

(2007) 05 GUJ CK 0004
In the Gujarat High Court
Case No : Spl. Cri. Application No. 328 of 1998

Premilaben R. Jaishwal and Others

APPELLANT

Vs

B.M. Jadeja and Others

RESPONDENT

Date of Decision : 03-05-2007

Acts Referred:

Bombay Police Act, 1951 — Section 161

Constitution of India, 1950 — Article 21, 226, 32

Criminal Procedure Code, 1973 (CrPC) — Section 151, 154(3), 174, 176, 190

Citation : (2007) CriLJ 4165

Hon'ble Judges : D.H. Waghela, J

Bench : Single Bench

Advocate : Jitendra Malkan, for the Appellant; Himanshu K. Patel and S.V. Raju, Sunit Shah, Public Prosecutor and H.L. Jani, Assistant Public Prosecutor, for the Respondent

Judgement

D.H. Waghela, J.—The petitioner, a widow, along with her three children, has approached this Court under Article 226 of the Constitution and Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code") after serving a written complaint upon the Police Commissioner, Vadodara in respect of custodial death of her husband on 17-9-1994 at around 7.00 p.m. after being picked up from their house at around 4.00 p.m. on 16-9-1994. According to the petition, the husband of petitioner No. 1 and father of the other petitioners was aged 42 years when, on 16-9-1994 at around 16.00 hours, several police personnel led by respondent No. 4, the Police Sub-Inspector, ordered him to go with them to the police station. She and her husband informed respondent No. 4 about his illness at that time, but he was taken to the police station and detained u/s 151 of the Code. She afterwards learnt from the persons who were present in the police station that the detainee had requested for medical treatment when he was produced before respondent No. 1, the Police Inspector, but not only that medical treatment was denied but his requests to call for medicines from his home were also turned down. He was kept with more than ten other accused

persons in a very small room and tortured physically as well as mentally, according to the averments. Ultimately, he died because of fist blows and injuries inflicted upon him by the respondents and the post mortem report revealed several ante mortem minor injuries even as the cause of death was kept pending for histopathological report. Thus, the deceased succumbed to custodial violence, according to the petitioner, and the applications made by the petitioner to several authorities, including the Hon'ble Chief Minister of the State, resulted into an inquiry being ordered by the Collector. It is averred that the victim was earning about Rs. 8,000/- to 10,000/- a month from his business of flour mill and grocery shop and he was the sole bread winner for the family. After some time, when petitioner No. 1 enquired about the outcome of the investigation or enquiry, she was informed that it was not completed for one or the other reason and she being a housewife and a widow belonging to Jaiswal community, she was not in a position to pursue the matter with the authorities. On these broad averments, the petitioners have prayed for a direction to hold an independent investigation and to pay compensation as may be deemed proper in the circumstances of the case.

2. It was noticed that, during the course of the present proceedings, a statement was made by learned A.P.P. that inquiry in respect of death of the husband of petitioner No. 1 was entrusted to Sub-Divisional Magistrate who had submitted his report on 31-7-1998 and that a comprehensive affidavit-in-reply shall be filed. Thereafter, without any meaningful order, the hearing was adjourned from time to time, no one appeared for respondent Nos. 1 and 8 on 12-1-2007 and learned A.P.P. Mr. S.S. Patel submitted that affidavits of some of the respondents were filed in the Court at pages 30 to 83 which were not really found on the record. Therefore, learned A.P.P. was directed to file a detailed affidavit-in-reply along with relevant papers of investigation and all papers of inquiry conducted u/s 174 of the Code. Thereafter, copies of the affidavits and papers supposed to be at pages 30 to 83 were placed on record and fresh affidavits-in-reply of respondent Nos. 1, 3 and 6 and additional affidavit-in-reply of respondent No. 3 were placed on record.

3. The case of the respondents emerging from the affidavits-in-reply is that, at the relevant time in September 1994, Ganpati festival was going on in Vadodara city and as there were instructions from superior officers to round up anti-social elements, respondent Nos. 2, 3 and 4 were under instructions to round up such elements and, on 16-9-1994, respondent No. 2 had gone to the house of the petitioner at about 6.00 p.m. and the deceased was brought at the police station by P.S.I. Shri Jhala. Shri Jhala has stated in his affidavit that respondent No. 4 Shri B.J. Pathan had never gone to the house of the deceased, but he, in company of respondent Nos. 5 and 6, had gone to his house on 16-9-1994 at late night. According to him, the deceased or his wife had never complained about, his sickness and he had quietly sat down in mobile van and he was produced before P.S.O., Makarpura Police Station with the report u/s 151 of the Code. The allegations of beating and torture are generally denied by all the

deponents. The Deputy Commissioner of Police has stated that, pursuant to an application submitted by the petitioner in September 1994, Police Commissioner had entrusted the inquiry about the allegations made in the application to Assistant Commissioner of Police, "A" Division, Vadodara City and he had given his report on 12-12-1994. Accidental Death No. 50 of 1994 was also registered u/s 174 of the Code and the entire inquiry was entrusted to Assistant Commissioner of Police, "A" Division Vadodara City, who submitted his report to Sub-Divisional Magistrate. Vadodara along with inquiry papers on 4-1-1995. Letter dated 12-10-1994 of Assistant Commissioner of Police to the Commissioner of Police. Vadodara stated that the deceased was a known bootlegger released after one year of detention under PASA and, after being arrested on 16-9-1994, he had died of heart attack during police custody, and that, since legal procedure was taken up by Sub-Divisional Magistrate u/s 174 of the Code, he was not required to do anything more. In his report to the Sub-Divisional Magistrate, it was stated, in substance, that no one had beaten the deceased during his detention and after perusal of the papers of inquiry, accidental death of the deceased was required to be "approved".

3.1 According to the additional affidavit-in-reply of respondent No. 3, during patrolling on 16-9-1994 at about 19.00 hours, he had lodged a FIR being III-C.R. No. 368 of 1994 in respect of 35 liters of country liquor, in presence of respondent No. 4, against one Ganesh Chimanlal Jaiswal who happened to be cousin brother of the deceased and allegations were levelled against him due to that. Otherwise, he was on patrolling for the whole day on 17-9-1994, according to his statement". According to the additional affidavit-in-reply of respondent No. 4, he had not gone to the residence of the deceased on 16-9-1994 and had not seen him on 16-9-1994 or 17-9-1994. According to him, departmental enquiries were held against him and other police personnel in respect of death of Rasiklal Jaiswal, the deceased, and he was exonerated in that enquiry by Deputy Inspector General of Police by order dated 7-1-2006.

4. During the course of hearing, the report and proceedings of enquiry held by Sub-Divisional Magistrate under the provisions of Section 176 of the Code were placed on record and copies thereof were supplied to the learned Counsel. It appears that the enquiry ordered on 24-10-1994 was concluded with the submission of report on 4-8-1998. The conclusions drawn at the end of the elaborate report of the inquiry are, in substance, to the effect that the time of arrest shown at the police station of 00.15 hours on 17-9-1994 was wrong and the arrest appeared to have been effected in the evening of 16-9-1994; that 27 accused persons appeared to have been detained in a small room at the police station; that the deceased was not produced before the Court till the end of normal working hours of the Court, i.e. 18.10 hours, and thereafter at 19.10 hours, the deceased had expired; that instruction of Police Commissioner, Vadodara not to produce before the Magistrate the detainees within 24 hours of their arrest was exactly against the settled position of law and non-production before the Magistrate of the deceased for 19 hours indicated negligence on the

part of the police; that the deceased appeared to have been unwell since the time of his arrest; that the allegations of beating of the deceased by the police were substantiated by the ante mortem injuries found on the body of the deceased; that despite the complaints of the deceased, the police had failed to make any attempt at providing proper medical aid to the deceased; that even the requests of the deceased to call for necessary medicines from his house or call a doctor were not heeded; that the police officers and personnel concerned were required to be proceeded against; that the post mortem examination was also not properly and expeditiously done and there was obvious negligence of the authorities of the medical college in preparation and signing of the post mortem report; that the post mortem report revealed blockage of 70% in the coronary arteries and the final cause of death was cardiac failure as a result of pathology in coronary arteries. It is finally reported by the Sub-Divisional Magistrate that, in the facts of the case, the deceased appeared to have died due to congestion of 27 persons in a small room, the atmosphere of the police station, the apprehension of being beaten by the police and the mental stress caused by non-supply of water and medicines at the proper time which precipitated the heart attack.

5. After perusal of the report of Sub-Divisional Magistrate, it was pointed out by learned Counsel Mr. J. M. Malkan that there were more than one statements of the eye witnesses before the Magistrate to clearly and conclusively indicate that the deceased was mercilessly beaten by several police officers in the compound of the police station, that he was not even allowed to go for answering the calls of nature and he was not given water to drink even when he beseeched for that. The deceased had collapsed in front of several eye witnesses right in the police station and, therefore, it was a clear case of homicide without any reason and without any provocation or resistance by the deceased, according to the submission. He further submitted that such brutality and inhuman behaviour by the guardians of law and protectors of personal liberty of the citizen called for stern action and appropriate orders after proper investigation and trial. But, the respondent-State had failed in its primary duty of taking appropriate action immediately after the incident insofar as even the written complaint of petitioner No. 1 was not registered as a FIR and the magisterial inquiry u/s 176 of the Code was carried on for four years at the end of which the report and recommendation to take action were buried without justice being meted out either to the surviving victims or to the persons perpetrating such heinous offence in purported exercise of their power to detain a person without even a complaint against him. He further submitted that detention of the deceased was ex facie illegal and in violation of the express provisions of Section 151 of the Code under which he was detained. And, during the period of such detention, nobody had any right, duty, occasion or provocation to beat the detainee till he probably Succumbed to illness from which he was already suffering and about which the police officers in charge were clearly informed. Therefore, it was a clear case of culpable homicide and was required to be investigated and dealt with as such,

according to the submission of Mr. Malkan. He referred to the statements of Jasubhai Nitabhai Parmar, Niyazkhan Fakirmohmad Pathan, Mohanabhai Raijibhai Thakore, Vinodbhai Jagdishbhai Kahar, Rajesh Sanatbhai Pasilkar, Ibrahim-bhai Noorbhai Ghanchi and the statement of Police Inspector himself as recorded and subjected to cross-examination during the inquiry. He submitted that the petitioners were entitled to immediate relief by way of compensation on the facts which were already established on record and a direction was also required to be issued for proper and independent investigation of the offences revealed during the magisterial inquiry.

6. Learned Counsel Mr. S.V. Raju, appearing for respondent Nos. 1,2,3,4 and 6, submitted that the petitioners had alternative remedy of filing their own complaint u/s 190 of the Code and the provisions of Chapters XIV and XV could have applied to such proceedings. Therefore, the present petition under Article 226 of the Constitution was not required to be entertained in view of availability of appropriate alternative remedy. In support of that submission, he relied upon judgments of the Supreme Court in Hari Singh Vs. The State of U.P., , in All India Institute of Medical Sciences Employees' Union (Regd.) through its President Vs. Union of India (UOI) and Others, and in Anandwardhan and Anr. v. Pandurang and Ors. (2005) 11 SCC 195. It may be pertinent to note here that, in Anandwardhan (supra), the High Court had directed the Commissioner of Police, Nagpur to withdraw the investigation of the case concerning the affairs of two societies, pending with the police stations concerned, and to treat the allegations made in the two writ petitions as FIR and investigate the same. Those directions were issued at the instance of the person who himself confessed to be a participant in the commission of the alleged offences. In All India Institute of Medical Sciences Employees' Union (supra), which is the basis of Hari Singh (supra), the petitioner had approached the High Court, without filing a complaint before the Magistrate, seeking a direction to conduct investigation by the CBI and, in such circumstances, the petitioner was held to be not entitled to approach the High Court. In the context of the argument of availability of alternative remedy, learned Counsel Mr. Raju also sought to press into service the provisions of Section 161 of the Bombay Police Act, 1951 which prohibits entertainment of suit or prosecution, if not instituted within one year, in respect of acts done under colour or in excess of duty or authority. However, he dropped the challenge on that count.

6.1 He also submitted that the report of the magisterial inquiry u/s 176 of the Code and the statements of witnesses recorded therein disclosed, at the worst, non cognizable offences insofar as no nexus was established between the alleged beating of the deceased and his death due to heart attack. He submitted, on the basis, that the respondents were, in any case, not required to take cognizance and the petitioners were free to file their own complaint and prove their case before the appropriate Court.

7. Learned Public Prosecutor, appearing with learned Additional Public Prosecutor

Mr. H. L. Jani, submitted that, except the statements of a few eye witnesses recorded during the magisterial inquiry, there was no evidence of custodial violence and it may not be proper and justifiable to award compensation to the petitioners on that basis even as the police personnel against whom allegations were made were yet to be charged for any offence. He relied upon judgment of the Supreme Court in *State Rep. by Inspector of Police and Others Vs. N.M.T. Joy Immaculate*, wherein it was held that there was absolutely no justification for awarding compensation to a person who was facing prosecution for a serious offence like murder even before the trial had commenced. He also relied upon recent judgment of the Supreme Court in *Sube Singh Vs. State of Haryana and Others*, wherein, in absence of clear or incontrovertible evidence about custodial torture or any medical report of any injury, the award of compensation was held to be not justified.

8. It is clear from the above summary of facts and submissions that the petitioners have submitted a detailed complaint in September, 1994 clearly alleging that the deceased had died in police custody on account of negligence of and beating by the police personnel named in the complaint and awaited result of the statutory inquiry held u/s 176 of the Code. It is not in dispute that the magisterial inquiry has taken four years to conclude and even the belated report and recommendations were not acted upon for years and, after the charge-sheet issued as late as in the year 2001, the departmental action has also taken five years to be concluded with exoneration of the delinquent for lack of evidence. The departmental enquiry and its conclusion appear to be an eye-wash insofar as the version of the police officers concerned appear to have been accepted in toto without reference to the statements of the eye witnesses who were examined at the magisterial inquiry. At least, at the end of the magisterial inquiry u/s 176 of the Code, it was fairly clear that a prima facie case for proper investigation was made out and the complaint of the petitioner was already lodged, within three days of the alleged offence, with the Commissioner of Police, Vadodara. Under such circumstances, it was rightly submitted by learned Counsel Mr. Malkan that, under the provisions of Sub-section (3) of Section 154 of the Code, the Superintendent of Police, or the Commissioner of Police in charge, was duty bound either to investigate the case himself or direct an investigation to be made by a subordinate police officer.

9. Even otherwise, after nine years of admission and pendency of the petition, it would be highly improper to refuse to entertain the petition for appropriate orders only on the ground of availability of alternative remedy and recourse to the provisions of Chapter XIV of the Code even as, out of the police personnel against whom allegations are made, only one is stated to be still in service and others are stated to have retired and one is stated to have passed away. As observed by the Supreme Court in *Smt. Shakila Abdul Gafar Khan Vs. Vasant Raghunath Dhoble and Another*, dehumanizing torture, assault and death in custody which have assumed alarming proportions raise serious questions about the credibility of the rule of law and administration of the criminal justice system.

The community rightly gets disturbed. The cry for justice becomes louder and warrants immediate remedial measures. The diabolic recurrence of police torture was resulting into a terrible scare in the minds of common citizens that their lives and liberty are under a new and unwarranted peril because the guardians of law destroy the human rights by custodial violence and torture, invariably resulting in death. The vulnerability of human rights assumes a traumatic torture when functionaries of the State, whose paramount duty is to protect the citizens and not to commit gruesome offences against them, in reality perpetrate them. The anguish expressed in several judgments of the Supreme Court did not seem to have caused any softening of attitude in their inhuman approach in dealing with persons in custody. Rarely, in cases of police torture or custodial death is there direct ocular evidence of the complicity of the police personnel who alone could explain the circumstances in which a person in their custody had died. 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. 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 maltreatment of detainees/undertrial prisoners or suspects tarnishes the image of any civilized nation and encourages the men in "khaki" to consider themselves to be above the law and sometimes even to become a law unto themselves. Unless stern measures are taken to check the malady of the very fence eating the crops", the foundations of the criminal justice delivery system would be shaken and civilization itself would risk the consequence of barbarism. The Courts must, therefore, deal with such cases in a realistic manner and with the sensitivity which they deserve; otherwise the common man may tend to gradually lose faith in the efficacy of the system of the judiciary itself. In the facts of that case, even after declining to interfere with the judgment of acquittal, the Supreme Court found it a fit case to direct the State Government to pay compensation of rupees one lakh to mother and children of the deceased and directed an enquiry by Head of the police force of the State under direct control of Chief Secretary of the State to find out who were the persons responsible for injuries on the body of the deceased.

9.1 Applying the above principles enunciated by the Supreme Court to the facts of the present case, it would appear that there was enough evidence and material and a clear conclusion in the report of the inquiry u/s 176 of the Code to indicate that causes of death included illegal and unjustified beating of the deceased and his detention in violation of the provisions of Section 151 of the Code even as the deceased was suffering from some ailment and in need of proper medicines and medical care. Telltale signs of physical injuries on the body of the deceased, some of which were not noticed even in the inquest panchnama, and the medical opinion that they were ante mortem and inflicted within 72 hours of the death, have clearly established that the deceased was ill-treated in the police custody in violation of law without any rhyme or reason. And, as found at the end of the magisterial inquiry, the poor facilities at the

police station, the attitude and behaviour of the police personnel and deprivation of the deceased from necessary medicines, medical care and even drinking water, had, at least, indirectly contributed in producing the result of his untimely death.

10. As recently held by the Supreme Court in paragraphs 45 and 46 in *Sube Singh Vs. State of Haryana and Others*, (supra), the 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 any mark or scar, it may not be prudent to accept claims of human rights violation by persons having criminal records in a routine manner for awarding compensation. That may open the floodgates for false claims, either to mulct money from the State or to prevent or thwart further investigation. The Courts should, therefore, while zealously protecting the fundamental rights of those who are illegally detained or subjected to custodial violence, also stand guard against false, motivated and frivolous claims in the interest of the society and to enable the police to discharge their duties fearlessly and effectively. 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 Article 226 of the Constitution. 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 corroborative evidence, or where there are clear indications that the allegations are false or exaggerated fully or in part, the Courts may not award compensation as a public law remedy under Article 32 or Article 226, but relegate the aggrieved party to the traditional remedies by way of appropriate civil or criminal action.

10.1 In *State of M.P. v. Shyamsunder Trivedi* 1995 SCC 715 : 1995 AIR SCW 2793, Their Lordships of the Supreme Court found on their independent analysis of the material on record that the respondents therein were definitely present at the police station and were directly or indirectly involved in the torture of Nathu Banjara and his subsequent death while in police custody as also in making attempts to screen the offence to enable the guilty to escape punishment. The Supreme Court observed that the trial Court and the High Court exhibited a total

lack of sensitivity and a "could not care less" attitude in appreciating the evidence on the record and thereby condoning the barbarous third degree methods which are still being used at some police stations, despite being illegal.

10.2 In *Smt. Nilabati Behera alias Lalita Behera Vs. State of Orissa and others*, the Supreme Court held that burden was clearly on the respondents to explain as to how the victim had sustained injuries which caused his death. Unless a plausible explanation was given by the respondents which was consistent with their innocence, the obvious inference was that the fatal injuries were inflicted to the victim in police custody resulting in his death, for which the respondents were responsible and liable. The Supreme Court went on to observe that the constitutional remedy provided for enforcement of a fundamental right was distinct from any remedy in private law for damages for the tort resulting from contravention of fundamental rights. That remedy of public law has to be more readily available when invoked by the have-nots who are not possessed of the wherewithal for enforcement of their rights in private law, even though its exercise is to be tampered by judicial restraint. His Lordship Dr. Justice A.S. Anand added in his concurring judgment that the Apex Court and the High Courts, being protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief, in exercise of its jurisdiction under Articles 32 and 226 of the Constitution, to the victim or heir of the victim whose fundamental rights under Article 21 of the Constitution of India were established to have been flagrantly infringed, by calling upon the State to repay the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings.... It is a sound policy to punish the wrongdoer and it is in that spirit that the Courts have moulded the relief by granting compensation to the victims in exercise of their writ jurisdiction. In doing so, the Courts take into account not only the interest of the applicant and the respondent but also the interests of the public as a whole with a view to ensure that public bodies or officials do not act unlawfully and do perform their public duties properly, particularly where the fundamental rights of a citizen under Article 21 are concerned.

10.3 As held by the Apex Court in *D.K. Basu Vs. State of West Bengal*, 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 be indemnified by the wrong doer. It is clarified therein that 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 in derogation of them.

10.4 In Arvinder Singh Bagga Vs. State of U.P. and Others, the Supreme Court accepted the report which, inter alia, stated as under:

Torture is not merely physical, there may be mental torture and psychological torture calculated to create fright and submission to the demands or command. When threats proceed from a person in authority and that too by a police officer, the mental torture caused by it is even more grave.

10.5 However, as held by the Supreme Court in Rudrappa Ramappa Jainpur and Others Vs. State of Karnataka, each case must rest on its own facts and the mere similarity of the facts in one case cannot be used to determine a conclusion of fact in another. In the facts of that case, death was held to be the cumulative effect of all the injuries and indicated that the appellants did not intend to cause the death of the deceased although they must have known that if they assaulted the deceased with such weapons as they carried, it may result in grievous hurt to him.

11. Applying the above solutary principles evolved by the Apex Court to the facts of the present case, it is held to have been established that the State had failed to provide the required care, protection and facilities to the detainees in general and to the petitioner in particular, while undertaking the exercise of preventive detention u/s 151 of the Code and the ill-treatment, of which there was sufficient evidence, contributed to the death of the deceased and the State was vicariously liable to pay compensation on the basis. The petitioners are also denied access to justice for an intolerably long period insofar as their complaint was not acted upon for any meaningful investigation and the belated report of the statutory inquiry was also neither properly acted upon nor produced before this Court for nine years till it was specifically called for in order to make appropriate order.

12. Therefore, in view of the aforesaid facts and circumstances, considering the loss, shock and suffering and the delay, the respondent-State is directed to pay to each of the petitioners, by way of interim compensation for violation of the fundamental rights of the deceased and the petitioners, Rs. 40,000/- which the State Government shall be at liberty to recover from the police personnel concerned who may be found, at an appropriate enquiry to be held therefor, to be responsible for the ill-treatment of the deceased. Since the State Police Complaints Authority required to be constituted under the judgment of the Hon'ble Supreme Court in Prakash Singh v. Union of India (2006) 3 SCC 417 : 2006 AIR SCW 5233 is stated to have still not been constituted, the original complaint of the petitioner addressed to the Police Commissioner shall be registered as an FIR which, in the peculiar facts of requirement of investigation against the police officers, one of whom is stated to have been promoted to the rank of Police Inspector, shall be investigated by an independent and competent police officer of a higher rank and report of such investigation shall be submitted to the appropriate Court in accordance with law. It is clarified that the above order to pay compensation is without prejudice to the right of the petitioner to claim further compensation in appropriate civil or criminal proceedings and the

conclusions drawn for awarding the interim compensation are restricted to the consideration of violation of fundamental rights and shall not influence the investigation.

The petition is disposed with the above directions and Rule is made absolute accordingly with costs of Rs. 10,000/- which shall be paid by respondent No. 9 to the petitioners after dividing it equally. It can be hoped that, in such cases of death in custody, the authorities shall, at least, ensure that the inquiry u/s 176 of the Code is expeditiously concluded and report thereof is immediately supplied to the heirs of the deceased.