2026:AHC:123415-DB

Reserved
A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 3807 of 2023

Matambar Mishra

…..Petitioner(s)

Versus

The State of U.P. and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Mata Achal Mishra, Vinay Mishra
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE J.J. MUNIR, J.
HON'BLE SANJIV KUMAR, J.

(Delivered by Hon'ble J.J. Munir, J.)

1. This is a writ petition, which discloses a very substantial cause of action, but seeks a non-substantial relief.

2. The case of the petitioner is one about illegal detention in police custody for 24 hours from 26.11.2022 to 27.11.2022, but the relief that the petitioner seeks is a *mandamus* commanding the State of Uttar Pradesh through the Additional Chief Secretary (Home), Government of U.P., Lucknow, to ensure an inquiry into the matter by any other superior police officer. In order to understand the prayer for a direction to get an inquiry done by 'any other superior officer', one has to look into the deleted prayer No.1, where the petitioner had sought quashing of the inquiry report dated 28.12.2022 submitted by the Assistant Commissioner of Police, Handia, Prayagraj to the Commissioner of Police, Prayagraj, discarding the petitioner's case of illegal detention. The first relief was deleted under orders of the Division Bench dated 14.03.2023 and notice issued with regard to Relief Nos.2, 3 and 4.

Relief Clause No.3 is the residual clause, where the Court is entrusted with the discretion to issue any other suitable writ, order or direction that may be deemed fit and proper, and the fourth is about costs. In our opinion, this is one of the very exceptional cases, where we have to consider granting just relief to the petitioner under Residual Clause No.3.

3. The case of the petitioner is that he was living at Mehmoorganj in the district of Varanasi and had come over to his native village Sidhwar, Tehsil and P.S. Handia, District Prayagraj, to look after his agricultural property located there. On the 26th of November, 2022, the petitioner had gone to his fields to take care of his paddy crop and returned home in Village Sidhwar at about 3.00 p.m., when one Surya Prakash Dubey, the then In-charge Police Outpost Baraut, P.S. Handia, District Prayagraj, entered the petitioner's house. Without intimating anyone of anything or the petitioner himself, he dragged the petitioner out of his house, dressed in just a *lungi* and *kurta* and carried him off to the Police Outpost Baraut. Thereafter, the petitioner was conveyed to P.S. Handia. On way to P.S. Handia via Police Outpost Baraut, the petitioner repeatedly asked Dubey the reason why he was being taken to the police station. Dubey abused the petitioner and did not disclose any reason. The petitioner was put in the Lockup of P.S. Handia for about 24 hours from 26.11.2022 to 27.11.2022.

4. There are specific allegations in paragraph Nos.11 to 17 of the writ petition to the effect that during those 24 hours of illegal detention, the petitioner asked to be set at liberty, but Dubey demanded a bribe of Rs.20,000/- as price for the petitioner's liberty. The petitioner's younger brother endeavoured hard to secure the petitioner's release and for the purpose requested Mr. Rahul Mishra, an Advocate of District Court, Allahabad, but all efforts proved in vain and each time, the petitioner faced a demand of Rs.20,000/- in bribe by Dubey for his release from

illegal custody. It is also averred that on 27.11.2022, the petitioner's younger brother repeatedly attempted to contact Dubey over his cellphone, but Dubey remained elusive. It is averred specifically in paragraph No.17 that the petitioner was released from illegal custody on 27.11.2022 at 4.00 p.m., but not before he was forced to pay a bribe of Rs.20,000/- to Dubey.

5. Complaints in the matter were addressed by the petitioner's son Mr. Ashish Kumar Mishra, Advocate of Delhi, to Hon'ble the Chief Minister of U.P., the Director General of Police, U.P. and the Commissioner of Police, Prayagraj, all sent by registered post, but all in vain. In vain in the sense that respondent No.3, the Assistant Commissioner of Police, Handia, Prayagraj was directed to inquire into the matter by the Commissioner of Police, Prayagraj, but he submitted a report rejecting the petitioner's complaint on specious grounds and without hearing the petitioner. The most serious objection to the inquiry undertaken by the A.C.P., Handia is that the inquiry report was submitted by the A.C.P. and an opinion formed about the petitioner's complaint without recording the statement of the petitioner, his son and persons, who visited the petitioner in the Lockup of P.S. Handia, Prayagraj during time that he was in illegal detention. About the last part of the allegation, it is averred in paragraph Nos.12 and 13 that one Devi Shankar Mishra, a resident of the petitioner's village, came to meet him in the Lockup of P.S. Handia on 26.11.2022 and also brought him food cooked at the petitioner's home. The petitioner ate that food on 26.11.2022 at 9.00 p.m. in the Police Lockup. Devi Shankar Mishra was also an important witness about the fact of illegal detention, whose statement was not taken down by the A.C.P. while writing his inquiry report.

6. There is another objection taken by the petitioner in proceedings drawn against him on 29.11.2022 under Section 107/116 Cr.P.C. The case is that proceedings under Section

107/116 were a cover up to justify the petitioner's illegal detention in the Police Lockup from 26.11.2022 to 27.11.2022. These proceedings were taken on 29.11.2022 and it is argued that for a private dispute between the petitioner and his brother's daughter-in-law, no security proceedings for keeping peace could have been initiated, inasmuch as those proceedings relate to instances of breach of peace or disturbance of public tranquility, or any wrongful act that may probably occasion a breach of peace or disturbance of public tranquility. A case of domestic violence is far away from the Chapter proceedings under the Cr.P.C.

7. About the last part of the matter, upon notice being issued, a counter affidavit has been filed by the Additional District Magistrate (Judicial), Etah. The respondent's folly in initiating proceedings under Section 107/116 concerning a case of domestic violence has been admitted by the 5th respondent. It is averred in paragraph Nos.8 and 9 of the counter affidavit filed on behalf of respondent No.5 thus:

> "8. That in reply to the contents of paragraph No. 28 & 29 of the writ petition it is humbly submitted that the notice under Section 111 Cr.P.C. was issued by the respondent solely on the basis of a challani report submitted by Police Station Handia. The respondent had no independent knowledge of any domestic dispute between the petitioner and other parties. The respondent was not informed of the alleged incidents dated 26.11.2022 and 27.11.2022, nor was any detail of such domestic violence dispute brought to his attention at the time of issuing the notice. No further proceedings or consequential action were taken against the petitioner pursuant to the notice issued under Section 111 Cr.P.C. It is also humbly submitted that while issuing the notice, the aspect of domestic violence was not considered, which was an inadvertent omission. For this oversight, the respondent tenders an unconditional apology to the Hon'ble Court.
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> 9. That it is respectfully submitted that the notice issued under Section 111 Cr.P.C. and the challani report forwarded by Police Station Handia were neither served upon the petitioner nor executed in any manner. With the passage of time, the said notice has lapsed and, therefore, carries no present effect or operation in law."

8. Heard Mr. Mata Achal Mishra, learned Counsel for the petitioner and Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate on behalf of the State.

9. So far as the issue of proceedings under Section 107/116 Cr.P.C. is concerned, we must remark that what was reported to the Police, in whatever form, was at best a case of domestic violence, or may be a domestic squabble. There was nothing which was an offence, on the basis of which an FIR or even an NCR could be registered. If that could not be done, the scope of security proceedings under Section 107/116 Cr.P.C. and all the other relevant provisions of Chapter VIII of Cr.P.C. would not be attracted. Those proceedings are essentially designed to preserve peace and public tranquility. Such proceedings are about public peace and tranquility and not domestic peace or tranquility. These should never have been taken and the affidavit on behalf of respondent No.5 admits that the fact was not brought to his notice that at the bottom of the proceedings, was a case of domestic violence. Reference in this connection may be made to a Bench decision of the Bombay High Court in **Fayyaz Shamshoddin Attar v. State of Maharashtra and others, 2015 SCC OnLine Bom 9012**, where it has been held:

> **"20.** The record and circumstances already mentioned show that it was purely matrimonial dispute. From the wording of section 107 of Cr. P.C., this Court has no hesitation to observe that it was not possible to take the matter under section 107 of Cr. P.C. No crime was registered either of cognizable nature or non-cognizable nature by police on the basis of application dated 22.7.2012. No crime was registered against the present petitioner in the past also. No attempt was made to see that settlement can be arrived between the parties as it was dispute of matrimonial nature and wife had approached police for first time."

10. There are definite allegations in paragraph Nos.8, 9 and 10 of the writ petition about the petitioner being dragged to the police station by Dubey, a Sub-Inspector, In-charge of Police Outpost Baraut, P.S. Handia and illegally confined him in the Police Lockup from 26.11.2022 to 27.11.2022. In paragraph Nos.11 and 14 of the writ petition, there is a specific allegation that upon the petitioner's demand to be released from illegal police custody, Dubey demanded a bribe of Rs.20,000/-. In paragraph Nos.12 and 13 of the writ petition, there is a case about Devi Shankar

Mishra, a resident of the petitioner's village, visiting him in the Police Lockup and bringing him food cooked at the petitioner's home for his evening meal.

11. The most relevant of the counter affidavits, though others are also relevant, is Dubey's personal affidavit dated 03.12.2025. While answering the case of the petitioner in paragraph Nos.8, 9 and 10 of the writ petition about being illegally dragged out of his house by Dubey and confined in the Police Lockup from 26.11.2022 to 27.11.2022, there is no specific denial of the fact in paragraph No.4 of Dubey's counter affidavit. In the absence of a specific denial of the petitioner’s case of illegal detention in the police lockup by Dubey from 26.11.2022 to 27.11.2022, the fact of illegal detention would be deemed to have been admitted. What is said there, is that as per G.D. No.23 dated 27.11.2022, Dubey came to his office and a compromise letter was prepared regarding a domestic violence complaint between the first party Ritika and the second party Matambar Mishra, that is to say, the petitioner. The compromise was made mutually without any pressure. Both parties came to the Police Outpost Baraut, Handia and agreed that there would be no dispute. Their Advocate, Mr. Rahul Mishra, prepared the compromise letter. Both parties agreed to the compromise letter. They did not criticize behaviour of the Police. In paragraph No.5 of the rejoinder affidavit, the petitioner has reiterated his case of being dragged out of his home by Dubey, dressed in just a *lungi* and *kurta* and forcibly taken first to Police Outpost Baraut and thence to P.S. Handia, where he was illegally detained in the Police Lockup from 26.11.2022 to 27.11.2022, in order to insult him and lower his status and dignity in the society.

12. What we notice is, as already remarked, that there is no outright denial of the fact that Dubey did not bring the petitioner to the police station. What is attempted is a tacit denial, which, in

reality, is no denial in the face of such specific allegations of rough handling and illegal confinement by a police officer. The fact of illegal detention would, therefore, be deemed to have been admitted. What is acknowledged by Dubey is the fact that there was a complaint against the petitioner by Ritika, his daughter-in-law, who in fact is the petitioner's brother's daughter-in-law, about domestic violence. It is then said that the petitioner and Ritika, both came to the police station and mutually compromised the matter without any pressure. The foremost thing to be seen is that if it was a case of domestic violence and nothing more. The Police had little business in the matter unless there was a definitive cognizable offence committed. Admittedly, that was not. If it was only a case of domestic violence, Ritika's remedy lay in moving the learned Magistrate for appropriate relief under the Protection of Women from Domestic Violence Act, 2005.

13. Apparently, Ritika went to the police station with a complaint against the petitioner and it was Dubey, who swung into action. It is beyond all possible standards of behaviour of a man, circumstanced as the petitioner, that he would walk in to the police outpost or the station upon his daughter-in-law lodging a complaint of domestic violence, and without hassle amicably write out a compromise in Dubey's presence. Dubey after all was not a spiritual Guru, a *Panch Parmeshwar* or a community leader, to whom the petitioner and his daughter-in-law would head out voluntarily to submit their dispute for guidance and amicable settlement. He is a police officer, who is feared because he possesses the coercive authority of the State. There is a gaping flaw in Dubey's account between Ritika's complaint about domestic violence made to him and the petitioner coming over to the police outpost or the station voluntarily, as if it were, and writing out a compromise. It is impossible that the petitioner would have walked in to the police outpost or the station to compromise.

14. In these circumstances, there is little cavil that entertaining a complaint of mere domestic violence, Dubey dragged the petitioner to the police outpost and then locked him up at the police station, as the petitioner says, for 24 hours. The petitioner has not given an exaggerated account and it inspires confidence with us. The allegations about Dubey demanding a bribe, we are not inclined to go into. In so far as the last mentioned allegation is concerned it truly goes to the remit of the disciplinary authority or the Police themselves, or may the Vigilance Establishment or the Anti-Corruption Bureau, to examine and determine.

15. Here all that we are concerned with is a question of the petitioner's right to liberty guaranteed under Article 21 of the Constitution in its most nascent form. We are convinced that Dubey has recklessly violated the most fundamental essence of this most valuable fundamental right by dragging the petitioner out of his home on the basis of a complaint, he was not authorized to act upon, and, then, carrying the petitioner away in custody, first to the police outpost, Baraut and then confining him in the police lockup at Police Station Handia from 26.11-2022 to 27.11.2022 without the authority of law.. The proceedings under Section 107/116 Cr.P.C., that were drawn up against the petitioner by Dubey, which could never have been taken in regard to a case of domestic violence, were also a cover up to somehow obliterate Dubey's misdeed in illegally confining the petitioner in the Police Lockup at P.S. Handia for 24 hours without authority of law. Though, proceedings were taken on the 29th and the petitioner was liberated from Dubey's illegal custody on 27.11.2022, these proceedings were a measure taken out of panic to raise a semblance of defence for all that Dubey had done to the petitioner. It is for this reason that respondent No.5 has acknowledged the fact that the proceedings, though instituted, did not lead to service of processes upon the petitioner and he was

not asked to furnish any bonds etc. during the relevant period of time of six months.

16. In **Pankaj Kumar Sharma v. Govt. of NCT of Delhi and others, 2023 SCC OnLine Del 6215**, confronted with a similar question, the Delhi High Court held:

> **"7.** It is stated that the Petitioner herein called the police. However, when the police reached the spot, they picked up the Petitioner and placed him in the lock-up. The fact that the Petitioner was picked up from the spot without an FIR against him, subsequently brought to the Police Station and placed in the lock-up has not been disputed by the State authorities.
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> **8.** The facts of the case reveal that, even though it was for a short period of time, the Petitioner was deprived of his personal liberty, a right protected under Article 21 of the Constitution of India. It is evident that the authorities acted in a high-handed manner without respecting the Petitioner's liberty placed him in the lock-up without following due procedure of law or the principles that have been laid down when an arrest is made.
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> xxxxx
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> **10.** This Court is deeply troubled by the fact that the Petitioner was not even arrested. He was simply picked up from the spot, brought to the Police Station and placed inside the lock-up for no rhyme or reason. The high-handed way in which the Police authorities have acted, throwing to winds the constitutional and fundamental rights of a citizen, is appalling. This Court is troubled at the way the citizens are being treated by the Police authorities who behave as if they are above the law. A punishment of censure alone is not sufficient in the facts and circumstances of this case.
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> **11.** The Apex Court in D.K. Basu (supra) also observed as under:-
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> > "44. The claim in public law for compensation for unconstitutional deprivation of fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for tortious acts of the public servants. Public law proceedings serve a different purpose than the private law proceedings. Award of compensation for established infringement of the indefeasible rights guaranteed under Article 21 of the Constitution is a remedy available in public law since the purpose of public law is not only to civilise public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved. Grant of compensation in proceedings under Article 32 or Article 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Article 21, is an exercise of the courts under the public law jurisdiction for penalising the wrongdoer

and fixing the liability for the public wrong on the State which failed in the discharge of its public duty to protect the fundamental rights of the citizen.

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46. In Nilabati Behera case [(1993) 2 SCC 746: 1993 SCC (Cri) 527: 1993 Cri LJ 2899], It was held: (SCC pp. 767-68, para 32)

"Adverting to the grant of relief to the heirs of a victim of custodial death for the infraction or Invasion of his rights guaranteed under Article 21 of the Constitution of India, it is not always enough to relegate him to the ordinary remedy of a civil suit to claim damages for the tortious act of the State as that remedy in private law indeed is available to the aggrieved party. The citizen complaining of the infringement of the indefeasible right under Article 21 of the Constitution cannot be told that for the established violation of the fundamental right to life, he cannot get any relief under the public law by the courts exercising writ jurisdiction. The primary source of the public law proceedings stems from the prerogative writs and the courts have, therefore, to evolve 'new tools' to give relief in public law by moulding it according to the situation with a view to preserve and protect the Rule of Law. While concluding his first Hamlyn Lecture in 1949 under the title 'Freedom under the Law' Lord Denning in his own style warned:

'No one can suppose that the executive will never be guilty of the sins that are common to all of us. You may be sure that they will sometimes do things which they ought not to do: and will not do things that they ought to do. But if and when wrongs are thereby suffered by any of us what is the remedy? Our procedure for securing our personal freedom is efficient, our procedure for preventing the abuse of power is not. Just as the pick and shovel is no longer suitable for the winning of coal, so also the procedure of mandamus, certiorari, and actions on the case are not suitable for the winning of freedom in the new age. They must be replaced by new and up-to-date machinery, by declarations, Injunctions and actions for negligence.... This is not the task of Parliament the courts must do this. of all the great tasks that lie ahead this is the greatest. Properly exercised the new powers of the executive lead to the welfare state; but abused they lead to a totalitarian state. None such must ever be allowed in this country.""

12. Similarly, In Nilabati Behera v. State of Orisa, (1993) 2 SCC 746, while dealing with the power of a constitutional court to award compensation rather than relegating such person to file a suit for recovery of damages, the Apex Court observed as under: -

"22. The above discussion indicates the principle on which the court's power under Articles 32 and 226 of the Constitution is exercised to award monetary compensation for contravention of a fundamental right. This was indicated in Rudul Sah [(1983) 4 SCC 141 1983 SCC (Cri) 798: (1983) 3 SCR 508] and certain further

> observations therein adverted to earlier, which may tend to minimise the effect of the principle indicated therein, do not really detract from that principle. This is how the decisions of this Court in Rudul Sah [(1983) 4 SCC 141: 1983 SCC (Crl) 798: (1983) 3 SCR 508] in that line have to be understood and Kasturilal ((1965) 1 SCR 375 AIR 1965 SC 1039 (1965) 2 Cri LJ 144] distinguished therefrom. We have considered this question at some length in view of the doubt raised, at times, about the propriety of awarding compensation in such proceedings, instead of directing the claimant to resort to the ordinary process of recovery of damages by recourse to an action in tort. In the present case, on the finding reached, it is a clear case for award of compensation to the petitioner for the custodial death of her son."
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> **13.** The said principle is now well established that in cases where there can be no dispute of facts, the constitutional courts have the power to award compensation in case person has been deprived of his life and liberty without following the procedure established by law.
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> **14.** The time spent in the lock-up by the Petitioner, even for a short while, cannot absolve the police officers who have deprived the Petitioners of his liberty without following the due procedure established by law. A punishment of censure which is not likely to have any effect on the career of the police officers will not be a sufficient deterrent to the officer. The censure should be of such nature that other officers too must not emulate such actions in future. This Court is of the opinion that a meaningful message must be sent to the authorities that police officers cannot be law unto themselves. In the facts of this case, even though the illegal detention of the Petitioner was only for about half an hour, this Court is inclined to grant compensation of Rs. 50,000/to the Petitioner, which shall be recovered from the salaries of Respondents No. 4 and 5."

17. This Court must remark at this stage that ideally cases of such kind of illegal detention should go to the Courts of ordinary original civil jurisdiction. In this State, ordinary original civil jurisdiction vests depending upon the valuation, either with the Civil Judge (Jr. Div.) or the Civil Judge (Sr. Div.), the latter holding unlimited pecuniary jurisdiction. Whatever the causes might be, including a large number of statutes that exclude the jurisdiction of the Civil Court in all matters, wherever action of administrative authorities is the subject matter of issue, even in cases where a statute is not in the field and it is a tort pure and simple done by administrative functionaries under the colour of authority, or may be the brazen violation of a fundamental right, as precious as liberty, by constant course of social frown and at times the supervising

Courts' discouragement, the Civil Judges in the State for decades have lost the working authority, if not the jurisdiction, to try such suits and award compensation. It is for this reason that whenever the few and far between cases of the award of compensation for brazen acts of torts committed by functionaries of the Electricity Corporation or the Municipal Corporation or deprivation of liberty etc. at the hands of Police come to pass, it is in the exercise of the writ jurisdiction of the High Court. Such compensation or damage awarded albeit has to be *ad hoc* in nature.

18. We must take note of the fact that though the cause of action here is one essentially complaining of illegal deprivation of the petitioner's liberty in its most basic form by illegal confinement in a Police Lockup at the hands of a police officer, acting under the colour of authority, the petitioner's Relief Clause No. 2 is limited to seeking an inquiry into Dubey's conduct by any other superior police officer. The holding of a disciplinary inquiry into the conduct of a police officer is essentially an administrative function of the Government or the superior officers of the police. Even if that relief is granted and Dubey punished in departmental proceedings, it would not remedy the wrong which the petitioner has suffered on account of illegal deprivation of his liberty. It is not a matter with which the Court is primarily concerned or would recognize as relief for violation of the petitioner's liberty guaranteed by Article 21 of the Constitution. When the fact was pointed out to the learned Counsel for the petitioner that there was no relief claimed on the foot of which a violation of his right under Article 21 the Constitution, if found in his favour, could be remedied, he came up with an oral prayer that grant of some monetary compensation may be considered by this Court. No doubt that relief has not been claimed but the mere absence of a formal relief in a matter which is as fundamental as the most brazen violation of the petitioner's fundamental right to life and liberty in its most nascent form would not deprive this Court of its

jurisdiction to grant necessary relief to remedy the violation of that fundamental right. In the view that we take we are fortified by the guidance of the Supreme Court on principle in **M. Sudakar v. V. Manoharan and others, (2011) 1 SCC 484**. In **M. Sudakar** (*supra*), it was held:

> "**14.** The power to mould relief is always available to the court possessed with the power to issue high prerogative writs. In order to do complete justice 9 it can mould the relief, depending upon the facts and circumstances of the case. In the facts of a given case a writ petitioner may not be entitled to the specific relief claimed by him but this itself will not preclude the writ court to grant such other relief which he is otherwise entitled……."

19. Reference for the principle may be made to a Bench decision of the Orissa High Court in **Berhampur University and another v. Ganesh Chandra Behera and others, 2021 SCC OnLine Ori 2399.** In **Ganesh Chandra Behera (*supra*),** it has been held:

> "29. Therefore, in view of pronouncements of the Apex Court, so far as "moulding of relief" is concerned, this Court is of the considered view that even if there is no such specific prayer has been made in the writ petitions, this Court can and ought to grant such relief The principle of "moulding of relief" has been rightly invoked by the learned. Single Judge because allowing the writ petitions in its original form would have been antithetical to the relief sought in the original form of the writ petitions. Therefore, the learned Single Judge after due consideration of the fact that it was the second round of litigation and in order to thwart any possibility of future litigation arising out of the same issue did well to cut through the clutter and get to the root of the issue in order to do complete and substantial justice between the parties by moulding the relief."

20. This Court, in **Shiv Kumar Verma and another v. State of U.P. and another, 2021(5) ADJ 493 (DB),** was confronted with a claim by the petitioners seeking compensation for illegal detention from 12.10.2020 to 21.10.2020 in connection with Case No. 624 of 2020 under Sections 151, 107 and 116 CPC, Police Station Rohania, District Varanasi. After extensively considering the question of abuse of authority by Public Authorities, the Court took note of the State Government's policy dated 23.03.2021 providing for the payment of compensation of Rs. 25,000/- for illegal

detention of any citizen by any officer of the State and initiation of disciplinary proceedings against such officer. This Court disposed of the aforesaid writ petition in terms of the following order:

> "23. We record our appreciation for the State Government to take the aforequoted policy decision dated 23.3.2021 for payment of compensation of Rs. 25,000/- for illegal detention of any citizen by any Officer of the State Government and initiation of disciplinary proceedings against such officer. Since the State Government itself has taken a policy decision and has paid compensation to the petitioners herein, therefore, no further direction for payment of compensation is required to be issued in the present writ petition.
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> 24. In view of the aforesaid, this writ petition is disposed of with the following directions :
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> (i) The State Government shall ensure that the provisions of the Cr.P.C. as referred in the policy decision dated 23.3.2021 are strictly followed/observed by all the concerned officers.
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> (ii) The State Government shall further ensure that paragraph 12 of the policy decision dated 23.3.2021 is strictly implemented, which at the cost of repetition is reproduced below:
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> > (1) भारत के संविधान के अनुच्छेद-21 का उल्लंघन करते हुये किसी व्यक्ति की अवैध हिरासत किये जाने के लिए अनुशासनिक प्राधिकारी द्वारा जांच में दोशी पाये जाने पर उत्तरदायी अधिकारी के विरूद्ध उ0प्र0 सरकारी सेवक (अनुशासन एवं अपील) नियमावली, 1999, दि आल इंडिया सर्विसेज (डिसिप्लीन एंड अपील) रूल्स, 1969 एवं उ0प्र0 अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड और अपील) नियमावली, 1991 (यथा संशोधित) में संगत नियमों के अंतर्गत दण्डात्मक कार्यवाही की जायेगी।
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> > (2) अनुशासनिक प्राधिकारी द्वारा अपनी जांच रिपोर्ट 03 माह में अथवा संगत नियमावली में यथा उल्लिखित समयानुसार प्रस्तुत की जायेगी।
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> > (3) यदि किसी नागरिक की अवैध रूप से हिरासत प्रमाणित पायी जाती है तो पीड़ित व्यक्ति को रू0-25,000/ की धनराशि का भुगतान मुआवजे के रूप में किया जायेगा।
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> (iii) The State Government shall publish Para 12 of its Policy decision dated 23.3.2021 in all largely circulated National Level Newspaper having circulation in the State of Uttar Pradesh and shall also display it on display board at prominent places within public view, in all blocks, Tehsil Headquarters, Police Stations and in campus of District Collectorate in the whole of the State of Uttar Pradesh.
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> (iv) Copy of this order shall be sent by the State Government to all District level and Tehsil level Bar Associations in the whole of the State of Uttar Pradesh.

21. Declaration of the law by this Court and the laying down of good policies by the Government, more often than not, has little effect upon the sundry officers who have to implement the policy of the Government or the laws laid down by this Court. They are persistent by habit in their old ways and seem to have faith more

in the statistics that out of a case of one thousand violations or may be much more hardly, one citizen would go forward to enforce his right and bring accountability to them. It is for this reason that in cases where a citizen gets up to enforce his right and comes forward to this Court, it becomes our duty to enforce what is already a declared right of his under the Constitution, the laws, the State Government policy and our interpretation thereof. After all, there are officers all around who believe that the violation would go unnoticed, more often than not.

22. In the totality of circumstances, we hold that the petitioner was illegally deprived of his liberty by Dubey, a police officer, in the colour of exercise of authority of the State, and for the aforesaid act, the petitioner must be given monetary recompense. We think that ends of justice would be met, if the State are ordered to pay the petitioner for his illegal detention in police custody from 26.11.2022 to 27.11.2022, a total sum of Rs.25,000/- together with costs in the sum of Rs.10,000/-. We are also of opinion that the State ought be granted liberty, upon payment of the compensation and costs awarded to the petitioner, to recover it from Dubey in whatever manner they deem appropriate, including deducting it from his remuneration.

23. In the result, this writ petition succeeds and is **allowed with costs**, which we quantify in the sum of Rs.10,000/-. Respondent Nos.1, 2 and 3 are ordered by a *mandamus* to pay the petitioner *ad hoc* compensation in the sum of Rs.25,000/- within a period of thirty days of the communication of this order with liberty to recover the sum of this compensation, together with costs, after these have been paid to the petitioner, from Dubey in whatever manner respondent Nos.1, 2 and 3 find it appropriate, including recovery from Dubey's remuneration and other funds in the hands of the respondents. Needless to say that it will be open to the petitioner to bring a regular suit for damages and establish his

claim before a Court of competent jurisdiction in regard to his illegal detention, where any compensation, if awarded, shall take into account the *ad hoc* compensation that we have granted here.

24. Let this judgment be communicated to the Additional Chief Secretary (Home) Government of U.P., Lucknow, the Commissioner of Police, Prayagraj, the Assistant Commission of Police, Handia, Prayagraj and Surya Prakash Dubey, the then In-charge, Police Outpost Baraut, P.S. Handia, District Prayagraj by the Registrar (Compliance).

(Sanjiv Kumar,J.) (J.J. Munir,J.)

May 29, 2026
Anoop/ Prashant