

(2006) 06 GAU CK 0047
In the Gauhati High Court

Chanambam Menjor Singh

APPELLANT

Vs

Comdt./C.O. 61 CRPF and Others

RESPONDENT

Date of Decision : 01-06-2006

Acts Referred:

Constitution of India, 1950 — Article 20, 21, 22, 226, 32
Criminal Procedure Code, 1973 (CrPC) — Section 357

Citation : (2007) 2 GLR 28 : (2006) 3 GLT 429

Hon'ble Judges : T. Nandkumar Singh, J;H.N. Sharma, J

Bench : Division Bench

Final Decision : Allowed

Judgement

T. Nandkumar Singh, J.—In the present case, the victim of dehumanizing assault and torture in the custody of protector of law in uniform, unfortunately, is a lawyer who fights and pleads law for the citizens of India for protection of their right and liberty guaranteed by and under the Constitution of India in the court of law. The instances of dehumanizing torture and assault in the custody of the guardian of law are ever increasing. Even a lawyer became the victim of torture and assault in the custody of law protector in uniform; it is unthinkable what would be the situation in the case of an ordinary citizen of India. The dehumanizing torture, assault and death in the custody which have assumed alarming proportion raise serious question about the credibility to the Rule of Law and administration of criminal systems. No doubt it is true that the cry for justice is so loud that it deafens ear of the peace loving citizens of India that they cannot live in a peaceful atmosphere and they are disturbed with the apprehension that they may be one of the victims of torture and assault in the custody of the law protector in uniform.

2. The Constitution of India is adorned with Articles 20, 21 and 22 which are almost in consonance with the rights contained in the Universal Declaration of Human Rights, 1948 adopted and proclaimed by General Assembly 217A(iii) on 10th December, 1948. Articles 1, 2, 3, 4 and 5 of the Universal Declaration of

Human Rights, 1948, read as follows:

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right of life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

3. In *Kharak Singh Vs. The State of U.P. and Others*, the Apex Court held that the term "life" indicates something more than mere animal existence and so also in *State of Maharashtra Vs. Chandrabhan Tale*, No doubt, the Apex Court in *Bandhua Mukti Morcha Vs. Union of India (UOI)* and *Others*, held that the right to life under Article 9.1 means right to live with dignity, free from exploitation. The Apex Court is of the similar view in *Mrs. Maneka Gandhi Vs. Union of India (UOI)* and *Another*, and *Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni and Others*,

4. The word "life" has been used, prominently in the Universal Declaration of Human Rights, 1948. "Life" is recognized as a basic human right in the Universal Declaration of Human Rights, 1948 and it has to have the same meaning and interpretation as had been placed with that word by the Apex Court in its various decisions relating to Article 21 of the Constitution of India. The meaning of word "life" cannot be narrowed down. Lord Diplock in *Salomon v. Commissioner of Customs and Excise*, (1996) 3 All ER 871 states that there is a prima facie presumption that the Parliamentarian does not intend to act in breach of international law. Again, Lord Bridge in *Brind v. Secretary of State for Home Department* (1991) 1 All ER 720 (HL) observed that it is well settled that in construing any provision in domestic legislation which is ambiguous in the sense that it is capable of a meaning which either conforms to or conflicts with the internal law conventions, the court would presume that Parliament intended to legislate in conformity with the conventions and not in conflict with it.

5. Since the act of dehumanizing assault and torture or a citizen of India are

committed by the protector of law in uniform in their custody where nobody is allowed to enter except with their permission, it would be next to impossible to have direct evidence to prove as to who the offenders are. Disturbed by this situation, the Law Commission in its 113th Report recommended amendment to the Indian Evidence Act, 1872 so as to provide that in the prosecution of a police officer alleged offence of having caused bodily injuries to a person while in police custody, if there is evidence that the injury was caused during the period when the person was in police custody, the court may presume that the injury was caused by the police officer having the custody of that person during that period unless the police officer proves to the contrary. The onus to prove the contrary must be discharged by the police official concerned. We may here recall the observations of Munshi Singh Gautam (D) and Others Vs. State of M.P., that:

8. ...Keeping in view of the dehumanizing aspect of the crime, the flagrant violation of the fundamental rights of the victim of the crime and the growing rise in the crimes of this type, where only a few come to light and others don't, the Government and the Legislature must give serious thought to the recommendation of the Law Commission and bring about appropriate changes in the law not only to curb the custodial crime but also to see that the custodial crime does not go unpunished. The courts are also required to have a change in their outlook approach, appreciation and attitude, particularly in cases involving custodial crimes and they should exhibit more sensitivity and adopt a realistic rather than a narrow technical approach, while dealing with the cases of custodial crime so that as far as possible within their powers, the truth is found and guilty should not escape so that the victim of the crime has the satisfaction that ultimately the majesty of law has prevailed.

6. The Apex Court in The Chairman, Railway Board and Others Vs. Mrs. Chandrima Das and Others, held that our Constitution granted all the basic and fundamental human rights set out in the Universal Declaration of Human Rights, 1948, to its citizens and other persons. The Chapter dealing with the fundamental rights is contained in Part III of the Constitution. The purpose of this Part is to safeguard the basic human rights from the vicissitudes of political controversy and to place them beyond the reach of the political parties who, by virtue of their majority, may come to from the Government at the Centre or in the State.

7. Unfortunately, the police officer and members of the security personnel are taking that they have the unfettered power to take recourse to what are not permissible under the above articles of Declaration of Human Rights, 1948 and Articles 20, 21 and 22 of the Constitution of India and also to interrogate a citizen of India in their custody in the manner they like for the purpose of extracting information. They had forgotten that their duty should be done within the four corners of law and law enforcers cannot take law into their hands in the name of collecting evidence.

8. The factual panorama, leading to the filing of the present writ in the nature of

habeas corpus are that:

The petitioner Shri Chanambam Menjor Singh is the cousin of the victim, advocate, Ch. Lokendra Meetei, The petitioner alleged that on 24.3.1995 at about 3 p.m. the victim, Shri Ch. Lokendra Meetei was arrested by the CRPF personnel believed to be the members of 61 Bn. C.R.P.F posted at their Headquarter at Mantripukhri North, Imphal at the distance of about 3 kms. from Imphal Police Station. After the arrest of the victim Shri Ch. Lokendra Meetei in the CRPF personnel said to be the 61 Bn. C.R.P.F. he was neither released nor produced before the nearest Magistrate nor handed over to the Office-in-charge of the nearest Police Station. As the whereabouts of the victim was not known to the petitioner and family members of the victim, the petitioner filed the present writ petition against the present respondents for issuing a writ in the nature of habeas corpus calling upon the respondents to produce the victim Ch. Lokendra Meetei, advocate before the court or to make him over to the Officer-in-charge of the Imphal Police Station immediately with a report of such making over communicated to this court in the course of the day. In such event, the Officer-in-charge, Imphal Police Station be directed to have the body of the victim medically examined and give medical treatment forthwith and issue necessary directions to the concerned respondents to pay adequate compensation to the victim for illegal and unjust arrest, unconstitutional detention and violation of his basic human right guaranteed by the Constitution " of India and also to make such other orders or issue such other directions for disciplinary action to be taken against the delinquent officer and personnel of 61 Bn. C.R.P.F. for flouting law and provisions of the Constitution of India and for inflicting torture and atrocities on the victim and to award cost. The present petition was moved on 27.3.1995 and this court passed an order that the respondent No. 1, Commandant/ C.O. 61 Bn. C.R.F.F., Mantripukhri, Imphal and respondent No. 2, Commandant/C.O. Group Centre/119 Bn. C.R.P.F., Langjing, Imphal West, Imphal District are directed to hand over the victim/detenu Shri Ch. Lokendra Meetei to the O/C of the nearest Police Station forthwith. In spite of clear cut direction of this court under the said order dated 27.3.1995, the respondent Nos. 1 and 2 had failed to, produce the detenu/victim, Ch. Lokendra Meetei before this court or, also failed to hand over the victim/detenu to the O/C of the nearest Police Station. The Director General of Police, Manipur submitted report that the Police Headquarter did not have any information about the arrest and detention of the victim/detenu. The report stated that the C.R.P.F. Headquarter was contacted, and told that they did not have any information about the arrest of the detenu/victim, Ch. Lokendra Meetei and also that the detenu/victim had not been arrested on 29.3.1995 at about 3 p.m. by the personnel of 61 Bn. C.R.P.F. posted at Headquarter, Mantripukhri, Imphal. This court by an order dated 28.3.1995 further directed the respondent No. 1, Commandant, 61 Bn. C.R.P.F. and respondent No. 3, Director General of Police, Manipur to produce the detenu/victim before this court at 10.30 a.m. on 29.3.1995. On 28.3.1995, learned Counsel appearing for the petitioner submitted before this court that despite

receipt of the notice of the order of this court dated 27.3.1995 from the Registry of this Bench, the 61 Bn. C.R.P.F. personnel in whose custody detainee/victim had been detained had not handed over to the O/C of the nearest Police Station. This court, again issued an order on 28.3.1995 that respondent No. 3, the Director General of Police, Manipur shall make an inquiry and submit report by 2 p.m. today, i.e., 28.3.1995. On 29.3.1995 the learned senior advocate submitted before this court that a report from the DGP, Manipur had been received stating that on ascertaining from the C.R.P.F. and District Police, the victim/detainee, Ch. Lokendra Meetei alleged to have been arrested by the C.R.P.F. personnel was neither arrested by the Police nor arrested by the C.R.P.F. nor in the custody of the C.R.P.F. or Police. However, it was submitted by the learned Counsel appearing for the petitioner that according to his information the detainee had been released by the C.R.P.F. and the victim/detainee had been admitted to the RMC (Regional Medical College), Hospital for medical treatment.

9. From the record of this court, it appears that respondent No. 1, Commandant, 61 Bn. C.R.P.F., Mantripukhri was so adamant and refused to comply the repeated orders of this court to handover the victim, Shri Ch. Lokendra Meetei to the O/C of the nearest Police Station by sticking to his plea that the victim was not arrested by the personnel of the 61 Bn. C.R.P.F. and he was never in their custody. The attitude of respondent No. 1 deserves that there should be no leniency in taking the deserving actions against respondent No. 1 according to law in case, the victim, Ch. Lokendra Meetei was arrested by the personnel of the 61 Bn. C.R.P.F. and refused to handover the victim to the O/C of the nearest Police Station in defiance of the repeated orders of this court. After the victim Shri Ch. Lokendra Meetei was released from the custody of the personnel of 61 Bn. C.R.P.F. he filed his affidavit-in-rejoinder dated 17.7.1995 stating that on 24.3.1995 at about 3 p.m. he came out of his house at Thangmeib and Lourung Pural Leikai, Imphal towards Liliashing Khongkiingkhong to proceed to Khurai Soibam Leikai, Imphal for seeing his friend. After passing Lilashing Khongkangkhong two vehicles with C.R.P.F. personnel were seen following him while he was preceded on his scooter, viz., Bajaj Scooter bearing Registration No. MN-OB 5191 of the Motor Vehicles Department, Government of Manipur. But they did not ask him to stop and they simply followed him. On his return from Khurai Soibam Leikai on his said scooter the C.R.P.F. personnel in the said two vehicles followed him up to the eastern gate of the Gauhati High Court Complex/compound, Imphal Bench, He entered into the High Court compound to collect court's daily cause list for the next day, if prepared already for use of his senior. As the said cause list for the next day had not been ready for distribution to the advocates, he left the High Court at about 4.15 p.m. and proceeded along the Dimapur-Imphal Road, i.e., National Highway No. 39. From the gate of the High Court compound the said C.R.P.F. personnel in those two vehicles stated following him along the said National Highway without asking him or give any sign to him to stop for his arrest or interrogation: At about or around 4.30 p.m. when he reached a place on the National Highway opposite High Court Judges Bungalow

compound he saw at a short distance one Dr. Dhanabir Laishram, who is a college lecturer and human rights activist and his companion Shri Tbngram Ito and one Shri L. Thoiba Singh standing on the eastern side of the road having conversation. As the said persons were well acquainted to the victim he slowed down his scooter and stopped at the left of the eastern side of the road a few metres away from where they were standing. When he stopped by that place, i.e., opposite to the High Court Judges' Bungalow compound at the backside of the Kangia, the C.R.P.F. personnel, holding firearms jumped down from their vehicles which were stopped behind him and they caught hold of him and blind folded with a black scarf and pushed him inside one of the vehicles. His scooter which was left behind, later on, he came to learn from Dr. Dhanabir Laishram and Shri T. Ito that it was taken away by one of those C.R.P.F. personnel by driving it and following the said two vehicles towards north on the said national highway.

10. In the said rejoinder affidavit dated 17.7.1995 the victim, Ch. Lokendra Meetei stated that C.R.P.F. personnel took him in their vehicle to a place which he came to learn from their conversation in Hindi and sometimes in Manipuri when talking amongst some of them, to be the Headquarter of the C.R.P.F., 61 Bn. C.R.P.F. at Mantripukliri. He was kept confined in a solitary room by blind folded with hands and legs securely tight from the evening of 24.3.1995 till the early morning of 29.3.1995 inside their camp. And during that period from the evening of 24.3.1995 till the early morning of 29.3.1995 he was given no food, no drinks but at intervals he was taken out of the room to another room blind folded and he was made to sit on a chair with his legs tight to the front leg of the chair and his hand tight together behind the chair. He was tortured and assaulted by the personnel of 61 Bn. C.R.P.F. by kicking with their boots on several parts of his body and as a result thereof his hands were bleeding, sustained bruises on his lips due to slaps. There were several electric shocks to him. Further while he was in their custody the C.R.P.F. trampled on his chest and abdomen and hit on his thighs with heavy blunt weapons making him cry in severe pain in their effort, to extract confession from him and to make him to say about his alleged involvement in the insurgency of Manipur. On the night of his arrest at or around 11.30 p.m. the C.R.P.F. personnel took him blind folded to the house of one Shri S. Iboyaima Meetei, son of S. Komol Meetei, a resident of Pisum Oinam Leikai who is acquainted to him for the purpose of interrogating him and his family members about his social background and alleged involvement in the insurgency of Manipur. On reaching the house of the said S. Iboyaima Meetei, he was shown some inmates of the house by the C.R.P.F. personnel by removing his blind fold for a few minutes. Thereafter he was blind folded again and taken back by the C.R.P.F. personnel to their Headquarter.

11. The victim, Shri Ch. Lokendra Meetei, in his rejoinder affidavit dated 17.7.1995 further stated that in the morning of 29.3.1995 he was taken out of his room with only his hands tight behind still blind folded by some C.R.P.F. personnel in one of their vehicle to an unknown destination. Left him at a place where he came to learn to be Sagolmang which has a distance of 20 Kms. from

Imphal. Soon after, a Maruti Gypsy white in colour with 10 persons in civil dress arrived at the said place and took him back towards Imphal removing his blind fold, left him near the Gate of DM College opposite his locality saying that he was released as directed by the court on the previous date. He was taken to the Casualty and Accident Clearance Centre, Imphal Medical Department, Government of Manipur for medical examination and treatment of his severe bodily pain, difficulty in respiration and urination process and lacerated wounds and extreme physical weakness. After such examination and first aid treatment, for about 7 hours he was referred to the Regional Medical College, Lamphelpat for further treatment. He further states in his affidavit that his belongings mentioned hereunder have not returned to him by the C.R.P.F. personnel:

1. Two Identity Cards of mine - one showing me to be an Advocate-member of the All Manipur Bar Association and another of High Court Bar Association of Manipur.
2. One Identity Card of mine for previous year issued by the Manipur University, Statistics Department.
3. One Identity Card of mine for Final Year issued by the Manipur University, Statistics Department.
4. One Councillor Identity Card of Statistics Department, Manipur University.
5. One Registration Book or my scooter No. MN-OB 5919.
6. One driving licence card issued in my name.
7. One rain coat of mine.
8. One wrist watch Quartz, black in colour belonging to and worn by me.
9. One cap red in colour belonging to and worn by me.
10. A total sum of Rs. 5,080, consisting of 8 currency notes of Rs. 500, 10 currency notes of Rs. 100, 1 currency note of Rs. 50 and 3 currency notes of Rs. 10 denominations.
11. Bajaj Super" Scooter bearing Registration No. MN-OB 5919.
12. The respondent Nos. 1 and 2 filed their affidavit in opposition and also reply affidavit to the affidavit-in-rejoinder of the victim, Shri Ch. Lokendra Meetei stating that the victim was a member, of the outlawed organization PLA and worked for the said organization in multifarious ways and also that Dr. Dhanabir Laishram, T. Ito and L. Thoiba Meetei are not human rights activists and also that Dr. Dhanabir Laishram is a hard core member of the PLA. It is also stated that as the victim, Ch. Lokendra Meetei was neither arrested nor detained by the C.R.P.F. personnel the question of visiting house of Shri Sanasam Iboyaima Meetei, s/o S. Komal Meetei on 24.3.1995 did not arise.
13. This court considering the factual controversies of the case had directed the

learned District Judge, Manipur East by passing an order dated 30.7.1996 to hold an inquiry into the allegations made by the petitioner, and parties were directed to appear before the learned District and Sessions Judge, Manipur East and the District Judge was further directed that after giving ample opportunity of hearing to both the parties shall return the record of this case along with his finding within 3 (three) months. In pursuance of the said order of this court dated 30.7.1996 the learned District Judge, Manipur East hold an inquiry. Consequently, all the concerned parties duly appeared before the learned District Judge in the said inquiry and duly participated therein, by examining respective criteria on their behalf. The learned District Judge provided all opportunities to the parties to participate in the proceeding.

14. The learned District Judge, Manipur East, after considering the rival contentions of the parties, i.e., the present petitioner and respondents in the present writ petition had framed the following four issues for determination in the inquiry:

1. Whether Shri Ch. Lokendra Meetei was arrested on 24.3.1995 at about 4.30 p.m. or at any point of time by the C.R.P.F. ?
2. Whether Shri Ch. Lokendra Meetei was detained or confined and tortured by the C.R.P.F. at the Headquarters, 61 Bn. C.R.P.F. during the period of 24.3.1995 till 29.3.1995 ?
3. Whether Scooter bearing No. MN-OB/5919 belonging to the said Ch. Lokendra Meetei was taken away by the C.R.P.F. personnel at the time of his arrest ? If so whether it has not yet been returned by the C.R.P.F. personnel and what is the value of it ?
4. Whether the articles mentioned in para 10 of the rejoinder on behalf of the petitioner dated 17.7.1995 were taken from the said Ch. Lokendra Meetei by the C.R.P.F. ? And if yes whether the said articles have been returned to the said Lokendra Meitei?

15. For the petitioner, the learned District Judge, Manipur East examined 5 (five) witnesses, namely, (1) Shri Ch. Menjor Singh, PW -1, the present petitioner, (2) (PW 2) Shri Sanasam Iboyaima Singh in whose house the victim/detenué, Shri Ch. Lokendra Meitei was taken by the personnel of 61 Bn. C.R.P.F. in the night of 24.3.1995 for the purpose of interrogating him and his family about the social background of the alleged involvement of the victim in insurgency of Manipur, (3) PW-3 Shri Chanambam Lokendra, the victim/detenué (4) PW-4, Shri T. Ito Singh in whose presence the victim/detenué Ch. Lokendra Meitei was arrested by the personnel of 61 Bn. C.R.P.F., and (5) PW-5, Shri Laishram Dhanabir Singh who is a college lecturer and human rights activist and in whose presence the victim/detenué was arrested by the personnel of 61 Bn. C.R.P.F. On the other hand, respondents examined three witnesses in support of their case, namely, (1) RW-1 Shri L.N. Mishra, Dy. CO. of the 61 Bn. C.R.P.F., (2) RW-2 Shri Man Singh Rawat, Commandant of the 61 Bn. C.R.P.F. and (3) RW-3, Shri Nunglepam

Shyamananda Singh, the then S.P. Imphal West. The District Judge also examined two court witnesses, C.W.I Shri Sanasam Komol Singh in whose house the victim/detenué, Ch. Lokendra Meitei was taken in the night of 24.3.1995 for interrogation of his son, Sanasam Iboyaima Singh, PW-2 about the alleged involvement of victim/detenué, Shri Ch. Lokendra Meitei in the insurgency of Manipur and who was arrested by the personnel of 61 Bn. C.R.P.F. for further interrogation about the involvement of the victim/detenué in the insurgency of Manipur and C.W. 2, Dr. H. Priyokumar Singh, who was the medical officer of Casualty and Accident Clearance Center, Imphal, Medical Department, Government of Manipur and gave medical treatment to the victim/detenué soon after he was released by the personnel of 61 Bn. C.R.P.F. on 29.3.1995. The victim/detenué, Ch. Lokendra Meitei, who was examined as PW 3 by the learned District Judge, Manipur East deposed very clearly that he was arrested by the personnel of 61 Bn. C.R.P.F. on 24.3.1995 in presence of the said three persons, i.e., T. Ito Singh, PW 4, Dr. Laishram Dhanabir Singh P.W.5 and another person Shri L. Thoiba Singh from a place on the eastern side of the National Highway No. 39 opposite the High Court Judges' Bungalow complex and the said place is as the backside of the Kangla and also he stated that he was blind folded with a black scarf and was taken in the front vehicle of the two vehicles issued by the C.R.P.F. personnel. He also deposed that he was tortured by the C.R.P.F. personnel while he was in their custody at the Headquarter of the 61 Bn. C.R.P.F. at Mantripukhri Imphal. He also deposed that after his arrest he was taken to the house of Shri Sanasam Iboyaima, PW-2 for the purpose of interrogating him about the social background of the victim/detenué and also about the alleged involvement of the victim/detenué in the insurgency of Manipur. The victim also deposed that he was given electric shock when he was in the custody of the 61 Bn. C.R.P.F. at their Headquarter. He was released on 29.3.1995 and after his release he was taken to the Casualty and Accident Clearance Center, Imphal, Medical Department, Government of Manipur for medical examination and treatment of his severe bodily pain, difficulty in respiration and urination. After giving treatment at the Accident Clearance, Center, he was referred to the Regional Medical College, Imphal for further treatment. The statement of the victim/detenué, Ch. Lokendra Meitei was also corroborated by the statement, of the eye witnesses, namely, PW-4. Shri T. Ito Singh and PW-5, Shri Laishram Dhanabir Singh. Shri S. Iboyaima Singh, PW-2 and Shri S. Komol Singh, CW-1 also corroborated the statement of the victim/detenué that the victim was brought to their house in the night of 24.3.1995 for taking information from them about the alleged involvement in the insurgency of Manipur and also about the background of the victim/detenué. CW-1, Dr. Haobam Priyokumar also clearly stated that he gave medical treatment to the victim on 29.3.1995.

16. The learned District Judge, Manipur East had thoroughly discussed the statements of PWs, statement of RWs and CWs in his report for appreciation of the statements of the witnesses. The learned District Judge, Manipur East after thorough discussion made the findings that the victim/detenué Shri Ch. Lokendra

Meitei was arrested by the 61 Bn. C.R.P.F. personnel on 24.3.1995 and he was released only on 29.3.1995 and also that the victim was tortured by the personnel of 61 Bn. C.R.P.F. while he was in their custody at their headquarter, Mantripukhri. After holding the thorough inquiry, the learned District Judge decided the four issues in favour of the victim/detenu. The learned District Judge also made a finding that the personnel of 61 Bn. C.R.P.F. had not returned the victim's scooter bearing Registration No. MN-OB/5919 to the victim.

17. The learned District Judge, Manipur East submitted inquiry report dated 30.12.2005. The relevant portions of the report dated 30.12.1995, submitted by the learned District Judge which deal and discussed the statements of the PWs, and CWs about the arrest and detention of the vietim/detenu by the personnel of 61 Bn. C.R.P.F. reads as follows:

In support of the evidence given by the victim Lokendra Meitei the other two witnesses, namely, T. Ito Singh (PW-4) and Dr. Dhanabir Laishram (PW-5) have also sworn in a joint affidavit marked Annexure-A/ 4 on 1.7.1995. They have deposed that on 24.3.1995 at around 4.30 p.m. While they were standing along with their acquaintance Shri L. Thoiba in conversation on the eastern side of the National Highway No. 39 opposite the High Court Judges bungalow Complex they saw the victim Lokendra Meitei proceeding towards them on his scooter. Behind him two vehicles (jeeps) with C.R.P.F. personnel followed his vehicle. When the said Lokendra Meitei was approaching towards them by slowing his vehicle at the short distance from them some of the C.R.P.F. personnel get down from their vehicle armed with fire arms and proceeded towards the victim Lokendra Meitei and surrounded him. He was blind folded with black scarf and was taken in the front vehicle by the C.R.P.F. personnel who were seen wearing shoulder badges of their force. The vehicles turned towards the north with a C.R.P.F. taking the said Lokendra Meitei with them. One of the C.R.P.F. personnel picked up the scooter and drove it away towards the north following the other two vehicles of the C.R.P.F. Immediately after the occurrence they found out a person who knew Lokendra Meitei and was residing in the same locality at Thangmeiband, Imphal and requested him to convey the information about the arrest of Lokendra Meitei to his relatives.

The learned Counsels for the respondents have contended that the evidence given by the PWs regarding the time and place of arrest of the victim are contradictory and unreliable. The petitioner who has given his evidence as PW1 has deposed that on 24.3.1995 at about 3 or 4 p.m. when he returned back to his house from PWD he came to know about the arrest of his cousin Lokendra Meitei from his wife. He has stated in his writ petition that on 24.3.1995 at around 3 p.m. Ch. Lokendra Meitei was arrested by the C.R.P.F. personnel at Thangmeiband Lilashing Khongnangkhang Imphal. Thus, he has given a different versions about the place of arrest and the time of the arrest. His evidence regarding the time and place of arrest was based on the information he received, "from his wife. The evidence of such nature has no evidentiary value and such

information gathered by him from the persons who has no direct knowledge about the arrest cannot be the basis to discredit the account given by the victim Lokendra Meitei himself and by the witnesses who saw the arrest of the victim by C.R.P.F. personnel. It is also pertinent to note that the victim in this case has also submitted the report/complaint to the DGP, Manipur which is marked Annexure-A/1 on 29.3.1995 stating that he was arrested by the C.R.P.F. personnel of 61 Bn. C.R.P.F. having its quarter at Mantripukhri on 24.3.1995 at about 5 p.m. on the National Highway at Kangla. This report was lodged on the same day after his release by the C.R.P.F. personnel and the report Annexure A/1 reveals that the same was received by the police Headquarter, Manipur, Imphal on the same day, i.e., 29.3.1995. There is no material on the record to shows that there were intervening factors which could have influenced the victim to prepare the report by manipulating the events. Therefore, it cannot be said that the contents of the report does not contain the true account of what had happened to him.

In order to show that the said Lokendra Meitei was arrested by the C.R.P.F. personnel on 24.3.1995 the petitioner has sought to establish that on the same night after his arrest the said Lokendra Meitei was taken to the house of Shri Iboyaima Singh by the C.R.P.F. personnel. In this regard Lokendra Meitei (PW3) has deposed that on the night of his arrest at about midnight he was taken to the house of Shri Iboyaima Meitei at the residence of Pishumgthong Oinam Leikai. He was blind folded with his hand tied. On reaching the house of S. Iboyaima Singh one blind of the C.R.P.F. personnel removed his fold for a few minutes and he was asked if he knew S. Iboyaima Singh, who was by then found standing in the middle portion or his courtyard with a candle in his hand just about 15 feet away from him. Before he could answer the question the C.R.P.F. personnel who removed his blind fold gave him a slap on his face. There was electric light at the relevant time. At that time the said Iboyaima Singh was also holding a candle in his hand. The evidence of the victim (PW3) in this regard is also corroborated by the evidence of Iboyaima Singh who has deposed as PW 2 that he came to know the victim Lokendra Meitei, advocate since about 20 years ago as he used to come to his shop to take Photostat copies and as he often meet him (Lokendra Meitei) in the course of his visit to chamber of senior advocate Nilamani Singh where the said Lokendra Meitei was attached. On 24.3.1995 at about midnight some C.R.P.F. personnel came to his house and all this family members consisting of his parents, 3 sisters, his wife and his son aged about 5 years were awoken. He saw about 8/9 C.R.P.F. personnel in full uniform with their shoulder badge carrying inscription of C.R.P.F. One of them was an officer with two Stars and two of them were Meiteis. He was taken to the courtyard of his house where the officer asked him whether a person whose name he could not remember had visited his house or not. The two Meiteis also asked him the same question in Manipuri. He replied in the negative and that time he saw Ch. Lokendra Meitei standing at the distance of about 15 feet away from him near the shop located at the adjacent eastern side of their courtyard. Lokendra Meitei was blind folded with both his hands tied behind him. The officer

spoke something to the said Lokendra Meitei which he could not hear. The blind fold of said Lokendra was removed and he saw the officer slapping him on his face. At that time he was holding lighted candle. After giving answer to the question in the negative he went back to the place where his family members were sitting. The said Officer asked for a senior family member to accompany them and his father was taken away after blind folding him. He has further deposed that before leaving the place C.R.P.F. personnel conducted search in his house and seized a type writer machine belonging to All Women Voluntary Organization of which sister Santhenlembi Devi was a member. On 26.3.1995 in the evening he learnt from his father that he was released by the C.R.P.F. on that day at Keishamthong. PW 2 has stated that on 25.3.1995 his mother made a report in writing to the S.P., Imphal about the arrest of his father but the said report was not accepted by the Office of the S.P. Imphal saying that it would effect the service career of his father.

Shri S. Komol Singh the father of Iboyaima Singh has also given his evidence as CW1 he has deposed that all the facts stated by him in his affidavit marked Annexure A/6 filed in this case are correct and affirmed by him. According to him on 24.3.1995 he came to his house from his place of posting at Ukhrul where he was working as Head Clerk in the 6th Bn. M.R. Ukhrul. On that night at around 11.30 p.m. two vehicles with C.R.P.F. personnel came to his house bringing with them a blind folded civilian youth to enquire as to whether certain persons named by them had visited their house. On their negative reply the C.R.P.F. personnel blind folded him and took him in one of their vehicle to an unknown place which he believed to be the Headquarter. He was detained from the midnight of 24.3.1995 till the evening of 26.3.1995. He was taken back blind folded in the evening of 26.3.1995 and was released at Keishamthong near the bridge. On reaching his house he was informed by his son Shri Iboyaima Singh that the, civilian youth who was brought to their house is Shri Ch. Lokendra Meitei, advocate. He was also informed that the type writer machine belonging to All Manipur Women Voluntary Organization was also taken away from their house by the C.R.P.F. personnel.

The learned Counsel for the respondent has contended that Shri Iboyaima Singh being a close friend of the victim Lokendra Meitei is an interested witness and his evidence is not trustworthy. The learned Counsel has further submitting that the evidence of Shri Iboyaima Singh (PW 2) is. not corroborated by any independent or reliable person from the locality who could have seen the search conducted by the C.R.P.F. This contention has no leg to stand. The mere fact that the other person living adjacent to the house of Iboyaima Singh could have seen the occurrence and could have given evidence in this regard cannot the basis to discard the credible evidence given by the PWs. It is found that besides the evidence of PW 2 and PW 3, Shri Komol Singh (CW 1) who was arrested and taken blind folded by the C.R.P.F. personnel has clearly stated in his evidence that after his release by the C.R.P.F. he learnt from his son Ito Singh that the youth who was brought to their house blind folded on 24.3.1995 is the victim

Lokendra Meitei. The evidence of PWs in this regard is convincing and reliable and it unerringly point to the conclusion that Lokendra Meitei was taken by the C.R.P.F. personnel in their custody on 24.3.1995. The petitioner has, thus, succeeded to establish that Lokendra Meitei was arrested and kept in the custody of the C.R.P.F.

The respondents have examined there witnesses. Shri L.N. Mishra has given his evidence as RW 1 and has deposed that he was serving as the Deputy Commandant of 61 Bn. C.R.P.F. stationed at Mantripukhri at the relevant time. He has testified that the petitioner's cousin Shri Lokendra Meitei was never apprehended by the personnel of 61 Bn. C.R.P.F. on 24.3.1995. The other witness Shri Man Singh Rawat has given his evidence as RW 2 and deposed that he took charge as Commandant 61 Bn. C.R.P.F. at Mantripukhri on 24.3.1995. Before that he was posted in Delhi as Commandant of the Special Duty Group looking after the security at the residence and office of the Prime Minister, he has also stated that no party of 61 Bn. C.R.P.F. performed any type of duty on 24.3.1995 in the area of Thangmeiband Lourung Pural Leikai or at the National Highway No. 39 near the Gauhati High Court Complex and as such the question of arresting Shri Lokendra Meitei does not arise. RW 1 and RW 2 have not disclosed the source or basis from which they could assert the fact that the C.R.P.F. personnel never arrested the said Lokendra Meitei. RW 2 was in Delhi at the time of occurrence and he was not at the Headquarters of the 61 Bn. C.R.P.F. Both the witnesses have stated that whenever the C.R.P.F. personnel apprehend a person they used to hand over such arrested person to Civil Police within 24 hours. Such evasive statement in conclusive nature has no credible value to rule out the probability of the arrest of the said Lokendra Meitei by the C.R.P.F. personnel.

18. From perusal of the said report of the learned District Judge, Manipur East dated 30.12.2005 and also the statements of the PWs, statement of RWs and statement of CWs it is seen that the District Judge, Manipur East, after appreciation of the statements of witnesses and also the materials available on record had given sufficient reasons for deciding the said four issues framed by him in favour of the victim/ detainee, Ch. Lokendra Meitei. This court is not sitting as an appellate authority for re-appreciation of the statements of the witnesses examined by the learned District Judge in the course of his inquiry. But this court is examining the report submitted by the learned District Judge as to whether the findings made by the learned District Judge in his report are perverse and based on no evidence. After such examination of the report of the District Judge, this court is of the considered view that the report so submitted is acceptable for the limited purpose of deciding the present writ petition.

19. Redressing the wrong by award of monetary compensation against the State for its failure to protect the fundamental right of its citizen had been discussed by the Apex Court in a catena of cases and held that the award of compensation for establishing infringement of indefeasible right guaranteed to a citizen under

Article 21 of the Constitution of India is a remedy available in public law since 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 whereunder their right and interests shall be protected and preserved. The grant of compensation in proceeding under Article 32 or Article 226 of the Constitution of India for the established violation of fundamental right guaranteed under Article 21 is an exercise of the court under the Public Law jurisdiction for penalizing the wrong doer and fixing the liability to the public wrong on the State which failed in discharge of its public duty to protect fundamental right of the citizens.

20. The Apex Court, had considered the requirements of protection of right to life and liberty of the citizen against the lawlessness of the State in *Sant Bir Vs. State of Bihar*, and *Mrs. Veena Sethi Vs. State of Bihar and Others*, Ultimately it had been settled that the most precious fundamental rights of the citizen is right to life guaranteed by Article 21 of the Constitution of India. It is the bounden duty of the State under the Constitution to protect the life and personal liberty of a citizen and it shall not be deprived of except according to procedure established by law. The State is liable for the constitutional tort and the constitutional tort denotes the case in which compensation or exemplary damages were awarded by the court while a constitutional right, was violated. Such constitutional remedy was made to partake the character of civil actions. The award of compensation was made only in additions to the normal civil remedies. In the case of *Devaki Nandan Prasad Vs. State of Bihar and Others*, the Apex Court laid down the concept of constitutional tort and compensatory jurisdiction and awarded Rs. 25,000 (Rupees twenty-five thousand) as exemplary costs for harassing the petitioner. This concept of awarding exemplary costs had been also considered in *Rudul Sah Vs. State of Bihar and Another*, In that case, the petitioner filed the habeas corpus before the court for his immediate relief and prayed for rehabilitation costs, medical charges and compensation for illegal detention. After his release in 1982, the question before the court was whether in exercise of jurisdiction under Article 32, the court can pass an order for payment of money, if such order is in the nature of constitutional consequential upon the deprivation of fundamental right and decided in the affirmative. Therefore, the State must repair the damage done by its officers to the petitioner's right. It may have recourse against those officers. The two important points decided in *Rudul Shah* (supra) are that (1) violation of constitutional right gives raise a right to a civil liability enforceable in civil court and (2) it formulates basis for a theory of liability under which a violation of right to the personal liberty can give raise to civil liability with the extreme concern to protect and preserve the fundamental rights of a citizen. The Apex Court awarded compensation to the under trial for violations of his fundamental right and also for the failure of the State to discharge its constitutional obligations to the citizen.

21. The Apex Court in the case of *D.K. Basu Vs. State of West Bengal*, , held that the claim in public law for compensation for unconstitutional deprivation of fundamental right to life and property, the protection of which is guaranteed

under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for tortuous acts of the public servants. Public proceedings serve a different purpose than the private law proceedings. Award of compensation for established infringement of indefeasible right guaranteed under Article 21 of the Constitution of India is a remedy available in public law since the purpose of public law is not only to civilize public power but also to assure the citizens that they live under a legal system wherein their rights and interest shall be protected and preserved. Grant of compensation in proceedings under Article 32 or Article 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Article 21, is an exercise of the courts under the public law jurisdiction for penalizing the wrongdoer and fixing the liability for the public wrong on the state which failed in the discharge of its public duty to protect the fundamental rights of the citizen.

22. The Apex Court in *D.K. Basu* (supra) in clear terms held that:

The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the rule of the courts to much, as the protector and custodian of the indefeasible rights of the citizens. The courts have the obligation to satisfy the social aspirations of the citizens because the courts and the law are for the people and expected to respond to their aspirations. A court of law cannot close its consciousness and aliveness to stark realities. Mere punishment of the offender cannot give much solace to the family of the victim- civil action for damages is a long drawn and a cumbersome judicial process. Monetary compensation for redressal by the court finding the infringement of the indefeasible right to life of the citizen is, therefore, useful and at time perhaps the only effective remedy to apply balm to the wounds of the family member of the deceased victim, who may have been the bread winner of the family.

The right of citizens to life and personal liberty are guaranteed under Article 21 of the Constitution. It is the bounden duty of the State under the Constitution to protect life and personal liberty of the citizen. The State is liable to the constitutional tort and constitutional tort did not come in which the compensation for exemplary damages were not awarded by the court when the constitutional right was violated. In such circumstances, order was made to partake the character of civil actions. The matter regarding the tortuous liability of the States had been arisen and discussed in jurisdic circle beginning from the case of *Devaki Nandan Prasad v. State of Bihar* (supra) The Apex Court in the case of *Sebastian M. Hongray* reported in AIR 1984 SC 1026 awarded exemplary cost of Rs. 1 lakh each to the wife of the missing persons. The Apex Court awarded compensation under the writ jurisdiction for the constitutional torts against the citizens. This concept of awarding compensation under the writ jurisdiction for violation of fundamental right had been followed in a number of cases. The Constitutional Bench in *M.C. Mehta and another Vs. Union of India and others*, , held that Article 32 is not only injunctive in ambit but also peremptory in scope. It is not powerless to redress a person while his fundamental right has been

violated, it includes the power to award compensation.

23. In *Rameshbhai Lallubhai Luni Vs. Devraj Bhalabhai and Others*, this court held that the respondents are liable to pay compensation for their failure to do their duty to protect the petitioner's husband who was put to have been taken away by the security forces and shot: dead. It may be worth mentioned that the Apex Court in (*Smt.*) *T.M. Balakrishna Mudaliar Vs. M. Satyanarayana Rao and others*, held that : "Thus, to sum up, it is now well-accepted position, in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to the indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriating punishment for the offence (irrespective of compensation) must be left to the Criminal Courts in which the offender is prosecuted, which the State, in law, is duty bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortuous act committed by the State. The quantum of compensation will of course, depend upon the peculiar facts of each case and no straight-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not derogation of them. The amount of compensation as awarded by the court and paid by the State to redress the wrong done may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."

24. In *Nilabati Behra (supra)*, the Apex Court appointed fact finding Commission in respect of the disputed facts in writ petition. Normally in writ proceedings the Supreme Court or High Court do not take up the issues relating to the disputed facts. As discussed above, the court of claim for compensation through public law remedy under Article 32 the Supreme Court instead of making the petitioners to resort to private law remedy, invented the process of fact finding Commissioner to inquire into the disputed facts and submits reports before the court to consider the correctness of the facts placed before the court.

25. The Apex Court (3 Judges) in its latest decision rendered on 3.2.2006 in *Sube Singh and Ors. v. State of Haryana and Ors.*, Writ Petition (Criminal) No. 237 of 1998 also reiterated that the award of compensation against the State is an appropriate and effective remedy for redress of nil established infringement of

fundamental right under Article 21 by a public servant, the quantum of compensation will, however, depend upon the fact and circumstances of each case. An award of such compensation (by way of public law remedy) will not come in the way of the aggrieved persons claiming the additional compensation in civil court, in enforcement of private law remedy in torts nor come in the way of criminal court ordering compensation u/s 357 of the Cr.P.C. paras 20, 21, 22, 24 and 25 of the judgment in *Sube Singh and Ors. v. State of Haryana and Ors.* (supra) read as follows:

20. Cases where violation of Article 21 involving custodial death or torture is established or is incontrovertible stand on a different footing when compared to cases where such violation is doubtful or not established. Where there is no independent evidence of custodial torture and where there is neither medical evidence about any injury or disability, resulting from custodial torture, nor an mark/scar, it may not be prudent to accept claims of human right violation, by persons having criminal records in a routine manner for awarding compensation. That may open the floodgates for false claims, either to mulch money from the State or as to prevent or thwart further investigation. Courts should, therefore, while jealously protecting, the fundamental rights of those who are illegally detained or subjected to custodial violence, should also stand guard against false, motivated and frivolous claims in the interest of the society and to enable Police to discharge their duties fearlessly and effectively. While custodial torture is not infrequent, it should be borne in mind that every arrest and detention does not lead to custodial torture.

21. In cases where custodial death or custodial torture or other violation of the rights guaranteed under Article 21 is established, 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 custodial torture is supported by medical report or visible marks or scars or disability. Where there is no evidence of custodial torture of a person except his own statement, and where such allegation is not supported by any medical report or other corroboration evidence, or where there are clear indications that the allegations are false or exaggerated fully or in part, courts may not award compensation as a public law remedy under Article 32 or 226, but relegate the aggrieved party to the traditional remedies by way of appropriate civil criminal action.

22. We should not, however, be understood as holding that harassment and custodial violence is not serious or worthy for consideration, where there is no medical report or visible marks or independent evidence. We are conscious of the fact that harassment or custodial violence cannot always be supported by a medical report or independent evidence or proved by marks or scars. Every

illegal detention irrespective of its duration, and every custodial violence, irrespective of its degree or magnitude, is outright condemnable and per se actionable. Remedy for such violation is available in civil law and criminal law. The public law remedy is additionally available where the conditions mentioned in the earlier para are satisfied. We may also note that this court has softened the degree of proof required in criminal prosecution relating to such matters. In *State of M.P. v. Shyamsunder Trivedi* (1995) SCC 262 reiterated in *Abdul Gafar Khan and Munshi Singh Gautam* (supra), this court observed:

Rarely in cases of police torture or custodial death, direct ocular evidence of the complicity of the police personnel would be available....Bound as they are by the ties of brotherhood, it is not unknown that the police personnel prefer to remain silent and more often than not even pervert the truth to save their colleagues...the exaggerated adherence to and insistence upon the establishment of proof beyond every reasonable doubt, by the prosecution, ignoring the ground realities, the fact situations and the peculiar circumstances of a given case often result in miscarriage of justice and makes the justice delivery system a suspect. In the ultimate analysis the society suffers and a criminal gets encouraged. 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 (sic.) in the mind of the police that no harm would come to them, if an odd prisoner dies in the lockup, because there would hardly be any evidence available to the prosecution to directly implicate them with the torture.

24. Custodial violence requires to be tackled from two ends, that is, by taking measures that are remedial and preventive. Award of compensation is one of the remedial measures after the event. Effort should be made to remove the very causes, which lead to custodial violence, so as to prevent such occurrences, following steps, if taken/may prove to be effective preventive measures:

(a) Police training should be re-oriented, to bring in a change in the mindset and attitude of the police personnel in regard to investigations, so that they will recognize and respect human rights, and adopt thorough the scientific investigation methods.

(b) The functioning of lower level Police Officers should be continuously monitored and supervised by their superiors to prevent custodial violence and adherence to lawful standard methods of investigation.

(c) Compliance with the eleven requirements enumerated in *D.K. Basu* (supra) should be ensured in all cases of arrest and detention.

(d) Simple and fool-proof procedures should be introduced for prompt registration of first information reports relating to all crimes.

(e) Computerization, video-recording, and modern methods of record maintenance should be introduced to avoid manipulations, insertions, substitutions and ante-dating in regard to FIRs, mahazars, inquest proceedings,

post-mortem reports and statements of witnesses, etc., and to bring a transparency in action.

(f) An independent investigating agency (preferably the respective Human Rights Commissions or CBI) may be entrusted with adequate power, to investigate complaints of custodial violence against Police personnel and take stern and speedy action followed by prosecution, where necessary.

The endeavour should be to achieve a balanced level of functioning, where police respect human rights, adhere to law, and take confidence building measures (CBMs), and at the same time, firmly deal with organized crime, terrorism, white collared crime, deteriorating law and order situation, etc.

26. This court in a number of cases had entertained claim in public law for compensation for unconstitutional deprivation of fundamental rights to life and awarded compensation for the established infringement of indefeasible rights guaranteed under Articles 21 and 22 of the Constitution of India and that it is the remedy available in public law. Some of the cases are (1) Shri Ranjan Gogoi v. Union of India and 7 Ors. 1995 (2) GLT 384 (DB) (2) Shri Kangujam Ongbi Devi v. State of Manipur and Ors. 1999 (2) GLT 202(3) Terarongsen and Ors. v. Union and of India and Ors. 2003 (1) GLT 218 : (4) Tarulata Devi v. State of Assam and Ors. 2001 (2) GLT 419 and (5) Kaisiliangmani (Th) v. Union of India and Ors. 2005 (1) GLT 185.

Conclusion

27. Articles 21 and 22 of the Constitution of India, which are the heart and soul of the Constitution of India, cannot be treated only as showpieces, which are to be polished time and again and kept in the rack. Article 21 and 22 of the Constitution of India are to be used, protected and enforced by all in consonance with the rights contained in the Universal Declaration of Human Rights and also the Declaration and Covenants of Civil and Political Rights and Covenants of Economic, Social and Cultural Rights to which India is also a party. The word "life" is also recognized as a basic human rights in the Universal Declaration of Human Rights, 1948 which has the same meaning and interpretation as had been placed in the Article 21 of the Constitution of India according to the various decisions of the Apex Court, The meaning of the word "life" cannot be narrowed down and protections guaranteed under Article 21 of the Constitution shall also be available to all the persons.

28. In the present case, there is clear and established infringement of indefeasible right of the victim, Shri Ch. Lokendra Meitei guaranteed under Article 21 of the Constitution of India by the respondent No. 1, i.e., personnel of 61 Bn. CRPF and respondent No. 5, the Union of India. This court in exercise of the public law jurisdiction, to meet the ends of justice in the present case, the wrong doer, i.e., respondent No. 1, Commandant, 61 Bn. CRPF and respondent No. 5, the Union of India are directed to pay compensation to the victim, Ch. Lokendra Meitei.

29. For fixing the amount of compensation, this court has carefully considered the decision of the Apex Court in Rudul Sah Vs. State of Bihar and Another, and Bhim Singh MLA v. State of Jammu and Kashmir and Ors. (1985) 4 SCC 57. In the case of Bhim Singh (supra) a sum of Rs. 50,000 had been awarded as monetary compensation to Mr. Bhim Singh for illegal detention in the police lock up for 5 (five) days. In the present case the practicing advocate, i.e., victim had not only been detained unlawfully from 24.3.1995 to 29.2.1995 but also tortured and assaulted while he was in custody of the 61 Bn. C.R.P.F. at their. Headquarter.

30. Keeping in view of the peculiar facts and circumstances of the present case, this court is of the considered view that quantum of compensation for illegal detention, torture, mental agony and forfeiture of his Bajaj Scooter to be paid by the wrong doer, i.e., respondent Nos. 1 and 5 would be, for doing justice, Rs. 80,000.

31. For the reasons discussed above, respondent Nos. 1 and 5 should pay a compensation of Rs. 80,000 to the victim, Shri Ch. Lokendra Meitei within a period of 2 (two) months from the date of receipt of this judgment and order. Further, it is made clear that this amount of compensation is in addition to other remedies available to the victim, Shri Ch. Lokendra Meitei in ordinary course of law by way of damage in civil suit and also remedies in a criminal proceeding against the wrong doers.

32. The petition is accordingly allowed in terms of the directions indicated above.

33. Further, respondent Nos. 1 and 5 have to pay a sum of Rs. 5,000 as fee for counsel of the petitioner in the present writ petition within two months from today.