitation.

5. With the aforesaid direction, the present petition stands disposed of along with connected application(s). Interim direction, if any, shall stand vacated.

(MA Chowdhary)
Judge

Jammu
19.03.2024
Paramjeet

HIGH COURT OF JAMMU & KASHMIR AND LADAKH