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CASE ANALYSIS OF PARAMVIR SINGH SAINI V. BALJIT SINGH¹- Sneha Sakshi²**ABSTRACT**

This case study on the landmark judgment of Paramvir Singh Saini vs. Baljit Singh is an initiative to provide a detailed analysis on the situation of installation of CCTV cameras in the Police Stations of our country. Setting-up of CCTV cameras on the premises of each and every Police Station in our country is now a very crucial step in order to reduce custodial deaths and strengthen human rights, so that every person, be it a criminal should feel protected and should be given a chance of fair trial.

KEYWORDS:

Custodial death, Oversight Bodies, Human Rights Protection

INTRODUCTION

The Supreme Court (SC), after taking into account the directives made in *D.K. Basu v. State of West Bengal & Others*³ (2015), held that additional directives were required, mandating the establishment in each State of an oversight mechanism whereby an impartial committee can examine CCTV camera footage and periodically publish a report of its findings. The Supreme Court ordered that a Central Oversight Body (COB) be established by the Ministry of Home Affairs to carry out the plan of action regarding the use of videography at the crime scene during the inquiry in *Shafiq Mohammad v. State of Himachal Pradesh*⁴ (2018).

¹Paramvir Singh Saini v. Baljit Singh, (2020) 3 SCC Cri 150

² Student at Symbiosis Law School, Pune

³AIR 1997 SC 610

⁴(2018) 5 SCC 311

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Even after these judgments, states and Union Territories failed to comply with the directions of SC.

A Supreme Court 3-judge bench led by **Justice RF. Nariman, K.M. Joseph.& Aniruddha Bose handed down its decision on 2nd December, 2020 on Paramvir Singh Saini vs. Baljit Singh by giving strict orders on installation of CCTV cameras in every part of the Police Stations and laying down the duties and composition of Oversight Committees.**

We all are aware of the torment one goes through in a Police Station, be it an accused or a person brought in for questioning. Various strategies and tactics are used by the Police Officers in order to extract the truth and get to the bottom of the issue. There are certain limitations on powers and forces used by the Police Officers which is mentioned in Criminal Procedural Code, 1973. Still custodial deaths and brutality are exponentially increasing in our country. The reason being there is no proof or evidence that the interrogation process or the protection of an accused in custody is with compliance with the sections under CrPC, 1973.

FACTS

A special leave petition was filed by Paramvir Singh Saini to bring into notice of the Court, the situation of installation of CCTV cameras in Police Stations. Several surveys and reports showed the rampant increase in custodial deaths in India.

After the petition was filed, Supreme Court ordered the States and Union Territories to investigate the current scenario. Crucial details were withheld from the documents presented to the Supreme Court including the proportion of functioning cameras in police stations, the total number of cameras installed, their locations etc. Most States and UTs have not submitted applications to be recognized as Central Oversight Bodies according to the guideline of Supreme Court in the famous D.K Basu case and Shahfi Mohammad case. Following this case, certain guidelines were issued.

ISSUES RAISED

- i. Whether the States and UTs have filed for COB?
- ii. How far has the implementation of CCTV cameras at Police Stations come along?

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iii. Whether the State has adhered to Section 161(3) of CrPC?

RELEVANT PROVISIONS APPLIED

- **Section 161(3) of CrPC⁵** - Any statement made to him during an examination conducted in accordance with this section may be reduced to writing by the police officer, and if he does, he is required to create a separate and accurate record of each such person's statement.
- **Section 17⁶** - Protection from torture and other cruel, inhumane, or humiliating treatment
- **Section 18⁷** – Freedom from forced work
- **Section 21⁸** - No one may be deprived of their life or personal freedom other than in accordance with the legal process.

JUDGEMENT

- Supreme Court considering the depth of the issue directed to constitute the Oversight Committee at State level and District Level and a COB.
- It also laid down certain guidelines and duties of the Committees so formed.
- Those duties were:

COB	SLOC	DLOC
Same function as SLOC for central agencies (in/outside Delhi)	a. purchasing, distributing, and installing CCTVs and their related equipment. b. obtaining financial support. c. continuously keeping track of CCTV upkeep. d. Conducting inspections	a. CCTVs for supervision and maintenance b. CCTVs for ongoing maintenance. c. Speak with the SHO about the operation and upkeep of the CCTVs. d. Send the SLOC monthly

⁵<https://indiankanoon.org/doc/1383769/>

⁶ Article 17

https://www.mha.gov.in/sites/default/files/Protection%20of%20HR%20Act1993_0.pdf&<https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-005>

⁷ Article 18

https://www.mha.gov.in/sites/default/files/Protection%20of%20HR%20Act1993_0.pdf&<https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-005>

⁸ Article 21, Constitution of India

https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2021

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	and addressing complaints made to the DLOC. e. Requesting monthly reports from the DLOC and addressing issues (if any)	reports. e. Examine CCTV footage from PSs to look for unreported violations of human rights.
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- It also gave SHO (Station House Officer) responsibility for the functionality and recording of CCTV cameras. The SHO should also make sure there is no interference happening with the footage and data available.
The SHO is duty bound to bring it to knowledge of the DLOC of arrest and interrogation made when the CCTVs were not working.
- Furthermore, in order to achieve the goal that no area of any Police Station in our country is left uncovered, Supreme Court added the locations where cameras should be installed such as the entrance and exit, the lock-ups, lobby, inspector's office etc.
- The cameras that have to be set-up must have night vision facility including the audio and visual footage.
- S.C. also set a time period of 18 months up to which the data of the recording system should be kept unaffected.
- The victim who has gone through any torture or suffered from any kind of injury while being in the custody was given the right to file a complaint with the State Human Rights Commission/ Court under Section 17 and 18 of Protection of Human Rights Act, 1933.
- The bench made sure that not just the Police Stations, all the institutions who have the power to arrest such as Narcotics Central Bureau, Central Bureau of Investigation, National Investigation Agency etc. will come under the purview of these directions.

REPORTS OF COMMISSIONS AND COMMITTEES

As per a report issued by **Transparency International** in 2019 affirmed that a total of 31,845 cases of custodial deaths have been recorded by the **NHRC** between 1993 to 2016⁹. And, in the period between 2021-2022, there were 2150 and 155 death cases reported in judicial custody and

⁹https://blog.ipleaders.in/custodial-deaths/#Universal_Declaration_of_Human_Rights_1948_UDHR

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police custody respectively. According to the annual report released by the rights organization **National Campaign Against Torture (NCAT)**, 1,731 people died while being in custody in India in 2019¹⁰. This works out to five deaths every day.

According to the report, 125 people died while in police custody and 1,606 people died while being held in judicial custody.

93 (74.4%) of the 125 cases involving people in police custody died as a result of suspected torture or intentional murder, while 24 (19.2%) died in mysterious circumstances and rest with some other reasons such as suicide, illness, injuries etc.

ANALYSIS

i. Whether the States and UTs have filed for COB?

In a landmark judgement of *Shahfi Md. vs state of HP*, the S.C. on 3rd April, 2018 laid down guidelines for Government that a Central Oversight Body (COB) be established by the Ministry of Home Affairs to execute the whole procedure of setting up CCTV cameras in police station to ensure protection for prisoners and to strengthen the evidentiary values of witnesses. The reason for setting up such committees was to create an Oversight mechanism in every state & UT whereby that Committee can go through the camera footage and put its inspection in print.

Certain other directions were given to COB which included to identify such areas in Police Station where CCTV cameras need to be setup and to ensure that at least videography of 18 months should remain intact.

After the Petition filed by Paramvir Singh, SC impleaded all the states and UTs to observe the exact place and position of CCTV cameras in each and every Police Station of our Country. Following the orders of S.C., Compliance Affidavits and Action taken reports were recorded only by 14 states (till 24.11.2020) which were West Bengal, Chhattisgarh, Tamil Nadu, Punjab, Nagaland, Karnataka, Tripura, Uttar Pradesh, Assam, Sikkim, Mizoram,

¹⁰ National Campaign Against Torture, <http://www.uncat.org/in-media/in-2019-india-registered-average-five-custodial-deaths-daily-matoob/>

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Madhya Pradesh, Meghalaya, Manipur; and 2 Union Territories, namely, Andaman & Nicobar Islands and Puducherry.

But majority of the records given by the states and UTs failed to convey the position of implementation of CCTV cameras in Police Stations. Even the constitution of Oversight Committees and details of the same was not disclosed. There was no solid evidence of the constitution of those independent bodies in many states. And, the 14 states which did constitute the bodies lacked the technicalities & fine points of the same.

ii. How far has the implementation of CCTV cameras at Police Stations come along?

As far as the implementation of CCTV cameras is concerned, we have a long way to go.

Even the compliance affidavit and action taken report released by the 14 states lacked some other major details apart from the constitution of COB such as¹¹:

- a. total no. of CCTV cameras put up in every Police Station
- b. the functionality of those cameras
- c. whether there was a recording facility or not.
- d. for how long the recordings available was also not mentioned
- e. the positioning of those cameras.

Recently in a case of *Mohammad Arshad Ahmad vs State NCR of Delhi and Ors*¹², it was noted that the audio footage system had not been installed at the Nabi Karim Police Station. The petitioner here prayed before the court to give directions to the SHO to bring the footage both audio and video before the Court. To which it was seen that only the video footage was available of that day and no audio footage was found.

The court had repeatedly pointed out the need of CCTV cameras in Police station is of utmost importance to protect prisoners, witnesses from any serious injury or established death. Such complaints can be made to Human Rights Court and CCTV footage available would make it much easier to get to the unvarnished truth.

¹¹<https://facelesscompliance.com/tag/state-level-oversight-committee-sloc>

¹² W.P.(CRL) 1239/2022 & CRL.M.A. 10599/202

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iii. Whether the State has adhered to Section 161(3) of CrPC?

Interrogation of a possible suspect and confessions play a major role in finding the guilty. But there is no way of saying that if the confession was free-willed or under some kind of intimidation or strong-arm tactic. That's one of the prime reasons why installation of cameras with audio and visual footage was considered a prerequisite in making sure of justice and fair trial. This would also make sure that the statements written by the police officers are being recorded in a separate and true sense. Thereby adhering to Section 161(3) of CrPC, 1973.

There have been many cases recorded where coercion was used by police officers to get fake confessions. The Famous **Central Park Joggers Case**¹³ is one such case happened with Trisha Meili, where she was viciously attacked while jogging in Central Park in New York. When five young males were taken into custody, they all admitted to taking part in the rape and assault of Ms. Meili. The validity of the young men's convictions was questioned when it was revealed that the police had allegedly pressured their confessions and that the DNA evidence did not match the evidence discovered. Previously convicted rapist Matias Reyes confessed to the incident in 2002, and the DNA found matched his. In this instance, the veracity of confessions and the effects of police coercion and force during interrogations were called into doubt.

HOW IS CUSTODIAL DEATH OR TORTURE VIOLATIVE OF ARTICLE 21?

Article 21 of the Indian Constitution was established by the Government of India Act, 1935. It secures two of the major rights that we are given, one of them is Right to live. The Supreme Court in many previous cases has praised and appreciated the job done by the Police Officers in our country but we also can't ignore the fact the increasing number of custodial deaths and brutality. Everyone deserves justice and has access to it. But beating someone to death or causing grievous injury is made punishable under IPC, even if that someone is a criminal or an accused.

¹³https://en.wikipedia.org/wiki/Central_Park_jogger_case

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It has been demonstrated in the case of *Anita Kushwaha v. Pushpa Sadan*¹⁴ that a prisoner, regardless of whether he is convicted, on trial, or in detention, possesses all of his constitutionally protected fundamental rights, including the right to life. Inmates who have been found guilty of a crime and sentenced to prison nevertheless have access to their other fundamental rights; otherwise, the rule of law and the principles of natural justice would be gravely violated.

CONCLUSION

This case became a landmark judgment where the Supreme Court took some major decisions and made some changes which were of paramount importance. It was a step in strengthening the protection of human rights in our country. The court made sure in its judgment that justice should not be denied to anyone of this country. And as Travis Easter quoted *“If officers and citizens are being watched, we are both more liable in doing the right thing.”* The ruling while appreciating the commendable work done by the entrusted officials, also pointed out the dark side to it. The police undoubtedly play a crucial role in ensuring our safety, but it is crucial to recognise that they are also subject to the law and that they may also be held accountable if they infringe it.¹⁵

¹⁴Anita Kushwaha v. Pushpa Sadan (2016) 8 SCC 509

¹⁵Lexforti, <https://lexforti.com/legal-news/custodial-death-in-india/>

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