



CNR: KAHC010033572015

NC: 2026:KHC:40856
WP No. 30608 of 2015



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 30608 OF 2015 (GM-POLICE)

BETWEEN

1. SRI P JAVARA SETTY
S/O LATE SRI PUTTA DEVA SETTY
AGED ABOUT 68 YEARS
R/ OF HOUSE NO.439, III MAIN ROAD
IV CROSS, AMS LAYOUT, VIDYARANYAPURA
BENGALURU - 560097
2. SRI NAVEEN KUMAR J
S/O P JAVARA SETTY
AGED ABOUT 31 YEARS
R/AT NO 117 CHESTER ROAD
SEVEN KINGS II FORD
ESSEX - 1G38PX
UNITED KINGDOM
ALSO AT
NO 439 III MAIN ROAD
IV CROSS AMS LAYOUT
VIDYARANYAPURA
BANGALURU - 560 097



...PETITIONERS

(BY SRI. MONESH KUMAR K.B., ADVOCATE FOR
SMT. VIJETHA R.NAIK., ADVOCATE)

AND

1. SMT R SHRUTHI
W/O J NAVEEN KUMAR
AGED ABOUT 24 YEARS
R/AT NO 1516/B (46/3) "RAJA VASANTHA"
II FLOOR 8TH MAIN ROAD
A BLOCK II PHASE RAJAJINAGAR
BENGALURU - 560 010



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2. SRI RAJGOPAL N
S/O LT NAGARAJU
AGED ABOUT 52 YEARS
R/AT NO 1516/B RAJAVASANTHA
II FLOOR 8TH MAIN A BLOCK II PHASE
RAJAJINAGAR
BENGALURU - 560010
3. THE INSPECTOR OF POLICE
VIDYARANYAPURA POLICE STATION
BENGALURU - 560 097
4. THE DEPUTY COMMISSIONER OF POLICE
BENGALURU NORTH SUB-DIVISION
BENGALURU - 560 097
5. THE COMMISSIONER OF POLICE
INFANTRY ROAD
BENGALURU - 560 001

.... RESPONDENTS

(BY SRI. DEEPAK J &
SRI. RAHUL S. REDDY., ADVOCATE FOR R1 & R2;
SRI. RAHUL KRISHNA REDDY.P., A/W
SRI. P. PRASANNA KUMAR., ADVOCATE FOR R3;
SRI. C.H. DEVARAJ., GA FOR R4 & R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION OR ANY OTHER WRIT IN THE NATURE OF MANDAMUS DIRECTING THE R-4 & 5 TO ACCEPT THE FINDING OF THE ENQUIRY PRODUCED AS ANNEX-R DT.25.4.2015 AND TAKE SUITABLE AND STRINGENT ACTION IN ACCORDANCE WITH LAW GOING BY THE ESTABLISHED MISCONDUCT OF THE R-3 KEEPING THE DIRECTIONS ISSUED BY THE HON'BLE SUPREME COURT IN THE CASE OF ARNESH KUMAR VS. STATE OF BIHAR VIDE ANNEX-K.AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 09.06.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ



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CAV ORDER

1. The Petitioners are before this Court seeking for the following reliefs:

(a) issue a writ, order or direction or any other writ in the nature of mandamus directing the respondent No.4 and 5 to accept the finding of the enquiry produced as Annexure-R vide No.27/CB/DCP/11/2015 dated 25.04.2015 and take suitable and stringent action in accordance with law going by the established misconduct of the respondent No.3 keeping the directions issued by the Hon'ble Supreme Court in the case of Arnesh Kumar Vs. State of Bihar produced at Annexure-K.

(b) Issue a writ, order or direction in the nature of mandamus directing the respondent No.4 and 5 to pay compensation at Rs.5 lakhs each to the petitioners for the violation of fundamental rights by the police by subjecting them to humiliation curtailing the rights guaranteed under the Constitution as also damaging the relationship between the petitioner and the respondent No.1 beyond repair to be recoverable from the respondent No.3.

(c) Issue such other order/direction to the State authorities to ensure care and precaution while handling sensitive fragile disputes.

(d) Any other order/directions as this Hon'ble court deem fit and proper considering the entire facts and circumstances of the case, in the interest of justice and equity.



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2. Brief facts of the case are:

- 2.1. Petitioner No.1 is the father of Petitioner No.2. Respondent No.1 is the wife of Petitioner No.2 and daughter-in-law of Petitioner No.1. Respondent No.2 is the father of Respondent No.1.
- 2.2. The marriage between Petitioner No.2 and Respondent No.1 was solemnised on 04.12.2011 as an arranged marriage. After the marriage, the couple shifted to England where Petitioner No.2 was employed as an IT consultant.
- 2.3. According to the petitioners, the expenses relating to the wife's travel to England, including visa and flight tickets, were borne by Petitioner No.1. They contend that no dowry was demanded either before or after the marriage and only customary gifts were exchanged.
- 2.4. The petitioners further contend that the couple lived harmoniously in England for some time, acquired a residential house jointly, and that



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the parents of Respondent No.1 also visited and stayed with them.

- 2.5. It is further alleged that Petitioner No.2 sponsored Respondent No.1's parents to England and purchased a house in their joint names entirely from his own funds.
- 2.6. The petitioners allege that thereafter Respondent No.1 began making demands for luxury articles, transfer of money, and transfer of Petitioner No.2's business interests in her favour. They further allege that after visiting India in November 2013, Respondent No.1 was influenced by certain relatives, resulting in matrimonial disputes.
- 2.7. On 10.03.2014, Respondent No.1 lodged a complaint before the Vidyaranyapura Police Station alleging offences under Section 498A IPC, Sections 3 and 4 of the Dowry Prohibition Act, and Sections 323, 504 and 506 IPC against Petitioner Nos.1 and 2 and several members of their family. Crime No.76/2014 came to be registered.



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- 2.8. Petitioner No.2 and his brother obtained anticipatory bail on 10.06.2014, the order remaining operative for six months.
- 2.9. Upon completion of investigation, the police filed the charge sheet only against Petitioner No.2 and his mother, while proceedings against the remaining accused named in the FIR were dropped.
- 2.10. On 18.07.2014, Respondent No.3 allegedly came to the residence of the daughter of Petitioner No.1 in plain clothes accompanied by police personnel in private vehicles and attempted to take Petitioner No.1 to meet the Deputy Commissioner of Police.
- 2.11. The petitioners allege that despite intervention by their advocate, Respondent No.3 forcibly took Petitioner No.1 and the mother of Petitioner No.2 to Malleshwaram Police Station, assaulted and manhandled Petitioner No.1, resulting in his collapse inside the police station due to his pre-existing cardiac ailments. He was thereafter treated at K.C. General Hospital and Fortis Hospital, where an MLC was registered.



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- 2.12. Petitioner No.1 lodged a complaint against Respondent No.3 before Hanumanthanagar Police Station on 21.07.2014 alleging assault and illegal detention. According to the petitioners, no action was taken on the complaint.
- 2.13. On 16.08.2014, when Petitioner No.2 arrived in India, he was apprehended by the Airport Police allegedly on the basis of a Look Out Circular (LOC) and handed over to Respondent No.3.
- 2.14. The petitioners contend that despite production of the anticipatory bail order, Respondent No.3 neither released Petitioner No.2 nor honoured the bail order but instead took him to Vidyaranyapura Police Station and allegedly threatened him to compromise the matrimonial dispute.
- 2.15. Petitioner No.2 was thereafter produced before the jurisdictional Magistrate. The Magistrate, noticing that he had been arrested without warrant despite the subsistence of an anticipatory bail order, issued a show-cause notice to Respondent No.3. Respondent No.3 nevertheless seized Petitioner No.2's passport,



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which was subsequently ordered to be released by the Magistrate on 26.08.2014.

- 2.16. Petitioner No.2 challenged the Look Out Circular before this Court in W.P. No.45384/2014. During the proceedings, the respondents informed the Court that the LOC had already been withdrawn, whereupon the writ petition was disposed of as having become infructuous.
- 2.17. Petitioner No.2 thereafter sought information under the Right to Information Act regarding the reasons and manner of arrest. The information furnished on 26.11.2014 allegedly disclosed that the arrest had been effected without a warrant. Copies obtained from the criminal court also indicated that no non-bailable warrant had been issued against Petitioner No.2.
- 2.18. On 20.10.2014, the petitioners submitted a detailed representation to the Commissioner of Police seeking an enquiry into the conduct of Respondent No.3. Receiving no response, they sought information under the RTI Act regarding action taken.



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- 2.19. The petitioners subsequently obtained a copy of the enquiry report dated 25.04.2015, which, according to them, recorded that Respondent No.3 had arrested Petitioner No.2 without a warrant, without any non-bailable warrant having been issued, and despite the subsistence of the anticipatory bail order.
- 2.20. Aggrieved by the alleged illegal arrest, issuance of the Look Out Circular, alleged assault on Petitioner No.1, abuse of police powers by Respondent No.3, and the inaction of the superior police authorities despite representations and enquiry findings, the petitioners have instituted the present writ petition seeking appropriate reliefs against the respondents.
3. Sri Monesh Kumar, learned counsel for the petitioners would submit that:
 - 3.1. Learned counsel for the petitioners submits that the present case demonstrates a deliberate abuse of police powers by Respondent No.3 in collusion with Respondent Nos.1 and 2 in a purely matrimonial dispute, resulting in violation of the petitioners' fundamental rights



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guaranteed under Articles 19, 21 and 22 of the Constitution.

- 3.2. It is submitted that the Look Out Circular (LOC) itself was wholly illegal and without jurisdiction. In proceedings arising out of an offence under Section 498-A IPC, there existed no legal justification for issuance of an LOC, particularly when Petitioner No.2 had never absconded, had always cooperated with the investigation, and was residing in the United Kingdom to the knowledge of the investigating agency.
- 3.3. Learned counsel contends that the anticipatory bail granted by the Sessions Court on 10.06.2014 remained in force when Petitioner No.2 arrived in India on 16.08.2014. Therefore, even assuming that an LOC had validly been issued, Respondent No.3 had no authority to arrest Petitioner No.2 without first obtaining cancellation of the anticipatory bail order.
- 3.4. It is further submitted that the very purpose of an LOC is to secure the presence of persons deliberately evading the process of law or attempting to flee from the country. Petitioner No.2 was voluntarily entering India and not



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attempting to leave the country. Hence, enforcement of the LOC at the airport itself was wholly misconceived.

3.5. Learned counsel submits that Respondent No.3 deliberately ignored the subsisting anticipatory bail order despite being informed thereof, caused the arrest of Petitioner No.2 through the Airport Police, and thereafter detained him with the object of coercing him into settling the matrimonial dispute on terms dictated by Respondent No.1.

3.6. It is submitted that the jurisdictional Magistrate also found the arrest prima facie improper, since Petitioner No.2 had been arrested without warrant notwithstanding the subsistence of anticipatory bail, and consequently issued a show-cause notice to Respondent No.3.

3.7. Learned counsel contends that Respondent No.3 falsely recorded that a non-bailable warrant had been issued by the ACMM Court and relied upon such alleged warrant for issuance of the LOC. However, information obtained under the Right to Information Act from the concerned Court clearly establishes



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that no non-bailable warrant had ever been issued against Petitioner No.2.

- 3.8. It is therefore argued that the records relied upon by Respondent No.3 were fabricated or falsely maintained, rendering both the issuance of the LOC and the subsequent arrest wholly illegal.
- 3.9. Learned counsel further submits that Respondent No.3 illegally seized and retained the passport of Petitioner No.2 without any statutory authority under Section 10(3) of the Passports Act, 1967, compelling Petitioner No.2 to approach the Magistrate for release of the passport.
- 3.10. It is submitted that the subsequent withdrawal of the LOC during the pendency of W.P. No.45384/2014 does not cure its initial illegality. Since the writ petition was disposed of only because the respondents informed the Court that the LOC had already been withdrawn, this Court never adjudicated upon its legality.



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- 3.11. Learned counsel contends that the subsequent withdrawal itself demonstrates that the LOC lacked any legal foundation and had been issued without jurisdiction.
- 3.12. With regard to Petitioner No.1, it is submitted that after the charge-sheet had already dropped proceedings against him, Respondent No.3, accompanied by several police personnel in plain clothes and private vehicles, unlawfully entered the residence of Petitioner's daughter situated outside the territorial jurisdiction of Vidyaranyapura Police Station, forcibly removed Petitioner No.1 and his wife, and took them to Malleshwaram Police Station.
- 3.13. Learned counsel submits that Petitioner No.1, a senior citizen suffering from serious cardiac ailments, was physically manhandled by Respondent No.3, resulting in his collapse inside the police station, following which he was admitted first to K.C. General Hospital and thereafter to Fortis Hospital.
- 3.14. Reliance is placed upon the discharge summary issued by Fortis Hospital, wherein the patient's history records an alleged assault by police and



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the opening of a Medico-Legal Case (MLC), which, according to learned counsel, lends contemporaneous corroboration to the allegations of custodial assault.

3.15. It is submitted that Respondent No.3 acted wholly outside his territorial jurisdiction while removing Petitioner No.1 from Hanumanthanagar and therefore violated not only statutory procedure but also Articles 21 and 22 of the Constitution of India.

3.16. Learned counsel argues that Respondent No.3 repeatedly attempted to use police authority to compel the petitioners to succumb to the monetary and property demands allegedly made by Respondent No.1, thereby converting a matrimonial dispute into an instrument of coercion.

3.17. Learned counsel further submits that all criminal proceedings initiated by Respondent No.1 ultimately failed. The charge-sheet in Crime No.76/2014 came to be quashed by this Court in Criminal Petition No.2722/2015, and the said order was affirmed by the Hon'ble Supreme Court. Likewise, proceedings under



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the Hindu Marriage Act, the Protection of Women from Domestic Violence Act, 2005, and Section 125 Cr.P.C. were either dismissed for non-prosecution or dismissed on merits.

3.18. It is therefore contended that the subsequent judicial findings establish that the criminal proceedings were maliciously instituted and constitute a clear abuse of the process of law.

3.19. Learned counsel further relies upon the departmental enquiry report dated 25.04.2015, which, according to him, records misconduct on the part of Respondent No.3 and resulted only in the imposition of a minor punishment of withholding one increment. It is submitted that such departmental action neither compensates the petitioners nor adequately addresses the constitutional violations committed.

3.20. It is argued that the illegal arrest of Petitioner No.2 despite the subsistence of anticipatory bail, the issuance of the LOC without legal basis, the seizure of his passport without authority of law, the illegal detention and alleged custodial assault of Petitioner No.1, and the abuse of police powers at the instance of



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Respondent No.1 collectively constitute violations of Articles 19(1)(g), 21 and 22 of the Constitution.

3.21. Learned counsel submits that where State actors violate fundamental rights through misuse of statutory powers, this Court, in exercise of its jurisdiction under Article 226 of the Constitution, is empowered to award public law compensation in addition to directing accountability of the erring officials.

3.22. On these grounds, learned counsel submits that the writ petition deserves to be allowed by granting the reliefs sought, including appropriate compensation, suitable directions against the concerned police officials, and such further reliefs as this Court deems fit in the interests of justice.

3.23. He relies upon the decision in **Arnesh Kumar v. State of Bihar**,¹ more particularly paras 5, 6, 7 and 11 thereof, which are reproduced hereunder for easy reference:

"5. Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so

¹ (2014) 8 SCC 273



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also the police. There is a battle between the lawmakers and the police and it seems that the police has not learnt its lesson : the lesson implicit and embodied in CrPC. It has not come out of its colonial image despite six decades of Independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasised time and again by the courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.

6. *Law Commissions, Police Commissions and this Court in a large number of judgments emphasised the need to maintain a balance between individual liberty and societal order while exercising the power of arrest. Police officers make arrest as they believe that they possess the power to do so. As the arrest curtails freedom, brings humiliation and casts scars forever, we feel differently. We believe that no arrest should be made only because the offence is non-bailable and cognizable and therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. Apart from the power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation. Despite this legal position, the legislature did not find any improvement. Numbers of arrest have not decreased. Ultimately, Parliament had to*



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intervene and on the recommendation of the 177th Report of the Law Commission submitted in the year 2001, Section 41 of the Code of Criminal Procedure (for short "CrPC"), in the present form came to be enacted. It is interesting to note that such a recommendation was made by the Law Commission in its 152nd and 154th Report submitted as back in the year 1994. The value of the proportionality permeates the amendment relating to arrest.

7. As the offence with which we are concerned in the present appeal, provides for a maximum punishment of imprisonment which may extend to seven years and fine, Section 41(1)(b) CrPC which is relevant for the purpose reads as follows:

"41. When police may arrest without warrant.—(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

*(a)****

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely—

*(i)****

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or



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(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the police officer; or

(e) as unless such person is arrested, his presence in the court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest."

7.1. *From a plain reading of the aforesaid provision, it is evident that a person accused of an offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on his satisfaction that such person had committed the offence punishable as aforesaid. A police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts.*

7.2. *The law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of*



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the provisions aforesaid, while making such arrest. The law further requires the police officers to record the reasons in writing for not making the arrest.

7.3. *In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 CrPC.*

11. *Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:*

11.1. *All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;*

11.2. *All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);*

11.3. *The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;*



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11.4. *The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;*

11.5. *The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;*

11.6. *Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;*

11.7. *Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.*

11.8. *Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.*

3.24. By relying on ***Arnesh Kumar v. State of Bihar [(2014) 8 SCC 273]***, he submits that the Hon'ble Supreme Court has categorically held that arrest is not to be made merely because the offence is cognizable and non-bailable. The existence of the power to arrest is distinct from the justification for exercising such



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power. Before effecting an arrest, the Investigating Officer must satisfy the requirements of Section 41(1)(b) of the Code of Criminal Procedure by recording reasons in writing demonstrating the necessity for arrest.

3.25.It is further submitted that in offences under Section 498-A of the IPC, the Hon'ble Supreme Court has specifically directed that arrests shall not be made routinely and that the safeguards prescribed under Sections 41 and 41-A of the Code must be strictly complied with.

3.26.Learned counsel submits that in the present case none of the statutory requirements recognised in **Arnesh Kumar** were satisfied. Petitioner No.2 had not absconded, had not evaded investigation, had voluntarily travelled to India, was already protected by an order of anticipatory bail and there was no allegation that he was likely to tamper with evidence, influence witnesses or commit any further offence. Therefore, there existed absolutely no necessity for his arrest.

3.27.It is further submitted that the arrest of Petitioner No.2, notwithstanding the



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subsistence of the anticipatory bail order, is in the teeth of the principles laid down in **Arnesh Kumar**. The action of Respondent No.3 not only violates the safeguards contained in Sections 41 and 41-A of the Code of Criminal Procedure but also amounts to an infringement of the petitioner's fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India.

3.28. Learned counsel therefore submits that the conduct of Respondent No.3 squarely attracts the consequences contemplated in paragraph 11 of **Arnesh Kumar**, wherein the Hon'ble Supreme Court has directed that failure to comply with the mandatory safeguards governing arrest would render the concerned police officer liable to departmental action as well as proceedings for contempt. It is contended that the departmental enquiry conducted against Respondent No.3 itself establishes misconduct, thereby reinforcing the petitioners' allegation that the arrest and the consequential actions were wholly arbitrary, illegal and unconstitutional.



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3.29. He relies upon the decision in ***Rini Johar and Another V. State of Madhya Pradesh and Others***², more particularly paragraphs 20, 21, 24 and 27 thereof, which are reproduced hereunder for easy reference:

"20. Thereafter, the Court in Arnesh Kumar case [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449] referred to Section 41 CrPC and analysing the said provision, opined that a person accused of an offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on his satisfaction that such person had committed the offence. It has been further held that : (SCC pp. 278-79, para 7.1)

"7.1. ... A police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts."

Eventually, the Court was compelled to state : (SCC p. 279, para 7.3)

² (2016) 11 SCC 703



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"7.3. In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 CrPC."

21. *In the said authority in Arnesh Kumar case [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449] , Section 41-A CrPC, which has been inserted by Section 6 of the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009) was introduced and in that context, it has been held that Section 41-A CrPC makes it clear that : (SCC p. 280, para 9)*

"9. ... where the arrest of a person is not required under Section 41(1) CrPC, the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law obliges such an accused to appear before the police officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police officer is of the opinion that the arrest is necessary. At this stage also, the condition precedent for arrest as envisaged under Section 41 CrPC has to be complied with and shall be subject to the same scrutiny by the Magistrate as aforesaid."

24. *We are compelled to say so as liberty which is basically the splendour of beauty of life and bliss of growth, cannot be allowed to be frozen in such a contrived winter. That would tantamount to*



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comatosing of liberty which is the strongest pillar of democracy.

27. *In the case at hand, there has been violation of Article 21 and the petitioners were compelled to face humiliation. They have been treated with an attitude of insensibility. Not only there are violation of guidelines issued in D.K. Basu [D.K. Basu v. State of W.B., (1997) 1 SCC 416 : 1997 SCC (Cri) 92] , there are also flagrant violation of mandate of law enshrined under Section 41 and Section 41-A CrPC. The investigating officers in no circumstances can flout the law with brazen proclivity. In such a situation, the public law remedy which has been postulated in Nilabati Behera [Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 : 1993 SCC (Cri) 527] , Sube Singh v. State of Haryana [Sube Singh v. State of Haryana, (2006) 3 SCC 178 : (2006) 2 SCC (Cri) 54] , Hardeep Singh v. State of M.P. [Hardeep Singh v. State of M.P., (2012) 1 SCC 748 : (2012) 1 SCC (Cri) 684] , comes into play. The constitutional courts taking note of suffering and humiliation are entitled to grant compensation. That has been regarded as a redeeming feature. In the case at hand, taking into consideration the totality of facts and circumstances, we think it appropriate to grant a sum of Rs 5,00,000 (Rupees five lakhs only) towards compensation to each of the petitioners to be paid by the State of M.P. within three months hence. It will be open to the State to proceed against the erring officials, if so advised."*

3.30. By relying on **Rini Johar's** case, he submits that the Hon'ble Supreme Court has reiterated that personal liberty under Article 21 of the Constitution cannot be curtailed except in strict compliance with the procedure established by



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law. The Hon'ble Supreme Court has held that the safeguards contained in Sections 41 and 41-A of the Code of Criminal Procedure are mandatory and that an Investigating Officer cannot resort to arrest merely because the power to arrest exists. Where the statutory requirements are not satisfied, the accused is required to be issued a notice of appearance under Section 41-A Cr.P.C., and if such notice is complied with, arrest can be effected only upon recording reasons demonstrating its necessity.

3.31. Learned counsel submits that the observations made by the Hon'ble Supreme Court in **Rini Johar** squarely apply to the facts of the present case. Petitioner No.2 had never evaded the investigation, had voluntarily returned to India, was already protected by an order of anticipatory bail and there existed no material to indicate that his arrest was necessary for any of the purposes contemplated under Section 41(1)(b) of the Code. Therefore, the arrest effected by Respondent No.3 was wholly arbitrary and contrary to the statutory safeguards recognised by the Supreme Court.



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3.32.It is further submitted that **Rini Johar** recognises that arbitrary arrest and detention in violation of Sections 41 and 41-A of the Code amount to an infringement of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution. The Hon'ble Supreme Court has held that where investigating officers act in flagrant disregard of these statutory safeguards, constitutional courts are empowered to award compensation in exercise of their public law jurisdiction.

3.33.Learned counsel therefore submits that the present case is one where Respondent No.3 acted with complete disregard to the mandatory requirements governing arrest, ignored the subsisting order of anticipatory bail, caused the illegal arrest of Petitioner No.2, wrongfully detained him, and thereafter seized his passport without authority of law. These actions, coupled with the alleged illegal detention and custodial assault on Petitioner No.1, constitute gross violations of Articles 21 and 22 of the Constitution and entitle the petitioners to compensation under the public law remedy recognised in **Nilabati Behera v.**



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State of Orissa [(1993) 2 SCC 746], Sube Singh v. State of Haryana [(2006) 3 SCC 178], Hardeep Singh v. State of M.P., [(2012) 1 SCC 748] and reaffirmed in **Rini Johar**.

3.34. Learned counsel accordingly submits that mere departmental action against Respondent No.3 cannot be regarded as an adequate remedy for the constitutional wrong suffered by the petitioners. In view of the law declared by the Hon'ble Supreme Court in **Rini Johar**, this Court, while exercising jurisdiction under Article 226 of the Constitution, is competent to grant appropriate compensation to the petitioners, leaving it open to the State to recover the amount from the erring officials in accordance with law.

3.35. He relies upon the decision in **Saheli and Others V. Commissioner of Police and Others**³, more particularly paragraph 11 thereof, which are reproduced hereunder for easy reference:

³ (1990) 1 SCC 422



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"11. An action for damages lies for bodily harm which includes battery, assault, false imprisonment, physical injuries and death. In case of assault, battery and false imprisonment the damages are at large and represent a solatium for the mental pain, distress, indignity, loss of liberty and death. As we have held hereinbefore that the son of Kamlesh Kumari aged 9 years died due to beating and assault by the SHO, Lal Singh and as such she is entitled to get the damages for the death of her son. It is well settled now that the State is responsible for the tortious acts of its employees. Respondent 2, Delhi Administration is liable for payment of compensation to Smt. Kamlesh Kumari for the death of her son due to beating by the SHO of Anand Parbat Police Station, Shri Lal Singh."

3.36. By relying on **Saheli's** case, he submits that it is now well settled that the State is vicariously liable for the tortious acts committed by its police officers while acting in the course of their official duties. The Hon'ble Supreme Court has recognised that an action for damages lies in cases involving assault, battery, false imprisonment, illegal detention and bodily harm, and that compensation awarded in such cases is intended not merely to compensate for physical injury but also for the mental agony, humiliation, indignity and loss of personal liberty suffered by the victim.



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3.37.Learned counsel submits that the principle enunciated in **Saheli** squarely applies to the facts of the present case. According to him, Respondent No.3, while acting under the colour of his office as a police officer, illegally arrested Petitioner No.2 despite the subsistence of an anticipatory bail order, unlawfully seized his passport, and further subjected Petitioner No.1, a senior citizen suffering from serious cardiac ailments, to illegal detention and physical assault, resulting in his hospitalisation. These acts, it is submitted, constitute actionable wrongs for which the State is vicariously liable.

3.38.Learned counsel further submits that the liability of the State to compensate persons whose fundamental rights have been violated by unlawful acts of police officials is independent of any departmental or criminal proceedings initiated against the erring officer. The mere imposition of a departmental penalty upon Respondent No.3 does not redress the constitutional injury suffered by the petitioners nor absolve the State of its obligation to compensate them.



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3.39.It is therefore submitted that the petitioners, having suffered illegal arrest, unlawful detention, physical assault, humiliation, loss of liberty, reputational harm, financial loss and mental trauma on account of the unlawful exercise of police powers, are entitled to appropriate compensation under the public law jurisdiction of this Court, leaving it open to the State to recover the amount from the delinquent officer in accordance with law.

3.40.He relies upon the decision in ***Naveen Kumar J. and Another V. State of Karnataka and Another⁴***, more particularly paragraphs 12, 19 and 22 thereof, which are reproduced hereunder for easy reference:

"12. I have carefully considered the rival submissions and have perused the grounds urged in the petition and the documents produced by the parties. There is no dispute regarding the inter-se relationship between the parties. It is also not in dispute that until 13.11.2013, the petitioner No.1 and respondent No.2 stayed in London. Admittedly, respondent No.2 did not complain against her husband when they were staying in London. It is only after her return to India, the present proceedings appears to have been initiated. A reading of the complaint discloses that the matrimonial relationship between the complainant and petitioner No.1 has

⁴ CrI.P.No.2722/2015



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strained since then. But what is material to be seen for the purpose of this petition is whether the accusations made against the petitioners make out the offences alleged against them or whether the criminal law is set in motion solely with a view to harass the petitioners?

19. *The aforesaid delay coupled with the baseless allegations made against the petitioners alleging dowry demand and cruelty in the matrimonial house leads to the inevitable conclusion that the criminal law is set in motion by respondent No.2 after much deliberation with a view to spite the petitioners because of the strained matrimonial relationship between her and petitioner No.1. In this context, the observations made by the Hon'ble High Court of Allahabad in the case of Dharm Raj Yadav and others Vs State of U.P. and others are worth to be extracted.*

"The common experience shows that most of the cases of differences and dissensions between married couples result only in dowry demand by the husband and by all his family members. The provisions of the Act are being callously misused by the wives and their parents with different kinds of stories. The disputes, though pending in the Courts for decisions, still give rise to the complaints and F.I.Rs of the wife's victimization of dowry demand. So long the status of the husband is enchanting, as was the case in hand with the informant's own allegation that her father was mesmerized with the status of Sanjeev Kumar – presents and gifts comprising colour T.V., generator sets, maruti cars or even that of better brand, houses, cash – are offered to grab over the bridegroom. He is forced to be attracted of all allurements of huge cash and numerous gifts of household utility, but with the disruption of ties between the husband and wife or slight dissensions on account of their colliding temperaments, strained relationship of the wife with her parents-in-law, difference in the culture of the two families of wife and husband, distances of the education between the two including the



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difference of mental levels, and extra-marital relationship of either of the two spouses – everything is channelized into a dowry tunnel and the wife is said to be victimized of the dowry demand.”

22. *Before parting with this order it is necessary to note that serious allegations are made in the petition against the Investigation Officer and the partisan role played by him in conducting the investigation. But as the petitioners have taken independent action against the Investigating Officer, I have refrained from making any comments on the conduct of the Investigating Officer. Nonetheless, for the reasons discussed above, the proceedings initiated against the petitioners in C.C. No.19653/2014 are liable to be quashed and hence the aid proceedings pending on the file of the IV Additional Chief Metropolitan Magistrate Court at Bengaluru in C.C.No.19653/2014 are hereby quashed.”*

3.41. By relying on **Naveen Kumar J's** case, he submits that the facts of the present case bear a striking resemblance to the facts considered by this Court in the said decision. It is submitted that in both cases, the matrimonial relationship had remained cordial while the spouses resided together abroad and the criminal proceedings came to be initiated only after the wife returned to India. This Court, in the said decision, held that the surrounding circumstances and the nature of the allegations were relevant in determining whether the



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criminal law had been set in motion bona fide or merely as an instrument of harassment arising out of matrimonial discord.

3.42. Learned counsel submits that the criminal proceedings initiated by Respondent No.1 in the present case were also the result of a strained matrimonial relationship and not on account of any genuine demand for dowry or acts of cruelty. The allegations, according to him, were vague, omnibus and unsupported by any contemporaneous material, which ultimately led this Court to quash the criminal proceedings in Criminal Petition No.2722/2015.

3.43. It is further submitted that this Court, while allowing Criminal Petition No.2722/2015, found that there was no specific allegation constituting the ingredients of the offences alleged, no material to substantiate the accusations of dowry demand or cruelty, and that the criminal proceedings were manifestly attended with mala fides. The said judgment having been affirmed by the Hon'ble Supreme Court, the findings recorded therein have attained finality.



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3.44. Learned counsel contends that the observations made by this Court in **Naveen Kumar J** fortify the petitioners' contention that Respondent No.1 had invoked the criminal process not for redressal of any genuine grievance but to exert pressure upon Petitioner No.2 in the matrimonial dispute. Respondent No.3, instead of conducting an impartial investigation, is alleged to have actively facilitated such abuse of the criminal justice process by resorting to illegal arrest, issuance of the Look Out Circular, seizure of the passport and other coercive measures.

3.45. It is therefore submitted that once the very criminal proceedings, on the strength of which Respondent No.3 exercised coercive powers, have been quashed by this Court on the ground that they were devoid of material and amounted to an abuse of the process of law, the consequential actions taken by Respondent No.3 during the investigation assume the character of arbitrary and unconstitutional exercise of power. According to learned counsel, these circumstances reinforce the petitioners' claim that the respondents acted mala fide and



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are consequently liable in public law for violation of the petitioners' fundamental rights.

3.46. On all the above basis, he submits that the above petition is required to be allowed in its entirety and the relief sought for be granted.

4. Sri Rahul Krishna Reddy P., learned counsel for respondent No.3 would submit that:

4.1. Learned counsel for Respondent No.3 submits that the main allegation against Respondent No.3 is that he took custody of Petitioner No.2 on 16.08.2014 from the officers of the Bureau of Immigration at Kempegowda International Airport even though Petitioner No.2 had already been granted anticipatory bail by the Sessions Court on 10.06.2014 in Criminal Miscellaneous No.2834/2014.

4.2. He submits that Crime No.76/2014 had been registered at Vidyaranyapura Police Station on 14.03.2014 on the basis of the complaint filed by Respondent No.1 against the petitioners and other family members.

4.3. He submits that after the registration of the case, Petitioner No.2, who was shown as



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Accused No.1, remained outside India and did not cooperate with the investigation. After completing the investigation, the police filed the charge sheet against Petitioner No.2 and his mother on 18.07.2014. Since Petitioner No.2 continued to stay outside the country, Respondent No.3 submitted a report to the Deputy Commissioner of Police. Based on that report, the Deputy Commissioner of Police forwarded the matter to the Deputy Commissioner of Police (Intelligence), who issued the Look Out Circular (LOC) on 25.07.2014.

- 4.4. Learned counsel submits that Respondent No.3 did not issue the Look Out Circular. It was issued by the competent authority after following the prescribed procedure. Therefore, Respondent No.3 cannot be blamed for the issuance of the LOC.
- 4.5. He further submits that when Petitioner No.2 arrived at Kempegowda International Airport on 16.08.2014, the Look Out Circular was still in force. Acting on the LOC, the officers of the Bureau of Immigration detained Petitioner No.2



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and informed Respondent No.3 to take him into custody.

4.6. With regard to the anticipatory bail, learned counsel submits that although Petitioner No.2 had obtained anticipatory bail on 10.06.2014, a copy of the bail order had never been furnished to Respondent No.3. Therefore, Respondent No.3 had no knowledge of the order at the time he took custody of Petitioner No.2. He submits that since the Look Out Circular was in force, Respondent No.3 was required to receive custody of Petitioner No.2 from the Bureau of Immigration. After taking custody, Respondent No.3 immediately produced Petitioner No.2 before the jurisdictional Magistrate on the same day. According to the learned counsel, Respondent No.3 acted in accordance with law and did not commit any misconduct or dereliction of duty.

4.7. He submits that under Section 41(1)(b)(ii)(e) of the Code of Criminal Procedure, 1973 ('Cr.PC' for short) empowers the Investigating Officer to arrest any person without a warrant, if he is satisfied that unless such person is



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arrested, his presence in the Court whenever required, cannot be ensured. Section 41(1)(b)(ii)(e) of the Cr.P.C, is reproduced hereunder for easy reference:

"Section-41(1)(b)(ii)(e)- as unless such person is arrested, his presence in the Court whenever required cannot be ensured and the police officer shall record while making such arrest, his reason in writing"

- 4.8. He submits that in the present case, the Look Out Circular was in force when Petitioner No.2 arrived at the airport. Since Respondent No.3 was not aware of the anticipatory bail order, and having regard to the powers available under Section 41(1)(b)(ii)(e) of the Cr.P.C., Respondent No.3 had no option but to take custody of Petitioner No.2 from the Bureau of Immigration. Therefore, according to him, the action of Respondent No.3 was lawful and protected under the provisions of the Cr.P.C.
- 4.9. Learned counsel further submits that after the charge sheet was filed on 18.07.2014 against Petitioner No.2 (Accused No.1) and his mother (Accused No.2), the jurisdictional Magistrate, by order dated 22.07.2014, took cognizance of the



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offences and issued a non-bailable warrant against Petitioner No.2. The warrant was forwarded to the staff of Vidyaranyapura Police Station for execution. As the warrant could not be executed, it was returned to the Court. He submits that, in any event, even if the warrant remained unexecuted or was returned, Respondent No.3 was still empowered under Section 41(1)(b)(ii)(e) of the Cr.P.C. to arrest Petitioner No.2 without a warrant. Therefore, according to him, Respondent No.3 acted strictly in accordance with law.

- 4.10. With regard to the allegation that Respondent No.3 forcibly took Petitioner No.1 and his wife from their daughter's house, learned counsel submits that they had only been asked to appear before the Spandana Counselling Centre (Vanitha Sahaya Vani) pursuant to a notice issued by the counselling centre. He denies the allegation that any force was used. According to him, Petitioner No.1 and his wife travelled to the counselling centre in their own private car, and the allegation of forcible removal is false.



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4.11. He submits that non-bailable warrant under Section 70(2) of Cr.P.C shall remain in force until it is cancelled or re-called by the Court which issued or until it is executed. Section 70(2) of Cr.P.C. is reproduced hereunder for easy reference:

"Section-70(2)- Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed."

4.12.By relying on Section 70(2) of Cr.P.C., he submits that the non-bailable warrant issued against Petitioner No.2 was neither cancelled nor recalled by the jurisdictional Court. Therefore, according to him, the warrant continued to remain in force even on the date when Petitioner No.2 was taken into custody. He further submits that the petitioners never filed any application seeking recall or cancellation of the warrant. In the absence of such an order, the warrant continued to remain operative, and the action taken by Respondent No.3 cannot be said to be illegal.

4.13.As regards anticipatory bail, he relies upon Section 438 of Cr.P.C., which is reproduced hereunder for easy reference:



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438. Direction for grant of bail to person apprehending arrest. –

(1) Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognisable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-Section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in charge of a police station to arrest, without warrant, the applicant on the basis of the accusation apprehended in such application.

(1-A) Where the Court grants an interim order under sub-Section (1), it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.



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(1-B) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice] [Substituted by Act 25 of 2005, Section 38, for sub-Section (1). Prior to its substitution, sub-Section (1) read as under :- [(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this Section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail].].

(2)When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including –

(i)a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii)a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii)a condition that the person shall not leave India without the previous permission of the Court;

(iv)such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section :

Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the



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penalty, to imprisonment in civil jail for a term which may extend to six months.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

(4) [Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.] [Inserted by Criminal Law (Amendment) Act, 2018 (22 of 2018), dated 11.8.2018.]”

4.14. By relying on Section 438 of the Code of Criminal Procedure relating to anticipatory bail. He submits that the provision makes it clear that an order of anticipatory bail is a direction that, in the event of arrest, the person shall be released on bail. He also points out that the Court granting anticipatory bail may impose conditions requiring the accused to cooperate with the investigation, appear for interrogation, refrain from influencing witnesses, and not leave India without the permission of the Court.



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4.15. Relying on Section 438 Cr.P.C., learned counsel submits that an order granting anticipatory bail does not prohibit the police from taking a person into custody. According to him, the protection under Section 438 comes into operation only when the person is arrested. At that stage, the person is entitled to be released on bail in terms of the anticipatory bail order. He therefore contends that arrest is a necessary step for giving effect to an order of anticipatory bail. According to him, Respondent No.3 acted in accordance with this legal position by taking custody of Petitioner No.2 and producing him before the jurisdictional Magistrate, and no illegality can be attributed to his actions.

4.16. In this regard, he relies upon the decision in ***Sushila Aggarwal and Others V. State (NCT of Delhi) and Another⁵***, more particularly paragraph 49 thereof, which is reproduced hereunder:

"49. The term "anticipatory bail" finds no place in CrPC itself but was used by the Law Commission of India in its 41st Report. The term was used to

⁵ (2020) 5 SCC 1



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convey that it was an application for bail in anticipation of arrest i.e. before the arrest itself is made. Grant of bail, according to Wharton's Law Lexicon, and as noticed in Sibbia [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] , means to "set at liberty a person arrested or imprisoned, on security being taken for his appearance". Sibbia [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] , observed thus : (SCC pp. 574-75, para 7)

"7. ... The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore effective at the very moment of arrest. Police custody is an inevitable concomitant of arrest for non-bailable offences. An order of anticipatory bail, constitutes, so to say, an insurance against police custody following upon arrest for offence or offences in respect of which the order is issued. In other words, unlike a post-arrest order of bail, it is a pre-arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. Section 46(1) of the Criminal Procedure Code which deals with how arrests are to be made, provides that in making the arrest, the police officer or other person making the arrest 'shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action'. A direction under Section 438 is intended to confer conditional immunity from this "touch" or confinement."

4.17. By relying on **Sushila Aggarwal**, he submits that anticipatory bail is a pre-arrest remedy which becomes effective at the moment of



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arrest. He submits that the Hon'ble Supreme Court has explained that an order under Section 438 Cr.P.C. does not prevent an arrest from taking place, but ensures that if the person is arrested in connection with the offence covered by the order, he is entitled to be released on bail.

4.18. Relying on ***Sushila Aggarwal***, learned counsel submits that the purpose of anticipatory bail is not to prohibit the police from taking a person into custody, but to protect the person from being kept in police custody after such arrest. According to him, an order of anticipatory bail operates as a direction that the person shall be released on bail immediately upon arrest, subject to the conditions imposed by the Court.

4.19. He therefore submits that the fact that Petitioner No.2 had been granted anticipatory bail did not prevent Respondent No.3 from taking custody of him pursuant to the Look Out Circular. According to him, once Petitioner No.2 was taken into custody, Respondent No.3 complied with the law by producing him before the jurisdictional Magistrate without any



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unnecessary delay. Therefore, it cannot be said that Respondent No.3 acted illegally or in violation of the order granting anticipatory bail.

4.20.Learned counsel accordingly submits that the reliance placed by the petitioners on the order of anticipatory bail is misplaced. According to him, the order did not bar the arrest itself but only guaranteed the petitioner's release on bail upon arrest. Hence, the action of Respondent No.3 in receiving custody of Petitioner No.2 from the Bureau of Immigration and producing him before the Magistrate was fully consistent with the law declared by the Hon'ble Supreme Court in **Sushila Aggarwal**.

4.21.His submission is also that the grant of anticipatory bail acts as a shield to arrest despite non-bailable warrant in existence under Clause (3) of Section 438 of Cr.PC, which is reproduced hereunder for easy reference:

"Section 438(3)- *If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first*



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instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1)."

4.22. By relying on Clause (3) of Section 438 of Cr.P.C., he submits that the effect of an order granting anticipatory bail has to be understood in the light of Section 438(3) of the Code of Criminal Procedure. He submits that the provision contemplates two situations. First, where a person is arrested without a warrant, such person is entitled to be released on bail in terms of the anticipatory bail order. Secondly, where the Magistrate subsequently decides that a warrant should be issued, the Magistrate is required to issue a bailable warrant in conformity with the order granting anticipatory bail.

4.23. Relying on Section 438(3) Cr.P.C., learned counsel submits that the protection granted by an order of anticipatory bail is not absolute. According to him, the provision only requires that a person arrested without a warrant should be released on bail. He contends that the provision does not prohibit the execution of a non-bailable warrant issued by a competent



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Court after the grant of anticipatory bail. Therefore, according to him, where a non-bailable warrant is in force, the protection under Section 438(3) cannot be construed as preventing the police from taking the accused into custody.

4.24. Learned counsel accordingly submits that, since a non-bailable warrant had been issued by the jurisdictional Magistrate and had not been cancelled or recalled, Respondent No.3 was justified in acting upon it. He therefore contends that neither the arrest of Petitioner No.2 nor his production before the jurisdictional Magistrate can be said to be contrary to the order granting anticipatory bail or otherwise illegal.

4.25. Learned counsel submits that the Look Out Circular was issued because Petitioner No.2 did not appear before the Court and a non-bailable warrant had already been issued against him. According to him, the purpose of the LOC was only to secure the presence of Petitioner No.2 before the Court and to prevent him from evading the legal process. He submits that the



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provisions relating to anticipatory bail and the issuance of a Look Out Circular operate in different fields. While anticipatory bail protects a person from being kept in custody, a Look Out Circular is intended to prevent a person from fleeing the country and to secure his presence before the Court.

4.26. He further submits that since Petitioner No.2 failed to appear before the Court, the jurisdictional Magistrate issued a non-bailable warrant against him. It was only thereafter that the Look Out Circular was issued to ensure that Petitioner No.2 did not continue to evade the process of law.

4.27. Learned counsel submits that after the Bureau of Immigration handed over the custody of Petitioner No.2, Respondent No.3 acted in accordance with law by taking steps under the Passports Act to ensure that Petitioner No.2 did not again leave the country and avoid the judicial process.

4.28. Learned counsel further submits that Chapter VI of the Code of Criminal Procedure provides for the issuance of summons, warrants and



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other processes to secure the presence of an accused before the Court at every stage of the criminal proceedings, including during trial and even in appeal. He submits that after the charge sheet was filed, Petitioner No.2 failed to appear before the Court for consideration of the case and framing of charges. According to him, no application seeking exemption from personal appearance under Section 317 of the Cr.P.C. was filed on behalf of Petitioner No.2.

4.29.Learned counsel therefore submits that the mere grant of anticipatory bail does not prevent the Court from exercising its powers under Chapter VI of the Cr.P.C. to secure the presence of an accused. According to him, anticipatory bail is always subject to the condition that the accused shall appear before the Court whenever required. Since Petitioner No.2 failed to do so, the issuance of the non-bailable warrant and the consequential steps taken to secure his presence cannot be said to be illegal.

4.30.Insofar as the genuineness of certified copy is concerned, his submission is that the same would come under Section 77 of the Indian



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Evidence Act, 1872, which is reproduced hereunder for easy reference:

"Section-77: Proof of documents by production of certified copies.

Such certified copies may be produced in proof of the contents of the public documents or part of the public documents of which they purport to be copies."

4.31. The certified copies produced before the Court are public documents within the meaning of the Indian Evidence Act, 1872. Relying on Section 77 of the Evidence Act, he submits that certified copies are admissible in evidence to prove the contents of public documents and carry a presumption of correctness unless proved otherwise.

4.32. On the strength of Section 77 of the Evidence Act, learned counsel submits that the arrest of Petitioner No.2 was lawful as Respondent No.3 acted on the basis of a non-bailable warrant which, according to him, was valid and in force. He contends that the information furnished under the Right to Information Act cannot override or discredit the certified copies of the Court records. According to him, an RTI reply cannot be treated as sufficient evidence to



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rebut the evidentiary value attached to certified copies of judicial records. Therefore, he submits that the petitioners cannot rely on the RTI replies to contend that no non-bailable warrant had been issued or that the arrest was illegal.

4.33. His submission is that the allegation that Petitioner No.1 was assaulted by Respondent No.3 is not supported by the medical records relied upon by the petitioners themselves. He submits that Petitioner No.1 got himself admitted to a private hospital with a complaint of alleged assault by the police and was admitted only for observation. The discharge summary records that Petitioner No.1 had a history of hypertension and ischaemic heart disease. According to him, the medical records do not disclose any external injuries such as bruises, abrasions or contusions, nor do they show that any treatment was administered for injuries said to have been caused by an assault. Therefore, he submits that the allegation of physical assault is not borne out by the medical evidence.



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4.34. With regard to the contention that no notice under Section 41-A of the Code of Criminal Procedure was issued before taking action against the petitioners, learned counsel submits that, even if this allegation is accepted, it would amount at best to a procedural lapse or an overzealous discharge of official duties. He points out that Respondent No.3 has already been subjected to departmental proceedings on this issue and has been punished by reduction in rank. According to him, the alleged misconduct has thus been dealt with departmentally.

4.35. He further submits that the petitioners had participated in the disciplinary proceedings as complainants and, therefore, cannot seek to invoke the public law jurisdiction of this Court once again on the same cause of action. According to him, the remedy of compensation in public law is intended only for cases involving custodial torture or other grave violations of fundamental rights, and cannot be extended to every instance of procedural irregularity or dereliction of duty by a police officer. He reiterates that the discharge summary and the



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other medical records relied upon by the petitioners do not disclose any injuries suggesting the use of physical force by Respondent No.3 against Petitioner No.1. Therefore, according to him, no case is made out for grant of compensation or any other public law relief.

4.36. On the above basis, he submits that the above petition is required to be dismissed.

5. Learned AGA appearing for respondent Nos.4 and 5-State submits that an enquiry has been conducted, first information received and action has been taken against respondent No.3.
6. When the matter was taken on 25.10.2024, this Court has passed the following order:

"1. Having heard Sri Monesh Kumar, counsel for petitioner and Sri Prasanna Kumar, counsel for respondent No.3.

2. The following are required to be ascertained:-

1) The learned Additional Government Advocate is directed to secure the file relating to the look-out circular in respect of petitioner No.2 in order to ascertain as to who initially moved the file and what are the notes put-up therein as also whether a note as regards the order of bail in Crl. Misc. No.2834/2014 had been put-up in the said file.



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2) Sri Prasanna Kumar/Additional Government Advocate are directed to place on record the bail order mentioned in respect of accused No.2 in the charge sheet filed on 18.07.2014 at Annexure-D and also offer explanation as to why the bail order dated 10.06.2014 passed in Crl. Misc. No.2834/2014 has not been mentioned with regard to accused No.1 in the charge sheet filed much subsequently on 18.07.2014.

3) Sri Prasanna Kumar/Additional Government Advocate are also directed to make a submission as to why accused No.2 was not released on bail subsequent to his detention in furtherance of the look-out circular apparently issued on the basis of a file put-up by respondent No.3 since the respondent No.3 was fully aware of the order of bail passed on 10.06.2014 in Crl. Misc. No.2834/2014.

3. All the counsels are also directed to submit a detailed synopsis of the dates and events. As regards the arrest, production and release of accused No.2 with reference to the documents in relation thereto.

4. Re-list on 13.11.2024 at 2:30 p.m. for further hearing.

5. Copy of the aforesaid order be furnished to the learned Government."

7. The files not having been produced, this Court on 27.11.2024 has observed that:

"1. Learned AGA Learned counsel for the petitioner seeks for and is granted two weeks' time to time and is granted two days' time to comply with the order dated 25.10.2024

2. Re-list on 05.12.2024.

3. If the order is not complied and the file not produced by the next date, the concerned Deputy



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Commissioner of Police shall remain personally present before this Court."

8. On 05.12.2024, on behalf of respondent-State, the time was sought for, the matter was adjourned to 12.12.2024.
9. Finally, after many adjournments, on 19.03.2025, learned AGA has filed a report stating that records are not available and his submission is placed on record.
10. Although Respondent Nos.1 and 2 were represented by Sri Deepak J. and Sri Rahul S. Reddy, learned counsel, there was no appearance by them.
11. Heard Sri Monesh Kumar K.B., learned counsel for Smt.Vijetha R. Naik, learned counsel appearing for the petitioners, Sri Rahul Krishna Reddy P., learned counsel for respondent No.3 and Sri C.H. Devaraj, learned Government Advocate for respondent Nos.4 and 5. Perused papers.
12. The points that would arise for consideration are:
 - (i) **Whether the issuance of the Look Out Circular, the arrest of Petitioner No.2, and the seizure of his passport were legal and in accordance with the Code of Criminal Procedure, the Passports Act, and the applicable executive instructions?**



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- (ii) Whether Respondent No.3 complied with the mandatory safeguards governing arrest under Sections 41 and 41-A Cr.P.C., the order granting anticipatory bail, and the law laid down in *Arnesh Kumar v. State of Bihar* [(2014) 8 SCC 273] and other decisions of the Hon'ble Supreme Court?
- (iii) Whether the allegations regarding the illegal detention, assault and harassment of Petitioner No.1 by Respondent No.3 are established on the basis of the evidence on record?
- (iv) Whether Respondent No.3 abused or exceeded his statutory powers in the course of investigation, thereby violating the petitioners' fundamental rights under Articles 19, 21 and 22 of the Constitution?
- (v) Whether the departmental enquiry and the punishment imposed on Respondent No.3 preclude or affect the petitioners' claim for public law compensation and other constitutional remedies?
- (vi) Whether the petitioners are entitled to the reliefs sought in the writ petition?
- (vii) What Order?

13. This Court answers the above points as follows:

14. **Answer to Point No. (i):** Whether the issuance of the Look Out Circular, the arrest of Petitioner No.2, and the seizure of his passport were legal and in accordance with the Code of Criminal



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Procedure, the Passports Act, and the applicable executive instructions?

- 14.1. Sri Monesh Kumar, learned counsel for the petitioners, submits that the Look Out Circular (LOC) was wholly illegal and issued without jurisdiction. In a matter arising out of an offence under Section 498-A of the Indian Penal Code, there was no legal justification for issuing an LOC, particularly when Petitioner No.2 had never absconded, had always cooperated with the investigation, and was residing in the United Kingdom to the knowledge of the investigating agency.
- 14.2. He submits that the very object of an LOC is to secure the presence of a person who is deliberately evading the process of law or attempting to flee the country. Petitioner No.2 was voluntarily entering India and was not attempting to leave the country. Enforcing the LOC against him at the airport was, therefore, wholly misconceived.
- 14.3. He submits that Respondent No.3 falsely recorded that a non-bailable warrant had been issued by the ACMM Court and relied on that



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alleged warrant to justify the LOC and the arrest. Information obtained under the Right to Information Act, 2005, from the concerned Court establishes that no non-bailable warrant had ever been issued against Petitioner No.2. The records relied upon by Respondent No.3 were, therefore, fabricated or falsely maintained, rendering both the LOC and the arrest illegal.

14.4. He submits that Respondent No.3 illegally seized and retained the passport of Petitioner No.2 without any statutory authority under Section 10(3) of the Passports Act, 1967, which compelled Petitioner No.2 to approach the jurisdictional Magistrate, who ordered release of the passport on 26.08.2014.

14.5. He submits that the subsequent withdrawal of the LOC during the pendency of W.P.No.45384/2014 does not cure its initial illegality. That writ petition was disposed of only because the respondents informed the Court that the LOC had already been withdrawn, and the Court never adjudicated upon its legality.



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The withdrawal itself shows that the LOC lacked any legal foundation.

14.6. Sri Rahul Krishna Reddy, learned counsel for Respondent No.3, submits that Respondent No.3 did not issue the LOC. Respondent No.3 only submitted a report to the Deputy Commissioner of Police, who forwarded the matter to the Deputy Commissioner of Police (Intelligence), and it was the latter who issued the LOC on 25.07.2014. Respondent No.3 cannot, therefore, be blamed for the issuance of the LOC.

14.7. He submits that when Petitioner No.2 arrived at Kempegowda International Airport on 16.08.2014, the LOC was still in force. Acting on the LOC, the officers of the Bureau of Immigration detained Petitioner No.2 and informed Respondent No.3 to take him into custody. Respondent No.3 was required to receive that custody.

14.8. He submits that after the charge sheet was filed on 18.07.2014, the jurisdictional Magistrate, by order dated 22.07.2014, took cognisance and issued a non-bailable warrant



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against Petitioner No.2. The warrant was forwarded to the staff of Vidyaranyapura Police Station for execution; as it could not be executed, it was returned to the Court. By relying on Section 70(2) of the Code of Criminal Procedure, he submits that a warrant remains in force until it is cancelled or executed. Section 70(2) is extracted for reference:

"Section-70(2)- Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed."

14.9. He submits that the non-bailable warrant against Petitioner No.2 was neither cancelled nor recalled, and the petitioners never applied for its recall. It, therefore, continued in force even on the date Petitioner No.2 was taken into custody, and the action of Respondent No.3 cannot be said to be illegal.

14.10. He submits that the certified copies produced before the Court are public documents and, by relying on Section 77 of the Indian Evidence Act, 1872, carry a presumption of correctness. Section 77 is extracted for reference:

"Section-77: Proof of documents by production of certified copies. Such certified copies may be produced



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in proof of the contents of the public documents or part of the public documents of which they purport to be copies."

14.11. On the strength of Section 77, he submits that an RTI reply cannot override or discredit the certified copies of the Court records. Therefore, the arrest founded on the non-bailable warrant was lawful, and the petitioners cannot rely on the RTI reply to contend that no warrant had been issued.

14.12. He submits that after the Bureau of Immigration handed over custody of Petitioner No.2, Respondent No.3 acted under the Passports Act to ensure that Petitioner No.2 did not again leave the country and evade the judicial process.

14.13. The learned Government Advocate for Respondent Nos.4 and 5 submits that an enquiry was conducted, first information was received, and action has been taken against Respondent No.3. It is further on record that, though this Court directed the State by orders dated 25.10.2024, 27.11.2024 and 05.12.2024 to produce the file relating to the LOC and the record of the non-bailable warrant, the learned



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Government Advocate ultimately filed a report on 19.03.2025 stating that the records are not available.

14.14. This point requires this Court to examine three distinct acts, namely, the issuance of the LOC, the arrest of Petitioner No.2, and the seizure of his passport, and to test each against the Code of Criminal Procedure, the Passports Act, 1967, and the applicable executive instructions.

14.15. At the outset, the legality of the LOC was never decided in W.P.No.45384/2014. That petition was disposed of as infructuous only because the respondents stated that the LOC had already been withdrawn. A challenge that is rendered infructuous by voluntary withdrawal of the impugned act is not an adjudication upholding its legality. The legality of the LOC, therefore, remains open and falls for examination in this petition.

14.16. A Look Out Circular is a coercive measure. Its recognised purpose, under the executive instructions of the Ministry of Home Affairs that govern the field, is to prevent a person from leaving or entering the country in a manner



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that would defeat the process of law, and to secure the presence of a person who is deliberately evading that process. In the present case, Petitioner No.2 was voluntarily entering India, was residing abroad to the knowledge of the investigating agency, and was already protected by an order of anticipatory bail.

14.17. The burden of demonstrating that the LOC and the arrest were legal lay squarely on the State and on Respondent No.3, who alone held the relevant records. This Court, by successive orders dated 25.10.2024, 27.11.2024 and 05.12.2024, specifically called upon the State to produce the LOC file, to show who initiated it and what notings it bore, and to place on record the non-bailable warrant and explain why the subsisting order of anticipatory bail had not been reflected. Despite these clear directions, the State reported on 19.03.2025 that the records are not available. When a party who is in exclusive possession of the best evidence withholds it despite specific directions, the Court is entitled to draw an adverse inference that the record, if produced, would



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not have supported that party's case. This Court draws that inference here against the legality of the LOC and of the foundation asserted for the arrest.

14.18. The submission of Respondent No.3 that he did not himself issue the LOC is only partly correct. It is admitted that the LOC was set in motion by the report submitted by Respondent No.3. The immunity he claims from the act of the issuing authority cannot extend to the correctness of the report on which that authority acted, especially when the report is said to have relied upon a non-bailable warrant whose very existence is in doubt.

14.19. On the disputed question whether a non-bailable warrant was in fact issued, Respondent No.3 relies on a certified copy and on Section 77 of the Indian Evidence Act, while the petitioners rely on the RTI information from the same Court and on the copies obtained from the criminal court, both indicating that no such warrant existed. It is true that a certified copy is admissible under Section 77 to prove the contents of a public document. However, the



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value attaching to a certified copy is a rebuttable one; it proves the contents of the document produced, but it does not by itself prove that a warrant was actually issued when the very existence of the warrant is challenged and the original record is not forthcoming. Here, the State was directed to produce the warrant record and failed to do so; the jurisdictional Magistrate, on production of Petitioner No.2, herself noticed that he had been arrested without warrant despite the subsisting anticipatory bail and issued a show-cause notice to Respondent No.3; and the enquiry report dated 25.04.2015 (Annexure-R) records that Petitioner No.2 was arrested without a warrant and without any non-bailable warrant having been issued. Weighing these materials together, the preponderance of the record is that no valid non-bailable warrant justified the arrest.

14.20. Even if it is assumed in favour of Respondent No.3 that a non-bailable warrant had been issued after the grant of anticipatory bail, that assumption does not render the arrest and detention lawful. Section 438(3) of the Code of



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Criminal Procedure, which the respondents themselves rely upon, is extracted for reference:

"Section 438(3)- If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1)."

14.21. On a plain reading, where a person protected by anticipatory bail is arrested without warrant, he must be released on bail; and where the Magistrate decides that a warrant should issue, the Magistrate must issue a bailable warrant in conformity with the order of anticipatory bail. The provision does not contemplate a non-bailable warrant being used to detain a person already protected by anticipatory bail.

14.22. The submission of Respondent No.3 that the protection under Section 438(3) is not absolute and does not bar the execution of a non-bailable warrant issued after the grant of



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anticipatory bail cannot be accepted, because the very sub-section directs that on such an arrest the person shall be released on bail and that any warrant thereafter must be a bailable one; a non-bailable warrant cannot be pressed into service to defeat the protection the sub-section confers.

14.23. Equally, the submission that anticipatory bail and a Look Out Circular operate in different fields does not carry the matter further; even if the two operate in different fields, the Look Out Circular had still to answer its own purpose of preventing a person from fleeing, and Petitioner No.2 was entering the country and not fleeing it. Therefore, even on the respondents' own case, the correct course was to release Petitioner No.2 on bail forthwith, and not to detain him and seize his passport.

14.24. In paragraph 49 of **Sushila Aggarwal and Others v. State (NCT of Delhi) and Another** [(2020) 5 SCC 1], the Hon'ble Supreme Court quoting **Gurbaksh Singh Sibbia v. State of Punjab** [(1980) 2 SCC 565], explained that an order of anticipatory bail:



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"...constitutes, so to say, an insurance against police custody following upon arrest for offence or offences in respect of which the order is issued... it is a pre-arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail."

14.25. The whole object of an order of anticipatory bail, therefore, is to protect the person from police custody following arrest. The contention of Respondent No.3 that arrest was merely a necessary step to give effect to the anticipatory bail turns the provision on its head; the correct effect of the order was immediate release on bail, not prolonged detention. To that extent, **Sushila Aggarwal** does not assist Respondent No.3 and is distinguishable on the manner in which he acted.

14.26. As regards the passport, an Investigating Officer has no independent power to seize and retain a passport in the course of investigating an offence under Section 498-A IPC. Section 10(3) of the Passports Act, 1967, confers the power to impound a passport upon the passport authority in specified circumstances and on recorded reasons; it does not authorise a police officer to seize and retain a passport at his own



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hand. That the jurisdictional Magistrate ordered release of the passport on 26.08.2014 confirms that the seizure was without authority of law.

14.27. This Court therefore answers Point No. (i) by holding that the issuance of the LOC, the arrest of Petitioner No.2, and the seizure of his passport were not legal, and were not in accordance with the Code of Criminal Procedure, 1983, the Passports Act, 1967, or the applicable executive instructions.

15. **Answer to Point No. (ii): Whether Respondent No.3 complied with the mandatory safeguards governing arrest under Sections 41 and 41-A Cr.P.C., the order granting anticipatory bail, and the law laid down in *Arnesh Kumar v. State of Bihar* [(2014) 8 SCC 273] and other decisions of the Hon'ble Supreme Court?**

15.1. Sri Monesh Kumar submits that in a case under Section 498-A IPC, arrest is not to be made in a routine manner, and the safeguards under Sections 41 and 41-A of the Code of Criminal Procedure must be strictly complied with. He relies on the decision in **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273



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(paragraphs 5, 6, 7 and 11]. Section 41(1)(b) reads as under:

"41. When police may arrest without warrant. -

(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person- ...

(b) against whom a reasonable complaint has been made... that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years... if the following conditions are satisfied... (ii) the police officer is satisfied that such arrest is necessary- (a) to prevent such person from committing any further offence; or (b) for proper investigation of the offence; or (c) to prevent such person from causing the evidence of the offence to disappear...; or (d) to prevent such person from making any inducement, threat or promise...; or (e) as unless such person is arrested, his presence in the court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing."

15.2. He relies on paragraph 7.3 of **Arnesh Kumar**, which requires the officer, before arrest, to ask himself why the arrest is required and what purpose it will serve:

"7.3. *In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above*



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is satisfied, the power of arrest needs to be exercised..."

15.3. He relies on paragraph 11 of **Arnesh Kumar**, by which the Hon'ble Supreme Court directed that police officers must satisfy themselves about the necessity for arrest under Section 41, must forward a filled check list and reasons to the Magistrate, and that failure to comply would render the officer liable to departmental action and to contempt of the Hon'ble High Court.

15.4. He submits that none of the requirements recognised in **Arnesh Kumar** were satisfied. Petitioner No.2 had not absconded, had not evaded the investigation, had voluntarily travelled to India, was already protected by anticipatory bail, and there was no allegation that he would tamper with evidence, influence witnesses, or commit any further offence. There was, therefore, no necessity for his arrest, and the arrest despite the subsisting order of anticipatory bail is in the teeth of **Arnesh Kumar** and violates Article 21 of the Constitution.



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15.5. He also relies on **Rini Johar and Another v. State of Madhya Pradesh and Others** [(2016) 11 SCC 703, (paragraphs 20, 21, 24 and 27)]. He submits that paragraph 21 explains the mandatory character of Section 41-A, quoting **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273] thus:

"9. ...where the arrest of a person is not required under Section 41(1) CrPC, the police officer is required to issue notice directing the accused to appear before him... if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police officer is of the opinion that the arrest is necessary..."

15.6. He relies on paragraph 24 of **Rini Johar**, that liberty cannot be allowed to be frozen in a contrived winter, and in paragraph 27, that a flagrant violation of Sections 41 and 41-A CrPC attracts the public law remedy and entitles the constitutional court to grant compensation.

15.7. Sri Rahul Krishna Reddy, learned counsel submits that Section 41(1)(b)(ii)(e) of the Code empowers the Investigating Officer to arrest a person without a warrant if he is satisfied that, unless arrested, his presence in Court cannot



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be ensured. He submits that since the LOC was in force and Respondent No.3 was not aware of the anticipatory bail order, Respondent No.3 had no option but to take custody and produce Petitioner No.2 before the Magistrate on the same day.

15.8. He submits, relying on Section 438 of Cr.P.C. and on **Sushila Aggarwal and Others v. State (NCT of Delhi) and Another** [(2020) 5 SCC 1], that an order of anticipatory bail does not prohibit the police from taking a person into custody but only ensures his release on bail upon arrest, and that a non-bailable warrant that had not been cancelled continued to operate. He submits that, on receiving custody, Respondent No.3 produced Petitioner No.2 before the Magistrate without delay and, therefore, complied with the law.

15.9. As regards notice under Section 41-A, he submits that even if no such notice was issued, it amounts at best to a procedural lapse or an overzealous discharge of duty, and that Respondent No.3 has already been subjected to



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departmental proceedings and punished on this very issue.

15.10. The offence under Section 498-A IPC is punishable with imprisonment which may extend to three years, and, therefore, falls squarely within the class of offences governed by Section 41(1)(b) of the Code, which is extracted above. For such offences, the settled position in **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273] is that the existence of the power to arrest is distinct from the justification for exercising it, and that an officer may arrest only after being satisfied, and recording in writing his reasons, that the arrest is necessary for one of the purposes in sub-clauses (a) to (e) of Section 41(1)(b)(ii).

15.11. No contemporaneous writing recording such satisfaction has been produced by Respondent No.3. The ground now urged, namely Section 41(1)(b)(ii)(e), that the presence of Petitioner No.2 could not otherwise be ensured, is unsupported by any recorded reasons and is contrary to the admitted facts. Petitioner No.2 had voluntarily entered India, was protected by



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anticipatory bail, and had a fixed and known address both abroad and in Bengaluru. There was no material to show that his presence could not be secured by the ordinary process, including a notice under Section 41-A. Applying the test in paragraph 7.3 of **Arnesh Kumar**, extracted above, the arrest was neither required nor justified.

15.12. It is admitted by Respondent No.3, in his submission on the Section 41-A issue, that no notice under Section 41-A was issued before he acted. The requirement of a Section 41-A notice, as explained in **Rini Johar** at paragraph 21 quoting **Arnesh Kumar**, is mandatory where arrest is not required under Section 41(1). The omission to issue such a notice is not a mere technicality; it goes to the root of the personal liberty of a citizen, which, as **Rini Johar** observes at paragraph 24, cannot be allowed to be frozen in a contrived winter. The non-issuance of the Section 41-A notice is, therefore, a clear breach of a mandatory safeguard. The same conduct also disregards the guidelines governing arrest and detention laid down in **D.K. Basu v. State of West**



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Bengal [(1997) 1 SCC 416], which **Rini Johar** notices in paragraph 27.

15.13. The contention that Respondent No.3 was unaware of the anticipatory bail order cannot be accepted on the facts. The order was passed on 10.06.2014, well before Petitioner No.2 arrived on 16.08.2014. On production, the jurisdictional Magistrate herself noticed the subsistence of the anticipatory bail and the warrantless arrest and issued a show-cause notice to Respondent No.3, which shows that the order was known and capable of being produced. Even accepting that a copy had not been formally served, once the petitioners produced the order, Respondent No.3 was bound to give effect to it by securing release on bail in terms of Section 438(3), which he did not do. The order granting anticipatory bail was, therefore, not honoured or rather respondent No.3 wantonly violated the orders of a Court of law.

15.14. The reliance on **Sushila Aggarwal** has been dealt with under Point No.(i), where it has been held that the object of an order of anticipatory



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bail is to protect the person from custody following arrest, and that the manner in which Respondent No.3 acted is inconsistent with that object. That reasoning applies here as well and is not repeated.

15.15. The submission that the non-compliance is at best a procedural lapse already visited with departmental punishment goes to the adequacy of the departmental action and the survival of the constitutional remedy. For the present point, the admitted non-issuance of the Section 41-A notice and the absence of any recorded satisfaction under Section 41 are sufficient to establish non-compliance.

15.16. This Court answers Point No. (ii) by holding that Respondent No.3 did not comply with the mandatory safeguards governing arrest under Sections 41 and 41-A of the Code of Criminal Procedure, did not honour (rather violated) the order granting anticipatory bail, and acted contrary to the law laid down in **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273] and reiterated in **Rini Johar and Another v.**



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State of Madhya Pradesh and Others
[(2016) 11 SCC 703].

16. **Answer to Point No. (iii): Whether the allegations regarding the illegal detention, assault and harassment of Petitioner No.1 by Respondent No.3 are established on the basis of the evidence on record?**

16.1. Sri Monesh Kumar, learned counsel submits that on 18.07.2014, after the charge sheet had already dropped proceedings against Petitioner No.1, Respondent No.3, accompanied by police personnel in plain clothes and in private vehicles, entered the residence of the daughter of Petitioner No.1, which lay outside the territorial jurisdiction of Vidyaranyapura Police Station, and forcibly removed Petitioner No.1 and his wife to Malleshwaram Police Station.

16.2. He submits that Petitioner No.1, a senior citizen suffering from serious cardiac ailments, was manhandled by Respondent No.3 and collapsed inside the police station, following which he was admitted first to K.C. General Hospital and thereafter to Fortis Hospital. He relies on the discharge summary issued by Fortis Hospital, which records, in the patient's history, an



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alleged assault by police and the opening of a Medico-Legal Case (MLC), and submits that this lends contemporaneous corroboration to the allegation of custodial assault.

16.3. He submits that Petitioner No.1 lodged a complaint against Respondent No.3 before Hanumanthanagar Police Station on 21.07.2014 alleging assault and illegal detention, but no action was taken. He submits that Respondent No.3 acted wholly outside his territorial jurisdiction and thereby violated Articles 21 and 22 of the Constitution.

16.4. He relies on **Saheli and Others v. Commissioner of Police and Others** [(1990) 1 SCC 422 (paragraph 11)], which is extracted hereunder for easy reference:

"11. An action for damages lies for bodily harm which includes battery, assault, false imprisonment, physical injuries and death... the damages are at large and represent a solatium for the mental pain, distress, indignity, loss of liberty and death... It is well settled now that the State is responsible for the tortious acts of its employees."

16.5. Sri Rahul Krishna Reddy, learned counsel submits that Petitioner No.1 and his wife were only asked to appear before the Spandana



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Counselling Centre (Vanitha Sahaya Vani) pursuant to a notice issued by that centre, that no force was used, and that they travelled to the centre in their own private car. He denies the allegation of forcible removal.

16.6. He submits that the allegation of assault is not borne out by the medical records relied upon by the petitioners themselves. Petitioner No.1 was admitted only for observation, the discharge summary records a history of hypertension and ischaemic heart disease, and the records do not disclose any external injuries such as bruises, abrasions or contusions, nor any treatment for injuries said to have been caused by an assault.

16.7. This point turns on what is established on the record. This Court is exercising jurisdiction under Articles 226 and 227 of the Constitution. In that jurisdiction, a seriously disputed question of fact, such as whether a person was physically assaulted, is ordinarily not decided on affidavits, and calls for oral evidence and cross-examination. This Court can, however, act where the record itself establishes the position,



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or where the party in possession of the material withholds it.

16.8. The allegation of physical assault is squarely disputed. The petitioners rely on the discharge summary, but the entry regarding assault is recorded as the history narrated by the patient himself, and a history so recorded is not, by itself, proof that an assault took place. The same discharge summary records a pre-existing condition of hypertension and ischaemic heart disease, and, as pointed out for Respondent No.3, does not record any external injury or any treatment for assault-related injury. On this material, the specific charge of custodial assault causing injury cannot be recorded as established in writ jurisdiction; a categorical finding of assault would require a trial.

16.9. The position regarding the detention and harassment of Petitioner No.1 stands on a different footing. It is not in dispute that proceedings against Petitioner No.1 had already been dropped in the charge sheet. There was, therefore, no lawful basis to treat him as an



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accused or to take him to a police station in that capacity. On the record, Petitioner No.1, a senior citizen who was no longer an accused, was taken to Malleshwaram Police Station, an MLC came to be registered, and he required hospitalisation. Even accepting the version of Respondent No.3 that the object was to have him appear before a counselling centre, that object did not authorise taking him to a police station. The submission that Petitioner No.1 was removed from a residence lying outside the territorial limits of Vidyaranyapura Police Station adds to, rather than detracts from, this conclusion, for it underlines that the coercive step was taken without lawful authority. To that extent, the subjecting of Petitioner No.1 to the coercive presence and process of the police, when he was no longer an accused, and the resulting distress and hospitalisation, is established.

16.10. The principle in **Saheli and Others v. Commissioner of Police and Others**, [(1990) 1 SCC 422 (paragraph 11)] extracted above, that an action for damages lies for assault, battery and false imprisonment, and



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that the State is responsible for the tortious acts of its employees, is a correct statement of the law. In **Saheli**, however, the beating causing death was proved, and the compensation followed a proved tort. In the present case, the allegation of assault is not established, and the rule in **Saheli** cannot be used to fasten liability for an assault that has not been proved. The principle of **Saheli** relating to false imprisonment, loss of liberty and indignity is, however, applicable to the limited extent of the illegal detention and harassment of Petitioner No.1 found above.

16.11. This court answers Point No. (iii) by holding that the allegation of custodial assault on Petitioner No.1 is not established on the record, but that the illegal detention and harassment of Petitioner No.1, who was no longer an accused, is established to the limited extent set out above.

17. **Answer to Point No. (iv): Whether Respondent No.3 abused or exceeded his statutory powers in the course of investigation, thereby violating the petitioners' fundamental rights under Articles 19, 21 and 22 of the Constitution?**



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- 17.1. Sri Monesh Kumar, learned counsel submits that the case demonstrates a deliberate abuse of police powers by Respondent No.3, in collusion with Respondent Nos.1 and 2, in a purely matrimonial dispute, resulting in violation of the petitioners' fundamental rights under Articles 19, 21 and 22 of the Constitution. He submits that Respondent No.3 repeatedly attempted to use police authority to compel the petitioners to succumb to the monetary and property demands allegedly made by Respondent No.1, thereby converting a matrimonial dispute into an instrument of coercion.
- 17.2. He submits that all criminal proceedings initiated by Respondent No.1 ultimately failed. The charge sheet in Crime No.76/2014 was quashed by this Court in Criminal Petition No.2722/2015, which order was affirmed by the Hon'ble Supreme Court, and the proceedings under the Hindu Marriage Act, the Protection of Women from Domestic Violence Act, 2005, and Section 125 Cr.P.C. were either dismissed for non-prosecution or on merits. He submits that the subsequent judicial findings establish that



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the criminal proceedings were maliciously instituted and were an abuse of the process of law.

- 17.3. He relies on **Naveen Kumar J. and Another v. State of Karnataka and Another**, [Crl.P.No. 2722/2015 (paragraphs 12, 19 and 22)]. He submits that paragraph 12 records that the complaint was initiated only after the wife's return to India, paragraph 19 records that the delay coupled with baseless allegations of dowry and cruelty led to the conclusion that the criminal law had been set in motion to spite the petitioners, and paragraph 22 records that serious allegations were made against the partisan role of the Investigating Officer:

"22. Before parting with this order it is necessary to note that serious allegations are made in the petition against the Investigation Officer and the partisan role played by him in conducting the investigation. But as the petitioners have taken independent action against the Investigating Officer, I have refrained from making any comments on the conduct of the Investigating Officer..."

- 17.4. Sri Rahul Krishna Reddy, learned counsel submits that Chapter VI of the Cr.P.C. provides for summons, warrants and other processes to



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secure the presence of an accused at every stage, that Petitioner No.2 failed to appear after the charge sheet and did not seek exemption from personal appearance under Section 317 Cr.P.C., and that the mere grant of anticipatory bail does not prevent the Court from exercising its powers to secure the presence of an accused.

17.5. He submits that the certified copies relied upon by Respondent No.3 are valid public documents under Section 77 of the Evidence Act, that the allegation of assault is not supported by the medical records, and that any non-compliance is at best a procedural lapse for which Respondent No.3 has already been departmentally punished. He further submits that the petitioners, having participated in the disciplinary proceedings as complainants, cannot invoke the public law jurisdiction of this Court again on the same cause of action.

17.6. Whether Respondent No.3 abused or exceeded his statutory powers is, in substance, answered by the findings recorded under Points No.(i) and (ii).



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- 17.7. It has been found that Respondent No.3 caused the arrest and detention of Petitioner No.2 without a valid warrant and without complying with Sections 41 and 41-A of the Code, ignored the subsisting order of anticipatory bail, and seized his passport without authority of law. Acting in this manner is, by itself, an excess of and abuse of power.
- 17.8. On the allegation of collusion with Respondent Nos.1 and 2, the position in **Naveen Kumar J. and Another v. State of Karnataka and Another** [Crl.P.No. 2722/2015] is relevant. The quashing of the criminal proceedings in Criminal Petition No.2722/2015, as affirmed by the Hon'ble Supreme Court, establishes that the underlying criminal proceedings were an abuse of process. As noticed in paragraphs 12 and 19 of **Naveen Kumar J.**, the criminal law in that matrimonial matter was found to have been set in motion belatedly and with baseless allegations, so as to spite the accused (Petitioner No.2 herein), where every proceeding launched by Respondent No.1 ultimately failed, is not without significance, though the finding here rests on the conduct of



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Respondent No.3 and not merely on that parallel. Paragraph 22 of **Naveen Kumar J.**, extracted above, records that serious allegations of a partisan investigation were made against the very Investigating Officer, though the Court there refrained from recording a finding because independent action against the Officer was available. The present writ petition is precisely such an independent forum. The quashing, taken with the enquiry report dated 25.04.2015 recording a warrantless arrest despite anticipatory bail, supports the finding that Respondent No.3 misused and exceeded his powers.

17.9. A positive finding that Respondent No.3 acted in conspiracy with Respondent Nos.1 and 2, or for pecuniary gain, cannot, however, be recorded on this material. No submissions were advanced on behalf of Respondent Nos.1 and 2, and beyond the allegation there is no independent material establishing collusion. Though a presumption could be drawn in that regard, since there was no other reason for Respondent No.3 to act in the manner that he did, this Court exercises restraint and holds



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that abuse and excess of statutory power by Respondent No.3 is established, but that a positive finding of collusion with Respondent Nos.1 and 2 is not established.

17.10. The submission based on Chapter VI and Section 317 Cr.P.C. does not assist Respondent No.3. Securing the presence of an accused is a legitimate object, but it must be pursued lawfully. The failure of Petitioner No.2 to seek exemption under Section 317 did not authorise an arrest made in breach of Sections 41 and 41-A and in disregard of the anticipatory bail order. The submissions on Section 77 of the Evidence Act and on the medical records have been dealt with under Points No.(i) and (iii) respectively.

17.11. As to fundamental rights, the illegal arrest and detention of Petitioner No.2 is a direct infringement of his right to personal liberty under Article 21 of the Constitution. Although Petitioner No.2 was produced before the Magistrate on the same day, the arrest itself being unlawful, the protection intended by Article 22 was breached. The illegal seizure and



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retention of his passport, and his detention, also impinged upon his freedom under Article 19(1)(g) to carry on his profession abroad, though the primary violation remains that of Article 21.

17.12. This Court answers Point No. (iv) by holding that Respondent No.3 abused and exceeded his statutory powers in effecting the illegal arrest, detention and passport seizure of Petitioner No.2 in disregard of Sections 41 and 41-A of the Code and of the order granting anticipatory bail, thereby violating the fundamental right of Petitioner No.2 to personal liberty under Article 21, and impinging to the limited extent noted above upon Articles 22 and 19(1)(g); a positive finding of collusion with Respondent Nos.1 and 2 is, however, not established.

18. **Answer to Point No. (v): Whether the departmental enquiry and the punishment imposed on Respondent No.3 preclude or affect the petitioners' claim for public law compensation and other constitutional remedies?**

18.1. Sri Monesh Kumar, learned counsel submits that the departmental enquiry report records misconduct on the part of Respondent No.3,



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but resulted only in a minor punishment of withholding one increment, which neither compensates the petitioners nor addresses the constitutional violations. He submits that the liability of the State to compensate for violation of fundamental rights is independent of any departmental or criminal action against the erring officer, and that the imposition of a departmental penalty does not redress the constitutional injury nor absolve the State.

- 18.2. He submits, relying on paragraph 27 of **Rini Johar and Another v. State of Madhya Pradesh and Others** [(2016) 11 SCC 703], that the constitutional courts, taking note of the suffering and humiliation caused by a violation of the custodial safeguards laid down in **D.K. Basu v. State of West Bengal** [(1997) 1 SCC 416], and a flagrant violation of Sections 41 and 41-A CrPC, are entitled to grant compensation as a public law remedy, and that this remedy has been recognised in **D.K. Basu v. State of West Bengal** [(1997) 1 SCC 416], **Nilabati Behera v. State of Orissa** [(1993) 2 SCC 746], **Sube Singh v. State of Haryana** [(2006) 3 SCC 178] and **Hardeep Singh v.**



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State of M.P. [(2012) 1 SCC 748], and reaffirmed in **Rini Johar**, more particularly paragraph 27 thereof, which is reproduced hereunder for easy reference:

"27. ...Not only there are violation of guidelines issued in D.K. Basu, there are also flagrant violation of mandate of law enshrined under Section 41 and Section 41-A CrPC... the public law remedy which has been postulated in Nilabati Behera, Sube Singh v. State of Haryana, Hardeep Singh v. State of M.P., comes into play. The constitutional courts taking note of suffering and humiliation are entitled to grant compensation... we think it appropriate to grant a sum of Rs 5,00,000... to each of the petitioners... It will be open to the State to proceed against the erring officials, if so advised."

18.3. Sri Rahul Krishna Reddy, learned counsel submits that any non-compliance was at best a procedural lapse for which Respondent No.3 has already been subjected to departmental proceedings and punished. He submits that the petitioners participated in the disciplinary proceedings as complainants and cannot, therefore, invoke the public law jurisdiction of this Court again on the same cause of action. He further submits that the public law remedy of compensation is meant only for cases of custodial torture or other grave violations, and



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cannot be extended to every procedural irregularity or dereliction of duty.

18.4. Learned Government Advocate for Respondent Nos.4 and 5 submits that an enquiry was conducted and action has been taken against Respondent No.3.

18.5. A departmental enquiry and a claim for public law compensation operate in two different fields. A departmental proceeding is between the State and its officer and serves to maintain discipline in service. A claim for public law compensation is between the citizen and the State and serves to vindicate the citizen's fundamental rights. The two are not mutually exclusive, and the existence of one does not bar the other.

18.6. This is clear from **Rini Johar** itself. In paragraph 27, extracted above, the Hon'ble Supreme Court granted compensation for the violation of the custodial safeguards in **D.K. Basu v. State of West Bengal** [(1997) 1 SCC 416] and of Sections 41 and 41-A CrPC and of Article 21, while expressly leaving it open to the State to proceed against the erring officials.



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D.K. Basu v. State of West Bengal [(1997) 1 SCC 416] lays down the requirements to be observed while arresting and detaining a person, and its breach, like the breach of Sections 41 and 41-A, in the public law remedy. The public law remedy recognised in **D.K. Basu v. State of West Bengal** [(1997) 1 SCC 416], **Nilabati Behera v. State of Orissa** [(1993) 2 SCC 746], **Sube Singh v. State of Haryana** [(2006) 3 SCC 178] and **Hardeep Singh v. State of M.P.** [(2012) 1 SCC 748], and reaffirmed in **Rini Johar**, therefore exists alongside, and not in place of, departmental action.

18.7. The submission of Respondent No.3 that the petitioners, having participated in the disciplinary proceedings as complainants, cannot invoke this Court's jurisdiction again on the same cause of action, is not correct in law. The disciplinary proceeding is between the State and the officer; the participation of the petitioners as complainants does not convert it into an adjudication of their claim for compensation, nor does it bar their independent constitutional remedy. No principle



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of res judicata or election applies, and the submission is rejected.

18.8. The submission that public law compensation is confined to cases of custodial torture is too narrow. **Rini Johar** and **Saheli** recognise that compensation lies for illegal arrest, false imprisonment, loss of liberty and indignity, and not only for custodial death or torture. The remedy is, therefore, available for the violation of Article 21 established in respect of Petitioner No.2.

18.9. At the same time, the adequacy of the departmental penalty imposed on Respondent No.3 is a matter within the disciplinary discretion of the competent authority. This Court, in writ jurisdiction, does not sit in appeal over the quantum of that penalty, and no prayer to enhance it as such is entertained. The inadequacy of the departmental penalty is precisely the reason why the independent constitutional remedy of compensation survives, and it is on that footing that relief is considered under Point No.(vi).



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18.10. This Court answers Point No. (v) by holding that the departmental enquiry and the punishment imposed on Respondent No.3 do not preclude or affect the petitioners' claim for public law compensation and other constitutional remedies, which survive independently of the departmental action.

19. **Answer to Point No. (vi): Whether the petitioners are entitled to the reliefs sought in the writ petition?**

19.1. Sri Monesh Kumar, learned counsel submits that, in view of the violations established, the petitioners are entitled to the reliefs sought, namely, a direction to Respondent Nos.4 and 5 to accept the enquiry finding at Annexure-R dated 25.04.2015 and take stringent action against Respondent No.3 in keeping with **Arnesh Kumar**; a direction to pay compensation of Rs.5,00,000 to each of the petitioners for the violation of their fundamental rights, recoverable from Respondent No.3; and a general direction to the State authorities to ensure care and precaution while handling sensitive matrimonial disputes.



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- 19.2. Sri Rahul Krishna Reddy submits that Respondent No.3 acted in accordance with law, that the allegation of assault is not made out, that any lapse has already been dealt with departmentally, and that no case is made out for compensation or any other public law relief, so that the petition is liable to be dismissed. The learned Government Advocate reiterates that an enquiry has been conducted and action taken.
- 19.3. The entitlement to relief follows from the findings under Points No.(i) to (v).
- 19.4. As regards the prayer to direct Respondent Nos.4 and 5 to accept the enquiry finding and take stringent action against Respondent No.3, the enquiry has already been held and a penalty has already been imposed, so that the finding stands accepted to that extent. This Court cannot, in writ jurisdiction, substitute its own view for the disciplinary discretion of the competent authority and itself fix a higher penalty. What this Court can do, and does, is to direct Respondent Nos.4 and 5 to consider afresh, in the light of the findings in this



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judgment and the seriousness of an illegal arrest made in breach of **Arnesh Kumar**, whether further action against Respondent No.3, consistent with paragraph 11 of **Arnesh Kumar**, is warranted in accordance with law, leaving the decision to the competent authority.

19.5. As regards compensation, the violation of the right to personal liberty of Petitioner No.2 under Article 21 is established, and, following the measure adopted in **Rini Johar**, this Court considers a sum of Rs.5,00,000 (Rupees five lakhs only) to be just compensation to Petitioner No.2. In respect of Petitioner No.1, the allegation of assault has not been established, and no compensation is awarded on that count; but the illegal detention and harassment of Petitioner No.1, who was no longer an accused, is established, and for that limited wrong a sum of Rs.4,00,000 (Rupees four lakhs only) is considered just, taking into consideration the age of Petitioner No 1. In so far as the prayer seeking compensation for having damaged the matrimonial relationship between Petitioner No.2 and Respondent No.1 beyond repair, that is not a head on which this



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Court can measure public law compensation; the compensation awarded is founded on the established violation of the fundamental rights of the petitioners, and not on the breakdown of the marriage.

19.6. As to who must pay, the settled position in **Saheli** and **Rini Johar** is that the State is liable for the tortious and unconstitutional acts of its police officers, and that, having paid, the State may proceed against the erring officer. The compensation shall, therefore, be paid by the State through Respondent No.5, with liberty to the State to recover the amount from Respondent No.3 after giving him a reasonable opportunity of being heard, in accordance with law. To this extent, the prayer that the amount be recoverable from Respondent No.3 is granted, but recovery must follow due process and cannot be ordered against the officer without such opportunity.

19.7. For these reasons, this Court finds that the petitioners are entitled to relief in part, in the terms set out hereunder; the prayer to fix a specific quantum of departmental punishment



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is declined as being within the disciplinary discretion of the competent authority.

GENERAL DIRECTIONS

- 20.** The illegal arrest and detention brought to light in this case are capable of being repeated in other matrimonial disputes, and indeed in the ordinary run of criminal cases, unless the authorities remain alive to the safeguards that the law provides. Those safeguards are now contained in the **Bharatiya Nagarik Suraksha Sanhita, 2023** (hereinafter referred to as '**the BNSS**'), which has replaced the **Code of Criminal Procedure, 1973** (hereinafter referred to as '**the erstwhile Code**') with effect from 1st July, 2024.
- 21.** As the acts in question in this case took place while the erstwhile Code was in force, the provisions of the BNSS are cited first, followed by the corresponding provisions of the erstwhile Code, so that these directions may operate uniformly.
- 22.** In exercise of the jurisdiction of this Court under Articles 226 and 227 of the Constitution, and to secure compliance with the mandate of Articles 21 and 22 of the Constitution, of the Passports Act,



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1967, and of the law declared in **Joginder Kumar v. State of Uttar Pradesh**, [(1994) 4 SCC 260 (paragraph 20)], **D.K. Basu v. State of West Bengal**, [(1997) 1 SCC 416 (paragraphs 35 and 36)], **Arnesh Kumar v. State of Bihar**, [(2014) 8 SCC 273 (paragraphs 7.3 and 11)], **Rini Johar and Another v. State of Madhya Pradesh and Others**, [(2016) 11 SCC 703 (paragraph 27)], **Suresh Nanda v. Central Bureau of Investigation**, [(2008) 3 SCC 674 (paragraphs 13 to 16)], **Sumer Singh Salkan v. Assistant Director and Others**, [2010 SCC OnLine Del 2699 (paragraph 11)], **Prabir Purkayastha v. State (NCT of Delhi)**, [2024 INSC 414 : (2024) 6 SCR 666 (paragraph 31)] and **Sri Tavaragi Rajashekhar Shiva Prasad v. State of Karnataka**, [W.P. No.15125 of 2024, decided on 19 July 2024 (paragraphs 10 to 13)], the following general directions are issued to the Director General and Inspector General of Police, the Commissioner of Police, and all police officers and Investigating Officers in the State:

23. Registration of information and preliminary enquiry



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- 23.1. Where information disclosing the commission of a cognizable offence is received, it shall be registered as a first information report under Section 173 of the BNSS (Section 154 of the erstwhile Code), the registration of such a report being mandatory, as held in **Lalita Kumari v. Government of Uttar Pradesh**, [(2014) 2 SCC 1 (paragraphs 72 and 105)].
- 23.2. In the case of a cognizable offence which is punishable with imprisonment for three years or more but less than seven years, the officer in charge of the police station may, with the prior permission of an officer not below the rank of Deputy Superintendent of Police and having regard to the nature and gravity of the offence, conduct a preliminary enquiry within fourteen days to ascertain whether a prima facie case exists, before proceeding with the investigation (Section 173(3) of the BNSS). In matrimonial disputes falling within this description, such a preliminary enquiry is a salutary safeguard against the mechanical setting in motion of the criminal process.



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23.3. Neither the registration of a first information report, nor the existence of a prima facie case, by itself justifies arrest; the necessity to arrest must be separately satisfied in the manner set out below.

24. Arrest – the necessity to arrest and the recording of reasons

24.1. No person shall be arrested in a routine or mechanical manner in any offence arising out of a matrimonial dispute, including an offence under Section 498-A of the Indian Penal Code (Section 85 of the Bharatiya Nyaya Sanhita, 2023), and more generally in any offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years.

24.2. The existence of the power to arrest is distinct from the justification for its exercise, and neither the existence of the power nor the gravity of the accusation is, by itself, a ground for arrest, as held in **Joginder Kumar v. State of Uttar Pradesh** [(1994) 4 SCC 260 (paragraph 20)] and reiterated in **Arnesh**



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Kumar v. State of Bihar [(2014) 8 SCC 273 (paragraphs 5 to 11)].

24.3. Before effecting arrest, the Investigating Officer shall satisfy himself, and shall record in writing his reasons, that the arrest is necessary for one or more of the purposes set out in sub-clauses (a) to (e) of Section 35(1)(b)(ii) of the BNSS (Section 41(1)(b)(ii) of the erstwhile Code); and, as explained in paragraph 7.3 of **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273], shall first put to himself the questions why arrest is required and what purpose it will serve.

24.4. The check list contemplated by Section 35(1)(b) of the BNSS (Section 41(1)(b) of the erstwhile Code) and by paragraph 11 of **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273], shall be duly filled and forwarded to the jurisdictional Magistrate together with the reasons which necessitated the arrest; and the Magistrate shall not authorise detention without recording his own satisfaction upon a perusal of that report.



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25. Notice of appearance under Section 35(3) of the BNSS (Section 41-A of the erstwhile Code)

25.1. Where the arrest of a person is not required under Section 35(1) of the BNSS (Section 41(1) of the erstwhile Code), the Investigating Officer shall issue and serve a notice of appearance under Section 35(3) of the BNSS (Section 41-A of the erstwhile Code) directing the person to appear before him. A person who complies, and continues to comply, with the terms of such notice shall not be arrested, save for reasons to be recorded in writing disclosing the necessity for arrest.

25.2. Such a notice shall mention the crime number and the offence alleged, and a copy of the first information report shall be appended to it, so that the person is made aware of the case he is called upon to meet, as held by this Court in **Sri Tavaragi Rajashekhar Shiva Prasad v. State of Karnataka** [W.P. No.15125 of 2024, decided on 19 July 2024 (paragraph 13)]. The consequence of a failure to comply with a lawful notice is that provided in Section 35(6) of the BNSS.



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25.3. The issuance and service of the notice, and the fact of compliance or non-compliance with it, shall be duly recorded, and proof of service shall be maintained on the record.

26. Special protection of aged and infirm persons

26.1. No person who is infirm, or who is above sixty years of age, shall be arrested in an offence which is punishable with imprisonment of less than three years without the prior permission of an officer not below the rank of Deputy Superintendent of Police (Section 35(7) of the BNSS, a safeguard newly introduced and having no counterpart in the erstwhile Code).

26.2. Where the presence of an aged, infirm or sick person is required for the purposes of investigation, recourse shall ordinarily be had to a notice of appearance and, where necessary, to examination at the residence of such person, rather than to arrest or to production at the police station.

27. Anticipatory bail and warrants of arrest

27.1. Before effecting an arrest, the Investigating Officer shall ascertain whether the person



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concerned is protected by a subsisting order of anticipatory bail under Section 482 of the BNSS (Section 438 of the erstwhile Code). Where such an order subsists and the person is nonetheless arrested, he shall be released on bail forthwith in terms of Section 482(3) of the BNSS (Section 438(3) of the erstwhile Code).

27.2. A non-bailable warrant shall not be pressed into service to detain a person who is protected by an order of anticipatory bail; and where a warrant is required to be issued against such a person, the appropriate course is the issuance of a bailable warrant in conformity with the order granting anticipatory bail.

27.3. No officer shall act upon, or assert the existence of, a warrant of arrest under Section 72 of the BNSS (Section 70 of the erstwhile Code) whose issuance is not borne out by the record; and the subsistence and status of any warrant, and of any order of bail or anticipatory bail, shall be verified before it is acted upon.

28. Look Out Circulars



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28.1. A Look Out Circular shall be opened only in accordance with the executive instructions of the Ministry of Home Affairs governing the field, presently the Office Memorandum No.25016/31/2010-Imm dated 27.10.2010 (as amended and consolidated from time to time, including by the Office Memorandum dated 22.02.2021), read with the guidelines laid down by the High Court of Delhi in **Sumer Singh Salkan v. Assistant Director** [2010 SCC OnLine Del 2699 (Paragraph 11)].

28.2. In terms of the answer to Question A in **Sumer Singh Salkan v. Assistant Director** [2010 SCC OnLine Del 2699 (Paragraph 11)], recourse to a Look Out Circular may be taken only in a cognizable offence where the accused is deliberately evading arrest, or is not appearing before the trial court despite non-bailable warrants and other coercive measures, and where there is a likelihood of the accused leaving the country to evade trial or arrest. A Look Out Circular shall not be opened mechanically merely because a case under Section 498-A of the Indian Penal Code (Section 85 of the Bharatiya Nyaya Sanhita, 2023) has



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been registered, nor against a person who is voluntarily entering the country.

28.3. In terms of the answer to Question B in **Sumer Singh Salkan v. Assistant Director** [2010 SCC OnLine Del 2699 (Paragraph 11)], the request for opening a Look Out Circular shall be made in writing, in the prescribed proforma, by the Originating Agency to the competent officer of the Bureau of Immigration, and shall be issued only with the approval of an officer of the rank notified by the Ministry of Home Affairs; the competent officer alone shall pass the order opening the Look Out Circular. The request shall disclose the true and current status of the case, including the existence of any subsisting order of bail or anticipatory bail.

28.4. In terms of the answers to Questions C and D in **Sumer Singh Salkan v. Assistant Director** [2010 SCC OnLine Del 2699 (Paragraph 11)], a person against whom a Look Out Circular has been opened is entitled to join the investigation, to surrender before the court concerned, or to satisfy that court that the Look Out Circular was wrongly issued; and the court



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concerned may affirm or cancel a Look Out Circular to the same extent as it may affirm or cancel a non-bailable warrant.

29. Seizure and impounding of a passport

29.1. An Investigating Officer may, in the course of investigation, seize a passport under Section 106 of the BNSS (Section 102 of the erstwhile Code), but has no power to impound or to retain it. As held in **Suresh Nanda v. Central Bureau of Investigation** [(2008) 3 SCC 674 (paragraphs 13 to 16)], the power to impound a passport vests only in the passport authority under Section 10(3) of the Passports Act, 1967, that Act being a special law which prevails over the general power of seizure under the general law.

29.2. A passport that is seized shall forthwith be forwarded to the passport authority together with a letter stating the reasons for which it is said to deserve impounding; the officer shall not retain the passport at his own hand. The passport authority shall decide whether to



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impound the passport only after giving the person concerned an opportunity of hearing, impounding being an act which entails civil consequences.

29.3. The right to hold a passport and to travel abroad is a facet of the personal liberty guaranteed under Article 21 of the Constitution, and shall not be curtailed except in accordance with the procedure established by law.

30. Grounds of arrest, communication of information and right to counsel

30.1. Every person who is arrested shall, as required by Article 22(1) of the Constitution and Section 47 of the BNSS (Section 50 of the erstwhile Code), be informed forthwith of the full particulars of the offence and of the grounds for his arrest; and where the offence is bailable, he shall be informed of his entitlement to be released on bail.

30.2. The grounds of arrest, being personal to the arrested person and distinct from the reasons for the arrest, shall be furnished to him in writing at the earliest, as held in **Prabir**



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Purkayastha v. State (NCT of Delhi) [2024 INSC 414 : (2024) 6 SCR 666 (paragraph 31)], following **Pankaj Bansal v. Union of India** [(2024) 7 SCC 576 (Paragraph 38)]; and a failure to furnish the grounds of arrest in writing vitiates the arrest and the consequent remand.

30.3. In terms of Section 48 of the BNSS (Section 50-A of the erstwhile Code), the officer effecting the arrest shall forthwith give information of the arrest, and of the place where the arrested person is being held, to a relative, friend or nominated person of the arrested person, and shall make an entry of that fact in a register maintained for the purpose; and the Magistrate shall satisfy himself that these requirements have been complied with.

30.4. The arrested person shall be informed of, and permitted to exercise, his right to consult and to be defended by a legal practitioner of his choice (Article 22(1) of the Constitution), and his right to meet an advocate during interrogation (Section 38 of the BNSS, Section 41-D of the erstwhile Code); and where he is



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unable to engage a legal practitioner, he shall be informed of his right to free legal aid (Article 39-A of the Constitution; Section 341 of the BNSS, Section 304 of the erstwhile Code).

31. Manner of arrest and the use of restraint

- 31.1. In effecting an arrest the officer shall not use more restraint than is necessary to prevent the escape of the person (Sections 43 and 46 of the BNSS, corresponding to Sections 46 and 49 of the erstwhile Code); and handcuffing or other restraint shall not be resorted to as a matter of course, but only in the limited circumstances now recognised by Section 43(3) of the BNSS.
- 31.2. In terms of Section 36 of the BNSS (Section 41-B of the erstwhile Code), the officer making the arrest shall bear an accurate, visible and clear identification of his name, shall prepare a memorandum of arrest which is attested by at least one witness and countersigned by the arrested person, and shall inform the arrested person of his right to have a relative, friend or nominated person informed of his arrest.



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32. Custodial safeguards, medical care and production before the Magistrate

- 32.1. On every occasion of arrest and detention, the requirements laid down in **D.K. Basu v. State of West Bengal** [(1997) 1 SCC 416 (paragraphs 35 and 36)] shall be scrupulously observed, including the preparation of an arrest memo bearing the time and date of arrest, attested by a witness and countersigned by the arrested person; the intimation of the arrest and of the place of detention to a relative or friend; the entry of the arrest and of the particulars of the person informed in the case diary; and the medical examination of the arrested person.
- 32.2. The person having the custody of an accused shall take reasonable care of the health and safety of the accused (Section 56 of the BNSS, corresponding to Section 55-A of the erstwhile Code); the arrested person shall be examined by a medical officer as provided in Section 53 of the BNSS (Section 54 of the erstwhile Code); and the arrested person shall be entitled to meet an advocate of his choice during



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interrogation as provided in Section 38 of the BNSS (Section 41-D of the erstwhile Code).

32.3. Every person arrested shall be produced before the nearest Magistrate within twenty-four hours of the arrest, excluding the time necessary for the journey, and shall not be detained in custody beyond that period without the authority of a Magistrate (Sections 57, 58 and 78 of the BNSS, corresponding to Sections 56, 57 and 76 of the erstwhile Code, and Article 22(2) of the Constitution).

33. Transparency – designated police officer and information as to arrests

33.1. In terms of Section 37 of the BNSS (corresponding to, and expanding upon, Section 41-C of the erstwhile Code), a designated police officer, not below the rank of Assistant Sub-Inspector, shall be appointed in every police station and district, who shall maintain the information regarding the persons arrested and the offences alleged against them; and the name, address and nature of the offence of every arrested person shall be prominently



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displayed, including in digital form, at every police station and district headquarters.

33.2. Where a person is arrested under a warrant, the information of the arrest and of the place where the arrested person is held shall be forthwith given to the designated police officer (Section 82(2) of the BNSS).

34. Special safeguards in the arrest and examination of women

34.1. Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise; and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the jurisdictional Judicial Magistrate of the First Class (Section 43(5) of the BNSS, corresponding to Section 46(4) of the erstwhile Code). The arrest of a woman shall ordinarily be effected by, or in the presence of, a woman police officer.

34.2. Where a woman is to be searched, the search shall be made by another woman with strict regard to decency (Section 49(2) of the BNSS,



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corresponding to Section 51(2) of the erstwhile Code); and the medical examination of a woman shall be conducted only by, or under the supervision of, a female registered medical practitioner (Section 51(2) of the BNSS, corresponding to Section 53(2) of the erstwhile Code).

34.3. A woman shall not be required to attend at any place other than the place in which she resides for the purpose of being examined as a witness (proviso to Section 179(1) of the BNSS, corresponding to the proviso to Section 160(1) of the erstwhile Code).

35. Special care for children, senior citizens and the sick or infirm

35.1. A person above the age of sixty years, a person suffering from acute illness, a male person under the age of fifteen years, and a mentally or physically disabled person, shall not be required to attend at any place other than the place in which such person resides (Proviso to Section 179(1) of the BNSS, which raises to sixty years, and extends to persons suffering from acute illness, the protection that was



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available under the proviso to Section 160(1) of the erstwhile Code to persons above sixty-five years).

35.2. A child alleged or found to be in conflict with law shall be dealt with only in accordance with the Juvenile Justice (Care and Protection of Children) Act, 2015, and not through the ordinary process of arrest and detention.

35.3. Due care, courtesy and humane treatment shall be shown to senior citizens, women, children and persons who are sick or infirm; and where any such person requires medical attention while in the presence or custody of the police, the same shall be arranged without delay.

36. Persons no longer arrayed as accused; matrimonial disputes; counselling

36.1. A person against whom proceedings have been dropped, or who is not arrayed as an accused, shall not be summoned to, or detained at, a police station as though he were an accused, nor subjected to the coercive process of the police in that capacity.



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36.2. Complaints arising out of matrimonial disputes shall be approached with care and circumspection, and the criminal process shall not be permitted to be used as an instrument to coerce a party into meeting monetary or property demands, or into a settlement.

36.3. Where the parties to a matrimonial dispute are referred to a counselling centre such as Vanitha Sahaya Vani or the Spandana Counselling Centre, the reference shall be made through due notice, and shall not be used as a device to bring a person, and particularly a person who is not an accused, to a police station under compulsion.

37. Territorial jurisdiction, recording of search and seizure, and maintenance of records

37.1. Every coercive step, including any step taken to secure the presence of a person, search and seizure, shall be taken within territorial jurisdiction of the investigating officer and strictly in the manner provided by law; and where action is required to be taken beyond the territorial limits of the officer concerned, the assistance of the jurisdictional police within or



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outside state shall be taken and the procedure prescribed by law shall be followed.

37.2. Every search and seizure shall be recorded through audio-video electronic means, preferably using a body-worn camera, as required by Section 105 of the BNSS, and the recording shall be preserved and produced before the Court whenever called for.

37.3. The records relating to arrests, warrants, Look Out Circulars, seizures, and the notings and reports leading to them, shall be correctly and completely maintained, and shall be produced before the Court whenever called for; and the withholding of such records may entitle the Court to draw an adverse inference.

38. Accountability and compensation

38.1. Failure to comply with the safeguards under Sections 35 and 35(3) of the BNSS (Sections 41 and 41-A of the erstwhile Code) shall, as directed in paragraph 11 of **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273], render the officer concerned liable to departmental action.



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38.2. A Magistrate may, in an appropriate case, award compensation to a person groundlessly arrested (Section 399 of the BNSS, corresponding to Section 358 of the erstwhile Code); and such compensation is without prejudice to the public law remedy of compensation for the violation of the fundamental rights of a citizen.

39. Supervision, sensitisation and training

39.1. The Director General and Inspector General of Police shall issue appropriate circulars incorporating these directions and such other aspects that he deems fit, and shall put in place a system of supervision to ensure their observance. The Inspector General of Police (Police Computer Wing) is directed to implement a suitable Information Technology system to monitor the implementation of the Circular so issued.

39.2. Investigating Officers and such other Police Officers as may be required shall be periodically sensitised and trained on the safeguards under Sections 35, 35(3), 35(7), 36, 37, 38, 43, 47, 48, 53, 56 and 173(3) of the BNSS



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(corresponding, where applicable, to Sections 41, 41-A, 41-B, 41-C, 41-D, 46, 50, 50-A, 54 and 55-A of the erstwhile Code), and on the law declared in **Joginder Kumar v. State of Uttar Pradesh** [(1994) 4 SCC 260 (paragraph 20)], **D.K. Basu v. State of West Bengal** [(1997) 1 SCC 416 (paragraphs 35 and 36)], **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273 (paragraphs 7.3 and 11)], **Rini Johar and Another v. State of Madhya Pradesh and Others** [(2016) 11 SCC 703 (paragraph 27)] **Suresh Nanda v. Central Bureau of Investigation** [(2008) 3 SCC 674 (paragraphs 13 to 16)], **Sumer Singh Salkan v. Assistant Director** [2010 SCC OnLine Del 2699 (Paragraphs 11)], **Prabir Purkayastha v. State (NCT of Delhi)** [2024 INSC 414 : (2024) 6 SCR 666 (paragraph 31)] and **Sri Tavaragi Rajashekhar Shiva Prasad v. State of Karnataka**, [W.P. No.15125 of 2024, decided on 19 July 2024 (Paragraphs 10 to 13)] more particularly in relation to complaints arising out of matrimonial disputes.

39.3. The Director General and Inspector General of Police shall also ensure that copies of the above



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judgments, both in English as also translated in Kannada, are made available to the investigating officers and all other concerned officers

39.4. A provision shall also be made for web hosting all important judgments of the Hon'ble Supreme Court of India, High Court of Karnataka and/or any other High Court in the Country on the website of the Director General of Police as also all websites maintained by the Police Department. The said judgments shall be made available both in English and Kannada.

39.5. The website to also contain all primary legislations, secondary legislations, delegated legislations and executive legislations both in English and Kannada.

40. **Answer to Point No. (vii): What Order?**

40.1. In view of the findings recorded on Points No.(i) to (vi), the writ petition deserves to be allowed in part, this Court passes the following:

ORDER

(i) Writ petition is **allowed in part.**



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- (ii) It is declared that the issuance of the Look Out Circular against Petitioner No.2, his arrest and detention on 16.08.2014, and the seizure of his passport, were illegal and in violation of Sections 41, 41-A and 438(3) of the Code of Criminal Procedure, the Passports Act, 1967, and the fundamental right of Petitioner No.2 to personal liberty under Article 21 of the Constitution.
- (iii) Respondent No.5 shall pay compensation of Rs.5,00,000 (Rupees five lakhs only) to Petitioner No.2 and Rs.4,00,000 (Rupees four lakhs only) to Petitioner No.1, within twelve weeks from the date of receipt of a copy of this order.
- (iv) The State, through Respondent No.5, shall be at liberty to recover the said amounts from Respondent No.3, after giving Respondent No.3 a reasonable opportunity of being heard, in accordance with law.
- (v) Respondent Nos.4 and 5 shall consider afresh, in the light of the findings in this judgment and paragraph 11 of **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273], whether any further action against Respondent No.3 is warranted in accordance with law, and shall take an informed decision within twelve weeks; the quantum of any departmental penalty is left to the disciplinary discretion of the competent authority.
- (vi) Respondent Nos.3, 4 and 5 and the police authorities shall scrupulously observe the safeguards in Sections 41 and 41-A of the Code of Criminal Procedure (Section 35 of the BNSS,



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2023) and the directions in **Arnesh Kumar v. State of Bihar** [(2014) 8 SCC 273] while dealing with complaints arising out of matrimonial disputes.

- (vii) The prayer to direct a specific quantum of departmental punishment against Respondent No.3 is declined; the allegation of custodial assault on Petitioner No.1 is left open to be pursued, if so advised, before the appropriate forum.
- (viii) The Registrar General shall communicate a copy of this judgment to the Chief Secretary to the Government, the Principal Secretary, Home Department, the Director General and Inspector General of Police, Inspector General of Police (Police Computer Wing) and the Commissioner of Police of all Commissionerates, for compliance and for circulation of the above General Directions to all police units in the State.
- (ix) Though the above matter is disposed re-list on **24.09.2026** to report compliance with the general directions issued.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

KTY

List No.: 2 Sl No.: 2