

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 3

2024

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Role of Indian Judiciary in Granting Protection Against Custodial Violence: A Legal Analysis

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ABSTRACT

The custodial violence is a serious human right violation practiced by the law enforcement authorities but judiciary acts as a guardian of the Constitution and interprets the law in a manner that upholds fundamental rights and freedoms. It has the power to review and strike down laws or practices that infringe upon these rights, including acts of custodial violence. By holding state authorities accountable for their actions and ensuring compliance with international human rights standards, the judiciary acts as a bulwark against abuses of power. Despite the fact that there are many safeguards in international and local laws, high number of infractions that go unpunished, there are still grave instances of custodial violence takes place in the society. This study analyses the role of Indian judiciary in granting protection against the custodial violence.

Keywords: Custodial Violence, Judiciary.

I. INTRODUCTION

Custodial violence is one of the worst crimes in a civilized society governed by the Rule of Law". Custodial torture is a gross violation of human dignity. That it is conducted and perpetrated mostly by the law enforcing authorities, makes it even more shameful for society. The judiciary is crucial in defending both the people's fundamental rights and their human rights. While the executive and legislature occasionally fall short in addressing the issue of custodial torture in certain cases, in such cases the judiciary plays a role of savior to address the issue, it is imperative that everyone be extremely vigilant against any kind of atrocities, cruel treatment, or violence inflicted upon the victim of torture. The Indian judiciary has consistently acted prudently, pro-actively, promptly, and fairly by deciding the matter relating to human rights violations in detention.

Human rights have consistently been violated while a person is in police custody. The Code of Criminal Procedure grants broad arrest authority. There are numerous examples when the abuse of police authority led to murder, rape, and torture while the suspect was in custody. The

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accused are protected from unlawful arrest and detention by Article 21 of the Constitution. The Indian Supreme Court upholds the protection of constitutional provisions and noted the distinctiveness of our Constitution. It expresses specific human values, values morality and spirituality, and upholds human dignity. It is not just another dry legal document.

The constitution's focal point is the individual and all of that person's development, moral, is what its many provisions are primarily concerned with. He is not regarded as a component; instead the emphasis is on the growth of the person's complete personality. All of these protections guarantee the respect for human rights and the power of the law². Since the police are the ones who torture people, the Supreme Court has issued several instructions in various case laws to safeguard the public from unjust arrests and torture. The judiciary plays a vital role in giving wider interpretation of Article 21 to give various protections to the arrested persons in India.

II. JUDICIARY ON HARASSMENT AND ILL TREATMENT IN CUSTODY

Article 21 of the Indian Constitution guarantees a person's protection against torture and other forms of ill-treatment while they are incarcerated. In cases of violence and restrictions on their rights, the court may step in. Any penalty that is too harsh or involves torture is unlawful. Article 21 of the constitution forbids torture and other cruel, inhuman, or degrading treatment, unless it is carried out in accordance with legal procedure. However, no law that authorizes such torture and no legal procedure that results in such cruel, inhuman, or degrading treatment will ever pass the test of reasonableness and arbitrariness:

In *Sunil Batra v. Delhi Administration*³, The petitioner in question, Sunil Batra, was a death row prisoner at the Tihar Central Jail. He sent a letter to a Supreme Court judge expressing his dissatisfaction with the jail's appalling living conditions and questionable treatment of inmates. He also complained in his letter about how Prem Chand, another prisoner, had been brutally attacked and tortured by Chief Warden Maggar Singh in order to get money from the victim's visiting relatives. This letter was turned into a habeas corpus case by the Supreme Court, who then categorized it as a public interest lawsuit in accordance with Article 32 of the Constitution. The state and the appropriate officials were subsequently given notice by the court. Additionally, it designated Dr. Y.S. Chital and Shri Mukul Mudgal as amicus curiae and granted them permission to visit the prison, meet the prisoner, review the required paperwork, and speak with the required witnesses in order to make sure they were as well-informed about the pertinent

²A. K. Roy v. Union of India, AIR 1982 SC 1325

³ AIR 1978 SC 1575.

facts, circumstances, and timeline of events pertaining to the case as possible. The amicus curiae reported and confirmed that the prisoner had sustained serious anal injuries after visiting the jail and questioning the witnesses. They said that while the prisoner was being tortured, a rod was forced into his anus.

*In Raghbir Singh v. State of Haryana*⁴, when the petitioner (sub-inspector) in this case arrested the suspect in a theft, he or she was severely beaten and died while in police custody. According to the results of the medical examination, the death was caused by asphyxiation. His argument that the suspect committed suicide was rejected by both the session court and the high court. Sub-inspector was accused of life in jail. Justice Krishna Iyer rejected his plea. The court said that a scar left behind by police torture exposes the dishonourable behaviour of the society's watchdog. It violates human rights and puts a person's life and freedom at peril. According to the Supreme Court, police abuse of suspects leaves them with terrible mental scars.

III. JUDICIAL VERDICT ON TREATMENT OF WOMEN IN CUSTODY

In our culture, women are the most vulnerable category. In the event that they end themselves in police custody, they require particular attention and security. In police detention, women often experience rape and sexual harassment. Following the Mathura rape case⁵, in which a girl was assaulted at a police station by two constables, the issue of the safety of women in custody by the police was raised. As suggested by the committee on women's empowerment in 2002–2003, it is necessary to make the jail environment safe for women.

In *Sheela Barse v. state of Maharashtra*⁶, Sheela Barse wrote the Supreme Court a letter that eventually became a writ petition. She is a journalist, and on one of her visits to interview 15 women, four of them confided in her that the police had tortured and attacked them. The court ordered the Maharashtra police prison superintendent to respond to the petition, and at the same time, the court ordered Dr. (Mis) A. R. Deasi to visit the Bombay jail and speak with the inmates. Following the women's interviews, it was discovered that this was a typical prison procedure. Follow these guidelines to change the Supreme Court:

- Only female officers should conduct interrogations of female suspects, and only female officers should guard the location where they are being detained.
- The suspect must disclose the circumstances surrounding her arrest and the location in which she is being held. She also has the right to inform any member of her family or friend of her arrest.

⁴ AIR 1980 SC 1088.

⁵(1979) 2 SCC 143.

⁶AIR 1983 SC 378.

- A surprise visit to the jail must be conducted in order to provide the person who was detained the chance to air their concerns and learn about the conditions of the police jails. If the arrest of a woman was made out to be intimidating, the nearest legal aid committee must be notified.
- The magistrate must confirm if she has made any complaints about being tortured or mistreated while in police custody.

In *Mehboob Batcha and Others v. State Rep. by Superintendent of Police*⁷ In one instance, the police detained a single guy on suspicion of stealing for three days while mercilessly beating him, which led to the victim's death. His wife Padmini was summoned to the police station where she was sexually assaulted by officers. The Padmini's medical report reveals that she had nail starch scars on her breast, and a chemical examination of her vaginal swab revealed a significant amount of pus cells and epithelial cells.

The court noted that crimes against women are social crimes that stigmatize the whole society. In this situation, the victim was dealt with quite brutally by the police, and the accuser should not be shown any leniency.

In *Bhagwan Singh v. state of Punjab*⁸, In order to bring the deceased mind derogation in the case of the Marcolie drug smuggler, the appellant and the other three constables proceeded to a hotel in Amritsar. They thrashed the man till he was dead and then held him captive for two days while his body was locked. Four of them were found guilty by a trio of courts, and when they appealed, the High Court imposed an ASI of two years of hard labor and Rs.2000 fine for murdering the individual in jail. When they took the corpse to the police station, one of the officers who was being harassed outside the hotel was released, and the other two were found guilty of the same crime. Supreme Court dismissed their appeal and agreed with the decision of Punjab and Haryana High court.

In *Munshi Singh Gautam & others v. State of Madhya Pradesh*⁹, Shambu Tyegi, the deceased, was carried to the police station where he was severely assaulted by the officers and later died. In order to avoid being accused of custodial death, the officers then dumped his lifeless corpse in the Nala. When a witness called the police to report a dead corpse, officers responded and wrote a report stating that the death was caused by the person's extreme intoxication. It was extremely difficult to crack the case since there was no proof against the cops. The

⁷ (2011) 3 SCC 1091.

⁸ AIR 1992 SCC 249

⁹ AIR 2005 SC 631

Superintendent requested that CID look into it in a letter to the magistrate. Following the inquiry,

They appealed to the top court, but it was denied when it was noted that a death in custody is a clear indicator of police brutality. The appeal of the appellant was dismissed by the Supreme Court. According to the 135th law commission report, section 114(6) of the Indian Evidence Act of 1872 should be added so that any injuries incurred while under police custody will be presumed to have occurred at that time. Only the cops could be responsible for that. This action will not only reduce crime but also ensure that such offenses receive just compensation

In *J. Prabhavathiamma v. The State of Kerala & Others*¹⁰, The two serving police personnel were awarded the death sentence by a CBI court, after hearing the case for over a decade, in Thiruvananthapuram, over the death of a scrap metal shop worker ho the court believes was murdered in custody. While sentencing the to, Judge J Nazar had said: “This is a brutal and dastardly murder by accused no. 1 and 2 The acts of the accused persons would definitely adversely affect the very institution of the police department If the faith of the people in the institution is lost that ill affect the public order and law and order, and it is a dangerous situation.

IV. CUSTODIAL VIOLENCE AGAINST JUVENILE

Even though the Juvenile Justice (Care and Protection) Act, 2000 was a step in the right direction for protecting adolescents who are in the custody of the police or an investigator, it did not include any provisions for ensuring the insurance of young offenders. A youngster who is locked up in prison must be put in a rehabilitation facility where he may reform on his own; otherwise, he must be held among adults in jails, which could result in sexual and other forms of exploitation.

In *Sheela Barse v. Union of India and Others*¹¹ the Supreme Court ruled that the state must:

- Make sure that kids aren't abused in jails.
- Children under the age of 16 are not housed in jail. Juvenile court, not the regular criminal court, must consider cases involving minors.
- Make sure that if a crime carries a sentence of more than seven years in jail, cases must be resolved within three months.
- They must not be subjected to such abuse since it would hurt both the children and

¹⁰ 2007 (4) KLT 601

¹¹ AIR1986 SC 1773

society as a whole.

In *Sunjay Suri v. Delhi Administration*¹², Court held that, it must be ensure by Every magistrate while authorizing the warrant for detention of prisoners, it must specifies the age of the person to be detained.

(A) Rights against solitary confinement

When a person is sent to jail he loses all his contacts with the outside world. The question whether he could further be isolated from his fellow prisoners by putting him into a separate and solitary cell came up before the Supreme Court in *Sunil Batra v Delhi Administration*¹³, where solitary confinement was challenged as violative, inter alia, of Article 21 of the Constitution of India. The Supreme Court strongly condemned the solitary confinement and held as violative of the right to personal liberty. The constitutional validity of the solitary confinement prescribed in section 30(2) of the 1894 prison law and was taken into consideration: section 30 (2) of the law states that the detainee in isolation is sentenced to death, while section 56 of this law allows the use of chains for the safe custody of prisoners. The Supreme Court considered that Constitution did not escort the prisoner to the gates and the judicial surveillance continues to protect fundamental rights. The fiduciary administration in the hands of the superintendent is not imprisonment in the true sense. In *Kishore Singh v. State of Rajasthan*¹⁴ it was stated by Justice V.R. Krishna Iyer that solitary confinement has to be resorted to only in the rarest of rare cases for security reasons to make it in consonance with article 21 of the constitution. The Supreme Court stated that the solitary confinement is violation of life

Bail plays a critical role in preserving an individual's personal freedom by ensuring that they have a chance to prove their innocence before being found guilty. Bail is a security measure that ensures a person will be released from custody while they are awaiting trial or an appeal by securing his accommodation submission to the appropriate authorities at the appropriate time. The requirements for the issuance of bail and bonds in criminal proceedings are outlined in Sections 436 to 450 of the Criminal Procedure Code. The amount of security that will be provided to ensure his release has not been specified in the Cr.P.C. fence, and the court may decide to set a cap on the bond's value.

In *Moti Ram vs. State of Andhra Pradesh*¹⁵, Supreme Court observed that right to get bail should

¹² AIR 1988 SC 414

¹³ AIR 1978 SC 1675:

¹⁴ AIR 1981 SC 625

¹⁵ AIR 1978 SC 1594

not be denied indigent. In Common cause's registered society vs union of India¹⁶. The Supreme Court treated the long pendency of cases and following imprisonment itself an engine of oppression and issued several directions for release on bail the diverse categories of under trials. In *Sheela Barse vs. State of Maharashtra*¹⁷, Justice's right to grant bail According to Bhagwati, the benefits of bail are always received by persons who are not poor, but the poor are not included in this group since the bond sum is too high. Poor individuals find it challenging to get the large sums of money ordered by the court, and it is also challenging for them to put together the sureties required. Custodial jurisprudence, which deals with custody, was developed by the judiciary via several innovative pronouncements. All crimes committed while a person is in the custody of the police are included, including arbitrary detention and arrest, the use of cruel interrogation techniques or torture while a person is in custody, as well as any related prosecutions and penalties. The Supreme Court has stated that while it may be a valid right of any police to question or detain any suspect in order to obtain any plausible information, such an arrest must be made in line with the law, and questioning a suspect does not include injuring them. Considering that he is simply a suspect in the case using third-degree torture, which is extremely harsh.

V. COMPENSATION FOR VICTIMS OF CUSTODIAL VIOLENCE

Victimology is a science that places the victim at the center of study and aims to deeply comprehend the victim-offender relationship. It also examines ways and means to protect the victim before the crime is committed, during the investigation and prosecution of the offender, and it analyzes restitution and reparation of the damages caused to him by the commission of the crime. The International Covenant on Civil and Political Rights, which was established in 1976, recognized and introduced the concept of compensation to prisoners around the world. According to Article 21 of the Constitution, which states that a remedy is available in public law since the goal of public law is not only to civilize public power but also to ensure that citizens live under a legal system where their rights and interests shall be protected and preserved, compensation is awarded for established infringement¹⁸. An exercise of the courts' public law authority for punishing wrongdoing is the awarding of compensation in a case under Articles 32 and 226 of the Constitution for a breach of the basic rights provided by Article 21 that has been proven to have occurred¹⁹.

¹⁶Court on its own motion v. Union on India and others, (2011) 1 SCC 694

¹⁷ 1983 SCC 96

¹⁸R.C.Dikshit, Police: The human Face, 243(2000).

¹⁹Dr.S.K.Awasthi (Advocate, Supreme Court) R.K.Kataria B.A.,LLB., Law Relating to Protection of human rights,

In *Khatri vs. State of Bihar*²⁰, It was the first time when the Supreme Court considers about compensation to those who got affected by the law itself. Justice Bhagwati Observe that, "Why should the court not be prepared to sham new tools, device, and new remedies for the purpose of justify the most precious of the precious, fundamental rights to life and personal liberty.

In *Rudal Shah vs. State of Bihar*²¹, When the Bihar government's illegal actions were addressed by providing financial compensation to the individual who had been imprisoned for fourteen years despite having been found not guilty; this case marked a new, revolutionary turning point in the field of human rights legislation. "The refusal of this Court to pass an order of compensation in favor of the petitioner will be doing merely lip-service to jus Fundamental Right to liberty which the State Government has so grossly violated," the court stated.

In *Sakshi Sharma and others vs. state of Himachal Pradesh and others*²², In this case, Himachal Pradesh high court has granted Rupees 15, 60,000 to the victim and also given direction to suspend the police officials from the post for his brutal act. It was directed that CJM and SDM will visit to Police stations and submit their report of visit to Session judge who will consider and take action against those who violated the constitutional provision.

In *Dr.Mehmood Nayyar Azam vs. State of Chhattisgarh and Others*²³, According to the court, the judiciary serves as a watchdog, defending the rights guaranteed by constitutional or statutory provisions. Assuring that pre- and post-trial detention, arrest, and questioning must all follow the law. The harmed party has the right to pursue compensation in the event of a violation, which is adjudged against the offender for the infringement of its public law obligations and rights.

In *Hem Lall Bhandari vs State of Sikkim*²⁴, the Supreme Court, laying out the mandate of police officers under preventive detention laws in strict terms, held that: "It is not permissible in matters relating to the personal liberty and freedom of a citizen, to take either a liberal or a generous vie of the lapses on the part of the officers. In matters where the liberty of the citizens is involved, it is necessary for the officers to act with utmost expedition and in strict compliance with the mandatory provisions of law. Expeditious action is insisted upon as a safeguard against manipulation."

837(Revised Reprint 2003).

²⁰ AIR 1981 SC 1068.

²¹ AIR 1983 SC 1086.

²²Sakshi Sharma and others v. state of Himachal Pradesh and others, CWPN.3684 of 2009.

²³ (2012) 8 SCR 65.

²⁴ AIR 1987 SC 762

In *G Sadanandan v. State of Kerala*²⁵, it was ruled by the apex court that a detention order can be quashed if it is shown to be mala fide or based on a casual approach adopted by the appropriate authority.

In *Sophia Gulam Mohd. Bhan v. State of Maharashtra*²⁶, the Supreme Court held that a detainee can make a representation against the order of detention only when the grounds upon which such order is made are communicated to the detainee, the material on which the grounds are based are also disclosed, and copies of relevant documents are supplied. In the instant case, due to the non-supply of relevant material upon which such detention order was made, the order of detention was quashed by the court.

In *Ramesh Yadav v. District Magistrate, Etah*²⁷, the Supreme Court ruled that an order of preventive detention could not ordinarily be made only on the ground that it is accused is otherwise likely to be released on bail.

In *Subhash Popatlal Dave v. Union of India*²⁸, the Supreme Court counseled the State that such restrictive powers under preventive detention laws that restrict individual freedoms should be exercised with extra caution and not as a matter of course. They must not be exercised as an alternative to ordinary laws, it warned continue to build and the prisoners so that they live a healthy life and enjoy his personal freedom to the extent permitted by law. If the prisoner cannot be granted a space of 41.80 square meters expand the prisons to fulfill the obligation under Article 21 of the Constitution and on Prisons.

VI. GUIDELINES FOR ARREST AND DETENTION

Detention is the taking away of a person's right to life and dignity. Human rights are protected by both our constitution and international law; India is a signatory to the universal declaration of human rights, which upholds and defends human dignity. However, the guardian of the law's evident violations of human rights in custody. India has enacted a Human Rights Act in 1993, despite playing a crucial role in the promotion of human rights. A commission has been established to monitor human rights breaches.

In *Joginder Kumar v. state of Uttar Pradesh*²⁹, A petition for habeas corpus was submitted under article 32 of the constitution by the petitioner, a 28-year-old man who has completed his LL.B. and registered as an advocate. On January 7, the SSP of Ghaziabad called the petitioner

²⁵ AIR 1996 SC 1925

²⁶ (1999) 6 SCC 593

²⁷(1985) 4 SCC 232

²⁸ 2013 4 Crimes (SC) 359

²⁹ AIR 1994 SC 1349

to make some enquiries about a matter. Around ten in the morning, he personally showed up with his brother at the Ghaziabad Police station. When the petitioner's brother attempts to find out more about the petitioner, he is informed that the petitioner would be freed that evening after making the required inquiries. The police informed his brother on January 8th, 1994, that the petitioner was being held longer to conduct additional investigations.

The brother and another family member visited Station Head Officer P.S. Mussoorie the following day to inquire about the petitioner. They were informed that he had been taken to an unspecified location for more investigation. The state of U.P. and SSP Ghaziabad were asked by the court on January 11 to appear before it on January 14 alongside the petitioner.

The Supreme Court ruled that the police must adhere to four rules while making an arrest and it is the magistrate's responsibility to ensure that they have been followed. The following rules apply:-A person who has been arrested has the right to tell anybody, including friends and family members and anyone else who has an interest in him, about his or her arrest; The person's name must be entered into the case dairy where the arrest information was supplied, and the case dairy must include the arrest's justification for documentation.

In *D.K. Basu v. State of West Bengal*³⁰, in this instance, on August 26, 1989, the Executive Chairman of the Legal Aid Service of West Bengal wrote to the Chief Justice of India to express his opinion about news reports on fatalities in police custody and lockups that had been published on July 20, 21, and August 17, 1986. The court saw the latter as a case of public interest.

The committing of crimes while being investigated and questioned by the police has drawn the attention of the Supreme Court. Additionally, it set forth a number of guidelines for the concerned Police officer to adhere to. If these conditions are not met, it will be considered contempt of court, and a lawsuit will be filed in any high court with jurisdiction over the situation. It is a historic decision which has given the custodial Jurisprudence to India. Guidelines are as follow:

- Identification of the Officer: The police officer in charge of the arrest and questioning of the detainee should have a name tag and identification that are clearly visible. This police officer's complete information must be recorded.
- Document of arrest: The police officer will draft a document of arrest, and at least one witness from the family or another member from his community must attest to it. The

³⁰ AIR 1997 SC 610

arrestee's countersignature should include their name, the location of the arrest, and the date.

- **Inform his family:** The individual who has been arrested has the right to tell anybody about his arrest, questioning, or possible detention, including friends, relatives, and anyone else who has an interest in him.
- **Place of detention:** The arrestee must be informed of the time, location, and date of the custody.
- **Make him aware of his rights:** When someone is arrested, they must be informed of the rights they may have.
- **Information on the arrested person's friends and family:** The names of all those who were notified, including friends and family, must be recorded.
- **Records of his body:** All major and little damage to his body must be accurately documented. The arrestee and the police officer must both sign the inspection memo.
- **Medical examination:** Within 48 hours of his arrest, the arrested person must have a medical examination by a qualified doctor.
- **Records must be sent to the local magistrate for his records, along with a memo of the arrest and copies of all paperwork.**
- **Meet the lawyer:** The arrestee can meet with his or her attorney before, but not during, the questioning. **Availability of the control room:** There should be a police control room available in every state and district headquarters where it may be shown on a prominent notice board that the information on the arrest of the individual will be communicated within 12 hours.

VII. GUIDELINES TO SET-UP POLICE ADMINISTRATION

A crucial component of the criminal justice system is the police. The police are in place to safeguard the rights of citizens, not to cause them damage. In order for modern civilisation to continue, the state must be kept secure and orderly. One of the most crucial roles of the police is to keep peace and order. Punishing perpetrators and defending crime victims are essential components of maintaining order. It is only feasible when the police are put up properly, transparently, and with accountability. The Supreme Court has provided principles for creating a well-organized police force

In *Prakash Singh and others v. Union of India*³¹, According to the case's circumstances, two retired IPS officers who filed a petition claimed that the police were operating irregularly and making current misrepresentations. The Police Act of 1861, which is out of date and does not meet the needs of the nation today, serves as the foundation for the whole police structure and organization. They cited a number of committees that had suggested repealing this Act in favour of the current model police law. In response to the urgent necessity for the country's Rule of Law to be protected and strengthened, the Supreme Court issued several directives on police reforms.

According to its earlier ruling in *Vineet Narayan v. Union of India*³², the Supreme Court has issued certain directives.

- It is mandated that the state government establish a State Security Commission, which will be overseen by the Chief Minister, Home Minister, and DJP. They'll make sure that the State Police aren't being overworked by the State administration.
- Both the DJP and the IG should have a set term.
- It's crucial to divide the investigation wing from the law and order wing in order to achieve a swift probe.
- A Police Establishment Board is required in every state to make decisions about police transfers, appointments, and other matters that do not compromise the D.S.P. rank.
- A police complaint authority should be formed at the district level to investigate complaints against police personnel up to the rank of D.S.P.
- Establishing a national security committee at the center. The chiefs of the central police organizations will be chosen and placed by this panel.

The Supreme Court highlighted that, on or before December 31, 2006, all parties, including the Central Government, State Governments, and Union territories, must abide by these instructions. Following this ruling, an expert group was established, and on October 30, 2006, it made the recommendation to write a New Model Police Act. The state government was sent a copy of the committee's proposed model police legislation for review, and on October 31, 2006, the home secretary took the necessary measures. According to information currently available, the Police Act has been passed into law in 17 States so far, including Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Kerala, Karnataka, Maharashtra,

³¹ (2006) 8 S.C.C. 1

³² (1981) 1 S. C.C. 226.

Meghalaya, Mizoram, Rajasthan, Sikkim, Tamil Nadu, Tripura, and Uttarakhand.³⁴⁷ Punjab Act No. 10 of 2007 (Punjab Police Act, 2007)

VIII. GUIDELINES ON FAIR AND SPEEDY INVESTIGATION

The foundation of the judicial system is a fair and swift examination of the case since justice delayed is justice denied. According to the criminal procedure code, if an accused person in pre-trial detention has served half of the maximum term allowed for the offense for which they are charged, they will be released from custody. Many prisoners have previously served years in prison and are still awaiting trial. If an accused person is imprisoned for a period of time that is far longer than the legal maximum allowed for the crime that he committed. Once more, it is torture inflicted while in custody.

In *Gauri Shanker Sharma v. state of Uttar Pradesh*³³, In this instance, three police officers were accused of killing Ram Dhiraj Tiwari, who was abused in the police station and eventually passed away while being held there. The results of the medical test revealed 28 injuries on his body. A police officer was accused for violating IPC sections 218/34³⁴, 220³⁵, 304³⁶, and 330³⁷.

In *Shivappa v. State of Karnataka*³⁸, In this instance, the husband and wife's relationship was abusive. Husband frequently insulted his wife by having extramarital relationships with the pujari and the doctor. He once went to a doctor and a pujari's office and mistreated them. His wife, Pujari, and doctor had the idea to murder him and dispose of his body next to the road to make it appear like he had passed away due to hasty neglect. When the husband's wife abruptly confessed to the crime while the police were still conducting their investigation, they sent her to the magistrate to have her confession recorded. Her conviction under Section 302 of the IPC was upheld by the High Court, which also denied her appeal. The Supreme Court upheld her appeal and ruled that, absent recording and soundness, a confession made in the magistrate's presence is not admissible as evidence under section 26 of the Evidence Act. In this instance, the confession was not the appellant's word and was influenced by the police.

IX. CONCLUSION

The judiciary plays a crucial role in overseeing the investigation and prosecution of custodial

³³ AIR 1990 SC 709

³⁴S. 218, Indian Penal Code: Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.

³⁵S. 220 Indian Penal Code: Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

³⁶S. 304, Indian Penal Code: Punishment for culpable homicide not amounting to murder

³⁷S. 330, Indian Penal Code: Voluntarily causing hurt to extort confession or to compel restoration of property.

³⁸ AIR 1995 SC 980

violence cases. It is responsible for ensuring that due process is followed, that evidence is collected and presented properly, and that fair trials are conducted. Judges have the authority to exclude evidence obtained through torture or ill-treatment, thereby deterring the use of such methods and safeguarding the integrity of the justice system. The judiciary also acts as a forum for victims of custodial violence to seek justice and redress. It provides an avenue for individuals to file complaints, seek remedies, and hold perpetrators accountable. Through its judgments and decisions, the judiciary sets precedents and establishes legal standards that can contribute to the prevention and eradication of custodial violence. The judiciary plays a vital role in upholding the rule of law, ensuring accountability, and safeguarding the rights of individuals in custody. Through its independence, impartiality, and commitment to justice, the judiciary serves as a critical check on custodial violence and promotes the principles of fairness and human rights.
