

Case Comment On

Sunil Batra v. Delhi Administration

Court	Supreme Court of India
Subject	Public Interest Litigation; Article 32
Decided on	30 th August, 1978
Case Number	Writ Petition Nos. 2202 and 565 of 1977
Citation	1978 AIR 1675, 1979 SCR (1) 392
Bench	Krishnaiyer, V.R., Chandrachud, Y.V., Fazal Ali, Syed Murtaza., Shingal, P.N., Desai, D.A
Petitioner	Sunil Batra
Respondent	Delhi Administration & Ors.
Statute	Punjab Prison Manual

Introduction

This case is widely known as a landmark judgment in the legal history which stood for securing the fundamental rights of prisoners. It gave a wake-up call to the judiciary for a need of implementing the reforms which do justification

with the fundamental rights of prisoners. In the case “ **Charles Sobraj v The Superintendent, Central Jail, Tihar, New Delhi** ”, the Honourable Supreme Court Justice “Krishna Aiyer” held that imprisonment does not spell farewell to fundamental rights, However, by a realistic re-appraisal, Courts will refuse to recognize the full armour of Part III(i.e. Fundamental Rights) enjoyed by a free citizen. He also emphasized the fact that imprisonment of a prisoner is not merely deterrence but also rehabilitation.

There are various instances which have come across over for long years where prisoners were made the victim of custodial torture, denial of adequate healthcare services, lack of clean water and hygienic food. Prisoners were being compelled to feel that “it is worth dying than living in prisons”. As per the report released by the “National Crime Record Bureau” stated that 100 cases of custodial deaths were registered in 2017, which represents an increase of 9%^[3] as against 2016.

Background

The petitioner, a convict under a death sentence sent a letter to one of the Judges of this Court complaining about the torture which is being faced by prisoners by the Police authorities and other inmates. The letter stated the concerns for the prisoners well -being and the exercise of brutality on them. At a later stage, the letter was being converted into a “**Writ of Habeas Corpus**” proceeding in front of this Court under Article 32 of the Constitution.

Facts of the case

As and when the letter was received by the Judge, the Court issued notice to the State and concerned officials. It also appointed “Dr.Y.S.Chitale and Sri Mukul Mudgai” as amicus curiae. They were authorized to visit the prison, meet the prisoner, see the relevant document and interview necessary witnesses to enable the Court in forming their opinion.

As per the findings done by the amicus curiae, it was informed to the Court that, Prem Chand, the prisoner, sustained a severe anal injury as a result of

brutal behaviour of jail ward official “Maggar Singh”. Maggar Singh used to ask for money from the relatives of prisoners. On failure, he would treat the prisoners with a severe degree of torture. In the same line, Maggar Singh forces insertion of the rod into the anus of prisoner namely, Prem Chand and as a result of which he suffered from continuous bleeding and pain. He was taken to the jail hospital, but later, on the advice of Dr V. K. Kapoor, he was shifted to the Irwin hospital.

Issues raised

Following issues were raised :

1. Has the Court jurisdiction to consider prisoner’s grievance, not demanding release but, within the incarceration circumstances, complaining of ill-treatment and curtailment short of illegal detention?
2. What are the broad contours of the Fundamental Rights, especially Article 14,19,21 which belong to a detainee sentenced by Court?
3. What judicial remedies can be granted to prevent and punish their breach and to provide access to person justice?
4. What practicable prescriptions bearing on prison practices can be drawn up by the Court consistently with the existing provisions of the Prisons Act, and Rules bent to shape to conform to part III?
5. What prison reform perspectives and strategies should be adopted to strengthen, in the long run, the Constitutional mandates and human rights imperatives?

Relevant provisions

The **Punjab Prison Manual** lays down the duties of District Magistrates regarding the Central States. These are mentioned below :

1. **Para (41)(1)** – It cast a duty on the district magistrate to visit the jail from time to time and ensure that all the provision of Prison Act, 1894 and all rules, regulation and directions are appropriately enforced.

2. **Para (41)(3)** – A record of the result of each visit and inspection made shall be entered in a register to be maintained by Superintendent.
3. **Para (53)** – All visitors shall be given access to the necessary records, cooperation from the jail officials to allow access to all parts of the jail and to every prisoner confined therein.

The Declaration on the Protection of All Persons from Torture and other cruel, Inhuman or Degrading Treatment or Punishment adopted by **U. N. General Assembly (Resolution 3452 of 9 December 1975)** laid down these two Articles, which the Apex Court has referred to :

1. **Article 8** – Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned.
2. **Article 9** – Wherever there is reasonable ground to believe that an act of torture as defined in Article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an Impartial Investigation even if there has been no formal complaint.

Judgment

Under Article 32 and Article 226, the Court has the power to intervene and relieve the prisoners whose fundamental rights are snatched away. Thus, the Court affirms that where the rights of the prisoner either under the Constitution or under other law are violated the writ power of the Court should run to his rescue. The Apex Court held that Prem Chand, the prisoner has been tortured illegally and the Superintendent cannot absolve himself from responsibility even though he may not be directly a party.

Lawyers nominated by the District Magistrate, Session Judge, High Court and Supreme Court will be given all facilities for interviews, visits and confidential communication with prisoners subject to discipline and security considerations. It is also necessary that the Jail Authority should inform the Session Judge of

any punitive action taken against a prisoner within 2 days of such action. A statement by the Session Judge regarding his visits, enquiries made and action taken thereon shall be submitted periodically to the High Court to acquaint it with the condition prevailing in the prisons within the jurisdiction of the High Court. The State shall take early steps to prepare in Hindi, a prisoner's handbook and circulate copies to bring legal awareness among the inmates.

The Honourable Judges also showed their concern for prisoner reform and implementation of necessary provisions to enable the prisoners with the facilities where they can raise their complaints and grievances regarding the infringement of their fundamental rights. Thus, the petition was allowed directing writ to issue including the compliance of all directives as given by the Apex Court.

Held

This case put forward numerous concepts such as:-

1. Interpretation of Article 14, 19 and 21 to be read in a combined manner rather than independently.
2. Jurisdiction of the Court under Article 32 and Article 226 concerning prisoner's right.
3. Recommendations of various guidelines to be followed to keep a check on the well-being of the prisoners.
4. Implied Duty of Superintendent towards the offence committed inside the premises of jail even if he is not directly or indirectly involved.
5. A necessity for bringing the protection law for the prisoners such as adequate medical care, right to complain about the prison condition and access to the Court, right to be treated with dignity and right to an adequate standard of living.