

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 69 of 2003**

- State of Chhattisgarh and Others

---- Appellants**Versus**

- Nalpati Singh Thakur

---- Respondent

For appellants	: Shri Chitranjay Patel, Advocate.
For Respondent	: Shri R.N. Jha, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****30/03/2015**

1. By this first appeal under Section 96 of the Civil Procedure Code, 1908 (in brevity 'CPC') appellants have challenged the legality and propriety of the judgment and decree dated 1-2-2003 passed by 2nd Additional Sessions Judge, Bastar at Jagdalpur in Civil Suit No. 8-B/2002 whereby and whereunder learned trial Court has allowed the civil suit filed by the respondent and ordered that on account of beating the respondent illegally while in custody, the appellants shall pay jointly or severally Rs. 1,00,000/- (Rs. One lac) along with interest @ 6% per annum from the date of presentation of suit i.e. 15-1-1999 till realization and also to pay cost of the suit to respondent.
2. Brief facts of the civil suit filed by the respondent are that cousin of the respondent lodged a report before Jagdalpur police. On account of said report the respondent was called by the appellant/the then in-charge, police station along with other police personnel during intervening night of 21st and 22nd of September, 1996. Appellants No. 3 to 6 beat him for no fault of him and without authority. On 22-9-1996 when he was produced before the City Magistrate, the City Magistrate instructed the CMO for reporting of

injuries over the body of respondent and for submitting report after due examination. Dr. Govind Singh P.W. 3 after examination of respondent gave his MLC Ex. P-26. As per report, the doctor noticed one contusion over outer side of right eye, one contusion over right thumb, one abrasion on left wrist, one contusion over sole of right leg, one contusion at left to right transverse, one contusion over right to left transverse, one abrasion over the waist, one contusion at the left side of the neck, one contusion over left scapular region, pain and tenderness at 7-8 rib. The respondent was admitted in the hospital for about 15 to 16 days. He was also referred to Raipur Medical College for treatment and thereafter he was discharged from the hospital as he was badly beaten by the police officials. At the time of incident, he was working as peon in the establishment of Distt. and Sessions Judge, Bastar. For the said act of police official, respondents gave notice under Section 80 of CPC to all the appellants and asked them to pay one lac rupees for physical and mental torture, loss of honour and prestige. After the notice, respondent filed civil suit before the Additional District Judge for disposal according to law.

3. The appellants filed written statement, denied the pleading of the respondent, specifically denied that the respondent was beaten in the police station by the police officials. It is submitted that the suit of the respondent be dismissed as not maintainable. No injuries were caused to the respondent during inquiry or before producing him to City Magistrate.
4. Learned trial Court framed issues and provided opportunity of hearing to the parties. Both the parties adduced evidence before the trial Court. After hearing the parties, learned trial Court allowed the civil suit in favour of the respondent as above-mentioned.
5. The appellants challenged the legality and propriety of impugned judgment and decree on the grounds that the trial Court failed to appreciate that the injuries found on the body of the respondent were not caused by the police

officials; the respondent received injuries in some other incident; the trial Court erred in appreciating that presence of the witness of the respondent in police station is not proved; the respondent failed to demonstrate medical bill of treatment of his injuries; the respondent was not beaten or manhandled. Also there was delay in filing the civil suit. Respondent has not made any statement before the City Magistrate that he was beaten by the appellants No. 4, 5 and 6 and also by deceased defendant Janak Singh. Notice is not served in a proper manner. Hence by filing the instant appeal, the appellant prayed that the appeal be allowed and the judgment and decree passed by the trial Court be set aside.

6. I have heard learned counsel for the parties and perused the evidence available on record and the judgment and decree of the trial Court.
7. Learned counsel appearing for the appellants duly supported the memorandum of appeal and submitted that on the basis of the grounds taken in the appeal, the judgment and decree of the trial Court requires interference. The appeal be allowed and the judgment and decree be set aside.
8. Learned counsel for the respondent submits that registration of proceeding under Section 151 of the Code of Criminal Procedure (in brevity 'Code') and the arrest and production of the respondent before the City Magistrate and registration of criminal case bearing No. 387/96 is not in dispute. It is not in dispute that when the respondent was produced before the City Magistrate, the City Magistrate ordered the Chief Medical Officer by issuance of letter Ex. P-25 for medical examination and medical condition of the respondent. As per this document, the City Magistrate inquired from the respondent. Thereafter as per Ex. P-26, P.W. 3 Dr. Govind Singh examined the respondent and noticed above-mentioned - large number of injuries on different parts of the body. If the respondent was arrested in connection with some criminal proceeding under Section 151 of the Code, as per the settled

norms, before producing respondent to City Magistrate, it was the duty of the official of the appellants to examine the respondent by a medical officer. It was the duty of the appellants to explain as to how the respondent received injuries. He was arrested by the officials of appellants, duly produced on 22-9-1996. As per report Ex. P-26-A, injuries were caused before 12 to 24 hours of examination. This aspect also corroborates the pleading of the respondent. There was no evidence to show that the respondent was already injured when brought to police station. Trial Court has rightly accepted the claim and decreed the suit on account of illegal manhandling, beating the respondent by the appellants No. 3, 4, 5 and 6 without any authority of law and also looking to the substantial damage and loss to the prestige of respondent and his repute. Learned counsel for the respondent submits that there is no scope of interference in the judgment and decree impugned. Hence the appeal may be dismissed.

9. In order to appreciate the arguments advanced on behalf of the parties, I have perused the evidence adduced by the parties.
10. Upon minute scrutiny of the material available, it is not in dispute that the respondent was a government employee in the establishment of Distt. and Sessions Judge, Bastar. He was taken into custody on a complaint lodged by his cousin in the intervening night of 21st and 22nd September, 1996 by Jagdalpur police who subsequently registered a criminal case under relevant provisions of Section 151 of the Code and the respondent was ultimately produced before the City Magistrate on 22-9-1996. The City Magistrate after oral inquiry and other physical assessment, by letter dated Ex. P-5 directed the CMO of Jagdalpur for medical examination and report. P.W. 3 Dr. Govind Singh after examination gave a detailed report vide Ex. P-26-A. This witness was examined at length. There was no other medical report adduced by the appellants before the trial Court that at the time of arrest the respondent was already injured. By a perusal of entire statement

of respondent and the eye-witness, it goes to show that their story gets medical corroboration which strengthens their case. Onus as required from the respondent in the given case is duly proved and on the basis of above-mentioned oral and medical evidence, trial Court rightly believed on it. On the other hand, the onus as expected from the appellants No. 3, 4, 5 and 6 was not duly discharged and the trial Court rightly disbelieved the pleading of the appellants and allowed the suit. Non-filing of any document regarding medical expenses does not vitiate the entire proceeding as this is not a case of motor accident. This is a case where a government employee has been ill treated in the police station damaging his repute, prestige and causing physical and mental torture. By appreciating the entire evidence, the trial Court has rightly decreed the suit for Rs. 1,00,000/- along with interest at the rate of 6% per annum from the date of filing of the suit till realization and cost of the suit.

11. To part with, upon appreciating the entire evidence, in the considered opinion of this Court, there is no scope for any interference in the impugned judgment and decree. Hence the appeal filed by the appeal is hereby dismissed.

12. No order as to costs.

Sd/
Chandra Bhushan Bajpai
Judge