

---

(12) In this case, the joint property measures 14 Marlas in which the share of the appellant is insignificant. It is owned jointly by numerous persons. It is not disputed that Tara Singh etc. are in exclusive possession and they have enclosed it.

(13) In my opinion, the learned First Appellate Court had refused injunction to Harbans Singh and Mukhtiar Singh plaintiffs on well defined judicial principles governing the domain of grant of injunctive relief.

(14) For the reasons given above, this appeal fails and is dismissed.

---

**S.C.K.**

*Before T.H.B. Chalapathi, J.*

AMRIK SINGH,—*Petitioner*

*versus*

STATE OF PUNJAB AND OTHERS,—*Respondents*

*Criminal Misc. No. 21873/M of 1999*

The 29th July, 1999

*Code of Criminal Procedure, 1973—Ss. 50 and 57—Constitution of India, 1950—Arts. 21 and 22—Right to liberty—Harassment and illegal detention by the police—Art. 22 provides that no person shall be detained in custody beyond 24 hours without authority of the Magistrate—S. 57 of the Code mandates the police to produce the person before the Magistrate within 24 hours—Violation of the provisions of law—Directions issued to the authorities of the States of Punjab, Haryana and U.T. Chandigarh so as to prevent the violation of the rights of the citizens.*

*Held*, that the right to liberty is the most crystalised right. Article 21 of the Constitution guarantees the protection of life and personal liberty. No person can be deprived of his personal liberty except according to procedure established by law. Article 22 protects the right of the persons arrested or detained to be produced before the nearest Magistrate within a period of 24 hours from such arrest excluding the time that is required for the Police to report the arrest of the person. It also provides that no person shall be detained in custody beyond 24 hours without authority of the Magistrate. Thus the constitutional guarantee has been provided to the citizens of India that they should not be kept in detention by the Police for more than 24 hours. Even the procedural law mandates the police to produce the person arrested or

---

detained before the nearest Magistrate within the aforesaid period of 24 hours u/s 57 of the Code.

(Para 4)

*Further held*, that several petitions have been filed in this Court alleging detention of the arrested person in the police lock-ups beyond 24 hours, in some cases for days and months together in police lock-ups. Thus, there is a clear violation of the mandatory provisions contained in Article 22 of the Constitution and Section 57 of the Code. I, therefore, deem it fit and necessary to give the following directions to all the Sessions Judges in the State of Punjab and Haryana so as to prevent the violation of the rights of the citizens of the State guaranteed both under the Constitution and procedural law :

- (i) Whenever a person is arrested and taken into custody by the police without warrant, he has to be immediately informed of the grounds of his arrest as required under section 50 of the Code;
- (ii) When a person is arrested by the police, the police will give intimation of the fact of such arrest to Legal Aid Cell of District concerned.
- (iii) Whenever any illegal detention is brought to the notice of Sessions Judge by any person, the Session Judge of the District shall make a surprise visit of police lock-up to find out whether any person is detained in the police lock-up without being produced before the concerned Magistrate in contravention of Section 57 of the Code and the constitutional provisions as contained in Article 22.

(Para 5)

Navkiran Singh, Advocate, *for the petitioner.*

### JUDGMENT

*T.H.B. Chalapathi, J. (Oral)*

(1) This application is filed under Section 482 Cr. P.C. to direct the police to disclose the criminal charges against the petitioner and to protect the life and liberty of the petitioner as, according to the petitioner, he is being harassed by the police every time and police have been detaining him very frequently in the police custody without producing him before the concerned Magistrate under the provisions of Article 22 of the Constitution of India read with Section 57 of the Code of Criminal Procedure.

---

(2) Under Section 50 of the Code of Criminal Procedure a person is entitled to know the grounds of arrest only when he is arrested. Petitioner has not been arrested. Therefore, there is no question of giving any direction to disclose the criminal charges against him. The petitioner has not placed any material on record that he has been detained by the police on several occasions.

(3) Only general allegations have been made in the application and, therefore, no direction as sought for can be given in view of the fact that several petitions are being filed in this Court complaining illegal detention by the police without following the provisions of law.

(4) The right to liberty is the most crystallised right. Article 21 of the Constitution guarantees the protection of life and personal liberty. No person can be deprived of his personal liberty except according to procedure established by law. Article 22 protects the right of the persons arrested or detained to be produced before the nearest Magistrate within a period of 24 hours from such arrest excluding the time that is required for the Police to report the arrest of the person. It also provides that no person shall be detained in custody beyond 24 hours without authority of the Magistrate. Thus the constitutional guarantee has been provided to the citizens of India that they should not be kept in detention by the Police for more than 24 hours. Even the procedural law mandates the police to produce the person arrested or detained before the nearest Magistrate within the aforesaid period of 24 hours under Section 57 of the Code of Criminal Procedure.

(5) As already observed, several petitions have been filed in this Court alleging detention of the arrested person in the police lock-ups beyond 24 hours, in some cases for days and months together in police lock-ups. Thus, there is a clear violation of the mandatory provisions contained in Article 22 of the constitution of India and Section 57 of the Code of Criminal Procedure. I therefore, deem it fit and necessary to give the following directions to all the Sessions Judges in the States of Punjab and Haryana so as to prevent the violation of the rights of the citizens of the States guaranteed both under the Constitution and procedural law. These directions are also in conformity with the view expressed by the Apex Court in *Sheela Barse v. State of Maharashtra* (1) :—

- (i) Whenever a person is arrested and taken into custody by the Police without warrant, he has to be immediately informed of the grounds of his arrest as required under Section 50 of the Code of Criminal Procedure.

---

(1) A.I.R. 1983 S.C. 378

- 
- (ii) When a person is arrested by the police, the police will give intimation of the fact of such arrest to Legal Aid Cell of District concerned.
- (iii) Whenever any illegal detention is brought to the notice of Sessions Judge by any person, the Sessions Judge of the District shall make a surprise visit of police lock-up to find out whether any person is detained in the police lock-up without being produced before the concerned Magistrate in contravention of Section 57 of the Code of Criminal Procedure and the Constitutional Provisions as contained in Article 22.

(6) The Registry is directed to communicate the above directions to the Director General of Police, Punjab and Haryana, all the Session Judges in the State of Punjab, Haryana and Union Territory, Chandigarh and all the Sr. Superintendents of Police in both the States and U.T., Chandigarh, who in turn will communicate the same to the authorities subordinate to them.

(7) This petition is accordingly disposed of.

---

**R.N.R.**

*Before S.S. Sudhalkar, J.*

ANIL KUMAR AND ANOTHER,—*Petitioners*

*versus*

MAKHAN SINGH GREWAL,—*Respondent*

C.R. No. 1712 of 2000

The 2nd May, 2000

*East Punjab Urban Rent Restriction Act, 1949—S. 15(2)—Code of Civil Procedure, 1908—0.41 RI. 3A(3)—Stay of proceedings during pendency of appeal—Delay in filing appeal—Application for condonation of delay filed alongwith stay application—Stay declined relying on provisions of 0.41 RI. 3-A(3) of the Code—Challenge thereto—Appellate Authority erred in doing so—There are specific provisions in Rent Act for the procedure of appeal/stay—C.P.C. not applicable.*

*Held that, there are two separate provisions regarding stay in the C.P.C. and under the Rent Act. Order 41 Rule 3-A(3) was inserted in the C.P.C. by amending Act 1976 w.e.f. 1st February, 1977. The Rent Act has made special provision regarding appeal and stay also. Had the provision regarding appeal and stay not been made in the Rent*