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**(2006) 02 RAJ CK 0044**

**In the Rajasthan High Court**

**Case No : Habeas Corpus Petition No. 1379 of 2006**

Narayan Lal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision : 21-02-2006**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 102  
Penal Code, 1860 (IPC) — Section 379

**Citation :** (2006) 3 RLW 1749 : (2006) 3 WLC 175

**Hon'ble Judges :** Shiv Kumar Sharma, J; R.S. Chauhan, J

**Bench :** Division Bench

**Advocate :** Ashvin Garg, for the Appellant; R.P. Kuldeep, Dy. Govt. Advocate, for the Respondent

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## **Judgement**

Shiv Kumar Sharma, J.—In this Habeas Corpus petition the petitioner has levelled allegations against the police officials of Police Station Shiv Daspora (Jaipur District) that they illegally detained Ramji Lal (son of the petitioner) and tortured him. As per the facts averred in the petition, one Kumari Kamoj had been kidnapped on March 29, 2003 by Prabhu Dayal and Smt. Suman Saini, who were named as accused in the FIR No. 86/2003 lodged at Police Station Shiv Daspora.

2. It appears that after Ramjilal was detained the petitioner sent a telegram to the Chief Judicial Magistrate, District Jaipur seeking inquiry of illegal detention and torture of Ramji Lal by Police Station Shiv Daspora, but no heed was paid to it. Thereafter the petitioner has filed instant Habeas Corpus Petition.

3. In compliance of the notice issued in the matter Ramji Lal has been produced before us from the judicial custody, since by now he was arrested in a case bearing FIR No. 240/2005 registered u/s 379 IPC. It also appears that the application seeking bail was dismissed by learned Additional Munsif and Judicial Magistrate No. 3, Jaipur District.

4. We have directed Deputy Registrar (Judicial) to record the statement of Ramji

Lal.

5. Having heard the submissions and on scrutiny of case diary, affidavits and statement of Ramji Lal, we are prima facie satisfied that police officials of Police Station Shiv Daspura have not acted fairly in detaining and torturing Ramji Lal in view of the fact that Final Report in the case registered u/s 379 IPC had already been submitted by Police Station Shiv Daspura on December 8, 2005 before the concerned Magistrate. When Ramji Lal appeared before us in the court he was limping and even according to case diary the injuries sustained by Ramji Lal were examined twice and the said injuries were also shown in his arrest memo.

6. Torture in any form, for the purpose of investigation into crime is not justified. It is barbarous and inhuman. No police lifestyle which relies more on fists than on wits, on torture more than on culture can control crime because means boomerang on ends and refuel the vice which it seeks to extinguish. Their Lordships of Supreme Court in Bhim Singh, MLA Vs. State of Jammu & Kashmir and Others, indicated that Police Officers who are the custodians of law and order should have the greatest respect for the personal liberty of citizens and should not flout the laws by stooping to bizarre acts of lawlessness.

7. It has shocked our judicial conscience that in a case u/s 379 IPC, which is triable by First Class Magistrate and in which final report was submitted the bail application of Ramji Lal has been dismissed and he has been sent to judicial custody. We are satisfied that this case requires deep prob by an independent investigating agency.

8. As a result of above discussion, we deem it appropriate to issue following directions:

(1) The matter be inquired by the Central Bureau of Investigation, which will submit its report within one month from today. The inquiry shall be made on the following points:

(a) Whether detainee Ramji Lal has been given beating at the Police Station Shiv Daspura. Jaipur District, Jaipur?

(b) Whether he was nabbed while he was driving the auto rickshaw?

(c) Whether the alleged stolen motor cycle was recovered by the Police Station Shiv Daspura u/s 102 Cr.P.C, prior to the date of arrest of Ramji Lal?

(d) Whether Ramji Lal has been implicated in a false case and if so who is responsible for this illegal act?

(2) In view of the fact that Ramji Lal, who is limping in the court on account of injuries sustained by him and he is no longer required for the investigation purposes, we looking to the liberty of Ramji Lal, intend to invoke our inherent powers and release Ramji Lal on bail provided he furnishes personal bond in the sum of Rs. 5000/- and one surety of the like amount to the satisfaction of the Deputy Registrar (Judicial) Jaipur.

(3) A copy of the operative part of this order be sent to learned Additional Judicial Magistrate No. 3, Jaipur District Jaipur as well as the Superintendent, Central Jail, Jaipur.

(4) The case shall be posted on March 20, 2006.

(5) The case diary along with the statement of Ramji Lal, affidavits filed by Kailash Bohra, SHO Shiv Daspura, Jaipur District, Jaipur and copy of the writ petition inclusive of annexures shall be kept in sealed cover and be sent in the sealed cover to the Central Bureau of Investigation.