



RESEARCH QUESTION

"How can a citizen in India complain against police misconduct, harassment, or abuse of power, what are Police Complaints Authorities and the Prakash Singh directions, and what remedies exist through human rights commissions and courts?"

Remedies and Accountability Mechanisms Against Police Misconduct and Abuse of Power in India

TL;DR

Citizens in India can address police misconduct by filing complaints before independent Police Complaints Authorities (PCAs) established under the mandatory *Prakash Singh* directives, as enforced in *H.C. Arora v. Union of India* (2015), or by pursuing judicial remedies like ordering investigations under Section 156(3) of the Code of Criminal Procedure (CrPC). Additionally, victims of police harassment during investigations can seek protective guidelines under Section 482 of the CrPC, while established custodial torture and violations of personal liberty give rise to public law remedies, including financial compensation under Article 21 of the Constitution.

VERIFIED CASES	STATUTES	LATEST RULING
24	5	2025
17 High Courts · 7 SC		Bombay High Court

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Establishment of Police Complaints Authorities (PCAs)

Under the landmark *Prakash Singh* directives, PCAs must be established at the State and District levels to act as independent oversight bodies to investigate police misconduct (*Menino Santana Fernandes v. State of Goa* (2025)).

02 Mandatory Nature and Judicial Composition of PCAs

The directions for setting up PCAs and their judicial-member leadership are strictly mandatory, meaning executive attempts to appoint civil servants as chairpersons are ultra vires (*Arun Kumar Bhadoria v. State of Uttarakhand* (2018)).

03 Binding Power and Remedial Scope of PCAs

The recommendations of a PCA for departmental or criminal action against delinquent police officers are legally binding on the state authorities (*Petitioner v. Respondent* (2017)).

04 Jurisdictional Boundaries of PCAs

PCAs are limited to inquiring into official police misconduct (such as death, rape, or grievous hurt in custody) and cannot issue directions for registering FIRs or supervising private civil/criminal disputes, which remain under the exclusive domain of the judiciary (*S. Ramesh v. The Chairman, Police Complaints Authority* (2019)).

05 Magisterial Power to Order Investigation

Where police authorities fail or refuse to register a complaint of a cognizable offense, a citizen can petition a Magistrate under Section 156(3) CrPC to compel registration and investigation of an FIR (*Mohd. Yousuf v. Afaq Jahan* (2006)).

06 Compensation for Fundamental Rights Violations

Custodial torture and violence constitute a direct violation of the right to life and dignity under Article 21, entitling victims to seek public law compensation from courts (*S. Anand v. State of Tamil Nadu* (2012)).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT POSITION

The Supreme Court has clarified that Magistrates must judiciously exercise their Section 156(3) discretion to direct police investigations, particularly when crucial evidence is not in the complainant's control (*XYZ v. State of Madhya Pradesh & Ors* (2022)), and has affirmed that government sanction under Section 197 CrPC is mandatory before taking cognizance of alleged excesses committed in the discharge of official duties (*D. T. Virupakshappa v. C. Subash* (2015)).

HIGH COURT VARIATIONS

High Courts routinely issue comprehensive guidelines under Section 482 CrPC to restrain police harassment under the guise of inquiries, mandating written summons under Section 160 CrPC and recording of minutes in the station diary (*M. Babu v. The Inspector of Police* (2020)), and have directed citizens to exhaust statutory state PCA remedies before filing writ petitions (*Nishad v. Circle Inspector of Police* (2016)).

RECENT EVOLUTION

Recent rulings demonstrate that High Courts will actively monitor state compliance with PCA setup timelines, formulating SOPs for PCA complaints (*Suman Meena v. State of Rajasthan* (2024)).

UNSETTLED AREAS OR CAVEATS

Delay in Proving Custodial Nature

In claims seeking public law compensation, courts may defer awarding damages if the underlying facts regarding whether the injury or death occurred in custody are still disputed and under trial (*Dalbir Singh v. State of U.P. and Ors.* (2009)).

Counter-blast Complaints

Private complaints filed against police officers or as a reaction to police cases are scrutinized strictly to ensure they are not malicious "counter-blasts" (*Sanjeet Kumar v. State of Bihar & Anr.* (2009)), requiring magistrates to thoroughly verify the records before staying proceedings (*Dilawar Singh v. State of Delhi* (2007)).

II. Statutory Provisions 5 PROVISIONS

SECTION 12, TAMIL NADU POLICE (REFORM) ACT, 2013 — FUNCTIONS OF STATE POLICE COMPLAINTS AUTHORITY

This provision outlines the functions of the State Police Complaints Authority, empowering it to inquire into allegations of serious misconduct—specifically death in custody, rape, or grievous hurt—against senior police officers.

"12. Functions of State Police Complaints Authority. — (1) The State Police Complaints Authority shall inquire into allegations of "serious misconduct" against the Police Personnel in the supervisory ranks, on a complaint received from a victim in the form of a sworn affidavit duly attested by a notary public: Provided that in case of death in Police custody, the complaint can be received from the legal heirs or close relatives of the victim: Provided further that the State Police Complaints Authority shall entertain the complaint, only on prima facie satisfaction about the veracity of the complaint: Provided also that no anonymous or pseudonymous complaints shall be entertained: Provided also that the State Police Complaints Authority shall not entertain complaints of serious misconduct which are the subject matter of any judicial proceedings or inquiry under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952) or the Protection of Human Rights Act, 1993 (Central Act 10 of 1994) or the Police Standing Orders. Explanation. —For the purpose of this Chapter, "serious misconduct" means any act or omission of a Police Officer that leads to or amounts to - (a) death in Police custody; (b) rape; (c) grievous hurt in Police custody." *Cited in: —*

SECTION 59, HARYANA POLICE ACT, 2007 — STATE POLICE COMPLAINT AUTHORITY

This provision mandates the establishment of a State Police Complaint Authority, consisting of a retired judge, a retired civil servant, or an experienced criminal lawyer, to inquire into and investigate complaints against police officers.

"59. The State Government shall, within three months of the commencement of this Act, establish at the State Level, a Police Complaint Authority, which shall be either a retired Judge or a retired civil servant, not below the rank of Secretary to the State or a lawyer well versed with criminal law and with an experience of at least twenty years in the relevant field, for inquiries and investigations into the complaints against the police officers and officials of the State." *Cited in: —*

SECTION 20C, KARNATAKA POLICE ACT, 1963 — DISTRICT POLICE COMPLAINTS AUTHORITY

This provision outlines the powers of the District Police Complaints Authority to look into complaints of serious misconduct, death, rape, or grievous hurt in custody, and other abuses of power against police officers of and below the rank of Deputy Superintendent of Police.

"(7) The District Police Complaints Authority shall look into complaints against police officers of and below the rank of Deputy Superintendent of Police and take cognizance of allegations of serious misconduct by the police officers, which would include incidents involving death, grievous hurt or rape in police custody. (8) The District Police Complaints Authority shall, - (a) have the power to enquire into misconduct or abuse of power by or against police officers of and below the rank of Deputy Superintendent of Police after giving an opportunity of being heard to him. The Authority shall have the power to investigate any case itself or ask any other agency to investigate and submit a report. The District Police Complaints Authorities shall submit its report to the competent disciplinary authority for appropriate action against the accused officers;" *Cited in: —*

SECTION 12, PROTECTION OF HUMAN RIGHTS ACT, 1993 — FUNCTIONS OF THE COMMISSION

This provision empowers the Human Rights Commission to inquire into violations of human rights, or negligence in the prevention of such violations, by a public servant either suo motu or upon receiving a petition.

"12. Functions of the Commission — The Commission shall perform all or any of the following functions, namely:- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf (or on a direction or order of any court) into complaint of (i) violation of human rights or abetment thereof; or (ii) negligence in the prevention of such violation, by a public servant;" *Cited in: —*

SECTION 13, PROTECTION OF HUMAN RIGHTS ACT, 1993 — POWERS RELATING TO INQUIRIES

This provision details the powers of the Human Rights Commission when conducting inquiries, giving it the powers of a civil court, including summoning witnesses, discovering documents, and receiving evidence on affidavits.

"13. Powers relating to inquiries. —(1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and in particular in respect of the following matters, namely: — (a) summoning and enforcing the attendance of witnesses and examining them on oath; (b) discovery and production of any document; (c) receiving evidence on affidavits; (d) requisitioning any public record or copy thereof from any court or office; (e) issuing commissions for the examination of witnesses or documents; (f) any other matter which may be prescribed." *Cited in:* —

III.

Cases Discussed

24 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Menino Santana Fernandes v. State of Goa</i> HCBM050022162025	BOMBAY HIGH COURT	2025	Restricts SPCA jurisdiction to serious misconduct like death, grievous hurt, or rape in custody.
02	<i>Suman Meena v. State of Rajasthan</i> RJHC020328332024	HIGH COURT OF RAJASTHAN	2024	Mandates the setup of PCAs and establishes SOPs for complaints against police.
03	<i>S. Ramesh v. The Chairman, Police Complaints Authority</i> HCMA011247212019	MADRAS HIGH COURT	2019	Declares PCA lacks power to register FIRs or direct/supervise private criminal investigations.
04	<i>Arun Kumar Bhadoria v. State of Uttarakhand</i> UKHC010139052017	HIGH COURT OF UTTARAKHAND	2018	Outlines the setup and structure of State and District Police Complaints Authorities.
05	<i>Petitioner v. Respondent</i> HBHC010443202017	HIGH COURT FOR STATE OF TELANGANA	2017	Confirms citizens can seek injunctions and civil damages against police officers for office abuse.
06	<i>Dilawar Singh v. State of Delhi</i> ESCR010012862007	SUPREME COURT OF INDIA	2007	Dictates procedures for delayed complaints and magistrate’s recourse under Section 154(3)/ 156(3).
07	<i>H.C. Arora v. Union of India</i> PHHC010936892014	HIGH COURT OF PUNJAB AND HARYANA	2015	Rules that PCA establishment and judicial-panel appointment of chairpersons are strictly mandatory.
08	<i>Saravanan Dakshinamurthy v. State of Tamil Nadu</i> HCMA011095382014	MADRAS HIGH COURT	2022	Defers to Supreme Court monitoring on constitutional challenges to state-level PCA compositions.
09	<i>Sanjeet Kumar v. State of Bihar & Anr.</i> ESCR010009702009	SUPREME COURT OF INDIA	2009	Prevents automatic quashing of complaints against police merely based on chronological filing sequence.
10	<i>Dalbir Singh v. State of U.P. and Ors.</i> ESCR010005692009	SUPREME COURT OF INDIA	2009	Rules that custodial torture violates Article 21, but defers compensation until custody is proven.
11	<i>Mohd. Yousuf v. Afaq Jahan</i> ESCR010000192006	SUPREME COURT OF INDIA	2006	Affirms magisterial power to direct FIR registration and investigation under Section 156(3) CrPC.
12	<i>Mohmed Juned Shamsuddin Saiyed v. K. C. Kapoor</i> GJHC240439612006	HIGH COURT OF GUJARAT	2006	Evaluates contempt of court claims for alleged violations of D.K. Basu custodial guidelines.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
13	<i>M. Babu v. The Inspector of Police</i> HCMA010878982020	MADRAS HIGH COURT	2020	Sets strict guidelines requiring Section 160 CrPC written summons to prevent police harassment.
14	<i>Vishnu Kumar Tiwari v. State of Uttar Pradesh</i> ESCR010009382019	SUPREME COURT OF INDIA	2019	Details courses available to a Magistrate upon receiving a complaint or final report.
15	<i>Mohammed Sikkandar Ahamed Saleem v. State of Tamil Nadu</i> HCMA010369842022	MADRAS HIGH COURT	2022	Details procedural guidelines like serving written summons and diary entries to curb harassment.
16	<i>D. Kasthuri v. Inspector of Police</i> HCMA011615352019	MADRAS HIGH COURT	2019	Mandates written summons and general diary logging of enquiry minutes during police investigations.
17	<i>Nishad v. Circle Inspector of Police</i> KLHC010865962016	HIGH COURT OF KERALA	2016	Requires aggrieved citizens to approach state PCAs for harassment instead of filing writ petitions.
18	<i>R. Selvakumar v. State of Tamil Nadu</i> HCMA010372592022	MADRAS HIGH COURT	2022	Reboots mandatory guidelines on summonses and station diary minutes to prevent police harassment.
19	<i>Pandiarajan v. The State</i> HCMD010580042021	MADRAS HIGH COURT	2022	Directs police to serve detailed written summons and record minutes to avoid harassment.
20	<i>Xyz v. State of Madhya Pradesh & Ors</i> ESCR010009372022	SUPREME COURT OF INDIA	2022	Requires magistrates to order investigation under Section 156(3) when evidence is not with complainant.
21	<i>A.K. Saravanan v. Assistant Commissioner of Police</i> HCMA010318722023	MADRAS HIGH COURT	2023	Reiterates written summons and station diary entry guidelines to protect citizens during inquiries.
22	<i>S.P. Jayanthi v. Inspector of Police</i> HCMA010193662023	MADRAS HIGH COURT	2023	Imposes strict Section 160 CrPC summons and diary logging guidelines in matrimonial/property disputes.
23	<i>D. T. Virupakshappa v. C. Subash</i> ESCR010005212015	SUPREME COURT OF INDIA	2015	Holds that previous government sanction under Section 197 CrPC is mandatory for police excess prosecutions.
24	<i>S. Anand v. State of Tamil Nadu</i> HCMA012147172003	MADRAS HIGH COURT	2012	Affirms public law remedy of compensation for Article 21 violations including custodial torture.

IV. Case Details

24 CASE FILES

01 Menino Santana Fernandes v. State of Goa

BOMBAY HIGH COURT • 2025-08-25 • WPCR/57/2025

The petitioner challenged an order by the State Police Complaints Authority (SPCA) that rejected his application to produce CCTV footage as evidence. The court examined the scope of the SPCA's jurisdiction, which is limited to investigating serious police misconduct such as death, grievous hurt, or custodial rape, as per the Supreme Court's directives in *Prakash Singh v. Union of India*. The High Court found that the petitioner's underlying complaints did not fall within the SPCA's mandate, as they were matters more appropriate for a Magistrate under the Code of Criminal Procedure. The court dismissed the writ petition and directed the SPCA to decide on its own jurisdiction over the pending complaint.

HELD The Bombay High Court held that the SPCA's jurisdiction is strictly bounded by the *Prakash Singh* guidelines, which restrict its focus to serious misconduct such as death, rape, or grievous hurt in custody. Since the petitioner's complaint did not involve these categories and was already subject to an registered FIR, the SPCA could not proceed to investigate the matter.

"The recommendations of the Complaints Authority, both at the district and State levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the authority concerned."

BOMBAY HIGH COURT • 2025

SOURCE HCBM050022162025

02 Suman Meena v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2024-08-02 • CRLW/792/2024

This case involved the implementation of protective measures and accountability mechanisms for individuals facing threats to their life and liberty. The court previously established a detailed procedure and flowchart for individuals to seek police protection, emphasizing the need for a 'Police Complaints Authority' as mandated by the Supreme Court in the *Prakash Singh* case. The court directed the State of Rajasthan to formalize these processes via a Standard Operating Procedure. In this subsequent proceeding, the court monitored the State's compliance, noting the creation of an SOP while addressing ongoing concerns regarding the proper constitution of the Police Complaints Authority to ensure effective grievance redressal for citizens.

HELD The Rajasthan High Court directed the State Government to establish the Police Complaints Authorities at both state and district levels in compliance with the *Prakash Singh* directions. The Court established a detailed procedural flowchart, allowing aggrieved applicants to complain to the PCA against police officers who fail to protect life and liberty, and ultimately invoke Article 226 if the PCA fails to act.

“In this regard, this Court directs the State Government to take the requisite steps for the appointment and constitution of the ‘Police Complaints Authority’ at the state and district levels in the state of Rajasthan, in compliance with the directions of the Hon’ble Supreme Court in the judgment in Prakash Singh (Supra)...”

HIGH COURT OF RAJASTHAN • 2024

SOURCE RJHC020328332024

03 S. Ramesh v. The Chairman, Police Complaints Authority

MADRAS HIGH COURT • 2019-07-30 • WP/21587/2019

The petitioner sought a writ of mandamus to enforce an order from the Police Complaints Authority (PCA), which had directed the police to conduct a fresh investigation into the petitioner's land-grabbing complaint. The respondent argued that the PCA exceeded its jurisdiction by issuing investigative directions in disputes between private parties, noting that its mandate under the Supreme Court's 'Prakash Singh' judgment is limited to inquiring into police misconduct.

HELD The Madras High Court ruled that the Police Complaints Authority cannot act as an alternative to the judiciary or issue directions for registering FIRs and supervising investigations in private disputes. The PCA's authority is limited to recommending departmental or criminal action against delinquent police officers.

“The recommendations of the Complaints Authority, both at the district and State levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the concerned authority”

MADRAS HIGH COURT • 2019

SOURCE HCMA011247212019

04 Arun Kumar Bhadoria v. State of Uttarakhand

HIGH COURT OF UTTARAKHAND • 2018-05-15 • WPPIL/48/2017

This petition was filed in the public interest seeking to improve the service conditions of police personnel in the state of Uttarakhand. The petitioner argued that police officers often work under grueling conditions and that their working environment should be more humane. The court reviewed the existing legal framework under the Uttarakhand Police Act, 2007, and considered broader issues including staff vacancies, housing, training, and promotion opportunities as highlighted in various committee reports. While the state noted existing provisions for leave and extra salary, the court emphasized the necessity of a professional, efficient, and accountable police force, stressing the need for better welfare mechanisms and operational support to ensure effective rule of law.

HELD The Uttarakhand High Court reviewed international frameworks and emphasized the necessity of establishing separate State and District Police Complaints Authorities. The Court detailed that the SPCA, headed by a retired High Court Judge, must focus on serious misconduct by high-ranking officers, while the District PCA should address other public grievances like non-registration of complaints and general high-handedness.

“A State Police Complaints Authority (SPCA) should be constituted to look into cases of serious misconduct by the police. It should also look into complaints against officers of the rank of Superintendent of Police and above. The State Police Complaints Authority should have a retired High Court Judge as Chairman.”

HIGH COURT OF UTTARAKHAND • 2018

SOURCE UKHC010139052017

05 Petitioner v. Respondent

HIGH COURT FOR STATE OF TELANGANA • 2017-08-21 • WP/27643/2017

The petitioner filed a writ petition alleging that police authorities were interfering in a civil property dispute at the behest of private respondents. The petitioner claimed the police were summoning him to the station to pressure him into abandoning his land cultivation rights. The court noted that it is frequently flooded with similar petitions involving police overreach in civil matters. Relying on the principles laid down in *Prakash Singh v. Union of India*, the court reiterated the need for state-level security commissions and police complaints authorities. Following its own recent precedent regarding police accountability, the court disposed of the petition while emphasizing that the petitioner is entitled to pursue civil remedies and damages against specific officials for abuse of office.

HELD The High Court of Telangana held that since the State had delayed establishing the State Security Commission and the Police Complaints Authority, the Superintendent of Police must initiate disciplinary action against delinquent officers. Furthermore, the court clarified that aggrieved citizens are fully entitled to initiate civil actions to seek injunctive relief and damages against individual police officers who abuse their office.

“He also can seek damages against the individual, who is officiating as the 5th respondent. Once the civil action is initiated against the individual, he is required to approach the Civil Court and defend himself and justify why the damages should not be awarded against him.”

HIGH COURT FOR STATE OF TELANGANA • 2017

SOURCE HBHC010443202017

06 Dilawar Singh v. State of Delhi

SUPREME COURT OF INDIA • 2007-09-05 • 2007 INSC 893

The appellant was convicted for robbery and house trespass based solely on the testimony of the temple priest, whose complaint was filed with a significant delay of over twenty days. The prosecution failed to provide

evidence or official records to substantiate claims that a prior report was made to the police, rendering the delay unexplained and the prosecution case suspicious. Furthermore, the court noted that the conviction under Section 397 of the Indian Penal Code was improper because no injury was inflicted on the victim, and the evidence regarding the weapons used was inconsistent. Finding the complainant's version unreliable and the procedural requirements unmet, the Supreme Court allowed the appeal and set aside the conviction.

HELD The Supreme Court held that when information is given at a police station and is ignored, the citizen must recourse to Section 154(3) CrPC, and if that fails, they can file a complaint before a Magistrate. The Magistrate has mandatory powers under Section 210 CrPC to stay private complaint proceedings and call for a report from the police if a parallel police investigation is pending.

“When information is given at the police station, normally two courses are open. A station diary entry can be made or the FIR registered. In case there is any deviation, recourse to Section 154(3) has to be made. If that does not yield any result a complaint can be filed.”

SUPREME COURT OF INDIA • 2007

SOURCE ESCR010012862007

07 H.C. Arora v. Union of India

HIGH COURT OF PUNJAB AND HARYANA • 2015-08-20 • CWP/508/2014

The petitioners challenged the constitution of the Police Complaints Authority in the Union Territory of Chandigarh. Specifically, they contested the inclusion of retired civil service officers as chairpersons and the process of appointment, arguing these violated mandatory guidelines established by the Supreme Court of India in the landmark case of *Prakash Singh v. Union of India*. The High Court rejected the respondents' argument that the Supreme Court's directions were merely directory, clarifying that they are mandatory. The Court ruled that the inclusion of civil service officers and the departure from the judicial panel appointment process in the government's circular were contrary to the Supreme Court's directives regarding the composition and independence of police oversight bodies.

HELD The Punjab and Haryana High Court held that the Supreme Court's directions in *Prakash Singh* regarding the constitution of the Police Complaints Authority are mandatory. Executive circulars that allow civil service officers to head these bodies or deviate from the judicial panel selection process are legally invalid.

“The district level Authority may be headed by a retired District Judge while the State level Authority may be headed by a retired Judge of the High Court/Supreme Court. The head of the State level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice...”

HIGH COURT OF PUNJAB AND HARYANA • 2015

SOURCE PHHC010936892014

08 Saravanan Dakshinamurthy v. State of Tamil Nadu

MADRAS HIGH COURT • 2022-06-24 • WP/22532/2014

Petitioners challenged the constitutionality of several provisions of the Tamil Nadu Police (Reforms) Act, 2013, arguing that the structure of the State and District Police Complaints Authorities violated the directives issued by the Supreme Court of India in the *Prakash Singh* case. The petitioners contended that the State failed to appoint the required judicial members to these authorities.

HELD The Madras High Court declined to strike down the Tamil Nadu Police (Reforms) Act, 2013 on its own, noting that the Supreme Court is actively monitoring compliance with the *Prakash Singh* guidelines. The Court dismissed the writ petitions but granted liberty to the petitioners to raise their grievances regarding the PCA's composition directly before the Supreme Court.

“As per the judgment of the Supreme Court in the case of *Prakash Singh*, supra, the Chair Person of the State Police Complaint Authority is to be a retired Judge of the High Court, but ignoring the aforesaid, the Home Secretary has been made the Chair Person.”

MADRAS HIGH COURT • 2022

SOURCE HCMA011095382014

09 Sanjeet Kumar v. State of Bihar & Anr.

SUPREME COURT OF INDIA • 2009-04-27 • 2009 INSC 621

This case involved a dispute where the respondent filed a police complaint, followed by the appellant filing a private complaint. The respondent moved to quash the appellant's complaint under Section 482 of the Code of Criminal Procedure, alleging it was a malicious 'counter-blast'. The High Court allowed the petition, concluding that the timing of the complaint alone proved an ulterior motive. The Supreme Court set aside this order, holding that the High Court failed to properly apply the legal parameters for exercising its inherent powers under Section 482. It clarified that determining motive based solely on the sequence of filings is improper and remanded the matter to the High Court for fresh consideration.

HELD The Supreme Court ruled that a High Court cannot abruptly quash a private complaint under Section 482 CrPC merely because it was filed after a police case was instituted. The court must carefully apply the established legal guidelines on quashing to determine if there is an abuse of process or if the allegations *prima facie* constitute an offense.

“We find that the High Court has only referred to the respective stand of the parties and has come to an abrupt conclusion that since the complaint case was filed after filing of the police case by the present respondent no.2, it was filed with ulterior and oblique motive.”

SUPREME COURT OF INDIA • 2009

SOURCE ESCR010009702009

10 Dalbir Singh v. State of U.P. and Ors.

SUPREME COURT OF INDIA • 2009-02-03 • 2009 INSC 98

The petitioner filed this writ petition alleging that his son died due to police torture while in custody and that police officials attempted to cover up the incident as a suicide. The respondent-State informed the court that an

FIR had been registered, a charge sheet filed, and cognizance taken against the implicated officials for offenses under the Indian Penal Code. The Supreme Court observed that custodial violence is a serious threat to the rule of law and human rights, necessitating a sensitive judicial approach. Given that the criminal process had already been initiated and the charge sheet filed, the court held that no further directions were necessary at this stage. It further ruled that the claim for compensation could not be adjudicated until the underlying issue of whether the death was custodial is legally determined.

HELD The Supreme Court held that custodial torture and violence by the state's own law enforcement officers constitute a severe violation of the constitutional right to life and dignity under Article 21. However, the Court ruled that public law compensation cannot be awarded at an early stage when the factual question of whether the death was custodial remains to be determined in trial.

"Article 21 of the Constitution of India, 1950 mandates that no person shall be deprived of his life and personal liberty except according to the procedure established by law. This sacred and cherished right i.e. personal liberty has an important role to play in the life of every citizen. Life or personal liberty includes a right to live with human dignity."

SUPREME COURT OF INDIA • 2009

SOURCE ESCR010005692009

11 Mohd. Yousuf v. Afaq Jahan

SUPREME COURT OF INDIA • 2006-01-02 • 2006 INSC 1

The appellant filed a complaint before a Chief Judicial Magistrate, who directed the police to register an FIR and investigate the matter under Section 156(3) of the Code of Criminal Procedure. The High Court later quashed the proceedings on the grounds that the Magistrate lacked the authority to order the registration of an FIR. The Supreme Court set aside the High Court's decision, ruling that a Judicial Magistrate has the power to direct the police to register an FIR and conduct an investigation into a cognizable offence before taking formal cognizance of the case. This investigation is distinct from the limited inquiry conducted under Section 202 after taking cognizance.

HELD The Supreme Court clarified that a Judicial Magistrate has the power under Section 156(3) CrPC to direct the police to register an FIR and conduct an investigation prior to taking formal cognizance of an offence. Upon receiving such a direction, the officer-in-charge of the police station is legally bound to register the FIR and proceed with the investigation.

"Any Judicial Magistrate, before taking cognizance of the offence, can order investigation under Section 156(3) of the Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation it is open to the Magistrate to direct the police to register an FIR."

SUPREME COURT OF INDIA • 2006

SOURCE ESCR010000192006

12 Mohmed Juned Shamsuddin Saiyed v. K. C. Kapoor

HIGH COURT OF GUJARAT • 2006-01-31 • CR.MA/472/2006

This case involved multiple applications seeking the initiation of contempt proceedings against police officials for alleged custodial violence and non-compliance with the guidelines laid down by the Supreme Court in the D.K. Basu case. The applicants, who had been in police custody, contended that they were subjected to torture and that medical officers failed to document injuries, thereby violating judicial directives.

HELD The Gujarat High Court emphasized that the Supreme Court's directives in *Prakash Singh* and *D.K. Basu* are critical safeguards designed to prevent custodial violence and protect human dignity. However, the High Court declined to initiate contempt proceedings where the allegations of police torture were highly controversial and contradicted by medical evidence.

“This shows that different avenues are suggested by the Hon’ble Supreme Court from time to time to prevent custodial violence and to safe-guard human dignity, basic values and fundamental rights of arrestees, detenus.”

HIGH COURT OF GUJARAT • 2006

SOURCE GJHC240439612006

13 M. Babu v. The Inspector of Police

MADRAS HIGH COURT • 2020-09-23 • CRL OP/14869/2020

The petitioners filed a petition under Section 482 of the Code of Criminal Procedure alleging police harassment during an ongoing inquiry. They requested the court to direct the police to refrain from such actions. The court acknowledged the police's authority to conduct investigations but reiterated that this power must be exercised within the legal framework without infringing on individual rights. While refusing to interfere directly with the ongoing investigation, the court issued mandatory guidelines for police conduct during inquiries. These guidelines require the use of formal written summons, the maintenance of detailed station diaries, and strict adherence to Supreme Court directives regarding preliminary inquiries, ensuring that investigations remain lawful and transparent.

HELD The Madras High Court issued mandatory guidelines to protect citizens from police harassment during inquiries, requiring police officers to issue written summons under Section 160 CrPC and record the minutes of any enquiry in the daily station diary. The police must also strictly adhere to the Supreme Court's guidelines in *Lalita Kumari* regarding preliminary enquiries.

“While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.”

MADRAS HIGH COURT • 2020

SOURCE HCMA010878982020

14 Vishnu Kumar Tiwari v. State of Uttar Pradesh

SUPREME COURT OF INDIA • 2019-07-09 • 2019 INSC 742

This case concerns the procedural treatment of a protest petition filed by a complainant against a police final report exonerating accused persons. The Supreme Court clarified that while a Magistrate is required to consider the protest petition before accepting a final report, they are not compelled to treat every protest petition as a formal criminal complaint. If a protest petition does not meet the legal requirements of a complaint, the Magistrate is not obligated to conduct an inquiry under the Code of Criminal Procedure unless they choose to proceed on that basis. The Court set aside the High Court's order, noting that the Magistrate had correctly applied their mind to the existing materials and the protest petition before deciding to accept the final report.

HELD The Supreme Court held that upon receiving a police report, a Magistrate has multiple courses open, including taking cognizance on the basis of the original complaint under Section 200 CrPC, ordering a further investigation, or straightaway issuing process. The filing of a final police report does not erase the original complaint or bar the Magistrate from proceeding to record statements on oath.

“The mere fact that he had earlier ordered an investigation under Section 156 (3) and received a report under Section 173 will not have the effect of total effacement of the complaint and therefore the Magistrate will not be barred from proceeding under Sections 200, 203 and 204.”

SUPREME COURT OF INDIA • 2019

SOURCE ESCR010009382019

15 Mohammed Sikkandar Ahamed Saleem v. State of Tamil Nadu

MADRAS HIGH COURT • 2022-03-21 • CRL OP/6221/2022

The petitioners filed a petition under Section 482 of the Criminal Procedure Code alleging police harassment during an ongoing enquiry regarding a complaint. While acknowledging that the court should not generally interfere with legitimate police investigations, it emphasized that police must not engage in harassment under the guise of an enquiry.

HELD The Madras High Court reiterated that while it will not interfere with legitimate investigations, it will issue strict directives to prevent police harassment under the guise of an enquiry. Officers are mandated to serve written summons specifying the CSR number, date of the complaint, and the name of the complainant, and must log all inquiry minutes in the station diary.

“The respondents police are directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant.”

MADRAS HIGH COURT • 2022

SOURCE HCMA010369842022

16 D. Kasthuri v. Inspector of Police

MADRAS HIGH COURT • 2019-11-14 • CRL OP/30549/2019

The petitioner filed a petition under Section 482 of the Code of Criminal Procedure seeking to restrain the respondent police from harassing her during the course of an investigation. The court noted that while police possess the inherent power to conduct investigations, they must not engage in harassment under the guise of

an enquiry. To prevent such abuse, the court issued mandatory guidelines, including the requirement to issue formal written summons under Section 160 Cr.P.C. and to record the minutes of any enquiry in the station diary. The petition was allowed with instructions to strictly adhere to these procedural safeguards and the principles established in the Supreme Court's ruling in Lalita Kumari.

HELD The Madras High Court allowed the petition alleging police harassment and established mandatory procedural safeguards. It ruled that police officers must issue formal written summons under Section 160 CrPC to any person called for an enquiry, record the minutes of the investigation in the daily station diary, and refrain from any form of harassment.

“While summoning any persons named in the complaint or any witness to the incident complained of, the police officer shall summon such persons through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.”

MADRAS HIGH COURT • 2019

SOURCE HCMA011615352019

17 Nishad v. Circle Inspector of Police

HIGH COURT OF KERALA • 2016-12-16 • WP(C)/39172/2016

The petitioner filed a writ petition alleging police harassment instigated by private respondents over a financial dispute. The petitioner contended that the underlying issue was purely civil in nature and did not warrant criminal investigation. The court declined to intervene, noting that it is not the role of the writ court to determine if an offense has occurred. It emphasized that police action must follow the Code of Criminal Procedure and that parties claiming harassment should utilize the established hierarchy, such as the Police Complaints Authority under the Kerala Police Act, rather than filing writ petitions for perceived harassment.

HELD The Kerala High Court held that writ petitions should not be filed routinely for perceived police harassment, as citizens have an adequate alternative remedy. The court directed that if a citizen has a genuine complaint about police harassment at the lower ranks, the appropriate recourse is to approach the Police Complaints Authority under the hierarchy prescribed by the Kerala Police Act.

“The writ petition is, therefore, ordered, also clarifying that if the petitioner has any real complaint about harassment in the lower rung, it will be for him to move Police Complaints Authority in terms of the hierarchy as prescribed by Section 17E of the Kerala Police Act, 1960.”

HIGH COURT OF KERALA • 2016

SOURCE KLHC010865962016

18 R. Selvakumar v. State of Tamil Nadu

MADRAS HIGH COURT • 2022-03-21 • CRL OP/6202/2022

The petitioners approached the High Court under Section 482 of the Code of Criminal Procedure, seeking a direction to restrain the police from harassing them under the guise of an investigation into a complaint. The court acknowledged the police's authority to conduct investigations but emphasized that such powers must be

exercised within the legal framework without infringing on individual rights. While the court declined to interfere directly with the ongoing investigation, it issued a set of mandatory procedural guidelines for the police, including the requirement for written summons, proper recording of enquiry minutes, and strict adherence to established legal standards regarding preliminary enquiries and the registration of cases.

HELD The Madras High Court disposed of the Section 482 petition by issuing comprehensive guidelines to curb police harassment. The court ordered that any witness or suspect called for an enquiry must be served a written summons under Section 160 CrPC specifying the complaint details, and all minutes of such proceedings must be formally logged in the station diary.

“While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.”

MADRAS HIGH COURT • 2022

SOURCE HCMA010372592022

19 Pandiarajan v. The State

MADRAS HIGH COURT • 2022-02-11 • CRL OP(MD)/11147/2021

The petitioners filed petitions under Section 482 of the Criminal Procedure Code, alleging that police were harassing them under the guise of an investigation into complaints related to an ongoing civil dispute. They requested that the court direct the police to stop interfering in the matter. The court noted that while it generally does not interfere with police investigations, it must prevent harassment of individuals during such processes. Consequently, the court disposed of the petitions by issuing mandatory guidelines to the police, requiring that any summons be issued in writing under Section 160 Cr.P.C. with specific details, that enquiry minutes be recorded in the station diary, and that the police strictly adhere to the guidelines regarding preliminary enquiries established in *Lalita Kumari v. Government of Uttar Pradesh*.

HELD The Madras High Court issued mandatory instructions to ensure that police investigations are conducted transparently and without infringing on individual rights. Police officers must serve written summons under Section 160 CrPC detailing the CSR number and complainant, log all enquiry minutes in the general diary, and strictly adhere to the *Lalita Kumari* parameters.

“The respondent police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant”

MADRAS HIGH COURT • 2022

SOURCE HCMD010580042021

20 Xyz v. State of Madhya Pradesh & Ors

SUPREME COURT OF INDIA • 2022-08-05 • 2022 INSC 799

The appellant, a yoga instructor, alleged sexual harassment by the former Vice-Chancellor of her institute. Despite filing multiple police complaints and the internal committee finding the allegations substantiated, no FIR

was registered. She moved the Judicial Magistrate First Class under Section 156(3) of the CrPC to direct a police investigation. Although the Magistrate acknowledged a prima facie case, they declined to order an investigation, choosing to treat it as a private complaint case. The Supreme Court held that while Section 156(3) grants Magistrates discretion, this power cannot be exercised arbitrarily. Given the necessity of police powers to retrieve critical missing CCTV/DVR evidence, the Court mandated that the Magistrate order a formal police investigation.

HELD The Supreme Court held that in cases alleging offenses like sexual harassment where critical evidence (such as CCTV footage) is not under the control of the complainant, a Magistrate must exercise jurisdiction under Section 156(3) CrPC to direct a police investigation. The Court emphasized that courts have a responsibility to deal with victims sensitively and ensure that the process of seeking justice is not excessively onerous.

“At this stage, the Court is not called upon to decide upon the veracity of the allegations in the complaint, save and except to underscore the importance of an investigation by the police in a matter where the CCTV footage (or other evidence) is not under the possession or control of the appellant, but to be inquired into in the course of an investigation by the police.”

SUPREME COURT OF INDIA • 2022

SOURCE ESCR010009372022

21 A.K. Saravanan v. Assistant Commissioner of Police

MADRAS HIGH COURT • 2023-02-28 • CRL OP/4425/2023

The petitioners sought a direction under Section 482 of the Code of Criminal Procedure to prevent police harassment during an ongoing enquiry regarding a financial dispute. The police contended that the petitioners had failed to appear for the enquiry despite receiving summons. The court noted that while the petitioners expressed apprehension of harassment, they were obligated to cooperate with the ongoing investigation. The court disposed of the petition by directing the police to follow established procedural guidelines when summoning individuals, ensuring that enquiries are documented properly and that no unnecessary harassment occurs during the process.

HELD The Madras High Court held that while petitioners are legally obligated to cooperate with ongoing police investigations, the police must not use the enquiry as a tool for harassment. The Court directed the police to serve formal written summons under Section 160 CrPC and record the minutes of all inquiries in the daily station diary.

“While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.”

MADRAS HIGH COURT • 2023

SOURCE HCMA010318722023

22 S.P. Jayanthi v. Inspector of Police

MADRAS HIGH COURT • 2023-02-06 • CRL OP/2492/2023

The petitioner, a doctor, sought a court order to restrain the police from harassing her during an investigation into a matrimonial and property dispute initiated by her husband. The court noted that the dispute was largely civil in nature and that the police should only intervene if a cognizable offence is established. While the court did not quash the police enquiry, it disposed of the petition by issuing specific guidelines for the police to follow during investigations. These include serving formal written summons specifying case details, recording enquiry proceedings in the station diary, and strictly adhering to the Supreme Court guidelines on preliminary enquiries and FIR registration to prevent harassment.

HELD The Madras High Court ruled that in civil or matrimonial disputes, the police should refrain from intervening or harassing individuals under the guise of an investigation. The court disposed of the petition by ordering strict compliance with guidelines regarding the issuance of written summons and the logging of all enquiry minutes in the daily station diary.

“While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.”

MADRAS HIGH COURT • 2023

SOURCE HCMA010193662023

23 D. T. Virupakshappa v. C. Subash

SUPREME COURT OF INDIA • 2015-04-27 • 2015 INSC 359

The appellant, a police official, was accused of exceeding his official powers by assaulting and detaining the respondent during an investigation into a murder case. The respondent initiated private criminal proceedings against the appellant, and a Magistrate subsequently issued summons. The appellant challenged these proceedings, arguing that the court could not take cognizance of the offence without the mandatory government sanction required for public servants under Section 197 of the Code of Criminal Procedure. The Supreme Court of India held that since the alleged acts were reasonably connected to the performance of the appellant's official duties, the Magistrate acted incorrectly in taking cognizance without prior sanction. The Court set aside the proceedings, clarifying that the respondent may still seek the necessary sanction to proceed.

HELD The Supreme Court held that where the alleged offensive conduct of a police officer (such as assault or excess) is reasonably connected to the performance of their official duty during a criminal investigation, a Magistrate cannot take cognizance of a private complaint without prior sanction from the State Government under Section 197 CrPC.

“The said offensive conduct is reasonably connected with the performance of the official duty of the appellant. Therefore, the learned Magistrate could not have taken cognizance of the case without the previous sanction of the State Government.”

SUPREME COURT OF INDIA • 2015

SOURCE ESCR010005212015

24 S. Anand v. State of Tamil Nadu

MADRAS HIGH COURT • 2012-07-02 • WP/15794/2003

The petitioner sought a writ of mandamus for an investigation into his custodial torture and illegal detention by police, as well as compensation for his injuries. During the proceedings, the court noted that the petitioner's mother had already pursued these claims through a designated Human Rights Court. That court had previously convicted the responsible police officer under Section 324 of the Indian Penal Code, imposed a fine, and ordered a portion of that fine to be paid to the petitioner as compensation. As the allegations had already been adjudicated, the police officer had been convicted, and departmental action had been taken, the High Court declined to re-adjudicate the matter and dismissed the petition.

HELD The Madras High Court affirmed that the award of compensation against the State is an established public law remedy under Article 21 of the Constitution for redressing severe fundamental rights violations, such as custodial torture. This public law remedy is in addition to private law remedies in tort or compensation ordered by criminal courts under Section 357 CrPC.

“It is thus now well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article 21, by a public servant.”

MADRAS HIGH COURT • 2012

SOURCE HCMA012147172003

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