

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT**  
**JODHPUR**

S.B. Criminal Writ Petition No. 224/2026

1. Islam Khan S/o Shri Ajeej Khan, Aged About 31 Years, R/o.basanpeer Juni, Jaisalmer, Rajasthan.
2. Bay Khan S/o Shri Kabal Khan, Aged About 33 Years, R/obasanpeer Juni, Jaisalmer, Rajasthan.
3. Subhan Khan S/o Shri Sadak Khan, Aged About 71 Years, R/obasanpeer Juni, Bhagu Ka Gaon, Jaisalmer, Rajasthan.
4. Rane Khan S/o Shri Jangi Khan, Aged About 60 Years, R/o Basanpeerjuni, Jaisalmer, Rajasthan.
5. Basir Khan S/o Shri Lukaman Khan, Aged About 28 Years, R/o Basanpeer Juni, Jaisalmer, Rajasthan.
6. Bakar Khan S/o Shri Bhage Khan Khan, Aged About 29 Years, R/o Basanpeer Juni, Jaisalmer, Rajasthan.
7. Hasiyat W/o Shri Gulam Khan, Aged About 55 Years, R/o Basanpeer Juni, Jaisalmer, Rajasthan.
8. Tija W/o Shri Adat Khan, Aged About 37 Years, R/o Basanpeer Juni, jaisalmer, Rajasthan.
9. Hura W/o Shri Ramjan Khan, Aged About 31 Years, R/o Basanpeer Juni, Jaisalmer, Rajasthan.
10. Jama D/o Nure Khan, Aged About 25 Years, R/o Basanpeer Juni, jaisalmer, Rajasthan.

----Petitioners

Versus

1. State Of Rajasthan, Through Secretary, Department Ofhome, Govt. Of Rajasthan, Jaipur.
2. Director General Of Police, Rajasthan, Jaipur.
3. Inspector General Of Police, Range Jodhpur, District-Jodhpur.
4. Superintendent Of Police, Jaisalmer, District- Jaisalmer.
5. Sho, Police Station-Sadar Jaisalmer, District- Jaisalmer.
6. Sho, Police Station-Kotwali Jaisalmer, District- Jaisalmer.
7. Investigation Officer, First Information Report No-75/2025 Police Station-Sadar Jaisalmer, District-Jaisalmer.
8. Bagaru Ram Station House Officer (Sho), Police Station-



Sadarjaisalmer, District- Jaisalmer Rajasthan.

----Respondents

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For Petitioner(s) : Mr. Rajjak Khan  
Mr. Sarwar Khan

For Respondent(s) : Mr. Deepak Chaudhary, AAG assisted  
by Mr. N.S. Chandawat, AGA

Amicus Curiae : Mr. Devkinandan Vyas  
Mr. Yogendra Singh Charan

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**REPORTABLE**

**DATE OF CONCLUSION OF ARGUMENTS : 05/02/2026**

**DATE ON WHICH ORDER IS RESERVED : 05/02/2026**

**FULL ORDER OR OPERATIVE PART : Full Order**

**DATE OF PRONOUNCEMENT : 05/05/2026**

**BY THE COURT:-**

***If all parts of something are replaced over time, is it still the same thing?<sup>1</sup>***

**GRIEVANCE**

1. The instant criminal writ petition, instituted under Article 226 of the Constitution of India<sup>2</sup>, has been preferred by the petitioners ventilating a grave grievance against the actions of the police authorities. The petitioners seek issuance of appropriate directions restraining the respondent authorities from uploading or

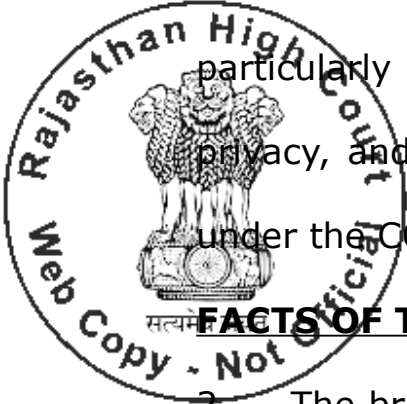
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1 Ship of Theseus also known as Theseus's Paradox.

2 To be referred as "COI".

disseminating the photographs of the petitioners/accused persons on social media platforms, and from subjecting them to a "social trial" in the public domain.

1.1 It is contended that such acts on the part of the authorities not only prejudice the fair trial of the petitioners but also amount to an unwarranted intrusion upon their fundamental rights, particularly the right to life and personal liberty, the right to privacy, and the right to a fair and impartial trial, as guaranteed under the COI



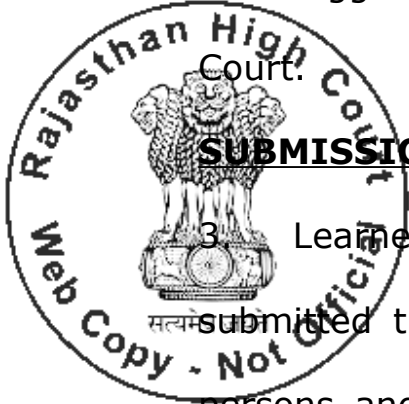
### **FACTS OF THE CASE**

2. The brief facts, shorn of unnecessary details, are that an FIR bearing No. 75/2025 dated 10.07.2025 came to be registered at the instance of Respondent No. 8 in relation to an incident arising out of public protest at village Basanpeer Juni, District Jaisalmer, during proceedings undertaken by the Executive Magistrate. The petitioners have been arrayed as accused and subjected to proceedings under Sections 170 and 126 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>3</sup>.

2.1 The gravamen of the grievance of the petitioners is that, subsequent to their arrest, they were subjected to humiliating and degrading treatment by the police authorities, including being made to sit in undignified conditions and being photographed and videographed. It is further averred that such images and videos were uploaded and widely circulated on official social media platforms of the police, thereby exposing the petitioners to an

<sup>3</sup> To be referred as "BNSS".

impermissible "social trial", causing grave prejudice to their dignity, reputation and right to fair trial. The petitioners assert that such actions, being devoid of any statutory sanction or prescribed procedure, are ex facie arbitrary and violative of their fundamental rights guaranteed under Articles 14, 21 and 22 of the COI. Aggrieved by this, the petitioners have approached this



### **SUBMISSIONS BY THE PETITIONERS**

3. Learned counsel appearing on behalf of the petitioners submitted that the impugned acts of publicly parading arrested persons and disseminating their images on official social media platforms are in direct contravention of Article 11 of the Universal Declaration of Human Rights, 1948 and violate the fundamental rights guaranteed under Articles 14, 21 and 22 of the COI. It was contended that such actions amount to arbitrary, unlawful and extra-judicial punishment, undermining the presumption of innocence, dignity and right to a fair trial. The respondents, by assuming the role of adjudicators, have acted beyond statutory authority under the Code of Criminal Procedure, 1973<sup>4</sup> (now BNSS), thereby eroding the rule of law. It was further submitted that these practices inflict irreversible stigma and humiliation, contrary to both constitutional mandates and established human rights principles.

<sup>4</sup> To be referred as CrPC.

**SUBMISSIONS BY THE AMICUS CURIAE**

4. Shri Devkinandan Vyas, Amicus Curiae has also submitted his preliminary submissions along with the copy of SOP dated 21.01.2026, newspaper reports and statistical reports. He submitted that the present writ petition raises a serious and systemic issue concerning violation of the fundamental right to life with dignity under Article 21 of COI, arising from the recurring practice of police authorities publicly humiliating arrested persons by parading them, disrobing them and circulating their photographs on media platforms. It was contended that such acts are wholly without statutory sanction, amount to extra-legal punishment, and violate the principles of presumption of innocence, privacy, reputation and fair trial, thereby striking at the core of Articles 14 and 21 of the COI and the rule of law. It was further submitted that arrest is not punitive in nature and such practices cause irreversible stigma and trauma, necessitating judicial intervention and the formulation of enforceable guidelines to safeguard constitutional rights.

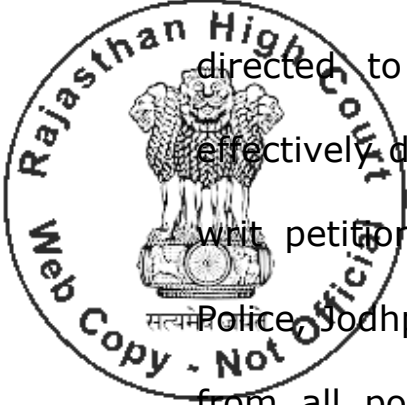
5. Shri Yogendra Singh Charan also submitted a note regarding the right to live with human dignity under Article 21 of COI, as philosophically grounded in the ideas of *Immanuel Kant*, is inherent and inviolable, and stands breached by practices such as photographing, disrobing and publicly parading arrested persons. It was contended that such acts constitute institutional humiliation and psychological violence, violating constitutional morality and exceeding the limited investigative role of police in an adversarial



system. It was further urged that the creation of lasting digital records causes irreversible stigma even in cases of acquittal, necessitating strict judicial scrutiny.

**Compliance of Order dated 20.01.2026 passed by this Court**

6. This Court, vide order dated 20.01.2026, passed an interim direction whereby the Superintendent of Police, Jaisalmer was directed to file a specific affidavit, duly responding to and effectively dispelling the allegations and aspersions levelled in the writ petition. It was further directed that the Commissioner of Police Jodhpur shall ensure removal of the impugned photographs from all portals, including social media platforms, forthwith. A detailed reply was also sought from the Commissioner of Police, Jodhpur, affirming that such incidents shall not recur within the jurisdiction of the Commissionerate, Jodhpur. For the sake of ready reference, the relevant paragraphs of order dated 20.01.2026 are reproduced hereinbelow:-



1. Heard learned counsel for the parties and perused the pleadings, the submissions advanced in the writ petition, and the annexed material, including photographs depicting several individuals, inclusive of women, allegedly taken by the police authorities.
2. The grievance raised before this Court discloses a deeply disturbing practice which, according to the petitioner, has now become alarmingly routine. It is alleged that whenever a person is arrested on accusation of commission of an offence, the police compel such arrestee(s) to sit at the entrance or in front of the gate of the police station, thereafter taking coloured photographs and circulating the same widely through newspapers and various social media platforms.
  - 2.2 Even more egregious are the allegations that, in certain instances, the accused persons are forced to strip themselves and are made to sit in a humiliating state, clad

only in undergarments, while photographs are taken and disseminated.

3. Learned counsel for the petitioner invited the attention of this Court to photographs annexed with the writ petition, wherein several women are seen sitting at the entrance of a police station. It is contended that among them are unmarried young girls, whose photographs have been circulated indiscriminately on social media platforms and in local newspapers, thereby portraying them as criminals before the public at large. It is urged that such publication is carried out solely to malign their reputation, without there being any adjudication of guilt by a competent court of law.

4. At this stage, it is apposite to reiterate that an accused is merely an accused and not a convict. The constitutional presumption of innocence remains intact unless displaced by a finding of guilt recorded after a fair trial. Any act which publicly parades an accused as a culprit, prior to such adjudication, strikes at the very root of constitutional morality and rule of law.

5. Article 21 of the Constitution of India guarantees not merely the right to life, but the right to live with dignity, honour, and self-respect. The right to dignity does not evaporate upon arrest. Even a person accused of an offence continues to be clothed with basic human rights. Forcing an arrestee to sit on the floor, stripping or partially disrobing such person, photographing him or her in a degrading condition, and thereafter circulating those images on social media or in newspapers, amounts to institutional humiliation and a direct assault on human dignity.

5.1 The damage caused by such acts is neither speculative nor transient. Once such photographs are released into the digital and public domain, the stigma attaches permanently. In the case of unmarried women, the consequences can be devastating, affecting their prospects of marriage, social acceptance, and psychological well-being. Even if the accused is ultimately acquitted, the scar inflicted upon reputation and social standing is often irreparable. The Constitution does not countenance such irreversible injury at the hands of the State. Significantly, neither the Code of Criminal Procedure, nor the Bharatiya Nagarik Suraksha Sanhita, nor the Police Act or the Rules framed thereunder confer any authority upon the police to indulge in such conduct. The acts complained of are prima facie arbitrary, illegal, and reflective of unbridled caprice, wholly unbecoming of a disciplined force entrusted with the protection of citizen's rights. This Court may observe that any infringement of fundamental rights cannot be tolerated being a sentinel and the guardian of constitutional liberties. The issue raised in the present petition discloses a serious



and systemic threat to the fundamental right to life with dignity.

6. At this juncture, learned counsel Mr. Devkinandan Vyas standing in the Court seeks for permission to appear as an intervener, submitted that such practices have become rampant. He draws the attention of this Court to a news item published in yesterday's edition of *Dainik Bhaskar*, reporting the arrest of a practising advocate by Udaimandir Police Station, Jodhpur Commissionerate, wherein the advocate was made to sit in front of the police station gate and his photograph was made viral. It is urged that compelling an arrestee to submit to such public humiliation gravely tarnishes his image in society and constitutes a gross violation of the fundamental right to live with dignity.

7. This Court takes judicial notice and cognizance of the said news report, as it raises serious concerns touching upon the fundamental rights of citizens. It is further submitted that within jail premises also, arrestees are allegedly compelled to strip and remain in undergarments while confined in cells. Such conduct is plainly inhuman, degrading, and violative of the bare minimum human rights guaranteed to every individual, irrespective of the accusations against him.

7.1 This Court is of the view that the alleged act is not only inhumane in nature but also strikes at the very root of basic human rights and amounts to a clear infraction of the constitutional guarantees enshrined under the law.

8. Accordingly, learned Additional Advocate General, Mr. Deepak Choudhary, is directed to accept notice on behalf of the respondents and file a response to the writ petition.

9. The Superintendent of Police, Jaisalmer, shall file an affidavit specifically responding to and negating the aspersions levelled in the writ petition.

10. In the interregnum, the Superintendent of Police, Jaisalmer, is directed to make all necessary arrangements to ensure immediate deletion and removal of photographs and related content of arrested persons from web portals, social media handles, and other platforms, if uploaded on their behalf.

11. Accordingly, the Commissioner of Police, Jodhpur, is directed to immediately remove the photographs of Advocate Mohan Singh Ratnu from all web portals, social media platforms, and any other medium where the same are available. The compliance shall be ensured within 24 hours and shall be reported to this Court on the next date of hearing. It is further directed that a detailed reply shall be filed to satisfy this Court that adequate, effective and institutional safeguards have been put in place so as to



ensure that such incidents, as noticed hereinabove, are not repeated in future within the jurisdiction of Police Commissionerate, Jodhpur.

**Additional Affidavit filed by the SP, Jaisalmer**

7. Complying to this order, the SP, Jaisalmer, Mr. Abhishek Shivhare has placed on record an additional affidavit in which he complied with the order dated 20.01.2026 by removing all photographs and related content of arrested persons from social media platforms. It is stated that the incident arose on 10.07.2025 during a law-and-order situation at Village Basanpeer Junr, where an unlawful assembly turned violent, leading to stone-throwing and injuries to police and officials, necessitating lawful force and resulting in the arrest of 22 persons. He denies allegations of humiliation or coercion, stating that photographs were taken only for official purposes, with all accused treated respectfully and without any indecent or forceful conduct. It is further submitted that no act was intended to harm the dignity or reputation of the accused, and no objectionable content was shared. Additionally, in compliance with higher authorities and Court directions, strict instructions and SOPs have been issued to all officers to ensure dignified treatment of accused persons and to prohibit uploading such content on social media.

**Compliance Report by Commissioner of Police, Jodhpur**

8. A compliance report submitted by the Commissioner of Police, Jodhpur, Mr. Om Prakash, has also been taken on record. He submits that the present writ petition sought removal of all photographs, videos, and related material of the petitioners from social media platforms in connection with FIR No. 075/2025,



pursuant to which this Court directed filing of a compliance affidavit and immediate deletion of such content. In compliance, it is respectfully stated that all necessary steps have been taken in light of Article 21 of the COI, ensuring the dignity, privacy, and rights of the accused, with strict guidelines issued prohibiting public humiliation, sharing of photographs or videos, media exposure in an insulting manner, or any act encouraging media trial. It is further submitted that due care is to be taken in police briefings and in handling accused persons, especially vulnerable categories, ensuring civilized and dignified treatment. Thus, the order dated 20.01.2026 has been complied with in its true letter and spirit, and the compliance report is humbly prayed to be taken on record.



**SOP issued by the Additional DGP, Rajasthan**

9. It is apposite to reproduce Standard Operating Procedure (SOP) issued by the Office of the Additional Director General of Police, Crime Branch, Rajasthan directing police officers on how to treat arrested accused persons, especially regarding their privacy and dignity.

**कार्यालय अति० महानिदेशक पुलिस, अपराध शाखा राज०।**

क्रमांक:- 1368

दिनांक:- 21-01-26

पुलिस आयुक्त जयपुर/जोधपुर,

समस्त महानिरीक्षक पुलिस रेंज राज.,

पुलिस उपायुक्त जयपुर/जोधपुर,

समस्त जिला पुलिस अधीक्षक राज.।

विषय:-गिरफ्तारशुदा अभियुक्त की निजता के अधिकार के संबंध में मानक संचालन प्रक्रिया।

प्रसंग:- माननीय राजस्थान उच्च न्यायालय, जोधपुर द्वारा पारित निर्णय दिनांक 20.01.2026 की पालना में।

संविधान के अनुच्छेद 21 के अंतर्गत प्रत्येक व्यक्ति को गरिमा, सम्मान एवं निजता के साथ जीवन जीने का अधिकार प्राप्त है। अभियुक्त केवल आरोपित होता है, दोगी नहीं। माननीय सर्वोच्च न्यायालय एवं माननीय राजस्थान उच्च न्यायालय द्वारा यह स्पष्ट किया गया है कि गिरफ्तारी के पश्चात भी व्यक्ति की मानवीय गरिमा एवं निजता समाप्त नहीं होती।

- प्रत्येक गिरफ्तारशुदा अभियुक्त के साथ मानवाय, सभ्य एवं विधिसम्मत व्यवहार किया जाएगा।
- गिरफ्तारशुदा अभियुक्त को सार्वजनिक रूप से अपमानित, प्रदर्शित या अपदानी पी तरह प्रस्तुत नहीं किया जाएगा।

फोटो/वीडियो/सोशल मीडिया से संबंधित निर्देश

- गिरफ्तारी के समय या पश्चात अभियुक्त का फोटो या वीडियो-
- X सोशल मीडिया
  - X पुलिस के आधिकारिक / अनौपचारिक प्लेटफॉर्म
  - X मीडिया या प्रेस
- पर अपलोड / साझा नहीं किया जाएगा।



From bare perusal of the directive, it is clear that it is rooted in Article 21 of the COI, which guarantees every individual the right to live with dignity, respect, and privacy. The document emphasizes that an accused person is merely alleged to have committed an offence and is not guilty unless proven so, and therefore, even after arrest, their fundamental rights, especially dignity and privacy, remain intact. It directs all police officials to ensure humane, civil, and lawful treatment of arrested persons and strictly prohibits any form of public humiliation, display, or degrading presentation. Importantly, it imposes a clear ban on capturing or sharing photos or videos of arrested individuals on social media, police platforms (official or unofficial), or through the media/press. The circular aims to prevent "social/media trials" and uphold the constitutional and human rights of accused persons during and after arrest.

**Official Circular issued by the Police Commissioner, Jodhpur**

10. It is deemed necessary to reproduce an official circular issued by the Police Commissioner Jodhpur dated 22.01.2026.

**कार्यालय पुलिस आयुक्त, जोधपुर**

कमांक:-व-15()पु.आ. जोध./अपशा/विविध/2026/ 490 दिनांक:-22.01.2026  
पुलिस उपायुक्त,  
जिला पूर्व पश्चिम,  
पुलिस आयुक्तालय, जोधपुर।



विषय- गिरफ्तारशुदा अभियुक्त की निजता के अधिकार के संबंध में।  
प्रसंग- श्रीमान अतिरिक्त महानिदेशक पुलिस, अपराध शाखा, राजस्थान, जयपुर का पत्रांक-1368 दिनांक 21.01.2026, 1366 दिनांक 21.01.2026 एवं एस.बी. किमिनल मिस पिटीशन संख्या 224/2026 इस्लाम खां एवं अन्य बनाम राजस्थान सरकार में माननीय राजस्थान उच्च न्यायालय, जोधपुर की आदेशिका दिनांक 20.01.2026 के सन्दर्भ में।

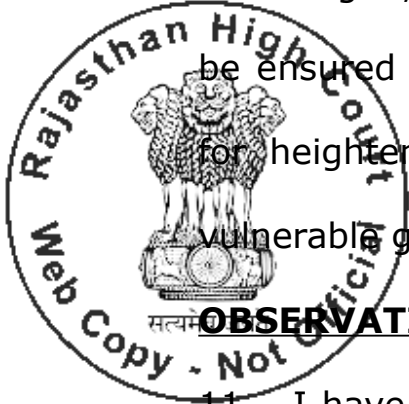
महोदय,  
उपरोक्त विषयान्तर्गत लेख है कि श्रीमान अतिरिक्त महानिदेशक पुलिस, अपराध शाखा, राजस्थान, जयपुर द्वारा प्राप्त प्रासंगिक पत्रों एवं माननीय राजस्थान उच्च न्यायालय जोधपुर की आदेशिका दिनांक 20.01.2026 की प्रतियां संलग्न प्रेषित है। संविधान के अनुच्छेद 21 के अन्तर्गत प्रत्येक व्यक्ति को गरीमा, सम्मान एवं निजतः के साथ जीवन जीने का अधिकार प्राप्त है। अभियुक्त मात्र आरोपित होता है, दोषी नहीं। माननीय सर्वोच्च न्यायालय एवं राजस्थान उच्च न्यायालय द्वारा स्पष्ट किया गया है कि गिरफ्तारी के पश्चात भी व्यक्ति की मानवीय गरीमा एवं निजता समाप्त नहीं होती है। इस संबंध में निम्नांकित दिशा-निर्देशों की कड़ाई से पालना सुनिश्चित कराएं:-

- गिरफ्तारशुदा अभियुक्त के साथ मानवीय, सभ्य एवं विधिसम्मत व्यवहार किया जाए। गिरफ्तारशुदा अभियुक्त को सार्वजनिक रूप से अपमानित, प्रदर्शित अथवा अपराधी क तरह प्रस्तुत नहीं किया जाए।
- गिरफ्तारी के समय या पश्चात अभियुक्त का फोटो अथवा वीडियो सोशल मीडिया पुलिस की अधिकारिक / अनौपचारिक प्लेटफार्म, मीडिया अथवा प्रेस पर अपलोड एवं साझा नहीं किया जाए।
- किसी भी अभियुक्त को मीडिया के सामने अपमानजनक हालत में प्रस्तुत नहीं किया जाए।
- पुलिस ब्रिफिंग में गिरफ्तारशुदा अभियुक्त के संबंध में शब्दों का प्रयोग सावधानी 7 पूर्वक एवं गरीमा के साथ किया जाए।
- मीडिया ट्रायल को प्रोत्साहित करने वाला कोई भी कार्य नहीं किया जाए।
- अभियुक्त को बेठाने, ले जाने या रखने की व्यवस्था सभ्य एवं सुरक्षित रखी जाए।
- महिलाओं, वृद्धों, युवतियों एवं कमजोर वर्गों के साथ विशेष संवेदनशीलता बरती जाए। संलग्न: उपरोक्तानुसार।

भवदीय,  
(ओम प्रकाश)  
पुलिस आयुक्त,  
जोधपुर

The circular lays down strict instructions for police officers, arrested individuals must be treated in a humane and lawful

manner; they must not be publicly humiliated or paraded; their photos or videos must not be shared on social media, police platforms, or with the press; they should not be presented before the media in a degrading manner; police briefings must use careful and dignified language; media trials must not be encouraged; and proper, safe, and respectful arrangements must be ensured during custody or movement. It also specifically calls for heightened sensitivity toward women, elderly persons, and vulnerable groups.



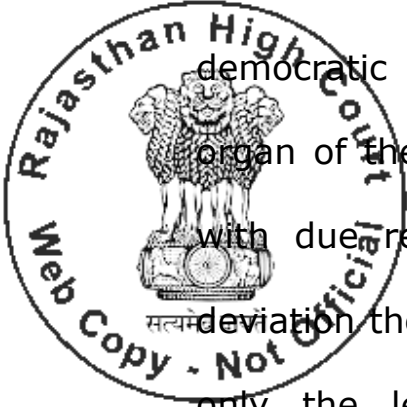
**OBSERVATION**

11. I have heard the counsels appearing on behalf of the parties and the amicus curiae as well as perused the material available on record.

12. Upon a careful and conscientious perusal of the material available on record, this Court is constrained to observe that the conduct of the police officials reflects a palpable overreach of authority. Such exercise of power, which neither finds sanction under the COI nor under any statutory enactment in force, cannot be countenanced in a system governed by the rule of law. The criminal justice framework, as envisaged by the legislature, is neither silent nor ambiguous, every offence is accompanied by a prescribed procedure, a defined punishment, and a designated authority competent to adjudicate and impose such punishment. It is, therefore, not open to any authority to assume unto itself powers that have not been conferred by law. When power, not vested by statute, is nonetheless exercised, and that too in a

manner alien to the procedure established by law, it strikes at the very foundation of legality and results in a manifest abuse of authority. Such transgression not only vitiates the process but also erodes public confidence in the justice delivery system.

12.1 At the very threshold, it becomes imperative to advert to the doctrine of constitutional morality, which forms the bedrock of our democratic polity. Constitutional morality mandates that every organ of the State act within the confines of its lawful authority, with due regard to the rights and dignity of individuals. Any deviation therefrom has far-reaching consequences, impacting not only the legal rights of a person but also inflicting deep psychological, mental, and, in certain cases, even physical trauma.



### **Constitutional Morality and Limits on State Power**

13. This Court cannot remain a silent spectator to a situation where the police, under the guise of transparency or public accountability, arrogates unto itself the role of judge in the court of public opinion. The doctrine of constitutional morality, which permeates the entire constitutional framework, mandates that every action of the State must conform to the principles of fairness, reasonableness, and respect for individual dignity. Any act that falls foul of these principles cannot be justified on grounds of administrative expediency or public sentiment. The argument that such disclosures are necessary to maintain public confidence in the police is fundamentally flawed, for confidence in the justice system is not built upon spectacle, but upon adherence to due process and the rule of law. The police, being an instrumentality of

the State, is bound by constitutional discipline and cannot transgress into domains reserved exclusively for the judiciary.

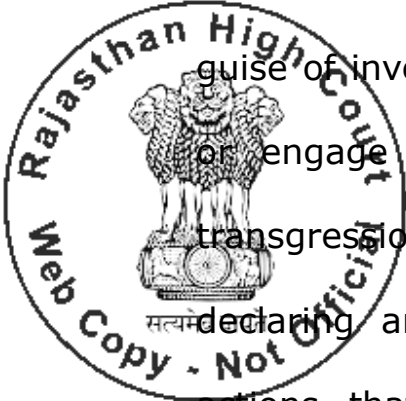
13.1 In a constitutional democracy, the entire framework of governance is anchored in the doctrine of separation of powers, a principle that acts as a safeguard against arbitrariness and concentration of authority. The three organs of the State, the Legislature, the Executive, and the Judiciary, are not merely functional divisions but are constitutionally ordained institutions, each entrusted with distinct and well-defined roles. The Legislature, as the representative will of the people, is vested with the power to enact laws; the Executive is duty-bound to implement and enforce those laws in their true spirit; and the Judiciary stands as the final arbiter, interpreting the law and ensuring that justice is dispensed in accordance with constitutional mandates. This harmonious distribution of powers is not accidental but is essential to preserve the rule of law and prevent the rise of absolutism.

13.2 It is a settled principle that when any organ of the State ventures beyond its prescribed limits and encroaches upon the domain of another, such action amounts to an excess of power and is liable to be curtailed. The COI does not permit overlap in a manner that disturbs this institutional equilibrium. Rather, it envisions a system of checks and balances where each organ functions independently, yet remains accountable within its sphere. Within this framework, the police, as an essential limb of the Executive, occupy a position of immense responsibility. Their



primary duty is to enforce the law, maintain public order, and ensure the safety and security of citizens. However, this authority, significant as it is, remains circumscribed by legal boundaries. The function of determining guilt, adjudicating disputes, or pronouncing upon the rights and liabilities of individuals is the exclusive domain of the Judiciary. The police cannot, under the guise of investigation or enforcement, assume the role of a judge or engage in acts that resemble judicial determination. Any transgression by the police into the judicial sphere, whether by declaring an accused guilty in the public domain, conducting actions that prejudice a fair trial, or exercising powers not sanctioned by law, would not only be without jurisdiction but would also strike at the very heart of due process. Such conduct undermines public confidence in the justice delivery system and dilutes the constitutional promise of fairness and impartiality. Therefore, it is imperative that each organ of the State remains confined within its constitutional limits. The strength of a democracy lies not in the dominance of one organ over another, but in their balanced coexistence. The police must discharge their duties with diligence and integrity, but always within the contours of law, refraining from encroaching upon the sacrosanct domain of the Judiciary, for it is only through such disciplined adherence to constitutional principles that the rule of law can truly prevail.

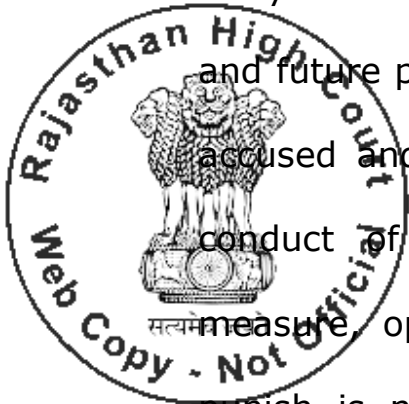
13.3 It is deeply disquieting to note a growing tendency wherein the police, in ostensible exercise of their investigative powers, indulge in practices such as publicizing photographs of accused



persons on social media, subjecting them to so-called “perp walks”, and exhibiting them in a manner calculated to invite public gaze and opprobrium. Instances where individuals are made to sit in humiliating conditions and their images are widely circulated, including those of women, are particularly alarming, as such acts carry far-reaching consequences upon their dignity, reputation, and future prospects. At a stage where the individual is merely an accused and the presumption of innocence remains intact, such conduct of the police assumes the character of a punitive measure, operating outside the authority of law. The power to punish is neither incidental to investigation nor vested in the Executive; it lies exclusively within the province of the Judiciary upon a finding of guilt established through due process. Any attempt by the police to subject an accused to public humiliation or social condemnation, prior to adjudication, amounts to an unwarranted usurpation of judicial function and is in the teeth of constitutional guarantees of fairness, dignity, and due process. Such actions not only prejudice the right to a fair trial but also erode the foundational principles of criminal jurisprudence, where punishment must follow conviction, and not precede it.

### **Nature of Police-Driven Media Trial**

14. The phenomenon colloquially described as a “media trial by police”. Such a practice is not a mere by-product of independent journalistic enthusiasm, but rather a State-engineered narrative, wherein the police machinery, through press conferences, orchestrated disclosures, circulation of photographs, and at times



even staged representations of arrest, seeks to project an accused person as culpable even before the due process of law has had an opportunity to unfold. Such conduct, in the view of this Court, amounts to a direct transgression of the foundational principles of criminal jurisprudence, particularly the presumption of innocence, which stands as a bulwark against arbitrary State action. The

Hon ble Supreme Court in **Rajendran Chingaravelu Vs. R.K. Mishra, Addl. Commissioner of IT and Ors.**<sup>5</sup>, has

unequivocally deprecated this growing tendency amongst investigating officers to prematurely inform the media of alleged breakthroughs, observing that such crude attempts to claim investigational credit not only jeopardise the integrity of the investigation but may, in certain cases, facilitate the escape of the actual offender.

### **Psychological and Mental Impact: Institutional Humiliation**

15. What further aggravates the situation is the manner in which such media trials are operationalised through practices that can only be described as institutional humiliation, wholly inconsistent with the constitutional promise of dignity. The act of parading an accused before the media, the capturing and dissemination of photographs or videos within the confines of a police station, and the convening of press briefings wherein guilt is insinuated or declared, together constitute a systematic erosion of the individual's dignity and reputation. In the digital age, the consequences of such actions are neither fleeting nor reversible;

<sup>5</sup>[Civil Appeal No. 7914 of 2009] decided on 24.11.2009.

rather, they assume a permanent character, leaving indelible scars upon the psyche and social standing of the individual, even in cases where eventual acquittal is secured. The right to life under Article 21 of the COI is not to be understood in a narrow or pedantic sense, but as encompassing the right to live with dignity, free from humiliation, stigma, and unwarranted public exposure.



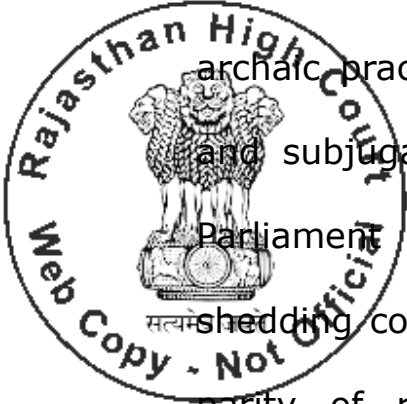
15.1 Coming to the Greek concept of Ship of Theseus, from which we commenced this discussion, the enduring inquiry, whether a thing remains the same after all its parts have been replaced, aptly illuminates the condition of an individual subjected to institutional humiliation. The answer, in the present context, is neither abstract nor philosophical alone, but profoundly human, a person, once exposed to such degradation, does not remain the same thereafter.

The creation and circulation of lasting digital records, be it through photographs taken within the confines of a police station, or the indignity of images captured during custodial stripping in locker rooms, inflict a deep and irreparable psychological scar. Such acts transcend the immediate moment of indignity and acquire a permanence in the digital sphere, thereby perpetuating stigma and social condemnation. This injury does not stand effaced even where the individual is subsequently exonerated of all allegations. The damage, once done, embeds itself into the psyche, impeding the natural course of cognitive and emotional evolution of the individual.

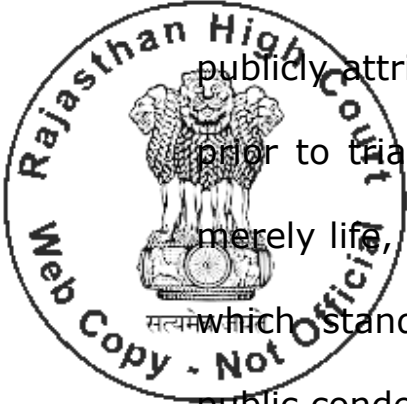
15.2 Human civilization, as it progresses, is premised upon the evolution of its institutions alongside its people. In a constitutional democracy governed by the principle of constitutional supremacy, the State and its instrumentalities are not relics of the past but are expected to embody the transformative ideals of the COI. The role of the police, therefore, cannot remain static or rooted in archaic practices that reflect a colonial consciousness of control and subjugation. It is of particular significance that the Indian Parliament has, in recent times, undertaken the exercise of shedding colonial vestiges by replacing antiquated penal laws. In parity of reasoning, it becomes imperative that the police machinery, too, undergoes a corresponding transformation in its functioning and approach. Practices that undermine dignity, violate privacy, or subject individuals to premature public condemnation are wholly incompatible with the tenets of constitutional morality and democratic values. The police, as guardians of law and order, must remain ever cognizant that their authority is circumscribed by the COI, and that the legitimacy of their actions flows not merely from statutory power but from adherence to the principles of fairness, dignity, and justice. Any deviation therefrom not only erodes public trust but also inflicts a lasting injury upon the very individuals whom the justice system is duty-bound to protect.

### **What the Constitution Mandates?**

16. Equally, the interplay between Articles 19, 20, and 21 of the COI assumes critical significance in this context. While the freedom of speech and expression under Article 19(1)(a) of COI,



including that of the press, remains a cherished right in a democratic polity, it is not unbridled, and must yield where its exercise results in interference with the administration of justice or the denial of a fair trial, as contemplated under Article 19(2) of COI. Article 20(3) of COI, which protects an accused against self-incrimination, is rendered illusory when investigative agencies publicly attribute confessions or involvement to an accused person prior to trial. Most importantly, Article 21 of COI guarantees not merely life, but a life with dignity, fairness, and due process, all of which stand compromised when an individual is subjected to public condemnation without adjudication.



16.1 The Law Commission of India, in its 200th Report on "Trial by Media" has meticulously documented the pernicious effects of prejudicial publicity, including distortion of bail proceedings, contamination of witness testimony, and the irreversible tarnishing of reputation through publication of alleged confessions. The Hon'ble Supreme Court in **State of Maharashtra v. Rajendra Jawanmal Gandhi**<sup>6</sup> has categorically held that trial by media is antithetical to the rule of law and capable of resulting in miscarriage of justice.

### **Interplay between Reputation and Human Dignity in Law**

(i) In the case of **Umesh Kumar vs. State of Andhra Pradesh**<sup>7</sup>, Hon'ble the Supreme Court observed that the right to reputation is an intrinsic part of the right to life under Article 21 of the COI. The

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6(1997) 8 SCC 386.

7(2013) 10 SCC 591.

Court further observed that reputation constitutes a valuable facet of personal security and any injury thereto amounts to a personal wrong. It was further held that the right to freedom of expression under Article 19 of the COI is not absolute and must be balanced against the right to reputation of others. The Court also took note of the recognition of such rights under the International Covenant

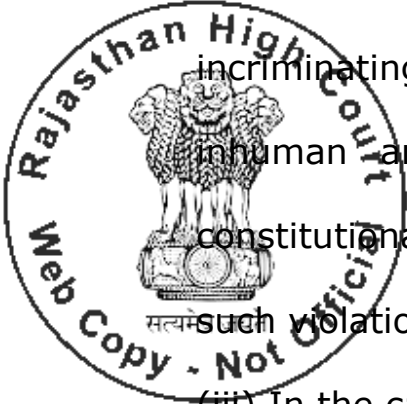
on Civil and Political Rights, 1966. For the ease of reference, the relevant paragraphs of the judgment are reproduced herein

below:-

1. Allegations against any person if found to be false or made forging some one else signature may affect his reputation. Reputation is a sort of right to enjoy the good opinion of others and it is a personal right and an enquiry to reputation is a personal injury. Thus, scandal and defamation are injurious to reputation. Reputation has been defined in dictionary as "to have a good name; the credit, honor, or character which is derived from a favourable public opinion or esteem and character by report". Personal rights of a human being include the right of reputation. A good reputation is an element of personal security and is protected by the Constitution equally with the right to the enjoyment of life, liberty and property. Therefore, it has been held to be a necessary element in regard to right to life of a citizen under Article 21 of the Constitution. International Covenant on Civil and Political Rights 1966 recognises the right to have opinions and the right of freedom of expression under Article 19 is subject to the right of reputation of others. Reputation is "not only a salt of life but the purest treasure and the most precious perfume of life." (Vide: Smt. Kiran Bedi and Jinder Singh v. The Committee of Inquiry and Anr. AIR 1989 SC 714; Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni and Ors. AIR 1983 SC 109; Nilgiris Bar Association v. T.K. Mahalingam and Anr. AIR 1998 SC 398; Dr. Mehmood Nayyar Azam v. State of Chattisgarh and Ors. AIR 2012 SC 2573; Vishwanath Sitaram Agrawal v. Sau Sarla Vishwanath Agrawal AIR 2012 SC 586; and Kishore Samrite v. State of U.P. and Ors. (2013) 2 SCC 398).



(ii) In the case of **Mehmood Nayyar Azam vs. State of Chhattisgarh & Ors.**<sup>8</sup>, Hon'ble the Supreme Court held that any act of humiliation, mental torture, or degrading treatment inflicted upon an accused in custody is a direct infringement of the right to life with dignity under Article 21 of COI. The Court specifically condemned the act of forcing an accused to pose with self-incriminating placards and circulating such images, holding it to be inhuman and violative of dignity. It was further held that constitutional courts are empowered to grant compensation for such violations under Articles 32 and 226 of the COI.



(iii) In the case of **D.K. Basu vs. State of West Bengal**<sup>9</sup>, Hon'ble the Supreme Court held that an arrested person does not forfeit their fundamental rights, including the right to life and dignity. The Court laid down detailed and mandatory guidelines to be followed during arrest and detention to prevent custodial abuse, ensure transparency, and uphold accountability of law enforcement agencies.

(iv) In the case of **Sunil Batra vs. Delhi Administration & Ors.**<sup>10</sup>, Hon'ble the Supreme Court held that even prisoners are entitled to the protection of fundamental rights, and any form of cruel, inhuman, or degrading treatment is impermissible under Article 21 of the COI. The Court emphasized that a prisoner can never be stripped of the constitutional protections when he is imprisoned for any crime.

<sup>8</sup>(2012) 8 SCC 1.

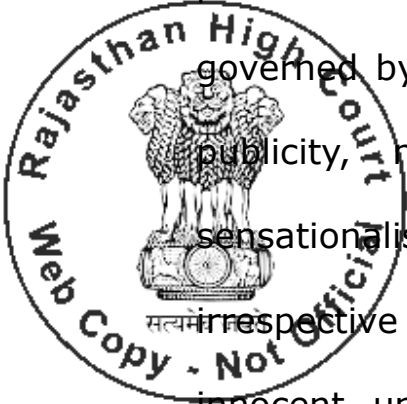
<sup>9</sup>(1997) 1 SCC 416.

<sup>10</sup>(1980) 3 SCC 488.

**OPINION**

17. Ultimately, this Court reiterates that the power to investigate does not encompass the power to declare guilt. The criminal justice system, grounded in the presumption of innocence and the guarantee of a fair trial, cannot be permitted to be subverted by parallel narratives constructed outside the courtroom. In a society governed by the rule of law, justice cannot be overshadowed by publicity, nor can dignity be sacrificed at the altar of sensationalism. The COI demands that every individual, irrespective of the allegations levelled against them, be treated as innocent until proven guilty in accordance with law, and be protected against any form of State action that undermines that fundamental guarantee.

17.1 What is being inflicted in such situations is, in substance, a form of punishment that carries with it a lifelong stigma. The law, however, is clear and unambiguous: punishments are only those which are prescribed within the statutory framework, and no court in India is empowered to travel beyond those limits. The police, it must be emphasised, are not vested with any authority to punish; their role is confined to investigation and maintenance of law and order. Even in the gravest of offences, such as murder, the consequences that follow must be in strict adherence to the procedure established by law and the punishments recognised therein. The practice of subjecting an accused to public condemnation through media exposure, staged photographs, or other such acts amounts to an extra-legal penalty. It is neither



contemplated nor recognised by law. Section 53 of Indian Penal Code<sup>11</sup> (corresponding to Section 4 of Bharatiya Nyaya Sanhita<sup>12</sup>) delineates the contours of lawful custody, and the broader statutory scheme exhaustively prescribes the nature and extent of punishments that may be imposed including, death; imprisonment for life, that is to say, imprisonment for remainder of a person's natural life; Imprisonment, which is of two descriptions, namely- Rigorous, that is, with hard labour; Simple; Forfeiture of property; Fine and Community Service.



17.2 The courts, while awarding punishment, are guided by explicit statutory provisions; they cannot innovate or endorse penalties that find no mention in law. Consequently, any attempt by an investigating agency to impose or facilitate a form of "punishment" not recognised by statute, or even by the Apex court, must be viewed with serious constitutional concern. Such conduct not only transgresses the limits of lawful authority but also undermines the foundational principles of fairness, dignity, and the rule of law.

17.3 It must be ensured, with a heightened sense of responsibility, that individuals who bear no adverse antecedents, no blemished character, and no prior criminal history are not subjected to public parading or the dissemination of their photographs. Such acts, when undertaken prematurely, inflict unwarranted stigma and amount to a form of extrajudicial censure, wholly inconsistent with the presumption of innocence

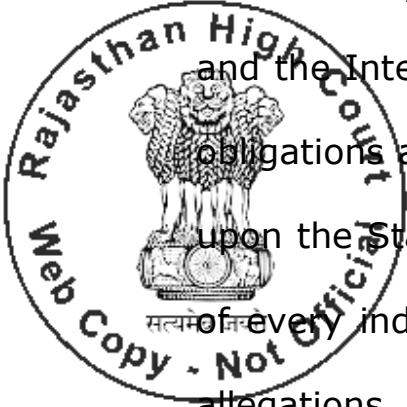
11 To be referred as "IPC".

12 To be referred as "BNS".

that lies at the heart of criminal jurisprudence. Equally, the mandate to uphold human dignity does not rest solely within the confines of Fundamental Rights under the COI, but extends to the broader canvas of human rights jurisprudence, to which India stands committed as a signatory to various international conventions, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. These obligations are not ornamental in nature; they cast a binding duty upon the state and its instrumentalities to ensure that the dignity of every individual is preserved, irrespective of the nature of the allegations against them. Even in cases involving heinous offences, or where the accused is alleged to be a habitual offender or history-sheeter, the guarantee of basic human rights does not stand eclipsed. The measure of a constitutional democracy is tested not in its treatment of the virtuous, but in its conduct towards those accused of the gravest transgressions. To disregard their basic human rights would be to erode the very foundation of the rule of law, replacing it with arbitrariness and excess. Thus, it is incumbent upon the law enforcement machinery to act with restraint, sensitivity, and an unwavering commitment to constitutional morality, ensuring that the process of investigation does not itself become a source of injustice.

### **DIRECTIONS**

18. In view of the foregoing discussion, this Court is of the considered opinion that immediate and stringent corrective



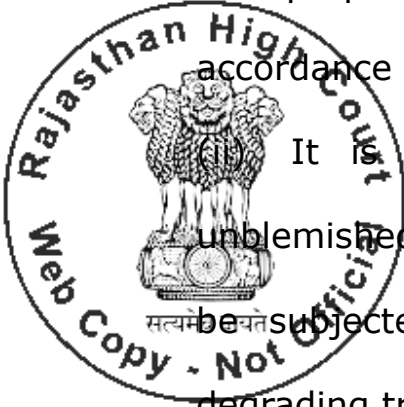
measures are imperative. It is deemed appropriate to pass the following directions: -

(i) It is hereby directed that strict adherence shall be maintained to all prescribed Standard Operating Procedures (SOPs). Any deviation or breach thereof shall invite appropriate and proportionate action against the erring police officials, in accordance with law.

(ii) It is further directed that no individual possessing an unblemished record and lacking serious criminal antecedents shall be subjected to public parading, disrobing, or any form of degrading treatment.

(iii) This Court unequivocally declares that any act of social media condemnation orchestrated or facilitated by police authorities, which results in public humiliation of an individual, shall be construed as a form of punishment. Such a mode of punishment finds no sanction in law. Police officials are, therefore, expressly prohibited from engaging in or abetting such practices, as they are not vested with the authority to impose punishment in any manner whatsoever.

(iv) The aforesaid guidelines shall be prominently displayed at all police stations, as well as on the official web portals of the Police Department, including the websites of the Director General of Police and the Home Department. The same shall be presented in the form of clear "Do's and Don'ts," along with reference to the present order, so as to ensure public awareness of rights and to secure institutional accountability.



(v) Lastly, it is directed that the basic human rights of every arrestee, as well as of any individual entering a police station with a grievance, shall be scrupulously respected. No person shall be subjected to misbehavior, mishandling, manhandling, harassment, or any form of coercion under any circumstances.

19. Accordingly, in view of the above directions, the instant petition is disposed of.

20. Stay petition and all pending applications also stands disposed of.



**(FARJAND ALI),J**