



ARISTOCRACY OF POLICE AND VIOLATION OF HUMAN RIGHTS

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Need to take proactive steps against Police Brutality

Introduction :- The citizens of the country are the assets of that country so that it is the duty of the state to protect their people and their property from any kind of loss, for this purpose the state setup the police system for the better administration. It is a responsibility of police officers to perform their duties and functions with honesty and integrity without misuse their power which is vested to them to protect the life of the citizens. But during the last few years the instances of police aristocracy are increased day by day such as Custodial torture, Custodial rape, illegal detention, worst behaviour with women, maximum use of third degree methods, violations of human rights, corruption practices.

Police – Public Relationship In The Present Scenario:- In the present time, the lack of cooperation between the police and public is the main reason of public distrust. Mutual trust and confidence between the police and public is lacking because of over bearing attitude of police varying on harassment. The main reason of this distrust is the occupational delay in the restoration of cases and the harsh treatment given to the complaints, discourtesy and impoliteness.

Human Rights And Police :- Man has certain rights which are universal, inalienable, inherent, fundamental and basic, the enjoyment of which is the foundation of freedom, justice and peace. The misuse of power and authority by the police officer found to be denial of such rights. In doing so, some police officers do not understand that they are violating the human rights of the people for whose welfare and protection the service is created. Every citizen has a right to get register their complaint but it is found that police generally not register the complaint of people.

Custodial Violence :- Custodial violence includes torture, death, and other excesses in police custody or prison. It is practiced by the law enforcement agencies on prisoners, criminals, and wrongdoers. The victims of these violence are mainly ordinary men and women belong to socio-eco disadvantage strata of the society. Custodial Violence is a term which is used for describing violence committed against a person who is in the custody by a police authority.

Custodial Torture :- Custodial torture has become a common phenomenon and a routine police practice of interrogation these days. The magnitude of police custodial torture in India is evident by the Report of Amnesty International (1992) which says that 415 persons died in the custody of police and security forces due to torture 1985 – 91. The Government itself admitted in Rajya Sabha that 46 persons died in police custody due to torture within three months i.e January to March 1993 in Delhi alone. These figures point at



the alarming dimensions of the problem. As per the crime statistics of the year 2002 published by NCRB, 84 custodial deaths were reported, 30 cases were registered, 32 policeman were charge sheeted but none was convicted during that year. The detailed report of the number of deaths in police custody during the year 2009 as published by NCRB in CRIME IN INDIA shows there were as many as 449 custodial deaths during the period from 1 January to 31 December 2009. In *Yusuf Ali VS State of Maharashtra*¹ the Supreme Court reiterated that if the accused is beaten or starved or tortured in any way during the course of investigation by the police it will be taken as a case of custodial torture. In *Niranjan Singh VS Prabhakar Rajaram*², while dealing with cases of custodial torture in police stations, the Supreme Court observed, “the police instead of being protector of Law, have become the engineer of terror and panic putting people into fear”.

Method of torture:

The method of torture that are followed by the police are as follows:

- **Roller Method** – In this method, the victim is made to lie on the floor and then a wooden log is rolled over the thighs of the victim which gives a severe pain as resulted the muscles of the thighs are squash and disjoint from the backbone. This is cruel and vicious kind of torture. This method of torture came into light after the case of *RAJAN*, who was subjected to roller method and died in police custody.

- **Heavy Electric Shocks** – This technique of torture is used in different ways. First, person is asked to pee into the on electric wire as resulted person get continuous current through his private part. Second, person is asked to sit on chair after tied his hands live electric wires are touch to his body to pass the electric current to him.

- **Finger Nail Torturing** – Finger nail may be pull off by use force. This can cause unbearable pain to the victim.

Custodial Deaths :- Death in police custody are usually the result of torture because the person cannot bear the pain. Human rights Commission registered the 1680 cases of custodial deaths in the last 10 months. According to Union Minister of State of Home Hansraj Gangaram Ahir – 144 cases of death in police custody and 1530 cases of death in judicial custody were registered by NCRB between April 1, 2007 and February 28, 2018. According to NCRB between 2010 and 2015, 591 people died in police custody. The Supreme Court took a serious view of police custodial deaths in *Dalip Singh VS State of Haryana*³, in this case two constables along with a Sub Inspector of Kurukshetra District were found guilty of causing death of the accused by beating and convicted them under section 304 (II) of IPC, i.e., for causing death by negligence. Yet in another case⁴ of custodial death, the Supreme Court not only directed Home Secretary of Punjab to suspend the guilty Sub Inspector but also ordered CBI to conduct an inquiry into the case. In this case, and innocent person, Sarabjeet, was

¹ AIR 1968 SC 150.

² AIR 1980 SC 785.

³ AIR 1993 SC 2302.

⁴ The Hindustan times (Delhi) dated 6 Nov, 1993.



picked up by the police, detained for several days and finally gunned down near the Indo-Pak border. It was later on found that the deceased had nothing to do with terrorist activities and was completely innocent. Since police custodial torture and death is a blatant violation of fundamental right to life as guaranteed by Article 21 of the Indian Constitution, compensation has been considered as an appropriate relief in such cases. The case of *Nilabati Behra VS State of Orissa*⁵ may be cited to illustrate the point. In this case, the Supreme Court treated the letter of one Nilabati Behra as a writ petition under Article 32 of the Constitution wherein petitioner had claimed compensation for death of her son Suman Behra aged 22 years in police custody in District Sundergarh in Orissa. The State Government on behalf of police contended that the deceased had escaped from custody and was run over by train while being chased by the police party. Therefore, it was not a case of custodial death. The Government also raised a plea of sovereign immunity. The Supreme Court rejected both the contentions of the respondents and held that defence of sovereign immunity is not available in case of constitutional remedy and there was no evidence that the death of the deceased was accidental. The court awarded Rs 1,50,000 as compensation to the deceased's mother.

Aristocracy Of Police Against Women :-

Women are the backbone of any society need to be loved and respected. Women victims of crime are deterred from

approaching the police to seek relief due to lack of confidence. More importantly there are instances of policeman themselves committing crimes like molestation and rape against who came in contact with police as a victim or accused. If a woman goes in police station for registration of FIR by herself, she is abused and not heard. In case of *Sheela Barse vs State of Maharashtra*⁶ Justice Bhagwati showed deep concern for the rights of women and gave detailed directions for protecting the rights of women confined in police lock-ups.

- (a) Female suspect should not be kept in a police lock-up in which male suspect are detained.
- (b) Police lock-ups for female suspect should be in reasonably good localities and should be guarded by female constables.
- (c) Interrogation of female should be carried out only in the presence of female police officer.
- (d) An arrested person must be informed that he is entitled to apply for bail and grounds of arrest must be communicated to him.
- (e) Four or five police lock-ups should be selected in reasonably good localities where only female suspects should be kept and they should be guarded by female constables. Female suspect should not be kept in the same police lock-ups in which male suspect are detained.
- (f) Interrogation of women should be carried out only in the presence of women police officers. The court expressed the confidence that if these directions are carried out both in letter and in spirit, that will afford considerable protection to prisoners in police lock-ups.

⁵ AIR 1993 SC 1960.

⁶ AIR 1983 S.C 378.



Custodial Rape:

In many police stations even where there is women police officer is also appointed, women taken in police custody, brutally tortured, molested, abused and raped by male police. These police officer doesn't show mercy even for the women who is pregnant. The Mathura rape case was an incident of custodial rape in India on 26 March 1972, wherein Mathura, a young tribal girl, was raped by two policemen on the compound of Desai Ganj Police Station in Chandrapur district of Maharashtra. The supreme court ruled in *Tukaram vs State of Maharashtra*⁷ that there were no injuries on the on the body of the girl, which meant that she did not put up resistance and that the incidence was a peaceful affair. After the supreme court acquitted the accused, there was public outcry and protests, which eventually lead to amendments in the Indian rape law via the criminal law (second amendment) Act 1983 (No.46). On 12 September 2018, in *Rewari Gang Rape case*, a 19 years old girl was raped and the main accused of this case is an army man serving in Rajasthan, this incident proves that "the guard is the eater". The Chief Minister of Kerala Pinarayi Vijayan also said that "Police officers who indulge in crimes should not expect any mercy".

Illegal Detention :- Illegal detention is a wrongful restraintment, arbitrarily detention, indiscriminate arrest and wrongful use of arrest powers by the police. In the case of, *Joginder Kumar VS State of UP and others*⁸, a young lawyer aged 28

was called to the police of the senior superintendent of police, Ghaziabad in connection with "some enquiries". He was accompanied by friends and his brother, who were told by the police that he would be released in the evening. Joginder Kumar was taken to a police station with the assurance that he would be released on next day. But he was not released as the police allegedly wanted his help in making "further inquiries". When his family went to the police station on the third day, they found that he had been taken to an undisclosed location. Thus Joginder was illegally detained by police for more than five days. When the aggrieved family filed a habeas corpus write petition, the Supreme Court issued notice to the state of UP and SSP to immediately produce Joginder Kumar and explain why he was detained for five days without a valid reason and why his detention was not recorded in the police diary and why he was not produce before the magistrate. The police version was that Joginder Kumar was cooperating with them out of his own free will which the court was not convinced to accept. The Court, inter alia, ruled that an arrest cannot be made simply because it is lawful for a police officer to do so. "The existence of the power to arrest is one thing, the justification for the exercise of it quite another the police officer must be able to justify the arrest The Court said that the officer making the arrested must function under a "reasonable belief" both as to person's complicity in committing the offences and the need to effective about arrest. The Apex Court laid down the guidelines for arrest by police which are as follows :-

⁷ AIR 1979 SC 185 ; (1979)2 SCC 143 ; 1978 Cr L J 1864 ; 1979 SCC 143 .

⁸ 1994 SCC 260.



1. Arrests are not to be made in routine manner the officer making arrest must be able to justify it's necessity on the basis of some preliminary investigation .
2. An arrested person should be informed the grounds of his arrest and allowed to inform his friends or relatives about the same . An entry in the police diary about the arrest and the person who were informed about the arrest must be made by the police officer at the police station .
3. The Magistrate concerned must satisfy that the above requirements have been complied with by the police .

Supreme Court's Directives for avoidance of Custodial Crimes :

The Supreme Court has expressed its concern for custodial Commission of crimes during investigation and interrogation and laid down certain principles to be followed by concerned police officers in its historic decision in *D . K Basu VS State of West Bengal*⁹. The basic requirements to be followed in all cases of arrest or detention the legal provisions are made in that behalf to prevent custodial Violence are as follows :

1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations . The particulars of all such police personnel who handle interrogation of the are arrestee must be recorded in a register .
2. The police officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrestee is made . It shall also be countersigned by the arrestees and contain time and date of arrest.
3. A person who has been arrested or detained and being held in custody in a police station or interrogation or lock – up , shall be entitled to inform his friend / relative or a person having interest in his welfare, as soon as practicable, that he has been arrested and is being detained at a particular place , unless the attesting witness of the memory of arrest is himself such friend /relative .
4. The time , place of arrest and venue of custody of an arrestee must be notified by the police .
5. The person arrested must be made aware of his right to have some informed if his arrest and detention as soon as he is put under arrest or is detained .
6. An entry must be made in a diary at the place of detention giving all details , about his friend /relative or person informed .
7. The arrestee should , where he so requests ,be also examined at the time of arrest and major and minor injuries ,if any present on his /her body , must be recorded at that time . The 'Inspection Memo' should be signed both by the arrestee and the police officer effecting arrest .
8. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody .
9. Copies of all documents including memory of arrest, should be sent you the Illaqua Magistrate for his record .

⁹ AIR 1997 SC 3017.



10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

The Apex Court opined that the failure to comply with the above requirements will render the officer concerned liable to be punished for contempt of court besides the usual departmental action against him.

Conclusion :-The continued police brutality and after seen the results of this brutality during the past two decades it seems that protectors of law have become the law breakers. If the police follow the rules designed to deter torture and mistreatment, deaths in custody could be prevented. The police must change its attitude and behaviour while dealing with witnesses, suspects and criminals. Good policing is policing that is both effective and fair and helpful in developing public confidence and cooperation. Police who are ineffective, or illegitimate or unfair, in protecting the public against crime will lose the public trust and confidence. Police accountability is also necessary so that the police accept being questioned about their decision and actions and accept the consequences of being found guilty of misconduct, including sanctions and having to compensate victims. Habeas corpus is another fundamental measure to hold police accountable when depriving someone of his or her liberty. To prevent the violation of human rights, it is require to promote legal awareness among the citizens of India so that they could not became the victim of police brutality.
