DR. MEHMOOD NAYYAR AZAM A

v.

STATE OF CHATTISGARH AND ORS.

(Civil Appeal Noo. 5703 of 2012)

AUGUST 03, 2012

B

[K.S. RADHAKRISHNAN AND DIPAK MISRA, JJ.]

Constitution of India, 1950 - Article 21 - Right to life - Custodial torture - Compensation for - Appellant-doctor arrested in respect of alleged criminal offences and sent to C *police custody - Self-humiliating words were written on a placard and the appellant was asked to hold it and photographs were taken - The photographs were circulated in general public and were also filed by one of the respondents in a revenue proceeding - Appellant sought public law remedy* D *for grant of compensation - High Court arrived at the finding that appellant was indeed subjected to custodial torture and accordingly directed him to submit representation to the State Government for grant of compensation - Appellant submitted such representation, but the State Government rejected the* E *same - Appellant thus did not receive any compensation for number of years - On appeal, held: The precious right guaranteed by Article 21 of the Constitution cannot be denied to convicts, undertrials, detenus and other prisoners in custody, except according to the procedure established by law* F *by placing such reasonable restrictions as permitted by law - When an accused is in custody, his Fundamental Rights are not abrogated in toto - Any treatment meted out to an accused while he is in custody which causes humiliation and mental trauma corrodes the concept of human dignity - On facts,* G *clearly the appellant underwent mental torture at the hands of insensible police officials and was subjected to social humiliation - The inhuman treatment can be well visualized when the appellant came out from custody and witnessed his*

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A *photograph being circulated with the self-condemning words written on it - This withers away the very essence of life as enshrined under Article 21 of the Constitution - In the facts and circumstances of the case, appellant entitled to Rs.5 lakhs as compensation - Respondent-State directed to grant*
B *such amount and later recover it from the salary of the erring officials - Human Rights - Universal Declaration of Human Rights, 1948 - Article 5 -Police - Duty of the police authorities.*

Constitution of India, 1950 - Articles 32 and 226 - Writ proceedings seeking enforcement or protection of
C *fundamental rights - Grant of 'compensation' in such proceedings - Nature of - Held: When the court moulds the relief by granting 'compensation' in proceedings under Article 32 or 226 seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalizing the*
D *wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen - The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the*
E *private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, by not protecting the fundamental rights of the citizen - The compensation is in the nature of 'exemplary damages' awarded against the*
F *wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law*
G *- Public Law remedy.*

Words and Phrases - "harassment" and "torture" - Meaning of.

The appellant, an Ayurvedic Doctor with a B.A.M.S.
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degree, used to raise agitations and spread awareness against exploitation of people belonging to weaker and marginalized sections of the society which apparently hurt the vested interests of the local coal mafia, trade union leaders, police officers and other groups. He was arrested in respect of the alleged offence under Indian Penal Code, 1860 and the Electricity Act, 2003. There was a direction by the Magistrate for judicial remand but thereafter instead of taking him to jail, the next day he was brought to the police station. In police custody, self-humiliating words were written on a placard and the appellant was asked to hold it and photographs were taken. The photographs were circulated in general public and were also filed by one of the respondents in a revenue proceeding.

The appellant filed writ petition before the High Court with a prayer for punishing the erring officials on the foundation that their action was a complete transgression of human rights which affected his fundamental right especially his right to live with dignity as enshrined under Article 21 of the Constitution. In the writ petition, prayer was also made for awarding him compensation to the tune of Rs.10 lakhs.

The High Court found that the appellant was harassed at the hands of police officers and thereby it did tantamount to custodial torture and eventually directed the appellant to submit a representation to the State Government for grant of compensation. It is an admitted position that the State authorities had taken cognizance of the harassment meted out to the appellant by the erring personnel of the police department and initiated departmental enquiry against them in which they were found guilty and punishment had also been awarded to them.

A Subsequently, the appellant submitted a representation but the State Government rejected the same stating that the appellant had put forth the claim of compensation on the ground of defamation; and being a case of defamation, the issue of compensation could B only be determined by a court of competent jurisdiction, and the State Government could not take any decision in this regard.

The question which therefore arose for consideration in the instant appeal was whether the appellant should C be asked to initiate a civil action for grant of damages on the foundation that he was defamed or he should be granted compensation on the bedrock that he was harassed in police custody.

D Allowing the appeal, the Court

HELD:1.1. The reverence of life is insegragably associated with the dignity of a human being who is basically divine, not servile. The spark of life gets more E resplendent when man is treated with dignity sans humiliation, for every man is expected to lead an honourable life which is a splendid gift of "creative intelligence". When a dent is created in the reputation, humanism is paralysed. Living with dignity has been enshrined in our Constitutional philosophy and it has its F ubiquitous presence, and the majesty and sacrosanct dignity cannot be allowed to be crucified in the name of some kind of police action. The aforesaid prologue gains signification since in the case at hand, a doctor, humiliated in custody, sought public law remedy for grant G of compensation and the High Court, despite no factual dispute, has required him to submit a representation to the State Government for adequate relief pertaining to grant of compensation after expiry of 19 years with a further stipulation that if he is aggrieved by it, he can take H recourse to requisite proceedings available to him under

law. This is not only asking a man to prefer an appeal from Caesar to Caesar's wife but it also compels him like a cursed Sisyphus to carry the stone to the top of the mountain wherefrom the stone rolls down and he is obliged to repeatedly perform that futile exercise. [Paras 2, 3] [662-E-H; 663-A-D]

1.2. As a social activist, the appellant ushered in immense awareness among the down-trodden people which caused discomfort to the people who had vested interest in the coal mine area. The powerful coal mafia, trade union leaders, police officers and other persons who had fiscal interest felt disturbed and threatened him with dire consequences and pressurized him to refrain from such activities. Embedded to his committed stance, the appellant declined to succumb to such pressure and continued the activities. When the endeavor failed to silence and stifle the agitation that was gaining strength and momentum, a consorted maladroit effort was made to rope him in certain criminal offences. [Para 4] [663-F-H]

2. If the functionaries of the Government become law-breakers, it is bound to breed contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchy. No civilized nation can permit that to happen, for a citizen does not shed off his fundamental right to life, the moment a policeman arrests him. The right to life of a citizen cannot be put in abeyance on his arrest. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, undertrials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law. [Para 22] [672-E-H]

D.K. Basu v. State of W.B. AIR 1997 SC 610 : (1997) 1

A **SCC 416 and** *Joginder Kumar v. State of U.P.* **(1994) 4 SCC 260 - relied on.**

3. The term "harassment" in its connotative expanse includes torment and vexation. The term "torture" also
B **engulfs the concept of torment. The word "torture" in its denotative concept includes mental and psychological harassment. [Para 23] [673-D]**

P. Ramanatha Aiyar's Law Lexicon, Second Edition **- referred to.**

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4. When an accused is in custody, his Fundamental Rights are not abrogated in toto. His dignity cannot be allowed to be comatosed. The right to life is enshrined in Article 21 of the Constitution and a fortiorari, it includes
D **the right to live with human dignity and all that goes along with it. Inhuman treatment has many a facet. It fundamentally can cover such acts which have been inflicted with an intention to cause physical suffering or severe mental pain. It would also include a treatment that**
E **is inflicted that causes humiliation and compels a person to act against his will or conscience. A man's reputation forms a facet of right to life as engrafted under Article 21 of the Constitution. There is no shadow of doubt that any treatment meted out to an accused while he is in custody which causes humiliation and mental trauma corrodes**
F **the concept of human dignity. The majesty of law protects the dignity of a citizen in a society governed by law. It cannot be forgotten that the Welfare State is governed by rule of law which has paramountcy. The Constitution as the organic law of the land has unfolded itself in manifold**
G **manner like a living organism in the various decisions of the court about the rights of a person under Article 21 of the Constitution of India. When citizenry rights are sometimes dashed against and pushed back by the members of City Halls, there has to be a rebound and**
H **when the rebound takes place, Article 21 of the**

Constitution springs up to action as a protector. That is why, an investigator to a crime is required to possess the qualities of patience and perseverance. It is the sacrosanct duty of the police authorities to remember that a citizen while in custody is not denuded of his fundamental right under Article 21 of the Constitution. The restrictions imposed have the sanction of law by which his enjoyment of fundamental right is curtailed but his basic human rights are not crippled so that the police officers can treat him in an inhuman manner. On the contrary, they are under obligation to protect his human rights and prevent all forms of atrocities. A balance has to be struck. [Paras 26, 28, 30, 36 and 38] [675-D-G; 676-A-B-C; 677-C-E; 678-E-F]

Sunil Gupta and others v. State of Madhya Pradesh and others **(1990) 3 SCC 119: 1990 (2) SCR 871;** *Bhim Singh, MLA v. State of J & K* **(1985) 4 SCC 677;** *Francis Coralie Mullin v. Administrator, Union Territory of Delhi and others* **(1981) 1 SCC 608: 1981 (2) SCR 516;** *D.K. Basu v. State of W.B.* **AIR 1997 SC 610 : (1997) 1 SCC 416;** *Kharak Singh v. State of U. P.* **(1964) 1 SCR 332;** *Arvinder Singh Bagga v. State of U.P. and others* **AIR 1995 SC 117: 1994 (4) Suppl. SCR 310;** *Smt. Kiran Bedi v. Committee of Inquiry and another* **(1989) 1 SCC 494: 1989 (1) SCR 20;** *Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni and others* **(1983) 1 SCC 124: 1983 (1) SCR 828;** *Smt. Selvi and others v. State of Karnataka* **AIR 2010 SC 1974: 2010 (5) SCR 381;** *Vishwanath S/o Sitaram Agrawal v. Sau. Sarla Vishwanath Agrawal* **2012 (6) SCALE 190;** *Nandini Sathpaty v. P. L. Dani* **AIR (1978) SC 1025: 1978 (3) SCR 608 and** *Delhi Judicial Services Association v. State of Gujarat* **(1991) 4 SCC 406: 1991 (3) SCR 936 - relied on.**

Munn v. Illinois **(1877) 94 US 113 and** *D. F. Marion v. Davis* **55 ALR 171 - referred to.**

A 5.1. In the case at hand, the appellant, while in custody, was compelled to hold a placard in which condemning language was written. He was photographed with the said placard and the photograph was made public. It was also filed in a revenue proceeding B by the 5th respondent. The High Court recorded that the competent authority of the State has conducted an enquiry and found the erring officers to be guilty. The High Court recorded the findings in the favour of the appellant but left him to submit a representation to the C concerned authorities. This Court granted an opportunity to the State to deal with the matter in an appropriate manner but it rejected the representation. This Court is really concerned how in a country governed by rule of law and where Article 21 of the Constitution is treated to D be sacred, the dignity and social reputation of a citizen has been affected. [Para 39] [679-D-G]

5.2. As perceived from the admitted facts borne out on record, the appellant has been humiliated. Such treatment is basically inhuman and causes mental E trauma. Any psychological torture inflicts immense mental pain. A mental suffering at any age in life can carry the brunt and may have nightmarish effect on the victim. The hurt develops a sense of insecurity, helplessness and his self-respect gets gradually atrophied. In the case F at hand, the police authorities possibly have some kind of sadistic pleasure or to "please someone" meted out the appellant with this kind of treatment. It is not to be forgotten that when dignity is lost, the breath of life gets into oblivion. In a society governed by rule of law where G humanity has to be a laser beam, as our compassionate constitution has so emphasized, the police authorities cannot show the power or prowess to vivisect and dismember the same. When they pave such path, law cannot become a silent spectator. [Para 40] [679-H; 680-H A-E]

A

Jennison v. Baker **(1972) 1 All ER 997 1006 - referred to.**

"Kaplan & Sadock's Synopsis of Psychiatry" **- referred to.**

B

6.1. It is clear that the appellant was tortured while he was in custody. When there is contravention of human rights, the inherent concern as envisaged in Article 21 springs to life and enables the citizen to seek relief by taking recourse to public law remedy. [Para 41] [680-G-H]

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6.2. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting 'compensation' in proceedings under Article 32 or 226 seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalizing the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, by not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law. [Para 43] [681-G-H; 682-A-D]

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A 6.3. On a reflection of the facts of the case, it is luculent that the appellant had undergone mental torture at the hands of insensible police officials. He might have agitated to ameliorate the cause of the poor and the downtrodden, but, the social humiliation that has been B meted out to him is quite capable of destroying the heart of his philosophy. It has been said that philosophy has the power to sustain a man's courage. But courage is based on self-respect and when self-respect is dented, it is difficult even for a very strong minded person to C maintain that courage. The initial invincible mind paves the path of corrosion. As is perceptible, the mindset of the protectors of law appears to cause torment and insult and tyrannize the man who is helpless in custody. There can be no trace of doubt that he is bound to develop D stress disorder and anxiety which destroy the brightness and strength of the will power. It has been said that anxiety and stress are slow poisons. When torment is added, it creates commotion in the mind and the slow poisons get activated. The inhuman treatment can be well visualized when the appellant came out from custody and E witnessed his photograph being circulated with the self-condemning words written on it. This withers away the very essence of life as enshrined under Article 21 of the Constitution. Regard being had to the various aspects and taking note of the totality of facts and circumstances, F a sum of Rs.5.00 lacs (Rupees five lacs only) should be granted towards compensation to the appellant and, accordingly, it is so directed. The said amount shall be paid by the respondent State within a period of six weeks and be realized from the erring officers in equal G proportions from their salary as thought appropriate by the competent authority of the State. [Para 46] [684-C-H; 685-A]

Nilabati Behera v. State or Orissa (1993) 2 SCC 746: H 1993 (2) SCR 581; *Sube Singh v. State of Haryana* AIR 2006

SC 1117: 2006 (2) SCR 67 and *Hardeep Singh v. State of Madhya Pradesh* **(2012) 1 SCC 748 - relied on.**

Case Law Reference:

(1997) 1 SCC 416	**relied on**	**Para 19, 21, 26, 38**
(1994) 4 SCC 260	**relied on**	**Para 21, 22**
1990 (2) SCR 871	**relied on**	**Para 24**
(1985) 4 SCC 677	**relied on**	**Para 25**
1981 (2) SCR 516	**relied on**	**Para 26**
(1964) 1 SCR 332	**relied on**	**Para 27**
(1877) 94 US 113	**referred to**	**Para 27**
1994 (4) Suppl. SCR 310	**relied on**	**Para 29**
1989 (1) SCR 20	**relied on**	**Para 31**
55 ALR 171	**referred to**	**Para 31**
1983 (1) SCR 828	**relied on**	**Para 32**
2010 (5) SCR 381	**relied on**	**Para 33**
2012 (6) SCALE 190	**relied on**	**Para 34**
1978 (3) SCR 608	**relied on**	**Para 36**
1991 (3) SCR 936	**relied on**	**Para 37**
1972 1 All ER 997 1006	**referred to**	**Para 40**
1993 (2) SCR 581	**relied on**	**Para 42**
2006 (2) SCR 67	**relied on**	**Para 44**
(2012) 1 SCC 748	**relied on**	**Para 45**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5703 of 2012.

A From the Judgment & Order dated 3.8.2010 of the High Court of Chhattisgarh at Bilaspur in W.P. No. 1156 of 2001.

Niraj Sharma for the Appellant.

Dr. Rajesh Pandey, Mahesh Pandey, Mridula Ray
B Bharadwaj, Atul Jha, Sandeep Jha, Dharmendra Kumar Sinha, Arvind Kumar, Jogy Scaria for the Respondents.

The Judgment of the Court was delivered by

C **DIPAK MISRA, J.** 1. Leave granted.

2. Albert Schweitzer, highlighting on Glory of Life, pronounced with conviction and humility, "the reverence of life offers me my fundamental principle on morality". The aforesaid expression may appear to be an individualistic expression of
D a great personality, but, when it is understood in the complete sense, it really denotes, in its conceptual essentiality, and connotes, in its macrocosm, the fundamental perception of a thinker about the respect that life commands. The reverence of life is insegragably associated with the dignity of a human
E being who is basically divine, not servile. A human personality is endowed with potential infinity and it blossoms when dignity is sustained. The sustenance of such dignity has to be the superlative concern of every sensitive soul. The essence of dignity can never be treated as a momentary spark of light or,
F for that matter, 'a brief candle', or 'a hollow bubble'. The spark of life gets more resplendent when man is treated with dignity sans humiliation, for every man is expected to lead an honourable life which is a splendid gift of "creative intelligence". When a dent is created in the reputation, humanism is
G paralysed. There are some megalomaniac officers who conceive the perverse notion that they are the `Law' forgetting that law is the science of what is good and just and, in very nature of things, protective of a civilized society. Reverence for the nobility of a human being has to be the corner stone of a
H body polity that believes in orderly progress. But, some, the

incurable ones, become totally oblivious of the fact that living with dignity has been enshrined in our Constitutional philosophy and it has its ubiquitous presence, and the majesty and sacrosanctity dignity cannot be allowed to be crucified in the name of some kind of police action.

3. The aforesaid prologue gains signification since in the case at hand, a doctor, humiliated in custody, sought public law remedy for grant of compensation and the High Court, despite no factual dispute, has required him to submit a representation to the State Government for adequate relief pertaining to grant of compensation after expiry of 19 years with a further stipulation that if he is aggrieved by it, he can take recourse to requisite proceedings available to him under law. We are pained to say that this is not only asking a man to prefer an appeal from Caesar to Caesar's wife but it also compels him like a cursed Sisyphus to carry the stone to the top of the mountain wherefrom the stone rolls down and he is obliged to repeatedly perform that futile exercise.

4. The factual matrix as uncurtained is that the appellant, an Ayurvedic Doctor with B.A.M.S. degree, while practising in West Chirmiri Colliery, Pondi area in the State of Chhattisgarh, used to raise agitations and spread awareness against exploitation of people belonging to weaker and marginalized sections of the society. As a social activist, he ushered in immense awareness among the down-trodden people which caused discomfort to the people who had vested interest in the coal mine area. The powerful coal mafia, trade union leaders, police officers and other persons who had fiscal interest felt disturbed and threatened him with dire consequences and pressurized him to refrain from such activities. Embedded to his committed stance, the petitioner declined to succumb to such pressure and continued the activities. When the endeavor failed to silence and stifle the agitation that was gaining strength and momentum, a consorted maladroit effort was made to rope him in certain criminal offences.

A 5. As the factual narration further unfolds, in the initial stage, cases under Section 110/116 of the Criminal Procedure Code were initiated and thereafter crime No. 15/92 under Section 420 of the Indian Penal Code (for short 'the IPC') and crime No. 41/92 under Sections 427 and 379 of the IPC were
B registered. As the activities gathered further drive and became more pronounced, crime No. 62/90 was registered for an offence punishable under Section 379 of the IPC for alleged theft of electricity. In the said case, the appellant was taken into custody.

C 6. Though he was produced before the Magistrate on 22.9.1992 for judicial remand and was required to be taken to Baikunthpur Jail, yet by the time the order was passed, as it was evening, he was kept in the lock up at Manendragarh Police Station. On 24.9.1992, he was required to be taken to
D jail but instead of being taken to the jail, he was taken to Pondi Police Station at 9.00 a.m. At the police station, he was abused and assaulted. As asseverated, the physical assault was the beginning of ill-treatment. Thereafter, the SHO and ASI, the respondent Nos. 3 and 4, took his photograph compelling him
E to hold a placard on which it was written :-

> "Main Dr. M.N. Azam Chhal Kapti Evam Chor Badmash Hoon". (I, Dr. M. N. Azam, am a cheat, fraud, thief and rascal).

F 7. Subsequently, the said photograph was circulated in general public and even in the revenue proceeding, the respondent No. 5 produced the same. The said atrocities and the torture of the police caused tremendous mental agony and humiliation and, hence, the petitioner submitted a complaint to
G the National Human Rights Commission who, in turn, asked the Superintendant of Police, District Koria to submit a report. As there was no response from the 2nd respondent the Commission again required him to look into the grievances and take proper action. When no action was taken by the

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respondent or the police, the petitioner was compelled to invoke the extraordinary jurisdiction of the High Court of Judicature at Bilaspur, Chattisgarh with a prayer for punishing the respondent Nos. 4, 5 & 7 on the foundation that their action was a complete transgression of human rights which affected his fundamental right especially his right to live with dignity as enshrined under Article 21 of the Constitution. In the Writ Petition, prayer was made for awarding compensation to the tune of Rs. 10 lakhs.

8. After the return was filed, the learned single Judge passed a detailed order on 3.1.2003 that the Chief Secretary and the Director General of Police should take appropriate steps for issue of direction to the concerned authorities to take appropriate action in respect of the erring officers. Thereafter, some developments took place and on 24.3.2005, the Court recorded that the writ petitioner was arrested on 22.9.1992 and his photograph was taken at the police station. The learned single Judge referred to Rule 1 of Regulation 92 of Chhattisgarh Police Regulations which lays down that no Magistrate shall order photograph of a convict or other person to be taken by the police for the purpose of Identification under Prisoners Act, 1920, unless he is satisfied that such photograph is required for circulation to different places or for showing it for the purpose of identification to a witness who cannot easily be brought to a test identification at the place where the investigation is conducted or that photograph is required to be preserved as a permanent record. Thereafter, the learned single Judge proceeded to record that not only the photograph of the writ petitioner had been taken with the placard but had also been circulated which had caused great mental agony and trauma to his school going children. Thereafter, he referred to Regulation 737 of the Chhattisgarh Police Regulations which relates to action to be taken by the superior officer in respect of an erring officer who ill-treats an accused.

9. After referring to various provisions, the learned single

A Judge called for a report from the Chief Secretary. On 18.11.2005, the Court was apprised that despite several communications, the Chief Secretary had not yet sent the report. Eventually, the report was filed stating that the appellant was involved in certain cases including grant of bogus medical
B certificate and regard being had to the directions issued in 1992 that the photograph of the offender should be kept on record, the same was taken and affixed against his name and after 7.9.1992, it was removed from the records. It was also stated that the Sub-Inspector had been imposed punishment
C of "censure" by the Superintendent of Police on 19.11.2001. It was also set forth that on 3.5.2003, a charge-sheet was served on all the erring officers and a departmental enquiry was held and in the ultimate eventuate, they had been imposed major penalty of withholding of one annual increment with cumulative
D effect for one year commencing 27.5.2004. That apart, on 19.7.2005, a case had been registered under Section 29 of the Police Act against the erring officers.

10. It is apt to note here that when the matter was listed for final hearing for grant of compensation, the learned single
E Judge referred the matter to be heard by a Division Bench.

11. The Division Bench referred to the prayer clause and various orders passed by the learned single Judge and eventually directed the appellant to submit a representation to
F the Chief Secretary for grant of compensation. We think it appropriate to reproduce the relevant paragraphs of the order passed by the Division Bench: -

"4. Learned counsel for the petitioner submits that during the pendency of the writ petition, Relief Clause No. 7.3 was
G fulfilled under the directions of this court and now only the compensation part, as claimed in Relief Clause No. 7.5A, remained there.

5. In the instant case, it is an admitted position that the
H respondent State authorities have taken cognizance of the

harassment meted out to the petitioner by the erring personnel of the police department and initiated departmental enquiry against them in which they were found guilty and punishment has also been awarded to them."

12. After issuing notice, this Court, on 17.2.2012, thought it apposite that the appellant should submit a representation within a week which shall be considered by the respondents within four weeks therefrom.

13. In pursuance of the aforesaid order, the appellant submitted a representation which has been rejected on 19.3.2012 by the OSD/Secretary, Government of Chhattisgarh, Home (Police) Department. In the rejection order, it has been stated as follows: -

"In the aforesaid cases, the arrest and the action regarding submission of chargesheet in the Hon'ble Court was in accordance with law.

(2) On 24.9.92 the police officers taking your photograph and writing objectionable words thereon was against the legal procedure. Considering this, action was taken against the concerned guilty police officers in accordance with law and two police officers were punished.

(3) In your representation, compensation has been demanded on the following two grounds:

A. Defamation was caused due to the police officers taking photograph.

B. Your wife became unwell mentally. She is still unwell.

C. Difficulty in marriage of daughter.

Regarding the aforesaid grounds, the actual position is as follows:

A. Defamation is such a subject, the decision on which is within jurisdiction of the competent court. No decision pertaining to defamation has been received from the court of competent jurisdiction. Therefore, it would not be proper for the State Government to take a decision in this regard.

B. Regarding mental ailment of your wife, no such basis has been submitted by you, on the basis of which any conclusion may be drawn.

C. On the point of there being no marriage of children also no such document or evidence has been produced by you before the Government along with the representation, on the basis of which any decision may be taken.

Therefore, in the light of the above, the State Government hereby rejects your representation and accordingly decides your representation."

14. Mr. Niraj Sharma, learned counsel appearing for the appellant, submitted that when the conclusion has been arrived at that the appellant was harassed at the hands of the police officers and in the departmental enquiry they have been found guilty and punished, just compensation should have been awarded by the High Court. It is further urged by him that this Court had directed to submit a representation to grant an opportunity to the functionaries of the State to have a proper perceptual shift and determine the amount of compensation and grant the same, but the attitude of indifference reigned supreme and no fruitful result ensued. It is canvassed by him that it would not only reflect the non-concern for a citizen who has been humiliated at the police station, but, the manner in which the representation has been rejected clearly exhibits the imprudent perception and heart of stone of the State. It is argued that the reasons ascribed by the State authority that defamation is such a subject that the issue of compensation

has to be decided by the competent court and in the absence of such a decision, the Government cannot take a decision as regards the compensation clearly reflects the deliberate insensitive approach to the entire fact situation inasmuch as the High Court, in categorical terms, had found that the allegations were true and the appellant was harassed and thereby it did tantamount to custodial torture and there was no justification to adopt a hyper-technical mode to treat it as a case of defamation in the ordinary sense of the term and requiring the appellant to take recourse to further adjudicatory process and obtain a decree from the civil court.

15. Mr. Atul Jha, learned counsel appearing for the State, has supported the order of the High Court as well as the order passed by the competent authority of the State who has rejected the representation on the foundation that when the appellant puts forth a claim for compensation on the ground of defamation, he has to take recourse to the civil court and, therefore, no fault can be found with the decision taken either by the High Court or the subsequent rejection of the representation by the authority of the State.

16. The learned counsel appearing for the private respondents has submitted that they have already been punished in a disciplinary proceeding and, therefore, the question of grant of compensation does not arise and even if it emerges, the same has to be determined by the civil court on the base of evidence adduced to establish defamation.

17. At the very outset, we are obliged to state that five aspects are clear as day and do not remotely admit of any doubt. First, the appellant was arrested in respect of the alleged offence under Indian Penal Code, 1860 and the Electricity Act, 2003; second, there was a direction by the Magistrate for judicial remand and thereafter instead of taking him to jail the next day he was brought to the police station; third, self-humiliating words were written on the placard and he was asked to hold it and photographs were taken; and fourth, the

A photographs were circulated in general public and were also filed by one of the respondents in a revenue proceeding; and five, the High Court, in categorical terms, has found that the appellant was harassed.

B 18. In the aforesaid backdrop, the singular question required to be posed is that whether the appellant should be asked to initiate a civil action for grant of damages on the foundation that he has been defamed or this Court should grant compensation on the bedrock that he has been harassed in police custody.

C 19. At this juncture, it is condign to refer to certain authorities in the field. In *D.K. Basu v. State of W.B.*[1] it has been held thus: -

D "10. "Torture" has not been defined in the Constitution or in other penal laws. "Torture" of a human being by another human being is essentially an instrument to impose the will of the "strong" over the "weak" by suffering. The word torture today has become synonymous with the darker side of human civilization.

E "Torture is a wound in the soul so painful that sometimes you can almost touch it, but it is also so intangible that there is no way to heal it. Torture is anguish squeezing in your chest, cold as ice and heavy as a stone,

F paralyzing as sleep and dark as the abyss. Torture is despair and fear and rage and hate. It is a desire to kill and destroy including yourself."

-Adriana P. Bartow

G 11. No violation of any one of the human rights has been the subject of so many Conventions and Declarations as "torture" - all aiming at total banning of it in all forms, but in spite of the commitments made to eliminate torture, the

H 1. AIR 1997 SC 610 : (1997) 1 SCC 416

fact remains that torture is more widespread now than ever before. "Custodial torture" is a naked violation of human dignity and degradation which destroys, to a very large extent, the individual personality. It is a calculated assault on human dignity and whenever human dignity is wounded, civilization takes a step backward - flag of humanity must on each such occasion fly half-mast.

12. In all custodial crimes what is of real concern is not only infliction of body pain but the mental agony which a person undergoes within the four walls of police station or lock-up. Whether it is physical assault or rape in police custody, the extent of trauma, a person experiences is beyond the purview of law."

20. We have referred to the aforesaid paragraphs to highlight that this Court has emphasized on the concept of mental agony when a person is confined within the four walls of police station or lock-up. Mental agony stands in contradistinction to infliction of physical pain. In the said case, the two-Judge Bench referred to Article 5 of the Universal Declaration of Human Rights, 1948 which provides that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Thereafter, the Bench adverted to Article 21 and proceeded to state that the expression "life or personal liberty" has been held to include the right to live with human dignity and thus, it would also include within itself a guarantee against torture and assault by the State or its functionaries. Reference was made to Article 20(3) of the Constitution which postulates that a person accused of an offence shall not be compelled to be a witness against himself.

21. It is worthy to note that in the case of *D.K. Basu* (supra), the concern shown by this Court in *Joginder Kumar v. State of U.P*[2]. was taken note of. In *Joginder Kumar's* case, this Court voiced its concern regarding complaints of violation of human

2. (1994) 4 SCC 260.

A rights during and after arrest. It is apt to quote a passage from the same: -

> "The horizon of human rights is expanding. At the same time, the crime rate is also increasing. Of late, this
B Court has been receiving complaints about violations of human rights because of indiscriminate arrests. How are we to strike a balance between the two?
>
> A realistic approach should be made in this direction. The law of arrest is one of balancing individual rights,
C liberties and privileges, on the one hand, and individual duties, obligations and responsibilities on the other; of weighing and balancing the rights, liberties and privileges of the single individual and those of individuals collectively; of simply deciding what is wanted and where to put the
D weight and the emphasis; of deciding which comes first - the criminal or society, the law violator or the law abider..."

22. After referring to the case of *Joginder Kumar* (supra), A.S. Anand, J. (as his Lordship then was), dealing with the
E various facets of Article 21, stated that any form of torture or cruel, inhuman or degrading treatment would fall within the ambit of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. If the functionaries of the Government become law-breakers, it is bound to breed
F contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchy. No civilized nation can permit that to happen, for a citizen does not shed off his fundamental right to life, the moment a policeman arrests him. The right to life of a citizen cannot put in abeyance on his arrest. The precious
G right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, undertrials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law.

H

23. At this juncture, it becomes absolutely necessary to appreciate what is meant by the term "harassment". In *P. Ramanatha Aiyar's Law Lexicon,* Second Edition, the term "harass" has been defined, thus: -

> **"Harass.** "injure" and "injury" are words having numerous and comprehensive popular meanings, as well as having a legal import. A line may be drawn between these words and the word "harass" excluding the latter from being comprehended within the word "injure" or "injury". The synonyms of "harass" are: To weary, tire, perplex, distress tease, vex, molest, trouble, disturb. They all have relation to mental annoyance, and a troubling of the spirit."

The term "harassment" in its connotative expanse includes torment and vexation. The term "torture" also engulfs the concept of torment. The word "torture" in its denotative concept includes mental and psychological harassment. The accused in custody can be put under tremendous psychological pressure by cruel, inhuman and degrading treatment.

24. At this juncture, we may refer with profit to a two-Judge Bench decision in *Sunil Gupta and others v. State of Madhya Pradesh and others*[3]. The said case pertained to handcuffing where the accused while in judicial custody were being escorted to court from jail and bound in fetters. In that context, the Court stated that the escort party should record reasons for doing so in writing and intimate the court so that the court, considering the circumstances may either approve or disapprove the action of the escort party and issue necessary directions. The Court further observed that when the petitioners who had staged 'Dharna' for public cause and voluntarily submitted themselves for arrest and who had no tendency to escape, had been subjected to humiliation by being handcuffed, such act of the escort party is against all norms of decency and is in utter violation of the principle underlying Article 21 of the Constitution

3. (1990) 3 SCC 119

A of India. The said act was condemned by this Court to be arbitrary and unreasonably humiliating towards the citizens of this country with the obvious motive of pleasing 'someone'.

25. In *Bhim Singh, MLA v. State of J & K*[4], this Court
B expressed the view that the police officers should have greatest regard for personal liberty of citizens as they are the custodians of law and order and, hence, they should not flout the law by stooping to bizarre acts of lawlessness. It was observed that custodians of law and order should not become depredators
C of civil liberties, for their duty is to protect and not to abduct.

26. It needs no special emphasis to state that when an accused is in custody, his Fundamental Rights are not abrogated in toto. His dignity cannot be allowed to be comatosed. The right to life is enshrined in Article 21 of the
D Constitution and a fortiorari, it includes the right to live with human dignity and all that goes along with it. It has been so stated in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi and others*[5] and *D.K. Basu* (supra).

E 27. In *Kharak Singh v. State of U. P.,*[6] this court approved the observations of Field, J. in *Munn v. Illinois*[7] :-

> "By the term "life" as here [Article 21] used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and
F faculties by which life is enjoyed."

28. It is apposite to note that inhuman treatment has many a facet. It fundamentally can cover such acts which have been inflicted with an intention to cause physical suffering or severe
G mental pain. It would also include a treatment that is inflicted

4. (1985) 4 SCC 677.
5. (1981) 1 SCC 608.
6. (1964) 1 SCR 332.
H 7. (1877) 94 US 113.

that causes humiliation and compels a person to act against his will or conscience.

29. In *Arvinder Singh Bagga v. State of U.P. and others*[8], it has been opined that torture is not merely physical but may even consist of mental and psychological torture calculated to create fright to submit to the demands of the police.

30. At this stage, it is seemly to refer to the decisions of some of the authorities relating to a man's reputation which forms a facet of right to life as engrafted under Article 21 of the Constitution.

31. In *Smt. Kiran Bedi v. Committee of Inquiry and another*[9], this Court reproduced an observation from the decision in *D. F. Marion v. Davis* [10]:-

> "The right to enjoyment of a private reputation, unassailed by malicious slander is of ancient origin, and is necessary to human society. A good reputation is an element of personal security, and is protected by the Constitution equally with the right to the enjoyment of life, liberty and property."

32. In *Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni and others*[11], it has been ruled that right to reputation is a facet of right to life of a citizen under Article 21 of the Constitution.

33. In *Smt. Selvi and others v. State of Karnataka*[12], while dealing with the involuntary administration of certain scientific techniques, namely, narcoanalysis, polygraph examination and the Brain Electrical Activation Profile test for the purpose of

8. AIR 1995 SC 117.
9. (1989) 1 SCC 494.
10. 55 ALR 171.
11. (1983) 1 SCC 124.
12. AIR 2010 SC 1974.

A improving investigation efforts in criminal cases, a three-Judge Bench opined that the compulsory administration of the impugned techniques constitute 'cruel, inhuman or degrading treatment' in the context of Article 21. Thereafter, the Bench adverted to what is the popular perception of torture and
B proceeded to state as follows: -

> "The popular perceptions of terms such as 'torture' and 'cruel, inhuman or degrading treatment' are associated with gory images of blood-letting and broken bones. However, we must recognize that a forcible intrusion into a person's
C mental processes is also an affront to human dignity and liberty, often with grave and long-lasting consequences. [A similar conclusion has been made in the following paper: Marcy Strauss, 'Criminal Defence in the Age of Terrorism - Torture', 48 New York Law School Law Review 201-274
D (2003/2004)]."

After so stating, the Bench in its conclusion recorded as follows: -

> "We have also elaborated how the compulsory
E administration of any of these techniques is an unjustified intrusion into the mental privacy of an individual. It would also amount to 'cruel, inhuman or degrading treatment' with regard to the language of evolving international human rights norms."
F

34. Recently in *Vishwanath S/o Sitaram Agrawal v. Sau. Sarla Vishwanath Agrawal*[13], although in a different context, while dealing with the aspect of reputation, this Court has observed as follows: -
G

> ".....reputation which is not only the salt of life, but also the purest treasure and the most precious perfume of life. It is extremely delicate and a cherished value this side of

H 13. 2012 (6) SCALE 190.

the grave. It is a revenue generator for the present as well as for the posterity."

35. We have referred to these paragraphs to understand how with the efflux of time, the concept of mental torture has been understood throughout the world, regard being had to the essential conception of human dignity.

36. From the aforesaid discussion, there is no shadow of doubt that any treatment meted out to an accused while he is in custody which causes humiliation and mental trauma corrodes the concept of human dignity. The majesty of law protects the dignity of a citizen in a society governed by law. It cannot be forgotten that the Welfare State is governed by rule of law which has paramountcy. It has been said by Edward Biggon "the laws of a nation form the most instructive portion of its history." The Constitution as the organic law of the land has unfolded itself in manifold manner like a living organism in the various decisions of the court about the rights of a person under Article 21 of the Constitution of India. When citizenry rights are sometimes dashed against and pushed back by the members of City Halls, there has to be a rebound and when the rebound takes place, Article 21 of the Constitution springs up to action as a protector. That is why, an investigator to a crime is required to possess the qualities of patience and perseverance as has been stated in *Nandini Sathpaty v. P. L. Dani*[14].

37. In *Delhi Judicial Services Association v. State of Gujarat*[15], while dealing with the role of police, this Court condemned the excessive use of force by the police and observed as follows:-

"The main objectives of police is to apprehend offenders, to investigate crimes and to prosecute them before the courts and also to prevent commission of crime and above

14. AIR 1978 SC 1025.

15. (1991) 4 SCC 406.

A all to ensure law and order to protect citizens' life and property. The law enjoins the police to be scrupulously fair to the offender and the Magistracy is to ensure fair investigation and fair trial to an offender. The purpose and object of Magistracy and police are complementary to
B each other. It is unfortunate that these objectives have remained unfulfilled even after 40 years of our Constitution. Aberrations of police officers and police excesses in dealing with the law and order situation have been subject of adverse comments from this Court as well as from other
C courts but it has failed to have any corrective effect on it. The police has power to arrest a person even without obtaining a warrant of arrest from a court. The amplitude of this power casts an obligation on the police and it must bear in mind, as held by this Court that if a person is
D arrested for a crime, his constitutional and fundamental rights must not be violated."

38. It is imperative to state that it is the sacrosanct duty of the police authorities to remember that a citizen while in custody is not denuded of his fundamental right under Article 21 of the
E Constitution. The restrictions imposed have the sanction of law by which his enjoyment of fundamental right is curtailed but his basic human rights are not crippled so that the police officers can treat him in an inhuman manner. On the contrary, they are under obligation to protect his human rights and prevent all
F forms of atrocities. We may hasten to add that a balance has to be struck and, in this context, we may fruitfully quote a passage from *D. K. Basu* (supra): -

"There can be no gainsaying that freedom of an individual
G must yield to the security of the State. The right of preventive detention of individuals in the interest of security of the State in various situations prescribed under different statutes has been upheld by the Courts. The right to interrogate the detenus, culprits or arrestees in the interest of the nation, must take precedence over an individual's
H

right to personal liberty. .....The action of the State, however, must be "right, just and fair". Using any form of torture for extracting any kind of information would neither be 'right nor just nor fair' and, therefore, would be impermissible, being offensive to Article 21. Such a crime-suspect must be interrogated-indeed subjected to sustain and scientific interrogation-determined in accordance with the provisions of law. He cannot, however, be tortured or subjected to third degree methods or eliminated with a view to elicit information, extract confession or derive knowledge about his accomplishes, weapons etc. His constitutional right cannot be abridged except in the manner permitted by law, though in the very nature of things there would be qualitative difference in the method of interrogation of such a person as compared to an ordinary criminal."

39. In the case at hand, the appellant, while in custody, was compelled to hold a placard in which condemning language was written. He was photographed with the said placard and the photograph was made public. It was also filed in a revenue proceeding by the 5th respondent. The High Court has recorded that the competent authority of the State has conducted an enquiry and found the erring officers to be guilty. The High Court has recorded the findings in the favour of the appellant but left him to submit a representation to the concerned authorities. This Court, as has been indicated earlier, granted an opportunity to the State to deal with the matter in an appropriate manner but it rejected the representation and stated that it is not a case of defamation. We may at once clarify that we are not at all concerned with defamation as postulated under Section 499 of the IPC. We are really concerned how in a country governed by rule of law and where Article 21 of the Constitution is treated to be sacred, the dignity and social reputation of a citizen has been affected.

40. As we perceive, from the admitted facts borne out on

A record, the appellant has been humiliated. Such treatment is basically inhuman and causes mental trauma. In *"Kaplan & Sadock's Synopsis of Psychiatry"*, while dealing with torture, the learned authors have stated that intentional physical and psychological torture of one human by another can have
B emotionally damaging effects comparable to, and possibly worse than, those seen with combat and other types of trauma. Any psychological torture inflicts immense mental pain. A mental suffering at any age in life can carry the brunt and may have nightmarish effect on the victim. The hurt develops a sense
C of insecurity, helplessness and his self-respect gets gradually atrophied. We have referred to such aspects only to highlight that in the case at hand, the police authorities possibly have some kind of sadistic pleasure or to "please someone" meted out the appellant with this kind of treatment. It is not to be
D forgotten that when dignity is lost, the breath of life gets into oblivion. In a society governed by rule of law where humanity has to be a laser beam, as our compassionate constitution has so emphasized, the police authorities cannot show the power or prowess to vivisect and dismember the same. When they pave such path, law cannot become a silent spectator. As
E Pithily stated in *Jennison v. Baker*[16]:-

> "The law should not be seen to sit by limply, while those who defy if go free, and those who seek its protection lose hope."

F

41. Presently, we shall advert to the aspect of grant of compensation. The learned counsel for the State, as has been indicated earlier, has submitted with immense vehemence that the appellant should sue for defamation. Our analysis would
G clearly show that the appellant was tortured while he was in custody. When there is contravention of human rights, the inherent concern as envisaged in Article 21 springs to life and enables the citizen to seek relief by taking recourse to public law remedy.

H 16. (1972) 1 All Er 997, 1006.

42. In this regard, we may fruitfully refer to *Nilabati Behera v. State or Orissa*[17] wherein it has been held thus: -

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

43. Dr. A.S. Anand J., (as his Lordship then was), in his concurring opinion, expressed that the relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by the Supreme Court or under Article 226 by the High Courts for established infringement of the indefeasible right guaranteed under Article 21 is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which

17. (1993) 2 SCC 746.

A aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting 'compensation' in proceedings under Article 32 or 226 seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalizing the wrongdoer and
B fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of
C providing relief by an order of making 'monetary amends' under the public law for the wrong done due to breach of public duty, by not protecting the fundamental rights of the citizen. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and
D is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.

44. In *Sube Singh v. State of Haryana*[18], a three-Judge
E Bench of the Apex Court, after referring to its earlier decisions, has opined as follows: -

> "It is thus now well settled that award of compensation against the State is an appropriate and effective remedy
> F for redress of an established infringement of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of
> G the aggrieved person claiming additional compensation in a civil court, in enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of Code of Civil Procedure."

H 18. AIR 2006 SC 1117.

45. At this stage, we may fruitfully refer to the decision in *Hardeep Singh v. State of Madhya Pradesh*[19]. The appellant therein was engaged in running a coaching centre where students were given tuition to prepare for entrance test for different professional courses. On certain allegation, he was arrested and taken to police station where he was handcuffed by the police without there being any valid reason. A number of daily newspapers published the appellant's photographs and on seeing his photograph in handcuffs, the appellant's elder sister was so shocked that she expired. After a long and delayed trial, the appellant, Hardeep Singh, filed a writ petition before the High Court of Madhya Pradesh at Jabalpur that the prosecution purposefully caused delay in conclusion of the trial causing harm to his dignity and reputation. The learned single Judge, who dealt with the matter, did not find any ground to grant compensation. On an appeal being preferred, the Division Bench observed that an expeditious trial ending in acquittal could have restored the appellant's personal dignity but the State instead of taking prompt steps to examine the prosecution witnesses delayed the trial for five long years. The Division Bench further held there was no warrant for putting the handcuffs on the appellant which adversely affected his dignity. Be it noted, the Division Bench granted compensation of Rs. 70,000/-. This Court, while dealing with the facet of compensation, held thus:-

> "Coming, however, to the issue of compensation, we find that in light of the findings arrived at by the Division Bench, the compensation of Rs. 70,000/- was too small and did not do justice to the sufferings and humiliation undergone by the appellant. In the facts and circumstances of the case, we feel that a sum of Rs. 2,00,00/- (Rupees Two Lakhs) would be an adequate compensation for the appellant and would meet the ends of justice. We, accordingly, direct the State of Madhya Pradesh to pay to

19. (2012) 1 SCC 748.

A the appellant the sum of Rs. 2,00,000/-(rupees Two Lakhs) as compensation. In case the sum of Rs.70,000/- as awarded by the High Court, has already been paid to the appellant, the State would naturally pay only the balance amount of Rs.1,30,000/- (Rupees One Lakh thirty
B thousand)".

Thus, suffering and humiliation were highlighted and amount of compensation was enhanced.

46. On a reflection of the facts of the case, it is luculent
C that the appellant had undergone mental torture at the hands of insensible police officials. He might have agitated to ameliorate the cause of the poor and the downtrodden, but, the social humiliation that has been meted out to him is quite capable of destroying the heart of his philosophy. It has been
D said that philosophy has the power to sustain a man's courage. But courage is based on self-respect and when self-respect is dented, it is difficult even for a very strong minded person to maintain that courage. The initial invincible mind paves the path of corrosion. As is perceptible, the mindset of the protectors
E of law appears to cause torment and insult and tyrannize the man who is helpless in custody. There can be no trace of doubt that he is bound to develop stress disorder and anxiety which destroy the brightness and strength of the will power. It has been said that anxiety and stress are slow poisons. When
F torment is added, it creates commotion in the mind and the slow poisons get activated. The inhuman treatment can be well visualized when the appellant came out from custody and witnessed his photograph being circulated with the self-condemning words written on it. This withers away the very
G essence of life as enshrined under Article 21 of the Constitution. Regard being had to the various aspects which we have analysed and taking note of the totality of facts and circumstances, we are disposed to think that a sum of Rs.5.00 lacs (Rupees five lacs only) should be granted towards compensation to the appellant and, accordingly, we so direct.
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The said amount shall be paid by the respondent State within a period of six weeks and be realized from the erring officers in equal proportions from their salary as thought appropriate by the competent authority of the State. A

47. Consequently, the appeal is allowed to the extent indicated above. However, in the facts and circumstances of the case, there shall be no order as to costs. B

B.B.B. Appeal allowed.