CASE NO.:
Writ Petition (crl.) 237 of 1998

PETITIONER:
Sube Singh

RESPONDENT:
State of Haryana & Ors.

DATE OF JUDGMENT: 03/02/2006

BENCH:
CJI, B. N. Srikrishna & R. V. Raveendran

JUDGMENT:
J U D G M E N T

R.V. RAVEENDRAN, J.

An undated letter from the petitioner, received by this Court on 19.11.1998, alleging illegal detention, custodial torture and harassment to family members was registered as a writ petition under Article 32 of the Constitution of India. The State of Haryana and its Director General of Police, were arrayed as respondents 1 and 2 and the six Police Officers referred to in the letter-petition were arrayed as respondent Nos.3 to 8.
PROLOGUE (According to Police)

2. On 10.3.1998, at about 10 a.m. Dharam Singh ASI, Police Post Dhamtan Saheb (Narwana Tehsil, Jind District), along with Police constables (Ramesh Chand, Jaldhir Singh and Baljit Singh), while patrolling near Dhamtan Saheb Bus Stand, received information that one Joginder Singh (son of petitioner) and his associates were conspiring in his house, to apply pressure on some tender-bidders. When the police party proceeded towards Joginder Singh's house, they saw two young men coming from the opposite side, on a motorcycle. On seeing the Police party, the motorcycle suddenly turned back. On suspicion, the Police party gave chase and stopped the motorcycle near a petrol-pump. The ASI asked the motorcyclist and the pillion-rider to identify themselves. The motorcyclist gave his name as Amrik Singh. The pillion-rider gave his name as Joginder Singh, a Palledar at Tohana. When the ASI asked Joginder Singh as to whether he was the same Joginder who had jumped parole in a case, Joginder Singh started running. When the Police party chased him, Joginder Singh turned back, whipped out a pistol and fired at them. Baljit Singh, one of the Constables, was hit and collapsed. In the ensuing confusion, both Amrik Singh and Joginder Singh escaped. The injured Constable succumbed to the bullet injuries. In this connection, FIR No.112 dated 10.3.1998 under Section 302/307/352/186 IPC was registered in P.S., Garhi, against Joginder Singh and Amrik Singh. On receiving information of the death of constable, the SP and the DSP rushed to the hospital and later, went to the Dhamtan Saheb Police Post. In the meantime, the Police party which had gone to the house of Joginder, in search of him, did not find him and brought his father Sube Singh (Petitioner) to the Police Station. According to police, the SDM and the Chairman of Zila Parishad, Jind, were also present at the Police Post at that time. The petitioner denied any knowledge of the whereabouts of his son Joginder. The SP made some enquiries with the petitioner and left. After inquiries, the

petitioner was released.

2.1) The petitioner along with his brother-in-law Rattan Singh filed W.P. (Crl.) No.416/1998 in the Punjab & Haryana High Court on 24.3.1998 alleging harassment, torture and illegal detention for three days (from 10.3.1998 to 13.3.1998) and again for a day (15.3.1998 to 16.3.1998) and prayed for action against the concerned Police Officers and for a judicial enquiry. The High Court by order dated 27.4.1998 disposed of the petition with an observation that petitioners may file a criminal complaint in a competent court.

2.2) The petitioner went underground for a few months. Further enquiries by the police revealed that several cases had been registered against the petitioner and his son Joginder Singh. Joginder was declared as 'proclaimed offender' by order dated 12.6.1998 of S.D.J.M., Narwana. The petitioner published a notice in 'Dainik Tribune' dated 6.8.1998 that he had disowned his son Joginder and was not responsible for his actions.

2.3) The Police continued with their inquiries and in July, 1998, ASI Satya Narayan and other Police Officers of Dhamtan Saheb Police Post again tried to ascertain his whereabouts by making enquiries with the petitioner and his relatives/friends.

The Letter (re : alleged torture and illegal detention)

3. The petitioner sent an undated letter to this Court (received on 19.11.1998) wherein he alleged that ASI Dharam Singh, In-charge of Dhamtan Saheb Police Post, along with some Police Officers, came to his house on 10.3.1998 at about 11 a.m, to enquire about the whereabouts of his son Joginder; and that when he informed them that he was not aware of it, they started beating him. Thereafter, the Police took him, his wife and two minor daughters forcibly to the Police Post, through the bazaar. He was beaten with sticks on the way. When they reached the Police Post, K.P. Singh, Superintendent of Police as also the Deputy Superintendent of Police, Narwana, were present. When ASI Dharam Singh informed them that the persons brought were the father, mother and sisters of Joginder, the S.P. directed that they may be brought to 'correct mental attitude'. The ASI took him inside and beat him for about 10 minutes and brought him back before the SP again. By then, his wife and daughters were made to sit in an uncomfortable posture (as students are made to sit in schools by way of punishment). When the petitioner stated that he was not aware of his son's whereabouts, the S.P. became furious and ordered his men to remove his moustache, whereupon Dharam Singh sat on his chest (with three policemen pressing his hands and feet) and plucked his moustache. Again, they started beating him, searched his pockets and took away Rs.2,350 which he was carrying. Then the police took him back to his house and ransacked the house. ASI Dharam Singh broke open the lock of his trunk and seized his licensed gun, some cartridges and Arms licence, as also some jewellery found in the trunk. Thereafter, the petitioner was taken back to the Police Post. Though his wife and daughters were sent back to the house, he was illegally detained in Police custody for a day and then taken to P.S. Garhi where he was kept for 10 days and during the first 5 days of such detention, he was regularly beaten. Because of such police harassment and torture, when he was released he and his younger son Gurmail Singh fled from his house.

3.1) On 8.7.1998, the petitioner returned to his house. Satya Narayan, ASI, (who had succeeded Dharam Singh) and Munshi (HC) of Dhamtan Police Post, came to his house, with four other

policemen, handcuffed him and took him to the Police Post. He was tortured in the Police Post by the ASI and Head Constable Munshi by thrashing him thrice, each time continuously for 15 minutes. When he requested for water, he was forced to drink hot water with salt. The Munshi, Dhamtan Police Post kept him in a wooden Shikanza for 5 days and he was not allowed to sleep. Then he was taken to Jind. He also alleged that the Police forced him to bring money for the vehicles to conduct raids (to catch his son, Joginder) and he was forced to accompany them on such raids and was put in wooden Shikanza at Tulvan Thana. When he begged that he should be released, he was informed that he was being taken for the raids on the instructions of Ranbir Sharma, S.P., Jind, and that without the permission of the S.P., he could not be released. After three days he was again taken back to Dhamtan Post and kept there for 2 days. Thereafter, he was released with a condition to visit the Police Post everyday in the morning and evening.

3.2) The Petitioner alleged that his friends and relatives who wanted to meet him, when he was being illegally detained, were not permitted to meet him and they were also tortured. He also alleged that Munshi (HC) of Dhamtan Police Post was demanding money from him.

3.3) He alleged that in view of such torture, he was forced to leave his house and remain outside. He prayed for a direction to the Police to stop the atrocities and torture. He sought compensation for himself and his wife and daughters for the social, physical and financial loss, and return of his licensed gun, gold ornaments and other belongings. He also prayed for a thorough inquiry into the atrocities and torture committed by the Police and imposition of punishment to those who were responsible.

3.4) The letter of the petitioner was registered as a writ petition and Rule was issued on 11.1.1999. On 13.9.2000, this Court appointed Mr. S. Muralidhar, Advocate, as Amicus Curiae, to assist the Court.

The alleged Second Round of Harassment :

4. Joginder was arrested in June, 1999 by Punjab Police. Before his arrest, he was allegedly involved in two robberies (registered on 19.3.1999 with PS, City Yamunanagar, and on 21.3.1999 with PS, Indri, Karnal District). On 25.1.2001, when he was being taken to Ferozepur Court from Ambala jail, Joginder escaped from police custody. It is further alleged by the police that on 13.2.2001, Joginder and his associates murdered two residents of Tohana.

4.1) According to Police, on 29.1.2001, the SHO, Police Station, Garhi along with other police officials visited the house of petitioner in search of Joginder who had escaped from custody. Again in February, 2001 after the double murder, the S.I. of Police Station, Tohana along with the ASI in charge of Dhamtan Saheb Police Post, and other Police officials visited petitioner’s house in search of Joginder. In that connection, petitioner and his brother were taken to Police Station Tohana on 14.2.2001 for inquiries and were released on the same day. They were again called for inquiries on the next day. On 22.6.2001, the Officer in Charge of Police Post, Patiala Chowk, Jind, searched the house of Minti Devi (sister of Joginder), to find out whether Joginder was hiding there. On 24.6.2001, petitioner’s younger son Gurmail Singh was arrested for possessing illegal arms.

4.2) The petitioner filed an affidavit dated 22.2.2001 before this Court on 3.3.2001 alleging interrogation by Police on 26.1.2001

and 29.1.2001 in regard to escape of his son Joginder from Police custody. He also alleged that on 14.2.2001 he and his brother Narsi were handcuffed and taken to Tohana Police Station and interrogated and released on 15.2.2001. The S.P. Jind filed a detailed reply affidavit dated 11.8.2001. A further affidavit was filed by the petitioner on 1.10.2001 wherein he alleged that his younger son Gurmail Singh was forcibly taken from his sister's house on 22.6.2001 and tortured. This brought forth a further affidavit dated 20.11.2001 from the S.P., Jind, by way of reply denying the allegations.

PROCEEDINGS IN THIS COURT :

5. Not being satisfied with the reply-affidavit filed on behalf of the State, in regard to the letter-petition, this Court on 9.11.2000 directed the Chief Secretary of the State of Haryana to file a detailed affidavit in regard to the steps taken on the allegations made by the petitioner. In view of it, the State got the matter inquired into by Dr. John V. George, Inspector General of Police, (Law & Order), Haryana. He submitted a report dated 10.3.2001 stating that the allegations of the petitioner relating to police torture, illegal detention, harassment to wife and daughters, and removal of cash/licensed weapon/jewellery were not substantiated. The said report, however, confirmed that petitioner and his brother were called to the Police Station couple of times for interrogation regarding the whereabouts of Joginder. Not being satisfied with the said report, this Court on 17.10.2001 directed the CBI to inquire into the matter with reference to the allegations made in the letter as also the subsequent affidavits filed by the petitioner and his relatives and the reply affidavits filed by the respondents.

5.1) The CBI held a preliminary inquiry and submitted the report of the Inquiry Officer (A.K. Ohri, ASP) under cover of its letter dated 22.7.2002. The findings in the said report are arrived at, on the basis of the allegations made in the affidavits filed before this Court, and the statements made by the petitioner, his family members and others (nearly 100 witnesses) before the Inquiry Officer. The CBI has concluded that some of the allegations of the petitioner were substantiated while several others were not substantiated.

5.2) On 16.9.2002, this Court directed that the State Government to take appropriate action on the report of the CBI. In pursuance of it, an FIR was lodged in Garhi Police Station, Jind District, (FIR No.152 dated 17.10.2002 under Sections 323, 342, 343, 365 and 384 IPC) on the basis of the CBI report, naming the following 10 officers :-

1. ASI Dharam Singh (by then S.I.)
2. ASI Satyanarain 238/Jind
3. HC Om Parkash No.102/Jind (by then ASI)
4. Const. Dilbag Singh, No.59/Jind
5. HC Balbir Singh No.450/Jind
6. Const. Sudarshan Kumar No.811/Jind
7. Const. Mukesh Kumar No.99/Jind
8. Const. Dhoop Singh No.704/Jind
9. Const. Dharam Pal No.4/Jind
10. Const. Mohinder Singh 825/Jind (by then HC)

The Deputy Superintendent of Police, Narwana, filed an affidavit dated 1.11.2002 confirming that FIR was lodged and that he was investigating into the matter.

5.3) On 11.11.2002, this Court noted that the FIR was registered and an appropriate chargesheet would be filed by the State in due course, and that the officers concerned have been

suspended/posted outside the district. This Court also took note of the submission of the amicus curiae that in such cases, apart from CBI inquiry and criminal prosecution, compensation has to be awarded to the victims, and the submission of the State that having regard to the facts of the case and having regard to the registration of the FIR, the matter may have to await the result of the prosecution. While adjourning the case, this Court observed that the question of awarding any compensation at that stage, did not arise.

5.4) The SP, Jind, by affidavit dated 9.6.2003 informed this Court that the charge-sheet was filed in the Court of Ilaka Magistrate, Narwana, and that the case was fixed for 18.7.2003 for framing of charge. Thereafter, when the matter came up on 4.8.2003, the amicus curiae again submitted that compensation should be awarded. This Court directed hearing on the limited question as to whether compensation should be awarded or not. The criminal court was also directed to expedite the trial. The criminal case against the Police officers, we are informed, is under progress.

5.5) Thereafter, arguments on the question as to whether compensation should be awarded or not were heard on 6.10.2005 and written arguments were submitted by the Amicus Curiae and the State on 19.10.2005 and 16.11.2005 respectively.

(Preliminary) Inquiry Report of CBI :

6. The findings contained in the report of CBI are summarized below :-

Allegations by Petitioner (and his relatives)	Finding by C.B.I.
1. Incident on 10.3.1998	
1.1. Petitioner was tortured at Dhamtan Saheb Police Post on 10.3.1998 on the directions of Mr. K. P. Singh, Superintendent of Police, Jind and Mr. Praveen Kumar Mehta, DSP, Jind.	Not substantiated
1.2 On 10.3.1998 Dharam Singh ASI took cash of Rs.2,350/- from the pocket of the petitioner and Rs.4,700/- from the pocket of his friend Narender Singh.	Not substantiated
1.3 Dharam Singh, ASI, took away the licensed gun, cartridges and jewellery from the house of petitioner, on 10.3.1998.	Not substantiated by any independent witness.

1.4 Dharam Singh, ASI, Incharge of Dhamtan Saheb Police Post along with other Police officials picked up the Petitioner and his friend Sardar Narender Singh on 10.3.1998 and took them to the Police Post and beat them on the way.

Substantiated

1.5 Om Prakash (H.C., PS, Garhi) and Dilbag Singh, Sentry, beat petitioner on 11.3.1998. Substantiated (But no injury report or medical report is available.)

2. Illegal detention.

2.1. Petitioner was arrested on 10.3.1998 and taken to Police Station Garhi on 11.3.1998 where he was illegally detained for 10 days and beaten during first 5 days.

Detention of petitioner at P.S. Garhi for some days was substantiated by an oral evidence of accused in an Excise Case (Amarinder Singh).

2.2. Rattan Singh alias Ratna (brother in law of petitioner) was picket up on 10.3.1998 and kept illegally at P.S. Garhi and tortured for 2 days. He was again arrested on 16.3.1998, tortured for 4 days and released on 20.3.1998.

Picking up of Rattan Singh a few days after 10.3.1998 is established. However, alleged torture and wrongful confinement is supported only by his self statement and not by any medical or other evidence.

[Note: However, in the writ petition filed by Rattan Singh and petitioner on 24.3.1998 in the Punjab & Haryana High Court, it is alleged that petitioner and Rattan Singh were kept in illegal confinement from 10.3.1998 to 13.3.1998 and again from 15.3.1998 to 16.3.1998. There is no allegation of any torture at all. They only alleged that they apprehended harassment and torture by Police.)

3. Incidents between 8.7.1998 and 7.11.1998

3.1 Munshi (HC), in-charge of Dhamtan Saheb Police Post handcuffed petitioner and took the petitioner to Police Post on 8.7.1998.

Substantiated

3.2 Satya Narayan, ASI, harassed petitioner between 8.7.1998 and 7.11.1998.

Substantiated

3.3 Satya Narayan, ASI, demanded money from the petitioner and took money from petitioner, for fuel for the vehicle used to conduct raids.

Not Substantiated

3.4 Satya Narayan ASI took 10 kg. of Desi Ghee from petitioner's brother Narsi.

Not Substantiated

3.5 Satya Narayan, ASI, had detained Shamsher Singh in police custody.

Substantiated

3.6 Satya Narayan, ASI, tortured Shamsher Singh and took Rs.500/- to release him.

Not substantiated.

4. Re : Incidents in the year 2001

4.1 SHO, Police Station, Garhi along with other police officials raided the petitioner's house in January, 2001 and intentionally flashed a torch light on the faces of his young daughters.
Not substantiated.
(What is established is that SHO, PS, Garhi raided the petitioner's house on the night of 31.1.01 to check whether Joginder who had escaped from police custody was at the house. A torch light was used as there was no electricity.)

4.2 On 14.2.01, SHO, Police Station City, Tohana along with other police officials had handcuffed the petitioner and his brother Narsi and detained for a day.

Not substantiated.

(However, what is established is that the petitioner and his brother were taken to PS City Tohana on 14.2.01, for inquiries in connection with the report that petitioner's son Joginder Singh and his associates had committed a double murder on 14.2.01. After a few hours of interrogation they were released).

4.3 On 22.6.01, Gurmel Singh, younger son of petitioner was picked up (by Constables Mukesh Kumar and Dhup Singh in a vehicle driven by Constable Dharampal). He was confined at PS City, Jind and tortured.

Substantiated only to the extent that Gurmel Singh was picked up on 22.6.01 by police party and wrongfully confined at PS City, Jind. (In regard to alleged torture, the statement of Gurmel Singh alone is available without corroboration).

4.4 Yad Ram, Inspector, when he was SHO, PS Alewa forcibly picked up one Ramphal on 26.7.01 and harassed him when Ramphal's house was raided on 29.7.01.
Not substantiated.
(What is established is Yad Ram had taken Ramphal on the instructions of ASP, Jind and examined him for an hour).

7. The report further shows that petitioner was involved in several criminal cases from 1972 and his son Joginder was involved in more number of criminal cases from the year 1991, as detailed below :-
Cases in respect of petitioner :

1. FIR No. 275 dt. 13.10.72 u/s 61/1/14 Excise Act P.S. Sadar Kaithal.
2. FIR No.59 dt. 13.2.78 u/s 379 IPC PS Sadar Kaithal.
3. FIR No.231 dt. 22.7.85 u/s 25/54/59 Arms Act P.S. Sadar Kaithal.
4. FIR No.141 dt. 20.7.86 u/s 61/1/14 Excise Act P.S. Sadar Narwana.
5. FIR No.142 dt. 25.4.91 u/s 25/54/59 Arms Act read with section 5 TADA Act P.S. Sadar Kaithal.
6. FIR No.147 dt. 25.4.91 u/s 285/336 I.P.C. P.S. Sadar Kaithal.
7. FIR No.219 dt. 17.7.91 u/s 324/323/506/34 IPC PS Sadar Kaithal.

8. FIR No.367 dt. 23.11.94 u/s 323/324/148/149 IPC PS Garhi.
9. FIR No.277 dt. 25.6.2001 u/s 332/353/225/186/511 IPC PS City, Jind.

(Note: The petitioner was convicted only in the first case. He was acquitted in all other cases.)

Cases in respect of Joginder Singh :

a) FIR No.219 dated 17.7.91 u/s 323/324/506/34 IPC PS Sadar, Kaithal.
b) FIR No.395 dated 5.7.97 u/s 324/34 IPC PS Civil Lines, Hissar.
c) FIR No.242 dated 7.9.96 u/s 307/120-B IPC & 25/54/59 Arms Act, PS City, Tohana.
d) FIR No.245 dated 8.9.96 u/s 25/54/59 Arms Act, PS City, Tohana.
e) FIR No.112 dated 10.3.98 u/s 302/307/353/86/34 IPC & 25/54/59 Arms Act, PS Garhi..
f) FIR No.57 dated 31.3.99 u/s 392/395 IPC & 25/54/59 Arms Act, PS Indri, Karnal.
g) FIR No.99 dated 19.3.99 u/s 393/394/397/307/452 IPC, PS City, Yamunanagar.
h) FIR No.94 dated 21.6.99 u/s 399/401 IPC, 25/54/59 Arms Act, PS Malanwala, Distt. Firozepur, Punjab.
i) FIR No.8 dated 26.1.2001 u/s 223/224 IPC, PS GRP, Ludhiana, Punjab.
j) FIR NO.48 dated 14.2.2001 u/s 302/307/34 IPC and 25/54/59 Arms Act, PS City, Tohana.
k) FIR No.100 dated 16.2.2001 u/s 307/332/353/216 IPC and 25/54/59 Arms Act, PS Sadar, Fatehabad.
l) FIR No.38 dated 21.2.2001 u/s399/307/402 IPC and 25/54/59 Arms Act, PS City, Narwana.
m) FIR No.29 dated 16.3.2001 u/s 307, 120-B IPC and 25/54/59 Arms Act, PS City, Firozepur, Punjab.
n) FIR NO.149 dated 23.8.2001 u/s 25/54/59 Arms Act, PS Sadar, Kapurthala, Punjab.

(Note : Joginder was convicted in regard to FIR 242/1996 and FIR No.245/1996. Sl. No. (c) and (d) above on 31.1.2002 and sentenced to undergo RI for six years and two years respectively)

Position emerging from the records/CBI Report/arguments:

8. A careful examination of the facts, lead to the following inferences :

i) All allegations (relating to petitioner and his family members being taken to Police Stations/Police Posts and being questioned/beaten up/tortured) are in connection with the effort of Police to find the whereabouts of Joginder Singh, whenever he was involved in a serious incident, that is (a) incident on 10.3.1998 when Joginder was suspected of killing a Police constable, (b) incident on 25.1.2001 when Joginder escaped from Police

custody when he was being taken to court, and (c) incident on 13/14.2.2001 when Joginder was suspected of killing two persons at Tohana.

ii) Though there is some evidence of illegal detention and beating of petitioner and his relatives, the allegations of custodial torture are exaggerated and to a certain extent false.

iii) There is no medical evidence nor any visible scars/ marks/disability resulting from the alleged torture, either in the case of petitioner or his family members/relatives.

iv) The complaints of petitioner and his relatives are against different police officers of different police stations (totally unconnected with each other) in regard to incidents at different points of time, in March, 1998, April, 1998, July, 1998, January, 2001, February, 2001 and June, 2001.

v) The case of Petitioner is that he and/or his relatives were harassed, illegally confined, or tortured, to find out the whereabouts of Joginder. The police contend that the allegations by petitioner and his relatives, are by way of a well conceived plot to prevent police investigation in regard to misdeeds by Joginder and his associates and to pre-empt any action by the police against Joginder or his family members.

9. We will next refer to the factors which indicate that petitioner and his relatives have made false and exaggerated claims in regard to illegal detention, torture etc., apart from suppressing material facts.

9.1) In his letter to this Court, petitioner has alleged that he was illegally confined by the Police for 11 days from 10.3.1998 (one day at Dhamtan Saheb Police Post and 10 days at Police Station, Garhi). Rattan Singh (brother in law of petitioner) in his affidavit dated 13.5.1999 alleges that he was illegally detained for 2 days and again for 4 days. But in the writ petition filed by petitioner and Rattan Singh in the Punjab and Haryana High Court on 24.3.1998, it is alleged that the petitioner and Rattan Singh were confined by Police between 10.3.1998 and 13.3.1998 (three days) and again for a day between 15.3.1998 and 16.3.1998.

9.2) Petitioner, in the letter to this Court, alleges beating and torture at Dhamtan Saheb Police Post on 10.3.1998 and at Police Station, Garhi for five days in Police custody between 11.3.1998 and 16.3.1998. Rattan Singh alleges torture for 2 days (from 10.3.1998 to 12.3.1998) and again for four days (from 16.3.1998 to 20.3.1998). But in the writ petition filed in Punjab & Haryana High Court on 24.3.1998 by petitioner and Rattan Singh, there is no allegation of beating or torture, but only expression of an apprehension that they may be arrested, harassed and tortured (Note : Petitioner blames his counsel for not mentioning the facts properly in the writ petition filed before the High Court).

9.3) In the letter petition, petitioner completely suppressed the fact that he (along with Rattan Singh) had filed a writ petition on 24.3.1998 in the Punjab & Haryana High Court in regard to the said incident (between 10.3.1998 to 21.3.1998) and the fact that the said writ petition was disposed of on 27.4.1998 by the High Court reserving liberty to file a criminal complaint.

9.4) In the letter petition, the petitioner has alleged four 'misdeeds' of police on 10.3.1998 : (a) His torture at the police post at the Dhamtan Saheb Police Post by Dharam Singh, ASI at the instance of Superintendent of Police and DSP, (b) Mistreatment of wife and daughters of the petitioner at the Dhamtan Saheb Police Post, (c) Rs.2,350/- being taken from his pocket by ASI Dharam Singh, and (d) Licensed gun, cartridges, arms licence and gold ornaments being illegally taken by ASI Dharam Singh on 10.3.1998. The CBI report finds that none of these four allegations is substantiated.

9.5) In the letter petition, the petitioner alleged that he had told police that he was not on good terms with his son Joginder Singh, that he had already disowned him and the family was having no connection with Joginder. He even published a notice in 'Dainik Tribune' in August, 1998 stating that he has no connection with his son Joginder. In his affidavit dated 31.8.2001 (filed in this case on 1.10.2001), petitioner reiterates that he has disowned his son Joginder and alleges that he did not have any contact with him; and that in spite of it, the police were continuously harassing him and his family members seeking information about the whereabouts of Joginder and raiding his house and his relatives' houses to find out whether Joginder was hiding there. But the CBI inquiry has categorically found that petitioner and his family members had not disowned Joginder. They were regularly meeting Joginder when he was in custody. Petitioner was traveling to meet his son Joginder whenever he was being produced in courts, in respect of different cases. In fact petitioner received money from the All India Food & Allied Workers Palledar Union, Tohana (Kacchi Union) of which he was a member, to meet the expenses of the travel (to meet his son) on 25.10.2000, 25.11.2000, 21.12.2000, 13.1.2001, 16.1.2001, 23.1.2001, 9.10.2001, 10.10.2001, 11.10.2001, 15.10.2001, 25.10.2001, 7.11.2001, 17.11.2001 and 20.11.2001. Further, the jail records showed that Joginder was met by petitioner's wife on 26.8.1999, petitioner's brother Narsi on 17.11.1999, 18.11.1999 and 1.3.2002, petitioner's uncle Rama on 20.11.1999, and petitioner's brother-in-law Rattan Singh on 5.3.2002.

10. There was thus reasonable cause for the Police to think that the family members of Joginder might know about his whereabouts. The repeated questioning of the family members of Joginder in the year 1998 and 2001, either at their houses or by calling them to the Police Station/Post was part of investigation process and cannot, per se, be considered as harassment or violation of Article 21. Whether the police exceeded their limits in questioning the petitioner or his relatives is of course a different aspect. The report of the CBI shows that there is prima facie evidence about petitioner and some of his relatives being illegally detained in Police Station/Post and subjected possibly to some third degree methods, to extract information regarding the whereabouts of Joginder Singh. At the same time, the report makes it clear that neither the illegal detention nor the alleged torture (if true) was of an extent, alleged by the petitioner and his relatives. The claims were clearly exaggerated and many a time false also. It is quite probable that the allegations against Police were levelled and/or exaggerated to avoid enquiries by the Police in regard to Joginder.

11. This leads us to the question whether, in addition to directing CBI inquiry and prosecution of the officers concerned, on the facts and circumstances of this case, compensation should be awarded to petitioner and his family members, as a public law remedy for the violation of their fundamental rights under Article 21 of the Constitution.

Compensation as a public law remedy :

12. Though illegal detention and custodial torture were recognized as violations of the fundamental rights of life and liberty guaranteed under Article 21, to begin with, only the following reliefs were being granted in writ petitions under Article 32 or 226 :

a) direction to set at liberty the person detained, if the complaint was one of illegal detention.

b) direction to the concerned Government to hold an inquiry and take action against the officers responsible for the violation.

c) If the enquiry or action taken by the concerned department was found to be not satisfactory, to direct an inquiry by an independent agency, usually the Central Bureau of Investigation.

Award of compensation as a public law remedy for violation of the fundamental rights enshrined in Article 21 of the Constitution, in addition to the private law remedy under the Law of Torts, was evolved in the last two and half decades.

13. In the Bhagalpur Blinding case, [Khatri (II) vs State of Bihar \026 1981 (1) SCC 627], Bhagwati J., (as he then was), speaking for the Bench, posed the following question while considering the relief that could be given by a court for violation of constitutional rights guaranteed in Article 21 of the Constitution :-

"... but if life or personal liberty is violated otherwise than in accordance with such procedure, is the Court helpless to grant relief to the person who has suffered such deprivation? Why should the court not be prepared to forge new tools and devise new remedies for the purpose of vindicating the most precious of the precious fundamental right to life and personal liberty."

The question was expanded in a subsequent order in Bhagalpur Blinding case [Khatri (IV) vs State of Bihar \026 1981 (2) SCC 493), thus :-
"If an officer of the State acting in his official capacity threatens to deprive a person of his life or personal liberty without the authority of law, can such person not approach the court for injuncting the State from acting through such officer in violation of his fundamental right under Article 21 ? Can the State urge in defence in such a case that it is not infringing the fundamental right of the petitioner under Article 21, because the officer who is threatening to do so is acting outside the law and therefore beyond the scope of his authority and hence the State is not responsible for his action ? Would this not make a mockery of Article 21 and reduce it to nullity, a mere rope of sand, for, on this view, if the officer is acting according to law there would ex concessionis be no breach of Article 21 and if he is acting without the authority of law, the State would be able to contend that it is not responsible for his action and therefore there is no violation of Article 21. So also if there is any threatened invasion by the State of the fundamental right guaranteed under Article 21, the petitioner who is aggrieved can move the court under Article 32 for a writ injuncting such threatened invasion and if there is any continuing action of the State which is violative of the

fundamental right under Article 21, the petitioner can approach the court under Article 32and ask for a writ striking down the continuance of such action, but where the action taken by the State has already resulted in breach of the fundamental right under Article 21 by deprivation of some limb of the petitioner, would the petitioner have no remedy under Article 32 for breach of the fundamental right guaranteed to him ? Would the court permit itself to become helpless spectator of the violation of the fundamental right of the petitioner by the State and tell the petitioner that though the Constitution has guaranteed the fundamental right to him and has also given him the fundamental right of moving the court for enforcement of his fundamental right, the court cannot give him any relief."

Answering the said questions, it was held that when a court trying the writ petition proceeds to inquire into the violation of any right to life or personal liberty, while in police custody, it does so, not for the purpose of adjudicating upon the guilt of any particular officer with a view to punishing him but for the purpose of deciding whether the fundamental right of the petitioners under Article 21 has been violated and the State is liable to pay compensation to them for such violation. This Court clarified that the nature and object of the inquiry is altogether different from that in a criminal case and any decision arrived at in the writ petition on this issue cannot have any relevance much less any binding effect, in any criminal proceeding which may be taken against a particular police officer. This Court further clarified that in a given case, if the investigation is still proceeding, the Court may even defer the inquiry before it until the investigation is completed or if the Court considered it necessary in the interests of Justice, it may postpone its inquiry until after the prosecution was terminated, but that is a matter entirely for the exercise of the discretion of the Court and there is no bar precluding the Court from proceeding with the inquiry before it, even if the investigation or prosecution is pending.

14. In Rudul Sah vs. State of Bihar [1983 (4) SCC 141], the petitioner therein approached this Court under Article 32 of the Constitution alleging that though he was acquitted by the Sessions Court on 3.6.1968, he was released from jail only on 6.10.1982, after 14 years, and sought compensation for his illegal detention. This Court while recognizing that Article 32 cannot be used as a substitute for the enforcement of rights and obligations which can be enforced efficaciously through the ordinary processes of courts, civil and criminal, raised for consideration the important question as to whether in the exercise of its jurisdiction under Article 32, this Court can pass an order for payment of money, as compensation for the deprivation of a fundamental right. This Court answered the question thus while awarding compensation:-

"Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilisation is not to perish in this

country as it has perished in some others too well-known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

Rudul Sah was followed in Bhim Singh vs. State of J&K [1985 (4) SCC 677] and Peoples' Union for Democratic Rights vs. Police Commissioner, Delhi Police Headquarters [1989 (4) SCC 730].

15. The law was crystallized in Nilabati Behera vs. State of Orissa [1993 (2) SCC 746]. In that case, the deceased was arrested by the police, handcuffed and kept in a police custody. The next day, his dead-body was found on a railway track. This Court awarded compensation to the mother of the deceased. J.S. Verma J., (as he then was) spelt out the following principles :-

"Award of compensation in a proceeding under Article 32 by this Court or by the High Court under Article 226 of the Constitution is a remedy available in public law, based on strict liability for contravention of fundamental rights to which the principle of sovereign immunity does not apply, even though it may be available as a defence in private law in an action based on tort.

Enforcement of the constitutional right and grant of redress embraces award of compensation as part of the legal consequences of its contravention.

A claim in public law for compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is 'distinct from, and in addition to, the remedy in private law for damages for the tort' resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable, and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution by recourse to Articles 32 and 226 of the Constitution."

[Emphasis supplied]

Dr. A.S. Anand J., (as he then was) in his concurring judgment elaborated the principle thus :-

"... Convicts, prisoners or under-trials are not denuded of their fundamental rights under Article 21 and it is only such restrictions, as are permitted by law, which can be imposed on the enjoyment of the fundamental rights by such persons. It is an obligation of the State to ensure that

there is no infringement of the indefeasible rights of a citizen to life, except in accordance with law, while the citizen is in its custody.

The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by the Supreme Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting 'compensation' in proceedings under Article 32 or 226 seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalizing the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law. "

16. In D. K. Basu v. State of West Bengal (1997 (1) SCC 416), this Court again considered exhaustively the question and held that monetary compensation should be awarded for established infringement of fundamental rights guaranteed under Article 21. This Court held :-

"Custodial violence, including torture and death in the lock ups strikes a blow at the Rule of Law, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law. Custodial violence is a matter of concern. It is aggravated by the fact that it is committed by persons who are supposed to be the protectors of the citizens. It is committed under the shield of uniform and authority in the four walls of a police station or lock-up, the victim being totally helpless. The protection of an individual from torture and abuse by the police and other law enforcing officers is a matter of deep concern in a free society.

Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. If the functionaries of the Government become law-breakers, it is bound to breed contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchy. No civilized nation can

permit that to happen. Does a citizen shed off his fundamental right to life, the moment a policeman arrests him ? Can the right to life of a citizen be put in abeyance on his arrest. ... The answer, indeed, has to be an emphatic 'No'.

Police is, no doubt, under a legal duty and has legitimate right to arrest a criminal and to interrogate him during the investigation of an offence but it must be remembered that the law does not permit use of third degree methods or torture of accused in custody during interrogation and investigation with a view to solve the crime. End cannot justify the means. The interrogation and investigation into a crime should be in true sense purposeful to make the investigation effective. By torturing a person and using third degree methods, the police would be accomplishing behind the closed doors what the demands of our legal order forbid. No society can permit it."

17. It is thus now well settled that 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 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.

18. This takes us to the next question as to whether compensation should be awarded under Article 32/226, for every violation of Article 21 where illegal detention or custodial violence is alleged.

Whether compensation should be awarded for every violation of Article 21

19. 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 :-
"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)

In Nilabati Behera (supra), this Court put in a word of caution thus:-

"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)

In D. K. Basu (supra), this Court repeatedly stressed that compensation can be awarded only for redressal of an established violation of Article 21. This Court also drew attention to the following aspect :

"There is one other aspect also which needs our consideration. We are conscious of the fact that the police in India have to perform a difficult and delicate task, particularly in view of the deteriorating law and order situation, communal riots, political turmoil, student unrest, terrorist activities, and among others the increasing number of underworld and armed gangs and criminals. Many hard core criminals like extremists, the terrorists, drug peddlers, smugglers who have organized, gangs, have taken strong roots in the society. It is being said in certain quarters that with more and more liberalization and enforcement of fundamental rights, it would lead to difficulties in the detection of crimes committed by such categories of hardened criminals by soft peddling interrogation, it is felt in those quarters that if we lay too much of emphasis on protection of their fundamental rights and human rights, such criminals may go scot-free without exposing any element or iota of criminality with the result, the crime would go unpunished and in the ultimate analysis the society would suffer. The concern is genuine and the problem is real. To deal with such a situation, a balanced approach is needed to meet the ends of justice. This is all the more so, in view of the expectation of the society that police must deal with the criminals in an efficient and effective manner and

bring to book those who are involved in the crime. The cure cannot, however, be worst than the disease itself."

[Emphasis supplied]

In Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble [2003 (7) SCC 749] and Munshi Singh Gautam v. State of M.P. [2005 (9) SCC 631], this Court warned against non-genuine claims:

"But at the same time there seems to be a disturbing trend of increase in cases where false accusations of custodial torture are made, trying to take advantage of the serious concern shown and the stern attitude reflected by the courts while dealing with custodial violence. It needs to be carefully examined whether the allegations of custodial violence are genuine or are sham attempts to gain undeserved benefit masquerading as victims of custodial violence."

In Dhananjay Sharma vs. State of Haryana [1995 (3) SCC 757], this Court refused compensation where the petitioner had exaggerated the incident and had indulged in falsehood. This Court held :

"Since, from the report of the CBI and our own independent appraisal of the evidence recorded by the CBI. we have come to the conclusion that Shri Dhananjay Sharma and Sushil Kumar had been illegally detained by respondents 3 to 5 from the afternoon of 15.1.94 to 17.1.94, the State must be held responsible for the unlawful acts of its officers and it must repair the damage done to the citizens by its officers for violating their indivisible fundamental right of personal liberty without any authority of law in an absolutely high-handed manner. We would have been, therefore, inclined to direct the State Government of Haryana to compensate Dhananjay Sharma and Sushil Kumar but since Sushil Kumar has indulged in false-hood in this Court and Shri Dhananjay Sharma, has also exaggerated the incident by stating that on 15.1.94 when he was way laid along with Sushil Kumar and Shri S.C. Puri, Advocate, two employees of respondents 6 and 7 were also present with the police party, which version has not been found to be correct by the CBI, they both have disentitled themselves from receiving any compensation, as monetary amends for the wrong done by respondents 3 to 5, in detaining them. We, therefore do not direct the payment of any compensation to them."

[Emphasis supplied]

20. Cases where violation of Article 21 involving custodial death or torture is established or is incontrovertible stand on a different footing when compared to cases where such violation is doubtful or not established. Where there is no independent evidence of custodial torture and where there is neither medical evidence about any injury or disability, resulting from custodial torture, nor any mark/scar, it may not be prudent to accept claims of human right violation, by persons having criminal records in a routine manner for awarding compensation. That may open the floodgates for false claims, either to mulct money

from the State or as to prevent or thwart further investigation. Courts should, therefore, while jealously protecting the fundamental rights of those who are illegally detained or subjected to custodial violence, should also stand guard against false, motivated and frivolous claims in the interests of the society and to enable Police to discharge their duties fearlessly and effectively. While custodial torture is not infrequent, it should be borne in mind that every arrest and detention does not lead to custodial torture.

21. 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.

22. We should not, however, be understood as holding that harassment and custodial violence is not serious or worthy of consideration, where there is no medical report or visible marks or independent evidence. We are conscious of the fact that harassment or custodial violence cannot always be supported by a medical report or independent evidence or proved by marks or scars. Every illegal detention irrespective of its duration, and every custodial violence, irrespective of its degree or magnitude, is outright condemnable and per se actionable. Remedy for such violation is available in civil law and criminal law. The public law remedy is additionally available where the conditions mentioned in the earlier para are satisfied. We may also note that this Court has softened the degree of proof required in criminal prosecution relating to such matters. In State of MP vs. Shyamsunder Trivedi - 1995 (4) SCC 262, reiterated in ABDUL GAFAR KHAN and MUNSHI SINGH GAUTAM (supra),this Court observed :-

"Rerely in cases of police torture or custodial death, direct ocular evidence of the complicity of the police personnel would be available..... Bound as they are by the ties of brotherhood, it is not unknown that the police personnel prefer to remain silent and more often than not even pervert the truth to save their colleagues..... The exaggerated adherence to and insistence upon the establishment of proof beyond every reasonable doubt, by the prosecution, ignoring the ground realities, the fact-situations and the peculiar circumstances of a given case....., often results in miscarriage of justice and makes the justice delivery system a suspect. In the ultimate analysis the society suffers and a criminal gets encouraged. Tortures in police custody, which of late are on the increase, receive encouragement by this type of an unrealistic approach of the Courts because it reinforces the belief in the mind of the police that no harm would come to them, if an odd prisoner dies in the lock-up, because there would hardly be any evidence available to the prosecution to

directly implicate them with the torture."

Improving the present situation

23. Unfortunately, police in the country have given room for an impression in the minds of public, that whenever there is a crime, investigation usually means rounding up all persons concerned (say all servants in the event of a theft in the employer's house, or all acquaintances of the deceased, in the event of a murder) and subjecting them to third-degree interrogation in the hope that someone will spill the beans. This impression may not be correct, but instances are not wanting where police have resorted to such a practice. Lack of training in scientific investigative methods, lack of modern equipment, lack of adequate personnel, and lack of a mindset respecting human rights, are generally the reasons for such illegal action. One other main reason is that the public (and men in power) expect results from police in too short a span of time, forgetting that methodical and scientific investigation is a time consuming and lengthy process. Police are branded as inefficient even when there is a short delay in catching the culprits in serious crimes. The expectation of quick results in high-profile or heinous crimes builds enormous pressure on the police to somehow 'catch' the 'offender'. The need to have quick results tempts them to resort to third degree methods. They also tend to arrest "someone" in a hurry on the basis of incomplete investigation, just to ease the pressure. Time has come for an attitudinal change not only in the minds of the police, but also on the part of the public. Difficulties in criminal investigation and the time required for such investigation should be recognized, and police should be allowed to function methodically without interferences or unnecessary pressures. If police are to perform better, the public should support them, government should strengthen and equip them, and men in power should not interfere or belittle them. The three wings of the Government should encourage, insist and ensure thorough scientific investigation under proper legal procedures, followed by prompt and efficient prosecution. Be that as it may.

24. Custodial violence requires to be tackled from two ends, that is, by taking measures that are remedial and preventive. Award of compensation is one of the remedial measures after the event. Effort should be made to remove the very causes, which lead to custodial violence, so as to prevent such occurances. Following steps, if taken, may prove to be effective preventive measures:

a) Police training should be re-oriented, to bring in a change in the mindset and attitude of the Police personnel in regard to investigations, so that they will recognize and respect human rights, and adopt thorough and scientific investigation methods.

b) The functioning of lower level Police Officers should be continuously monitored and supervised by their superiors to prevent custodial violence and adherence to lawful standard methods of investigation.

c) Compliance with the eleven requirements enumerated in D.K. Basu (supra) should be ensured in all cases of arrest and detention.

d) Simple and fool-proof procedures should be introduced for prompt registration of first

information reports relating to all crimes.

e) Computerization, video-recording, and modern methods of records maintenance should be introduced to avoid manipulations, insertions, substitutions and ante-dating in regard to FIRs, Mahazars, inquest proceedings, Port-mortem Reports and Statements of witnesses etc. and to bring in transparency in action.

f) An independent investigating agency (preferably the respective Human Rights Commissions or CBI) may be entrusted with adequate power, to investigate complaints of custodial violence against Police personnel and take stern and speedy action followed by prosecution, wherever necessary.

The endeavour should be to achieve a balanced level of functioning, where police respect human rights, adhere to law, and take confidence building measures (CBMs), and at the same time, firmly deal with organized crime, terrorism, white-collared crime, deteriorating law and order situation etc.

CONCLUSION :

25. In this case, there is no clear or incontrovertible evidence about custodial torture, nor any medical report of any injury or disability. The grievance of the petitioner and his relatives is against different officers in different Police Stations at different points of time. More importantly, several of the allegations are proved to be exaggerated and false. We, therefore, do not consider this to be a fit case for award of compensation. All reliefs which should be granted in such a case, have already been granted by ordering an inquiry by the CBI and ensuring that the Police Officers named are prosecuted. The law will have to take own course.

26. This order will not come in the way of any civil court awarding compensation in an action in tort or the criminal court awarding compensation under section 357 CPC in the pending prosecution against any of the officers, if the charges are established. With the said observations, we dispose of this petition, as no further reliefs/directions are called for.

27. We record our appreciation for the effort put in by Shri S. Muralidhar, Amicus Curiae, in presenting the matter.