2025 INSC 876

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP(Criminal) No(s). 13751-13752 of 2023)

KHURSHEED AHMAD CHOHAN ..APPELLANT(S)

VERSUS

UNION OF TERRITORY OF JAMMU AND KASHMIR & ORS. ETC. .....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. The present appeals by special leave, arise out of the final judgment and order dated 18th September, 2023, passed by the learned Single Judge of the High

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Date: 2025.07.21 17:54:19 IST
Reason:

Court of Jammu & Kashmir and Ladakh at Srinagar[1] in Criminal Miscellaneous Petition No. 111 of 2023 connected with Writ Petition (Civil) No. 592 of 2023, whereby the High Court dismissed the said inter-connected petitions, filed by the appellant (victim) seeking registration of the FIR against the police personnel; transfer of the investigation to Central Bureau of Investigation[2]; and quashing of the FIR filed against the appellant.

Background facts:-

4. The facts necessary for adjudication of the present appeals, as evident from the records, are as follows: -

4.1 The appellant is a police constable in the Department of Police who, at the time of the alleged incident, was posted at the District Police Headquarters, Baramulla, Jammu and Kashmir. On 17th February, 2023, the appellant received a signal from Aijaz Ahmad Naiko, Deputy Superintendent of Police, Kupwara, Jammu and Kashmir, directing him to report to the Office of the Senior Superintendent of

[1] Hereinafter referred to as 'High Court.'
[2] Hereinafter referred to as 'CBI.'

Police on 20th February, 2023, in connection with an enquiry related to a narcotics matter. The appellant alleges that no sooner he reached the Office of the Senior Superintendent of Police, he was detained and subjected to brutal custodial torture for six consecutive days. His genital organs and testicles were amputated. Pepper was sprinkled on his private parts, and he was given electric shocks which led to a fracture of his foot. The appellant, who suffered grave injuries during the custodial torture, was shifted to the District Hospital, Kupwara, in a comatose condition. Due to his serious medical condition, he was transferred first to the District Hospital, Baramulla, and then to the Sher-i-Kashmir Institute of Medical Sciences ('SKIMS'), Soura-Srinagar, on 26th February, 2023. At SKIMS, the appellant, who was accompanied by Asiq Hussain, Sub-Inspector, underwent surgery for the injury caused by amputation of his testicles, which had been brought to the hospital in a polythene bag by the said Sub-Inspector. On the same day, i.e., 26th February, 2023, an FIR[3] was registered against the

[3] FIR No. 32 of 2023.

appellant by Munner Ahmad, Sub-Inspector and In-Charge, Police Post Tad, Karnah, for the offence punishable under Section 309 of the Indian Penal Code, 1860.[4] The contents of the said FIR are reproduced hereinbelow for ready reference:

> "Dear Sir, Details of investigation are as under. At this time S.I. Muneer Ahmad 108/KP presently posted as Officer Chowki Police Taad presented himself before the said Police Station with a written Docket in order to register it the contents, which are as under: From Chowki Police Taad Camp JIC Kupwara Time 11.20 hrs. Dated 26.02.2023. To SHO Police Station Kuwpara. Dear Sir, the brief Contents of the case under FIR No.17 of the year 2023 under the offence 08/21-29 NDPS Act Police Station Kamah are as under. Mr. Khursheed Ahmad Chohan (*sic*) son of Late Ghulam Mustafa Chohan (*sic*) resident of Abkote Kamah at present Housing colony Ompora Budgam who is an employee of the Police department working as SG constable and is presently posted at District Baramulla was found involved in the said case under discussion in the Police department and in this connection, the said person was called in JIC Kupwara for investigation. Today at about 11: 15 noon, the said person was lying in a bed in a residential Bark at JIC and tried to suicide by cutting his vein with a shogun blade while covering himself in a blanket, and the said person was taken to hospital in an injurious condition for hospitalization with the help of other

[4] Hereinafter referred to as 'IPC.'

> personal and Police staff present in the Bark and in the said action, cognizance of the police has been found. Hence through the medium of said Docket it is requested that the matter may be recorded in the Daily Diary and action in the matter be taken. Sd/ in English of SI Muneer Ahmad 108/KP I/C PP TAD CAMP JIC Kupwara."
>
> [emphasis supplied]

4.2 Upon learning of the appellant's condition, his wife, Rubina Aktar, immediately approached Station House Officer[5], Police Station, Kupwara, requesting the registration of an FIR against the police personnel responsible for subjecting the appellant to brutal custodial torture and inflicting life-threatening injuries to him. However, no action was taken by the SHO on the pleas of the lady. Aggrieved, she approached Senior Superintendent of Police, District Kupwara, who also refused to initiate any proceedings against the erring police officials. Consequently, the appellant's wife, through her Advocate, served a legal notice dated 2nd March, 2023 upon Deputy Inspector General of Police, North Circle (Kupwara/Baramulla); Station House Officer, Police Station, Kupwara; and Senior Superintendent of

[5] Hereinafter referred to as 'SHO.'.

Police, District Kupwara, but failed to get any response.

4.3 Aggrieved by the inaction of the authorities, the appellant filed a Writ Petition No. 592 of 2023 under Article 226 of the Constitution of India before the High Court of Jammu & Kashmir seeking, *inter alia*, (a) a direction to the SHO, Police Station, Kupwara, Srinagar, Jammu and Kashmir to immediately register an FIR based on the complaint and supporting documents sent to him *via* registered post; (b) a direction to Deputy Inspector General of Police, North Circle (Kupwara/Baramulla) to constitute a Special Investigation Team (SIT) headed by a Gazetted Officer and assisted by two senior officers to conduct a thorough investigation into the matter, thereby ensuring that the interests of justice are served; and (c) in the alternative, and if the Hon'ble High Court deemed it appropriate, given the gravity of the offences and the potential influence of the accused police officials, a direction to refer the matter to the CBI to ensure a fair and impartial investigation. Parallelly, the appellant filed a Criminal Miscellaneous Petition, being CRM (M) No.

111 of 2023, under Section 482 of the Code of Criminal Procedure, 1973[6], seeking quashing of FIR No. 32 of 2023 dated 26th February, 2023 filed against the appellant, on the ground that the allegations made in the FIR were inherently improbable, *mala fide*, and an abuse of the process of law. It was contended that the FIR had been lodged with an ulterior motive to harass the appellant and settle personal scores. The appellant also submitted that even if the allegations were taken at face value, they did not disclose the commission of any cognizable offence.

4.4 The High Court *vide* order dated 18th September, 2023, disposed of both petitions *vide* a common judgment. In the writ petition seeking registration of the FIR, the Court directed that a detailed preliminary enquiry be conducted by the Senior Superintendent of Police into the allegations. If the said enquiry substantiated the claims, an FIR was to be registered, and the investigation was to be entrusted to a Deputy Superintendent of Police. In the criminal miscellaneous petition seeking quashing

[6] For short, "CrPC".

of the FIR, the High Court held that at this early stage, it would not be appropriate to quash the FIR, as the investigation was in its infancy and should be allowed to proceed to ascertain the truth. Accordingly, the High Court rejected the quashing petition and allowed the investigation in FIR No. 32 of 2023 to continue unhindered.

4.5 Aggrieved by the aforesaid order of the High Court, the appellant has filed the present appeals by way of special leave before this Court.

Submissions on behalf of the appellant: -

5. Learned senior counsel appearing for the appellant vehemently and fervently submitted that the present matter concerns a deeply disturbing case of brutal custodial torture inflicted on a police constable, who was kept in illegal detention and later falsely implicated through a fabricated FIR in an attempt to shield the real perpetrators of the crime. Despite compelling medical evidence, multiple representations, and the egregious nature of the allegations, the High Court fell into grave error by refusing to direct the registration of an FIR or to

ensure supervised independent investigation. In this regard, he has advanced the following submissions to urge:

5.1 The present case involves grave allegations of custodial torture which the perpetrators tried to cover up as a suicide attempt by the appellant. A close examination of the timeline and the nature of injuries suffered by the appellant cast serious doubt on the respondent's narrative. Learned senior counsel submitted that the appellant was summoned on 17th February, 2023 and remained in custody from 20th to 26th February, 2023. However, FIR No. 17 of 2023, under which the appellant was purportedly summoned, was registered only on 23rd February, 2023, three days after his detention had commenced. This temporal gap renders the appellant's detention from 20th to 22nd February, 2023 *prima facie* illegal *ab-initio*, as it was not backed by any lawful authority. Learned counsel further urged that the medical report from SKIMS, Soura-Srinagar categorically records grievous injuries that are incompatible with any form of self-inflicted harm to support the suicide theory, including a 10 cm x 5 cm laceration on the scrotum with both testicles

surgically removed, bruises on the buttocks extending to the thighs, tenderness on the palms and soles indicative of blunt trauma, the presence of vegetative particles in the rectum, and multiple fractures. These injuries, inflicted on the appellant while he was continuously kept under illegal detention at the Joint Interrogation Centre, Kupwara under the exclusive control of police personnel, are consistent with established methods of custodial torture designed to minimise external bruising and detection. On the other hand, the *post facto* registration of the FIR[7] dated 23rd February, 2023, and the implausibility of the suicide theory strongly suggest an orchestrated attempt to shield the perpetrators and to legitimise an otherwise apparent incident of unlawful custody and brutal custodial torture.

5.2 Learned senior counsel vehemently submitted that despite the appellant and his wife making persistent and desperate attempts to approach various authorities seeking justice for the barbaric custodial torture inflicted upon the appellant, there

[7] FIR No. 17 of 2023.

has been a complete and systematic denial of justice at every level. Immediately after coming to know about the condition of the appellant, his wife filed a complaint on 1st March, 2023, followed by a formal legal notice through counsel on 2nd March 2023, vividly detailing the brutal custodial torture and seeking registration of FIR against the perpetrators of the heinous crime. Learned senior counsel emphasised that despite these timely complaints that clearly made out cognizable offences punishable under Sections 307, 330, 331, 326 and other provisions of the IPC, the authorities turned a blind eye and deaf ear and instead of registering an FIR against the involved police officials, they maliciously registered a patently false FIR No. 32 of 2023 against the victim (appellant) under Section 309 of the IPC. Learned senior counsel further submitted that the appellant's wife was compelled to move an application under the Right to Information Act, 2005, to obtain his Medical Reports from SKIMS, Soura-Srinagar, as even basic medical records were being withheld to suppress evidence of the brutal custodial torture. Left with no recourse, the appellant was constrained to move the High Court seeking

registration of an FIR. Despite the High Court acknowledging the gravity of the allegations and expressing sufficient doubts regarding the official narrative, it stopped short of granting substantive relief and instead directed a preliminary enquiry by the very officer whose subordinates were implicated in the alleged custodial violence.

5.3 The High Court, in the Impugned Order, failed to appreciate that Section 309 of the IPC has been rendered completely redundant by virtue of Section 115 of the Mental Healthcare Act, 2017[8]. Learned Counsel urged that Section 115 of the MH Act creates an irrebuttable presumption that any person who attempts to commit suicide shall be presumed to be under severe stress and shall not be tried and punished under Section 309 of the IPC. Learned senior counsel, with utmost vehemence, urged that this position has been categorically settled by this Court in ***Navtej Singh Johar v. Union of India***[9], wherein it was categorically held that Section 309 of the IPC has become largely ineffective, and instead of

[8] Hereinafter referred to as 'MH Act.'

[9] (2018) 10 SCC 1 at Para 247.

being a criminal offence, the Government has an affirmative duty to provide care and rehabilitation. Hence, the FIR No. 32 of 2023 is nothing but a fabricated and bogus case registered merely to create a false defence for the errant police officers, and the same is liable to be quashed as it fails to disclose any cognizable offence in view of the ***Navtej Johar*** *(supra)* and the provisions of the MH Act.

5.4 That the learned High Court has committed a grave error in law by failing to recognise the clear and egregious violation of the appellant's fundamental rights under Articles 14 and 21 of the Constitution of India, and committed grave injustice by merely ordering a preliminary enquiry rather than mandatorily directing the registration of an FIR. The settled position of law, as laid down by the Constitution Bench in ***Lalita Kumari v. State of U.P***.[10], unequivocally mandates the registration of an FIR upon disclosure of a cognizable offence, particularly where public officials are alleged to have committed such offences. In the present case, the appellant's wife, Rubina Aktar, submitted a written

[10] (2014) 2 SCC 1 at Para 119.

complaint on 1st March, 2023, within three days of the incident, clearly narrating acts of custodial torture and grievous assault amounting to grave cognizable offences. In view of this, there existed no legal basis for deferring the registration of the FIR or substituting the statutory mandate under Section 154 CrPC (corresponding Section 173 of Bharatiya Nagarik Suraksha Sanhita, 2023[11]) with a preliminary inquiry. The High Court's failure to adhere to this binding precedent not only dilutes the legal safeguards against custodial violence but also effectively sanctions immunity for the illegal acts committed by the errant officials under the colour of public authority, thereby undermining the appellant's fundamental right to equality before law and protection of life and personal liberty.

5.5 That the unprecedented severity of the custodial torture inflicted upon the appellant, who is a serving constable in the Jammu & Kashmir Police, and the systematic cover-up orchestrated by the local police apparatus, necessitates immediate transfer of investigation to the CBI in order to ensure a fair,

[11] Hereinafter referred to as 'BNSS.'

impartial, and credible inquiry. The High Court's direction, in the impugned order, entrusting the inquiry to the very Senior Superintendent of Police, whose signal dated 17th February, 2023 led to the appellant's illegal summoning and subsequent torture, constitutes a clear violation of the principles of natural justice, rendering the inquiry inherently biased and devoid of credibility. For over a year, the appellant and his wife have been compelled to approach multiple forums merely to seek the registration of an FIR. In these deeply disturbing circumstances, only a CBI investigation can vindicate the rule of law, restore public trust and confidence in the system, and ensure that the perpetrators of such inhuman and shocking offences do not go unpunished.

On these grounds, learned senior counsel appearing for the appellant implored the Court to accept these appeals, set aside the impugned judgment and prayed that this is a fit case warranting exercise of this Court's extraordinary jurisdiction under Article 136 read with Article 142 of the Constitution of India so as to direct registration of the FIR against the respondents and transfer the said

investigation to the CBI, in the interest of justice and to uphold the rule of law.

Submissions on behalf of the respondents: -

6. *Per contra*, learned Additional Advocate General for the respondents/Union Territory, has opposed the submissions advanced by learned senior counsel for the appellant. He presented the following pertinent submissions imploring this Court to dismiss the present appeals:

6.1 That the appellant's allegations of custodial torture are nothing but a bundle of lies cooked up with an intent to cover up his attempted suicide and to divert attention from his own culpability in the offences under investigation, thereby discrediting the investigation and maligning the authorities involved. All injuries, as alleged by the appellant, were self-inflicted during attempted suicide. He urged that the appellant had complete access to all areas within the Joint Interrogation Centre, Kupwara including the bathroom from where he obtained a shaving razor blade on the morning of 26th February, 2023. The CCTV footage corroborates that the appellant was

seen walking normally with other jawans until 09:00 am, after which he entered the barracks and was not seen until 11:15 am, which was when the other constables had discovered his injuries. The forensic evidence further supports this version; the FSL report confirms that DNA extracted from blood stains on the seized razor and mattress matched the appellant's blood sample, *prima facie* establishing that the razor was used by the appellant himself. The medical officer at Sub District Hospital, Kupwara has categorically stated in his signed statement that the superficial cuts on the appellant's right arm were consistent with persons having suicidal tendencies, and no other injuries were found beyond those mentioned in the injury form. Learned counsel urged that the allegations of custodial torture are entirely fabricated and malicious, designed solely to prejudice the investigation of grave offence punishable under Narcotic Drugs and Psychotropic Substances Act, 1985[12] in which the appellant was found involved.

6.2 Rebutting the appellant's claims of illegal detention, the learned counsel urged that the entire

[12] Hereinafter referred to as 'NDPS Act'

procedure was a part of lawful investigation. The appellant was initially summoned through proper channels, a signal was flashed by District Police Office Kupwara, to District Police Office Baramulla on 14th February, 2023, followed by another signal on 17th February, 2023, directing the appellant to report to Senior Superintendent of Police, Kupwara on 20th February, 2023, for questioning in connection with FIR No. 01 of 2023 registered on 1st January, 2023 under Sections 8, 21 and 29 of the NDPS Act and under Sections 13, 18, 20, 23, and 38 of Unlawful Activities (Prevention) Act, 1967.[13] Learned counsel urged that the appellant was not under any form of custody but was asked to remain available for investigation purposes due to his suspected involvement in serious offences of narcotic trade. The appellant, being hailing from Tehsil Karnah (67 kilometres away) and posted in District Baramulla (49 kilometres away), chose to stay at JIC Kupwara for convenience during the winter season. Learned counsel submitted that the appellant's assertion about the fact that he had been summoned in

[13] Hereinafter referred to as 'UAP Act'

relation to FIR No. 17 of 2023 before its registration is misconceived because he was actually summoned in connection with FIR No. 01 of 2023, and during this investigation, fresh evidence emerged leading to registration of FIR No. 17 of 2023 on 23rd February, 2023 under Sections 8, 21, and 29 of the NDPS Act, wherein accused Farooq Hussain, who was arrested followed by recovery of 2.674 kilograms of Heroin, disclosed the appellant's involvement. The District Superintendent of Police, Baramulla and Deputy Inspector General North Kashmir Range were telephonically informed about the investigational developments, demonstrating proper procedural compliance.

6.3 The appellant's reliance on Section 115 of the MH Act, raising the presumption of severe stress is rebuttable and has been negated in this case. Learned counsel urged that until 25th February, 2023, the appellant was found to be hale and hearty, and showed no abnormality in behaviour which might suggest some mental distress that could lead to attempted suicide. The initial medical examination report *prima facie* negates the presumption of severe stress sought to be drawn under Section 115 of the

MH Act. Learned counsel contended that the appellant's suicide attempt was not driven by mental illness but was a calculated move to derail the investigation of the serious NDPS cases (i.e., FIR Nos. 01 of 2023 and 17 of 2023) in which his involvement was duly established. Learned counsel urged that FIR No. 32 of 2023 under Section 309 of the IPC is validly registered as the evidence clearly establishes a deliberate suicide attempt to evade investigation rather than any mental health crisis, making the case fall outside the protective ambit of the MH Act.

On these grounds, the learned counsel for the respondent/Union Territory contended that the present appeals should be dismissed, and in view of the extensive preliminary enquiry already conducted, the prayer for transfer of the case to the CBI is unwarranted and ought to be declined.

Discussion and Analysis: -

7. We have given anxious consideration to the submissions advanced at bar and have gone through the impugned judgment. With the assistance of

learned counsel for the parties, we have perused the material placed on record.

8. The primary issues that arise for our consideration in the present case are as follows:

I. Whether the facts and circumstances disclosed in the complaint filed by the appellant's wife dated 1st March 2023, supported by compelling medical evidence of grievous injuries, including complete genital mutilation, mandatorily required registration of an FIR?

II. Whether the gravity of the alleged custodial torture, the systematic cover-up by local police machinery, and the inherent conflict of interest arising from the pendency of cases punishable under NDPS Act against the appellant necessitate transfer of investigation to the Central Bureau of Investigation to ensure a fair, impartial and credible inquiry?

III. Whether FIR No. 32 of 2023 dated 26th February, 2023, registered against the appellant under Section 309 of IPC should be quashed as being manifestly *mala fide* and constituting an abuse of the process of law?

9. In the present case, it is undisputed that the appellant, who is serving as a constable in the Jammu & Kashmir Police, was summoned for an inquiry concerning alleged violations under the NDPS Act and, in compliance with the said summons of higher officials, he had reported to the Joint Interrogation Centre, Kupwara on 20th February, 2023. It is admitted that between 20th February and 26th February, 2023, the appellant sustained numerous injuries including castration of his genital regions and was admitted to SKIMS Hospital at 2:48 pm on 26th February, 2023. It is also undisputed that the dismembered genitalia were brought to the hospital in a separate plastic bag by a Sub-Inspector, a fact that shocks our conscience. The medical documents issued from SKIMS, Soura-Srinagar conclusively establish the horrific nature of the injuries which *inter alia* include, complete mutilation of genitalia with both testicles removed, a 10 cm x 5 cm laceration on the scrotum, tenderness on palms and feet, bruises on buttocks extending to thighs, multiple vegetative particles in the rectum, and fractures throughout the body. The Discharge Summary further provides unequivocal medical

evidence that the appellant underwent an extensive surgical procedure, including "*exploration and repair of corporal bodies with end-to-end anastomosis of urethra, ligation of spermatic cord, repair of scrotal laceration, and debridement of necrotic tissue*," and was discharged on 2nd March, 2023. The appellant's wife, Rubina Aktar, had filed a complaint dated 1st March, 2023, within three days of the incident levelling clear allegations, disclosing cognizable offences committed by the police personnel. However, no action was taken upon the said complaint. These facts, standing alone and uncontroverted, establish a *prima facie* case of the most heinous form of custodial torture and the total apathy of the local police officials in taking action against the perpetrators of custodial violence.

I. On the Issue of Registration of an FIR

10. The question of mandatory registration of FIR has been conclusively settled by the Constitution Bench of this Court in ***Lalita Kumari*** *(supra)*, which laid down unambiguous principles that brook no exception or deviation. The Constitution Bench categorically held that registration of an FIR is

mandatory under Section 154 of CrPC (corresponding Section 173 of BNSS) when information disclosing the commission of a cognizable offence is received by the police, and no preliminary inquiry is required or permissible in such cases. The Constitution Bench emphasised that the police have no discretion in the matter of registration of an FIR once alleged facts disclose commission of cognizable offences. The relevant paragraphs and guidelines framed in ***Lalita Kumari*** (*supra*) are reproduced hereinbelow:

> "**119.** But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR."
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> **120.** In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence."

[Emphasis Supplied]

11. In the present case, the allegations made by the appellant and his wife unequivocally disclose the

commission of cognizable offences perpetrating from custodial torture. On 20th February, 2023, the appellant reported at the Joint Interrogation Centre (JIC), Kupwara, where he alleges illegal detention for six days without any formal arrest or FIR. During this period of alleged unlawful custody, he claims to have been subjected to brutal physical torture. Furthermore, the medical reports issued from SKIMS, Soura-Srinagar provide concrete proof of grievous injuries, including complete genital mutilation, systematic beatings, and torture marks, ruling out the scope for subjective interpretation or discretionary exercise. These medical findings, taken in conjunction with the appellant's forced detention at the Joint Interrogation Centre, Kupwara from 20th to 26th February 2023, part of which was undoubtedly illegal, clearly establish the commission of cognizable offences by persons in authority, making registration of FIR not merely advisable but mandatory under the ***Lalita Kumari*** (*supra*) framework.

12. The Constitution Bench in ***Lalita Kumari*** *(supra)* specifically carved out exceptions where a

preliminary inquiry may be conducted but categorically excluded cases involving allegations against public servants, discharging their official capacity, particularly in matters involving custodial violence. The Court recognised that allowing a preliminary inquiry in such cases would enable institutional cover-up and defeat the very purpose of criminal law, designed to protect citizens from state excesses. In the present case, the allegations of custodial violence are levelled against police officers of the Joint Interrogation Centre, Kupwara who illegally detained the appellant and allegedly subjected him to systematic torture resulting in permanent disability and trauma. The nature of custodial violence, where the victim is completely at the mercy of state authorities, demands immediate registration of an FIR being a constitutional mandate required to preserve evidence, protect witnesses, and ensure that the institutional machinery does not get time and opportunity to fabricate defence or destroy incriminating material.

13. The failure of local police authorities to register an FIR despite clear disclosure of cognizable offences

supported by compelling medical evidence constitutes a direct violation of the appellant's fundamental rights under Articles 14 and 21 of the Constitution of India.

14. The High Court committed a grave error in law by failing to exercise the writ jurisdiction and in refusing to apply the mandatory principles laid down by the Constitution Bench in ***Lalita Kumari*** (*supra*). Instead of ordering immediate registration of FIR, the High Court directed the very same Senior Superintendent of Police, Kupwara who had issued the Signal dated 17th February, 2023 summoning the appellant and under whose jurisdiction the alleged torture occurred, to conduct an inquiry into his own subordinates' actions. This direction constitutes a flagrant violation of the fundamental principles of natural justice encapsulated in the Latin maxim "*nemo judex in causa sua*" (no one should be a judge in his own cause). The High Court's approach, by treating this as a case requiring a preliminary inquiry rather than immediate registration of FIR, demonstrates a complete misunderstanding of the settled legal position and has resulted in the denial

of justice to the appellant who is the victim of custodial torture.

II. On the Issue of Transfer of the Investigation to CBI

15. It is a settled position of law that the credibility of an investigation agency should be both impeachable and unquestionable. The power to transfer investigations to a certain investigating agency must be sparingly used in the interest of justice and to maintain public trust in the institution. If the investigating agency is privy to the dispute, it may raise doubts on the credibility of the investigation and thus, would be a valid ground to transfer the investigation. In this regard, gainful reference may be made to the decision of this Court in ***Mohd. Anis v. Union of India***[14], wherein it was held as follows:

> "**5**. ... Fair and impartial investigation by an independent agency, not involved in the controversy, is the demand of public interest. If the investigation is by an agency which is allegedly privy to the dispute, the credibility of the investigation will be doubted and that will be contrary to the public interest as well as the

[14] 1994 Supp (1) SCC 145.

interest of justice." (SCC p. 148, para 5) "2. … Doubts were expressed regarding the fairness of the investigation as it was feared that as the local police was alleged to be involved in the encounters, the investigation by an officer of the U.P. Cadre may not be impartial."

16. Similarly, this Court in the case of ***R.S. Sodhi v. State of U.P.***[15], noted that:

> "**2**. … We have perused the events that have taken place since the incidents but we are refraining from entering upon the details thereof lest it may prejudice any party but we think that since the accusations are directed against the local police personnel it would be desirable to entrust the investigation to an independent agency like the Central Bureau of Investigation so that all concerned including the relatives of the deceased may feel assured that an independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them. It is only with that in mind that we having thought it both advisable and desirable as well as in the interest of justice to entrust the investigation to the Central Bureau of Investigation forthwith and we do hope that it would complete the investigation at an early date so that those involved in the occurrences, one way or the other, may be brought to book. We direct accordingly."
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> (Emphasis Supplied)

[15] 1994 Supp (1) SCC 143.

17. Thus, the power to transfer an investigation to the CBI is not to be exercised as a matter of course. The Constitution Bench in ***State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal (CPDR)***[16], examined the circumstances under which Constitutional Courts may invoke their jurisdiction to direct a CBI investigation. The Court observed that while the power to transfer investigation to the CBI must be exercised with circumspection and only in exceptional circumstances, such power is nonetheless available to be exercised when it is necessary to secure the ends of justice or to prevent infringement of fundamental rights. The Court further held that such extraordinary jurisdiction may be invoked to ensure a fair and impartial investigation where state machinery appears to be ineffective, biased, or complicit. The relevant observations from the said judgment are extracted below:

> **"70.** Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed

[16] (2010) 3 SCC 571.

> limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."
>
> (Emphasis Supplied)

18. The settled principle of law that emerges from the abovementioned decisions is that the power to transfer the investigation of a criminal case to the CBI is an extraordinary measure, which must be exercised sparingly with great caution, and only in rare and exceptional circumstances. This jurisdiction must not be invoked lightly or in a routine fashion,

but only where the facts of the case disclose a compelling necessity to ensure fairness in investigation, preservation of public faith in the administration of justice and protection of fundamental rights of the parties involved. In examining the prayer made by an aggrieved person seeking transfer of investigation to the CBI, the Court must necessarily be guided by the strict parameters laid down in binding precedents. These include, *inter alia*, instances where the State police authorities appear to be biased or complicit, where the investigation has been tainted by delay, irregularity, suppression of material facts, or where the complexity and inter-State ramifications of the matter necessitate the involvement of a central agency.

19. The unprecedented gravity of this case involving brutal and inhuman custodial torture, characterised by the complete mutilation of the appellant's genitalia, represents one of the most barbaric instances of police atrocity which the State is trying to defend and cover up with all pervasive power. The medical evidence conclusively establishes that such

injuries are impossible to be self-inflicted. The respondent's theory of suicide attempt crumbles under scrutiny when examined against the timeline and the medical evidence. The appellant was summoned to the Joint Interrogation Centre, Kupwara on 17th February, 2023 through a signal communication, which, notably, made no reference to any specific FIR. The relevant portion of the signal is reproduced herein:

> **"DD Extract report No.25 daily dairy dated 20-02-2023 on behalf of lines Officer DPL Baramulla**
>
> Departure Report:- Time 1145 hours.
>
> Be it registered that as per signal No.ESTT/DE/2023/8135 dated 17-02-2023 issued by District Police Headquarters Baramulla SgCt Khursheed Ahmad 489/B under PID No.EXK-001355 presently posted in Estate Section DPL Baramulla is deputed to District Police Headquarters Kupwara in connection with enquiry of narcotic Drugs."

Despite there being no reference of a registered case, the respondents subsequently claim that the appellant was summoned for questioning in connection with FIR No. 01 of 2023. However, this claim is contradicted by the fact that FIR No. 17 of 2023, under which the appellant was later

implicated, was not registered until 23rd February 2023, and was based on the alleged disclosure made by co-accused Farooq Hussain, who was arrested following the recovery of a narcotic substance. This temporal anomaly exposes the fabricated nature of the respondent's case and conclusively establishes illegal detention of the appellant from 20th February, 2023 to 26th February, 2023.

20. More significantly, the respondent's suicide theory is demolished when assessed in light of the medical evidence, which decisively rules out the theory of the harm being self-inflicted. The complete surgical removal of both testicles, the extensive injuries to the appellant's palms and soles, consistent with custodial torture techniques such as *falanga*, the presence of multiple vegetative particles in the rectum, and bruising on the buttocks extending to the thighs all points to a pattern of sustained and systematic torture. These injuries are medically impossible to be self-inflicted, particularly in the absence of fatal hemorrhage or loss of consciousness, as would have occurred had the mutilation been self-administered. The respondent's reliance on

superficial cuts to the forearm as indicative of a suicide attempt pales in comparison to the magnitude and nature of the injuries sustained. Furthermore, CCTV footage showing the appellant walking normally until 9:00 am on 26th February, 2023 only intensifies the doubts surrounding the respondent's account, as it leaves unexplained how such grievous and complex injuries could be self-inflicted in the narrow window between 9:00 am and 11:15 am, without any signs of struggle, distress, or intervention by others within a secured and surveilled facility. These glaring inconsistencies and manifest contradictions render the respondent's version wholly implausible and reinforce the necessity of an independent investigation.

21. The respondent's narrative reveals a disturbing pattern of systematic cover-up and abuse of authority that further strengthens the appellant's claim for CBI investigation. Though the appellant's wife attempted to file a complaint immediately after the incident through a legal notice dated 2nd March, 2023, the respondents dismissively stated in their response given in Court that the allegations were frivolous,

having no substance and hence were not replied. This cavalier dismissal of serious allegations of custodial torture demonstrates the institutional bias and predetermined mindset to protect the accused police officers. The influence being exercised by local police officials is evident from the fact that no proper investigation was initiated despite clear medical evidence of torture, and instead, a counter FIR No. 32 of 2023 was registered against the victim himself under Section 309 of the IPC to create a false narrative. The respondent's assertion that the appellant and his wife were making attempts to somehow deter the respondents and the Police authorities from investigating the heinous offences involving the appellant, reveals the mindset of viewing torture victims as impediments to investigation rather than victims deserving justice.

22. While the respondents seeks to justify the appellant's prolonged detention and subsequent torture by referring to his alleged involvement in FIR No. 01 of 2023 and FIR No. 17 of 2023 under the NDPS Act, this very argument strengthens the case for an independent investigation. The pendency of

these cases creates a conflict of interest where the same police machinery that is accused of custodial torture is also investigating the NDPS cases against the appellant. This creates an inherent bias where the investigating officers have a vested interest in suppressing the torture allegations to protect themselves while simultaneously trying to indict the appellant in NDPS offences. The respondent's argument that the appellant attempted suicide 'to dodge the investigation' is not only medically impossible given the nature of injuries but also logically flawed. It is foolhardy to suggest that a rational person would subject himself to complete genital mutilation and cause injuries at inaccessible body parts so as to avoid questioning in a drug case. The investigation of the custodial torture allegations and the NDPS cases require complete separation and independence, which can only be achieved through the transfer of investigation to an independent agency. The current scenario, where the accused officers continue to investigate the very person, they allegedly tortured, makes a mockery of the criminal justice system and violates the very principle of fairness and transparency.

23. We are of the considered opinion that in rejecting the writ petition, the High Court grossly erred in failing to exercise its constitutional obligation of protecting the fundamental rights of a citizen, his dignity and right to life. It failed to consider the gravity of offences committed as well as the influence that could be exerted by accused persons being police officials. There was a clear requirement and a constitutional mandate to refer the matter to the CBI for investigation so that fair and uninfluenced investigation could be conducted. The High Court's failure to appreciate that the accused are not ordinary citizens but police officers wielding considerable power and influence within the local administrative and investigative machinery demonstrates a fundamental misunderstanding of the dynamics of custodial torture cases. Police officers, by virtue of their position, have access to evidence, witnesses, and investigative records, and possess the institutional authority to manipulate, suppress, or destroy crucial evidence that could establish their culpability.

24. This Court has addressed the grave issue of custodial torture, inhuman treatment, and custodial deaths in a series of notable judgments including ***D.K Basu v. State of West Bengal***[17]***, State of M.P. v. Shyamsunder Trivedi***[18] and ***Nilabati Behera v. State of Orissa***.[19] This Court has not only condemned the nature and extent of such violations as affronts to human dignity and constitutional rights but has also underscored the imperative for a thorough, impartial, and effective investigation into every instance of custodial violence. The Court has repeatedly emphasised that accountability must be ensured through proper legal and procedural mechanisms so that such acts do not go unchecked or unpunished.

25. In ***D.K. Basu*** *(supra)*, this Court, while laying down effective guidelines for police officials emphasised the procedures to be followed during arrest and detention to prevent custodial torture and to safeguard the rights of the accused. The Court noted that:

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[17] (1997) 1SCC 416.
[18] (1995) 4 SCC 262.
[19] (1993) 2 SCC 746.

> **"9.** Custodial violence, including torture and death in the lock-ups, strikes a blow at the rule of law, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law. Custodial violence is a matter of concern. It is aggravated by the fact that it is committed by persons who are supposed to be the protectors of the citizens. It is committed under the shield of uniform and authority in the four walls of a police station or lock-up, the victim being totally helpless. The protection of an individual from torture and abuse by the police and other law-enforcing officers is a matter of deep concern in a free society.
>
> **11.** "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, civilisation takes a step backward — flag of humanity must on each such occasion fly half-mast."

26. Further, this Court in **Shyamsunder Trivedi** *(supra)*, held that**:**

> **"17.** Tortures in police custody, which of late are on the increase, receive encouragement by this type of an unrealistic approach of the courts because it reinforces the belief in the mind of the police that no harm would come to them, if an odd prisoner dies in the lock-up, because there would hardly be any evidence available to the prosecution to directly implicate them with the torture. The courts must not lose sight of the fact that death in police custody is perhaps one of the worst kind of crimes in a civilised society, governed by the rule of law and poses a serious threat to an orderly civilised society. Torture in

> custody flouts the basic rights of the citizens recognised by the Indian Constitution and is an affront to human dignity. Police excesses and the maltreatment of detainees/undertrial prisoners or suspects tarnishes the image of any civilised nation and encourages the men in 'Khaki' to consider themselves to be above the law and sometimes even to become law unto themselves. Unless stern measures are taken to check the malady, the foundations of the criminal justice delivery system would be shaken and the civilization itself would risk the consequence of heading towards perishing. The courts must, therefore, deal with such cases in a realistic manner and with the sensitivity which they deserve, otherwise the common man may lose faith in the judiciary itself, which will be a sad day."

27. Considering the unprecedented gravity of this custodial torture case, the systematic cover-up orchestrated by local police machinery, the institutional bias demonstrated in the handling of the complaint, and the complete failure of local authorities to conduct a fair investigation and the unrelenting stand taken by the respondent State, we are constrained to direct transfer of investigation to the CBI. The local police at Kupwara have demonstrated complete institutional failure by first illegally detaining the appellant from 20th February, 2023, then subjecting him to barbaric and systematic torture resulting in permanent mutilation and finally

refusing to register the complaint filed by the appellant's wife while simultaneously creating counter-narratives to shield the perpetrators from accountability. By directing the very Senior Superintendent of Police, who summoned the appellant at the Joint Interrogation Centre, Kupwara, just to conduct an enquiry at such a belated stage, combined with the pendency of NDPS cases, creates a conflict of interest, making it impossible for any fair investigation to be conducted at the local level. Only investigation by an independent agency, i.e., CBI can restore public faith in the criminal justice system, ensure that this dehumanising crime does not go unpunished, and guarantee that the truth emerges without any institutional bias or cover-up attempts. The majesty of law demands nothing less than complete independence and impartiality in investigating crimes that shock the conscience of society and violate the most fundamental principles of human dignity enshrined in Article 21 of the Constitution of India. Hence, the transfer of investigation to the CBI becomes not merely advisable but constitutionally imperative to ensure justice and uphold the rule of law.

III. On the issue of quashing of the FIR filed against the appellant: -

28. This Court has, in a catena of judgments, consistently held that at the stage of considering a petition for quashing criminal proceedings, it is not the function of the Court to meticulously examine the truthfulness, reliability, or veracity of the allegations contained in the FIR or accompanying materials. Nonetheless, it remains a settled principle of law that the allegations, even if accepted at their face value, must disclose the commission of a cognizable offence. Whether such disclosure arises from the FIR itself, the chargesheet, or any other material placed on record, the essential requirement is that the ingredients of the alleged offence must be *prima facie* satisfied. It is the duty of the Constitutional Courts to safeguard the machinery of criminal law from being reduced to a means of vengeance, oppression, or personal vendetta. Where it is evident that the initiation or continuation of proceedings amounts to an abuse of process or is intended to harass the accused, the Court is not only empowered but obligated to intervene and quash such proceedings in

the interest of justice. Thus, while the threshold for interference at the preliminary stage is high, it does not preclude judicial scrutiny altogether. Discretion under Section 482 of the CrPC (corresponding Section 528 of the BNSS) must be exercised judiciously, especially in cases where the allegations are inherently improbable, absurd, or lack the factual substratum necessary to constitute a prosecutable offence.

29. This Court in a *locus classicus* judgment, ***State of Haryana v. Bhajan Lal***[20], on the subject has laid down parameters for quashing of an FIR and the subsequent proceedings thereof. The relevant paragraphs are reproduced hereinbelow:

> **"102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure

[20] 1992 Supp (1) SCC 335.

the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
>
> (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
>
> (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
>
> (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever

> reach a just conclusion that there is sufficient ground for proceeding against the accused.
>
> (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
>
> (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

30. Recently, a coordinate bench of this Court in the case of ***Mohammad Wajid v. State of U.P.***[21], noted that:

> **"34**. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more

[21] 2023 SCC OnLine SC 951.

closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

(Emphasis Supplied)

31. In the present case, the authorities, instead of registering the complaint of the appellant regarding custodial torture, filed a counter FIR against him under Section 309 of the IPC. Perusal of the

contents of FIR (*supra*) reflect that the allegations made therein are vague and manifestly contradictory to the established medical evidence. The FIR states that the appellant tried to cut his vein with a blade, however, the medical records, above discussed, reveal that the injuries are much graver and more extensive than what is depicted in this manifestly fabricated narrative. The stark disparity between the trivial description of 'cutting his vein' in the FIR and the barbaric reality of complete castration and systematic torture exposes the *mala fide* intent behind registering this counter-FIR.

32. In our considered view, the present case squarely falls within parameters (1) and (7) laid down by this Court in ***Bhajan Lal*** (*supra*) whereby, this Court authoritatively held that quashing is justified where: (i) the allegations made in the FIR or complaint, even if taken at face value and accepted in entirety, do not disclose the commission of any offence, or (ii) the criminal proceedings are manifestly tainted by *mala fides*, having been instituted maliciously with the ulterior

purpose of wreaking vengeance. The registration of FIR No. 32 of 2023 against the victim of custodial torture constitutes a classic example of institutional abuse and perversion of criminal justice machinery to shield the real perpetrators while victimizing the complainant. The transformation of a torture victim into an accused through a concocted theory of attempted suicide, based on manifestly implausible medical opinion and glaring procedural violations, reflects institutional malice of the highest order. The timing and manner of registration of this FIR, which was a sequel to the torture incident and in complete disregard of nature, number and location of injuries caused to the victim, demonstrates that it was conceived as a pre-emptive defense mechanism rather than a genuine police action based on a truthful investigation. This is not merely a case of investigative error or overreach; it is a calculated effort to fabricate charges, distort the narrative, and shield the real perpetrators of crime of custodial torture. The use of State machinery to invert the roles of victim and offender represents a grave subversion of the criminal process and compels the

intervention of this Court to prevent the miscarriage of justice.

33. Upon evaluating the present case and the material on record, we find that the High Court gravely erred in declining to exercise its jurisdiction under Section 482 of the CrPC to quash FIR No. 32 of 2023 and the proceedings arising therefrom. Faced with a clear abuse of process, where a custodial torture victim is falsely implicated to shield the perpetrators, the High Court was duty-bound to intervene.

34. Before we conclude, we deem it necessary to address the question of compensation to the appellant, who is a victim of brutal and inhuman custodial torture. It is now well-settled in Indian constitutional jurisprudence that where fundamental rights, particularly the right to life and personal liberty under Article 21 of the Constitution of India are violated by State machinery, appropriate monetary compensation may be an effective remedy. In ***D.K. Basu*** (*supra*), this Court held that pecuniary compensation is an appropriate and effective remedy for the infringement of

fundamental rights caused by State officials and that the defence of sovereign immunity is inapplicable. The Court noted that such compensation must focus on the compensatory element and serve as a balm to the victim, without prejudice to other remedies in civil or criminal law.

35. The principle has been reiterated in ***Nilabati Behera*** *(supra)* and ***Sube Singh v. State of Haryana***[22], where this Court held that compensation may be awarded when the violation of Article 21 is patent, incontrovertible, and of a magnitude that shocks the conscience of the Court. The relevant observations from the said judgment are extracted below:

> "**46.** In cases where custodial death or custodial torture or other violation of the rights guaranteed under Article 21 is established, the courts may award compensation in a proceeding under Article 32 or 226. However, before awarding compensation, the Court will have to pose to itself the following questions: (*a*) whether the violation of Article 21 is patent and incontrovertible, (*b*) whether the violation is gross and of a magnitude to shock the conscience of the court, (*c*) whether the custodial torture alleged has resulted in death or whether

[22] (2006) 3 SCC 178.

> custodial torture is supported by medical report or visible marks or scars or disability."

36. We are of the unequivocal opinion that the present case meets all such criteria. The injuries caused to the appellant during his illegal detention, particularly the complete mutilation of his genitalia, use of pepper/chilly powder and electric shocks on his genitalia, are grave reminders of the inhuman torture meted out to the appellant while detaining him illegally. The cumulative effect of all these facts is deeply shocking to the conscience of this Court.

37. Accordingly, considering the gravity and magnitude of the custodial torture established through medical records and the institutional apathy that followed, we are of the considered opinion that this is a fit case for awarding compensation to the victim of the violence, i.e., the appellant herein. The violation of Article 21 is not only evident but egregious. The appellant, a police constable himself, suffered life-debilitating injuries while in the custody of fellow state actors, and despite repeated complaints, no effective redress was provided. In line with the decisions referred

above, and in discharge of the Court's duty to uphold constitutional protections, we direct the State to pay interim compensation to the tune of Rs.50,00,000/- (Rupees Fifty Lakhs) to the appellant. This compensation is without prejudice to the appellant's right to pursue further remedies for additional compensation before appropriate forum. The State Government shall be under an obligation to recover the said amount from the officials found guilty upon completion of the investigation/disciplinary proceedings.

Conclusion & Directions: -

38. In exercise of our extraordinary jurisdiction under Article 136 read with Article 142 of the Constitution of India and in furtherance of the constitutional mandate to protect fundamental rights, we hereby issue the following directions: -

I. The Director, CBI, shall forthwith direct registration of a RC in relation to the incidents of custodial violence and illegal detention of the appellant at the Joint Interrogation Centre, Kupwara during the period from 20th February,

2023 to 26th February, 2023, under relevant provisions of the penal statutes, based on the complaint filed by the appellant's wife dated 1st March, 2023 and the medical evidence on record. The RC shall be registered within 7 days of this order.

II. The entire material collected in enquiry conducted so far, including all related documents, medical records, CCTV footage, forensic evidence, and case diary, shall be immediately handed over to the competent officer of the CBI. The Director, CBI, shall constitute a Special Investigation Team headed by an officer not below the rank of Superintendent of Police to investigate this matter. The police officials found responsible for the custodial torture shall be arrested forthwith and not later than a period of one month from today. The investigation shall be completed within 90 days of the date of registration of the RC.

III. The CBI shall also conduct a comprehensive inquiry into the systemic issues at the Joint Interrogation Centre, Kupwara, including

examination of all CCTV systems, interrogation from all personnel present during the relevant period, forensic examination of the premises, and review of all protocols and procedures followed for detention and interrogation of suspects.

IV. FIR No. 32 of 2023, registered against the appellant under Section 309 of the IPC at Police Station Kupwara, is hereby quashed being *prima facie* fabricated as, in our considered view, the same was registered with *mala fide* intent to shield the guilty officers and prejudice the rights of the appellant.

V. A sequel to the above discussion and in order to provide some solace to the victim and his family for the barbaric acts of custodial torture leading to complete castration, we hereby direct the Union Territory of Jammu & Kashmir to pay compensation of Rs.50,00,000/- (Rupees Fifty Lakhs) to the appellant (victim). The said amount shall be recoverable from the officer(s) concerned against whom a departmental proceeding shall be initiated upon conclusion of the investigation by the CBI. The CBI shall

submit its status report to this Court by 10th November, 2025.

39. At the outset, we deem it necessary to clarify that the observations made herein concerning the investigation into the allegations of custodial torture are strictly limited to the adjudication of the appellant's case and the impugned proceedings under consideration. Nothing contained in this order shall be construed as expressing any opinion on the merits of any other prosecution, and it is expressly provided that any proceedings arising therefrom shall go on independently and uninfluenced by the present findings, in accordance with law.

40. In view of the above discussion, the impugned judgment dated 18th September, 2023, passed by the learned Single Bench of the High Court of Jammu & Kashmir and Ladakh at Srinagar in Criminal Miscellaneous Petition No. 111 of 2023 connected with Writ Petition (Civil) No. 592 of 2023, rejecting the appellant's prayer for transfer of investigation to the CBI, is hereby quashed and set aside.

41. The present appeals are, accordingly, allowed.

42. Any pending application(s), if any, stand disposed of accordingly.

43. List again on 17th November, 2025, for receiving the status report.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
JULY 21, 2025.