ITEM NO.3 COURT NO.16 SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 20330/2023

[Arising out of impugned final judgment and order dated 12-01-2023 in COCP No. 2132/2022 passed by the High Court of Punjab & Haryana at Chandigarh]

VIJAY PAL YADAV Petitioner(s)

VERSUS

MAMTA SINGH AND ORS. & ORS. Respondent(s)

Date : 26-03-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Ravinder Kumar Yadav, AOR
Mr. Vinay Mohan Sharma, Adv.
Ms. Arti Anupriya, Adv.
Mr. Kartikey, Adv.
Mr. Paras Juneja, Adv.
Mr. Amir Yad, Adv.
Mr. Vineet Yadav, Adv.
Ms. Kritika Yadav, Adv.
Mr. Baljeet Singh, Adv.

For Respondent(s) Mr. Lokesh Sinhal, Sr. A.A.G.
Mr. Akshay Amritanshu, AOR
Mr. Nikunj Gupta, Adv.
Ms. Pragya Upadhyay, Adv.
Ms. Drishti Saraf, Adv.
Ms. Aakanksha, Adv.
Ms. Ishika Gupta, Adv.
Mr. Sarthak Arya, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The basic grievance of the petitioner in the present petition that he was not subjected to due treatment required under law by the police, when they investigated a dispute he had with his neighbour. His contention was that the law, as settled in *Arnesh*

Kumar Vs. State of Bihar & Another, **(2014) 8 SCC 73 regarding arrest, has been totally flouted. The further contention was that the high-handedness of the police was such that the petitioner was subjected to physical abuse, both at the spot as well as later in the Police Station.**

2. In support of such argument, learned counsel for the petitioner has drawn the attention of this Court to the e-mail sent by his brother at 11:24 AM on the same day as also to the concerned Superintendent of Police, where it is alleged that the police had arrested his brother. Learned counsel further reiterated that there was physical abuse at the Police Station, only because an e-mail was sent to the higher officials, as a knee jerk reaction, a First Information Report was lodged against him two hours later at 01:30PM, at which time the petitioner is said to have been taken into custody.

3. Pursuant to the last Order dated 12.02.2025, the Director General of Police, Haryana, is present.

4. Compliance affidavit has been filed by the State, in which factual aspects have been explained.

5. Having heard learned counsel for the parties and having perused the materials placed on record, we find that there appears to be evident high-handedness on the part of the police in this case. Even if a person may be a 'criminal', the law requires that he be treated in accordance therewith. Even a 'criminal', under the law of our land, enjoys certain safeguards in order to ensure protection of his person and dignity. In this case, the petitioner, when picked up by the police, was at best an accused. It is

possible to state that a common man can be expected to exceed his limits (whereafter appropriate action in law shall ensue), but not the police.

6. Be that as it may, since already much water has flown and there is a proper police case, of which the concerned Court is *in seisin*, we consider it appropriate to close the present proceedings. Dependent on the outcome of the police case, parties shall have legal remedies as available in law.

7. However, the concerned police officers are cautioned and warned to be careful in future. The Director General is also directed to ensure that such type of occurrences do not recur and there should be zero-tolerance on behalf of the senior officer(s) with regard to any alleged transgression of authority by any subordinate officer(s). The police is a very vital part of the State apparatus and has a direct bearing on the safety and security of the society at large and individuals in particular. The need, therefore, for maintaining the confidence of individuals and society-at-large in the police is paramount.

8. Learned counsel for the State of Haryana has also shown us the checklist under Section 41(1)(b) (ii) of the Code of Criminal Procedure, 1973. Perusal of the same *prima facie* does not inspire confidence. Rather, it appears that only as a formality, the same has been submitted.

9. We express our strong reservations with regard to filling-up of the checklist in a mechanical manner. Further, we caution and order that *in futuro,* such acts should not recur.

10. Needless to say, even the learned Judicial Magistrate

concerned, before whom the checklist is submitted, would also be under an obligation to carefully apply his mind and not, as a matter of routine, accept such checklist.

11. We are confident that the Director General of Police has been appropriately sensitized and expect that transgressions of the nature alleged herein would not happen again. Failing which, as and when the same is brought to our notice, a very strict view shall be taken, and coercive measures shall also follow against the errant personnel.

12. The personal appearance of Director General of Police, Haryana, is dispensed with.

13. With the above observations, the present Special Leave Petition stands disposed of.

14. Any pending application(s) also stand disposed of.

15. Before parting, we reproduce certain observations from *Somnath vs. State of Maharashtra,* 2023 SCC OnLine SC 338:-

> ***'24. It is sad that even today, this Court is forced to restate the principles and directions in D K Basu (supra). Before D K Basu (supra), this Court had expressed its concern as to how best to safeguard the dignity of the individual and balance the same with interests of the State or investigative agency in Prem Shankar Shukla v Delhi Administration, (1980) 3 SCC 526. In Bhim Singh, MLA v State of Jammu and Kashmir, (1985) 4 SCC 677, this Court noted that police officers are to exhibit greatest regard for personal liberty of citizens and restated the sentiment in Sunil Gupta v State of Madhya Pradesh, (1990) 3 SCC 119. The scenario in Delhi Judicial Service Association v State of Gujarat, (1991) 4 SCC 406 prompted this Court to come down heavily on excess use of force by the police. As such, there will be a general direction to the police forces in all States and Union Territories as also all agencies endowed with the power of arrest and custody to***

scrupulously adhere to all Constitutional and statutory safeguards and the additional guidelines laid down by this Court when a person is arrested by them and/or remanded to their custody.'

(emphasis supplied)

16. Registry shall mark a copy of this Order and the Judgment in *Somnath (supra)* to the Directors General of Police of all the States and Union Territories, including the Commissioner of Police for the National Capital Territory of Delhi, as a reminder to strictly adhere to all safeguards available to persons under custody.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(ANJALI PANWAR)
COURT MASTER (NSH)