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IN THE HIGH COURT OF ORISSA AT CUTTACK

SUO MOTU W.P.(C) No. 23735 of 2024

Registrar Judicial, Orissa High Court, Cuttack.

...Petitioner

-Versus-

- 1. The State of Odisha**, represented by the Chief Secretary, At-Secretariat Building, Bhubaneswar, Dist-Khurda.
- 2. The Addl. Chief Secretary**, Government of Odisha, At-Secretariat Building, Bhubaneswar, Dist-Khurda.
- 3. The Director General of Police, Odisha**, At-State Police Headquarters, Cuttack.
- 4. The Addl. Director General of Police, CID, CB, Odisha**, Cuttack.

...Opposite Parties

Advocates appeared in the case:

For the Petitioner:

Mr. Gautam Mishra, Senior Advocate
(Amicus Curiae) assisted by
Mr. A. Dash, Advocate

For Opposite Parties:

Mr. Pitambar Acharya,
Advocate General
Mr. Saswat Das, Addl. Govt. Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MISS JUSTICE SAVITRI RATHO

JUDGMENT

23.12.2024

Chakradhari Sharan Singh, C.J.

The Bharatpur Police Station in the city of Bhubaneswar, the capital of the State of Odisha shot to prominence and widely hit the



headlines of both the print and electronic media, for wrong reasons, in relation to a disturbing occurrence that had taken place in the premises of the police station on 15th September, 2024. We have considered it just and equitable not to refer to the allegations and counter allegations concerning the said incident in the present order as that may influence the matters which are pending police investigation and, the inquiry ordered by the State government under the Commissions of Inquiry Act, 1952 by a retired Hon'ble Judge of this Court.

2. The fact which was found to be disturbing was that an army officer along with his fiancée had gone to the Police Station on 15.09.2024 late in the night to lodge a First Information Report (FIR) against the miscreants, who had allegedly misbehaved with them. What happened inside the police Station with them or what did the duo do with the police personnel are subject matter of investigation/inquiry. The Bharatpur Police lodged an FIR against the said army officer and his fiancée registered as Bharatpur P.S. Case No.640 of 2024, alleging commission of various cognizable offences including the offence of attempt to murder the police personnel in the police station. The officer's fiancée was arrested. The army officer and his fiancée were unarmed.

3. Based on a letter dated 18.09.2024 addressed to the Chief Justice by the Lieutenant General PS Shekhawat, AVSM, SM, General Officer Commanding & Colonel of the MECH INF REGT, Madhya Bharat Area and his meeting with the Chief Justice at the residence on 17.09.2024, prior to making of the said communication dated 18.09.2024, *suo motu* cognizance of the incident was taken and this case, in the nature of Public interest Litigation came to be registered.



The contents of the said communication dated 18.09.2024 of Mr. Shekhawat is being reproduced hereinbelow:-

“1. I am writing to bring to your attention, a grave incident that occurred at Bharatpur Police Station, Bhubaneswar on 15 September, 2024, where the prestige of a serving Army Officer was demeaned and the modesty and dignity of his fiancée , x x x x x .

2. The unfortunate incident took place when the Army Officer along with his fiancé went to the police station to file a complaint against miscreants who had misbehaved with the couple at approximately 0100 hours on the day of the incident. Instead of extending the expected protection and support, the officers on duty acted in a manner unbecoming of their position. They not only humiliated the lady but also molested her and also disrespected the Army Officer by putting him under custody without any charge for almost 14 hours. The medical inspection of the lady also indicates grave injuries, which point to manhandling by the police personnel. The Bharatpur Police Station does not have a CCTV installed which is violative of Hon'ble Supreme Court's directions. The police actions and their purported statements are manipulative and aimed at concealing the police brutality on the lady and the officer.

3. Sir, the actions of the police personnel have deeply shaken the faith of the victims and also the military fraternity as a whole in the law enforcement system. This is evident from the wide coverage of the incident, not only on the main stream media but also the outrage of netizens across all social media platforms. While the officer was later released on intervention by the military authorities on the night of 15 September, the lady is still in judicial custody. Her medical examination was done at Institute of Medical Science and SUM Hospital, Bhubaneswar, which indicates reasonable injuries, but a subsequent medical done at Capital Hospital, Bhubaneswar was manipulated and



shows no such injuries. The manipulated medical reports were produced before the Judicial Magistrate, thus, forging evidence as well as misleading the judiciary. Such blatant manipulation and tampering of evidence is violative of her basic rights. I am enclosing the medical documents and photographs of her injury for perusal of your lordship. The arbitrary manner in which the lady was put through medical examination as also the hastily conducted hearing in front of the Magistrate on 15th September are indicative of gross travesty of justice and to an extent, manipulation of evidence.

4. Sir, we are of the opinion that the law has been violated on numerous counts. In the first instance a serving Army Officer was placed under custody without any offence and also without informing the Army Authorities. Secondly, the couple who had approached the police station for lodging a complaint, were denied their rights and instead a FIR was framed against the lady. In addition, the lady was sexually abused and manhandled. She was also subjected to physical torture. Subsequently, while in jail the lady was denied medical assistance when she complained of pain in her jaw and hip due to the manhandling she had sustained. The jail doctor too diagnosed suspected fracture of jaw but the jail authorities paid no heed to his advice. It was on the intervention of the Hon'ble Cuttack High Court that her medical examination and medical treatment is being done at AIIMS, Bhubaneswar. Denying basic medical assistance is grossly inhuman and violation of Human Rights of any individual. The lady was sexually abused by Mr. Dinakrushna Mishra, the IIC of Bharatpur Police Station and manhandled by the lady SI at the Police Station.

5. On intervention by the Army Authorities, the case has been handed over to the Crime Branch of the Orissa Police and an independent enquiry constituted. The lady, however, continues to remain in judicial custody.



6. In the light of the above, I humbly request your lordship to take Suo Motu cognizance of this incident and ensure that ends of justice are served by ensuring the following:-

- (a) Grant of bail to the lady without any further delay.
- (b) The enquiry conducted by the Crime Branch is absolutely fair and impartial in both letter and spirit. A FIR be lodged against the miscreants who indulged in the scuffle with the couple on the night of 14-15 September.
- (c) The errant police personnel are not only removed from their positions but also adequately punished so that the corrective message is sent to all concerned.
- (d) The police authorities be instructed to implement Hon'ble Supreme Court orders and install CCTV so that the action of police authorities are transparent and not violative of basic Human Rights of the citizens of the country.
- (e) The concerned medical authorities at Special Jail, Jharpada be held accountable for not providing urgent medical assistance to the lady even after the medical advice by the doctor of the Jail.

7. I am sanguine that under your Lordship's guidance, the matter will be impartially investigated and prompt appropriate action will be taken against those responsible.

8. Thanking you, Sir, in anticipation for your kind intervention."

4. There is no clue whether any person, other than the police personnel of the police station, the army officer and his fiancée, was present when the said occurrence had taken place in the police station. This observation, however, should not be construed as our finding on this point, since the matter is under investigation by the Police and is



being inquired into by a Commission of Inquiry. From the latter part of the present order, it can be seen that admittedly there was no CCTV camera installed in the police station. There was, thus, no clue as to what must have happened within the premises of the police station because of which the persons who had gone to lodge a criminal case stood implicated in the Bharatpur P.S. Case No.640 of 2024, with accusation of commission of offence of attempt to murder the police personnel in the police station.

5. The occurrence reminded us of an incident of 25th September, 1989 in which a Chief Judicial Magistrate of Nadiad, who had gone to the police station was arrested and taken to hospital for medical examination on the charge of having consumed liquor in breach of prohibition law in force in the State of Gujarat. The Chief Judicial Magistrate was photographed in handcuffs with a rope tied around his body, along with the constables which were published in the newspapers all over the country. That had led to “tremors in the bench and the Bar throughout the whole country” as observed by the Supreme Court in the case of *Delhi Judicial Service Association Vs. State of Gujarat* reported in (1991) 4 SCC 406 which led to issuance of slew of guidelines by the Supreme Court in the matter of arrest of a judicial officer. The Supreme Court, while issuing the guidelines remarked in no uncertain terms that no person whatever his rank or designation may be, is above law and he must face the penal consequences of infraction of criminal law. A Magistrate, Judge or other Judicial Officer is liable to criminal prosecution for an offence like any other citizen.

6. When the present matter was taken up by this Court on 23.09.2024, Mr. Pitambar Acharya, learned Advocate General



representing the State of Odisha informed this Court about the swift action taken by the Director General of Police, Odisha by transferring the investigation of said Bharatpur P.S. Case No.640 of 2024 to the Crime Branch and registration of a fresh Crime Branch P.S. Case No.10 of 2024. Another case i.e. Crime Branch P.S. Case No.11 of 2024 had also been registered based on the complaint made by the said army officer. In addition, one Chandaka P.S. Case No.615 of 2024 was also registered in connection with the incident of road rage, to complaint about which the army officer and his fiancé had gone to the police station, Mr. Acharya informed, and he further stated that all the three cases were being investigated by the Crime Branch of the State of Odisha under the supervision of a Senior Police Officer of the rank of Additional Director General of Police, Crime Branch. He had also informed that in exercise of the powers conferred under Section 3 read with sub-section (1) of Section 5 of the Commissions of Inquiry Act, 1952 the State Government has appointed a Commission of Inquiry headed by Mr. Justice C.R. Dash, a retired Hon'ble Judge of this Court to inquire into the incident and submit report on the following aspects:-

“(i) Examining the sequence of events and circumstances alleged to have led to the incidents of alleged misbehaviour/ assault on a woman, serving army officer, police officers etc. leading to registration of Bharatpur PS Case Nos.640/ 15.09.2024 (CID-CB Case No.10/24), CID-CB Case No.11/24 and Chandaka PS Case No.315, dated 19.09.2024 of UPD Bhubaneswar.

(ii) The Role, Conduct and Accountability of the Individuals/ Groups/Authorities.

(iii) Any other matter connected with or incidental thereto as the Commission may consider appropriate.



(iv) To suggest measures to be taken to avoid the recurrence of such events in future and ensuring safety and Security of women.”

7. He had submitted that the State did not have any objection, if this Court decided to monitor the investigations, in the interest of justice, despite the aforesaid steps having already been taken by the State administration at the level of police headquarters. In response to his submission, we had observed in our dated 23.09.2024 as under:-

“7. We do appreciate the swift action taken at the level of the Director General of Police (DGP) to investigate the occurrence. It is needless to say that power and duty of the Investigating Agency to investigate into a cognizable offence is statutory and unless there are exceptional circumstances, it is not desirable for the Court to interfere. We expect that the Investigating Agency shall act independently and fairly. There is no reason why this Court should monitor the investigation.

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10. At this juncture, we make it clear that unless the circumstances are exceptional and compelling, this Court shall not comment upon the investigation which is being conducted by the police, who have the statutory power to conduct such investigation. The State of Odisha has already constituted a Commission under the Commission of Inquiry Act headed by a retired Judge of this Court. In the present suo motu proceeding in the nature of Public Interest Litigation, the Court will generally confine itself to the issues concerning facilities available in various police stations and police outposts in the State of Odisha.”

8. In view of the admitted facts that the concerned police station did not have the facility of CCTV camera, this Court in its order dated



23.09.2024 had also made the following observations in paragraphs 8, which reads thus:-

“8. What is disturbing to this Court, after having seen the sequence of events, that admittedly two persons had entered into the police station, apparently with no intention to commit any crime, rather to lodge a complaint. What happened inside the police station is a matter which is under investigation. It is, however, surprising that they came out of the police station with an FIR registered against them alleging commission of offence of attempt to murder the police personnel. It is an admitted fact that the concerned police station does not have the facility of CCTV camera. This is despite the Supreme Court’s directions issued in the cases of *D.K. Basu Vs. State of West Bengal* reported in (2015) 1 SCC 744, *Paramvir Singh Saini Vs. Baljit Singh and Others*, reported in (2020) 7 SCC 397 and (2021) 1 SCC 184.”

9. Mr. Acharya, learned Advocate General had informed the Court that out of 650 police Stations in the State of Odisha, 559 police stations were equipped with CCTV cameras. We were informed to our utter surprise that some of the newly constructed Police Stations in the State did not have the facility of CCTV cameras. In the said background, in the public interest, and to ensure better transparency, we had issued the following directions in our order dated 23.09.2024 in paragraphs 11 and 12 :-

“11. For the said purpose, for the present, we direct the Addl. D.G. of Police (Modernisation), Odisha, Cuttack Mr. Dayal Gangwar, I.P.S. to submit a report based on the information available with the headquarters as regards availability of CCTV facilities in all the police stations and outposts in the State. He will be required to submit a report by 8th October, 2024. If possible, Mr. Gangwar shall be required to explain the scheme of



positioning of the CCTV cameras in the police stations. If required, we shall issue further directions to ensure that the Supreme Court's direction in the cases noted above are fully complied with, depending upon the nature of report which is submitted by Mr. Gangwar.

12. We further observe that Mr. Gangwar shall submit his report to this Court as an officer of the Court and shall assist the Court in the present matter in that capacity, even if, he is shifted to any other post in the State of Odisha. In his report, he must also mention as to whether the existing CCTV facilities in various police stations are in fact functional or not. Storage capacity of the hard disk kept in the police station should also be disclosed in the said report.”

10. Appreciating the concern about the personnel of the armed forces as reflected from the communication made by Mr. Sekhawat, which led to registration of the present *suo motu* PIL, we had desired to know as to what steps did the State Government intended to take to protect the dignity of the personnel of the armed forces in such circumstances.

11. Further, Mr. Gangwar, the Addl. Director General of Police (Modernization) was requested by the said order dated 23.09.2024 to suggest a fool-proof method for ensuring installation and proper maintenance of CCTV facilities in the police station.

12. Pursuant to the said order of this Court dated 23.09.2024, Mr. Dayal Gangwar filed a report before this Court on 08.10.2024 based on the inputs which he had received about the status of functional CCTV cameras in various police stations in the State, in the light of this Court's direction, he mentioned in his report that out of 593 police stations in the State of Odisha, in 456 police stations CCTV cameras were not functional. He further informed that with his intervention and



the efforts made by the top officials of the police and the State Government, CCTV cameras in all the police Stations of the State, except 13 had become functional and rest of the 13 police stations would also be equipped with CCTV cameras within 15 days. On the point of supervision, maintenance and upkeep of the CCTVs and their equipment, he suggested in his affidavit as under:-

“12. That, it will be pertinent to mention here that, the integrated system involves three tier supervision, maintenance and upkeep of CCTVs and its equipments. The first at the level of the Police Station, wherein it's the duty of the IIC/OIC to ensure working, maintenance and recording of CCTVs and allied equipment and monitor the footage of all the cameras under the Police Station. The second level is at the level of District Level Oversight Committee which has to continuously monitor the maintenance and upkeep of CCTV equipments, review footages of all the PSs under their jurisdiction and final at the State Level Oversight Committee to address concerns raised by DLOC. This mechanism required requisite internet bandwidth for connecting all Police Stations with the S.P. offices and all Police Stations with the State Police HQ. The system needed installation of Video Management Software (VMS) at the district level under the control of S.P. and Central Monitoring System (CMS) at the state level for seamless monitoring of the CCTV surveillance system.”

13. It was further stated in paragraphs 13, 14 and 15 of the affidavit as under:

“13. That, this deponent has carefully gone through the contents of the present case and directions given by the Hon'ble High Court. In response to the directions given to this deponent and being aware of the seriousness and importance of the above directions, this deponent chalked out a visit programme on a daily



basis and visited several Police Stations in different districts to personally satisfy himself about the CCTV facilities in vogue. This deponent also constituted 20 teams led by officers of the rank of DC/AC of different battalions to visit different police stations of all the districts of Odisha to physically check the status of the functioning of the CCTV facilities. After carefully studying the reports and on the basis of the personal visits to different police stations, this deponent hereby humbly submits the report as narrated in the following paragraphs.

i. CCTV facilities has been installed in 593 police stations and installation in 52 newly created police stations has been undertaken from 24th September 2024. CCTV facilities is not installed in any of the 295 outposts as of now. Proposal has been submitted to State Government to install CCTV facilities in the outposts after clear instructions of the High Court.

ii. A quick assessment was undertaken to obtain the status of all the 593 PS where CCTV were installed.

iii. It's to submit that out of 11,729 CCTV cameras installed in 593 police stations, 2266 of cameras were non-functional in 456 Police Station due to various causes as on 24th September 2024. The Police station wise breakup was collected from the districts and directions were issued to OCAC and the system integrator for taking steps to make them functional. The System Integrator has the provision to implement and maintain the monitoring/ticketing tool and capture all the incidents/complaints on CCTV equipment and resolve them. It was being done telephonically due to non-implementation of the VMS/CMS systems which has been made functional now.

iv. 57 Police stations needed shifting of some of the CCTV surveillance systems due to relocation of Police Stations from old building to new building or need for



change of NVRs to different room for want of technical requirements.

v. The Video Management Software (VMS) and Central Monitoring System (CMS) systems were not functional due to want of requisite internet connectivity and bandwidth.

vi. For CCTV installation in 52 numbers of new Police Station buildings, OCAC has been requested to take necessary steps for CCTV facilities at the earliest.

vii. A meeting was conducted with the Principal Secretary, E&IT Department for preparation of the road map for installation/ restoration of the CCTV facilities in the Police Stations.

viii. A meeting was convened with Director SCRB to decide on the IP schema and the modalities of completion of the Video Management Software (VMS) and Central Monitoring System (CMS), using existing CCTNS network.

ix. CEO, OCAC has been requested to submit a detailed proposal to this Hdqrs. for budgetary provision for repair and restoration, reinstallation & maintenance of CCTV Surveillance System in Police Stations throughout Odisha along with new installation in 52 new Police Stations for onward transmission to Govt. vide SP Hdqrs. Letter No.40736/Building dtd.25.09.2024.

x. Revenue Divisional Commissioners of all Ranges have been requested for making District Level Oversight Committee (DLOC) functional for necessary oversight mechanism for supervising the installation/ relocation/ restoration of CCTVs facilities.

xi. All Range IGs/ DIGs have been instructed to act as supervisory officers of their respective ranges for



vetting of the status report being sent by SsP of their Ranges.

xii. State Government has been requested for necessary approval for installation of CCTV facilities in 52 new Police Stations and 295 nos. of Out Posts.

xiii. All Commandants of Battalions have been instructed to depute one Deputy Commandant/ Asst. Commandant for physical checking of CCTV facilities functioning in Police Stations.

xiv. CEO, OCAC has been requested to organise a Refresher Training for the officers/ personnel of all Police Stations / Outposts across the State in management of CCTV facilities. xv. The Principal Secretary, Skill Development & Technical Education, Govt. of Odisha, Bhubaneswar has been requested to prepare a standard training module on management of the CCTV surveillance system to be imparted to all the police personnel of the state in a phased manner.

14. That, in view of the immediate steps taken as described in point no.13 as above, regular follow-up was done at this deponent's end, each day, and as such, the status report as on the date of submission of this affidavit is as under:

i. The restoration work of non-functional CCTV cameras has been completed in 1166 out of 2266 bringing down the percentage of non-functional cameras from 25% to less than 10% and the rest restoration work is underway which will be completed by 15th November 2024.

ii. The 57 Police Stations where the relocation was to be done has been completed and are functional.

iii. The installation work of 52 new PS has already started and completed in 49 Police Stations and rest installation would be completed soon.



iv. VMS and CMS has been integrated in 06 districts, namely Urban Police District Cuttack, Urban Police District Bhubaneswar, Berhampur, Rourkela, Puri and Nuapada. The system will be integrated with all districts by the end of 15.11.2024.

v. OCAC has initiated steps for installation of the CCTV facilities in all Outposts of the state and the System Integrator of OCAC would complete by the end of 31.03.2025.

15. That, as regards to the scheme of positioning of CCTV cameras is concerned, clear instructions as per guidelines of Hon'ble Supreme court of India have been circulated and well explained that no part of the Police station should be left uncovered. The following points have been covered as per the guidelines in the 593 police stations and would be done in the 52 newly created police stations as well. The same guidelines would be implemented for installation of CCTV systems in the outposts.

i. Entry and exit points

ii. Main gate of the Police Stations

iii. All Corridors

iv. Lobby

v. Reception area

vi. All verandas/outhouses

vii. Inspector/Sub-Inspector(in-charges) rooms

viii. Sub-Inspectors room

ix. Areas Outside the lock up room

x. Police Station hall

xi. Front side of Police Station Compound

xii. Outside wash rooms and toilets

xiii. Duty officer room



xiv. Back part of the Police Station

xv. Any other area/room available in Police station campus.

That, Mahila & Sishu Desk and the front view of the Hazats was also covered for all round surveillance of a Police Station as mentioned above.”

14. Dealing with the storage capacity of the Hard Disks of Network, Video recorders kept with the police stations for historical investigation and evidentiary purposes, following statement was made in the said affidavit in paragraphs 16 and 17 which read thus:

“16. That, as regards to the storage capacity of the hard disks of the Network Video Recorders kept in the Police Stations for historical, investigation and evidentiary purposes, it may be mentioned that there are 14 Hard Drive Disks(HDD),each having a capacity of 10 TB in each NVR in each police station of the state. To further explain the final usable storage after formatting of the HDDs it's to mention that RAID 5 storage configuration has been used in the NVRs for enhancing data reliability and performance. The total raw capacity of the 14 HDDs in each NVR is 140 TB and after deducting RAID 5 usable capacity (10 TB) and approximately 10% loss for formatting, the final usable storage capacity of the 14 HDDs is around 117 TB in each NVR in each police station, which is sufficient to store video footages for a period of 1 (one) year.

17. That, further it was decided that instead of having a separate network, the network available for CCTNS project will be leveraged with this project to ensure data security and prevent the leakage of any content of the CCTV data. The installation of VMS and CMS are underway in view of allocation of requisite bandwidth at respective PS and SP office recently. The System Integrator in the meantime attended to the complaints



as per his capability though not as per the standard as required under the service level agreement.”

15. In his affidavit, further statements have been made in paragraphs 18 and 19 in relation to comprehensive maintenance, regular maintenance and service for Court activities:

“18. That, a comprehensive maintenance plan has been prepared for ensuring the sustainability of the project.

a. The current system will be operative till 31-03- 2027 which is 5 years from the installation.

b. As per the standard industry practice the CCTV project carries a life span of 5 years with additional maximum 2 years depending on the condition of the system after 5 years. After which the system will attend its salvage value and have to be scrapped and new system with updated technology have to be adopted.

19. That, the regular maintenance and service support activities will be as below: -

i. Scheduled Maintenance:

- *Routine Check-ups: Establishing a monthly maintenance schedule to inspect camera functionality, wiring, and recording equipment at each Police Station.*

- *Preventive Maintenance: Addressing minor issues before they escalate, such as cleaning lenses and checking cable connections.*

ii. Monitoring and Alerts:

- *Real-Time Monitoring: The activation of the Central Management System (CMS) and Video Management System (VMS) would allow real-time viewing and monitoring of CCTV feeds to quickly identify issues, in police station and address the issues promptly.*



- *Automated Alerts: Through CMS all the alerts for malfunctions issues would be monitored enabling rapid response and solutions.*

iii. Documentation and Record Keeping: -

- *Maintenance Logs: Detailed records of all maintenance activities, repairs, and inspections carried out at police station would be kept to track system performance and issues.*

- *Incident Reports: Documentation of incidents involving CCTV footage for accountability and follow-up.*

iv. Training and Awareness:

- *Staff Training: Regularly training provision to staff in each Police Station on operation of the CCTV system, identifying issues, and reporting malfunctions.*
- *User Manuals: Providing easy access to manuals and troubleshooting guides for quick reference.*

v. Data Management:

- *Storage Solutions: Ensuring sufficient storage capacity of 117 TB usable space at each police station and regular backups.*
- *Compliance Protocols: Use strong passwords authentication for system access.*
- *Data Security: Conduct regular training sessions for staff on the importance of data security and privacy regarding CCTV footage.*

vi. System Upgrades:

- *Regular Software Updates: Ensuring that the CCTV software and firmware are up-to-date at each police station to improve security and functionality.*



- *Hardware Reviews: Periodically assessing the need for hardware upgrades or replacements based on performance and technology advancements in coming days.*

vii. Cooling and Humidity Control Management:

- *Air Conditioning (AC): Providing adequate air conditioning (AC) for Network Video Recorders (NVRs) for safeguarding Hard Drives (HDDs) and ensuring optimal performance.*
- *Proper Placement: Positioning of NVRs in well-ventilated areas, avoiding enclosed spaces without airflow.*
- *Rack Cooling: Using server racks with built-in cooling solutions or fans to promote airflow around the NVRs.*
- *Humidity Levels: Keeping humidity under control to prevent moisture build-up that can harm electronic components.*

viii. Power Supply System:

- *Ensuring the availability of uninterrupted power supply like Solar Power and effective UPS Systems to the equipment with provisioning of lightning arrester to safeguard the installed CCTV equipment in all Police Station and outposts.*

ix. CCTV Camera Layout Diagram:

- *Clear Labels: Using clear labels for each camera location in the Police Station and outposts.*
- *Directional Arrows: Including directional arrows to indicate camera coverage areas.*
- *Critical Zones: Highlighting critical zones that require extra monitoring.*
- *Coverage: Ensuring overlapping fields of view to eliminate blind spots.*

x. Role-based Access Control:

a. Administrator

- *Full access to all CCTV footage and settings.*
- *Can manage user roles and permissions.*



b. Officers

- *Limited access to footage from their assigned areas.*
- *Can view footage.*

xi. Manpower Support:

- *At present the CCTV system is being monitored by CCTV operators at Central monitoring system control room. Footages from cameras are recorded 24x7 in real time basis and retained for the period of one year in all NVRs (Network Video Recorder) at each Police Stations and Outposts.*
- *Adequate number of dedicated CCTV operators to be deployed at CMS Command and Control Room for monitoring of realtime camera feeds, ensuring prompt response to any incidents occurring at Police Stations and Outposts.*
- *Adequate district engineers have been deployed covering each district for the smooth operation & support of CCTV systems installed at each Police Stations and Outposts.”*

16. On 08.10.2024, during the course of hearing, we were informed that pursuant to the Court's observations made in the order dated 23.09.2024 that the State Government was in the process of preparation of standard operating procedure (SOP) so that certain issues concerning members of armed forces were duly addressed. The matter was adjourned to 12.11.2024. When the matter was taken up on 12.11.2024, Mr. Acharya, learned Advocate General produced before us the SOP on arrest and interaction with the members of the armed forces in the police stations, informed this Court that the said SOP has been approved by the Chief Minister of the State. The said SOP is being reproduced hereinbelow:-



“ SOP ON ARREST OF AND INTERACTION WITH MEMBERS OF ARMED FORCES IN POLICE STATIONS

Instances have come to notice that Police Officers deployed in Police Stations are not sound enough on situation management and interaction with members of Armed Forces visiting in the Police Station. They are also not well versed to deal with the issues while registering complaints against the members of Armed Forces and the consequential procedures. Sometimes they fail to carry out the dictums of law while detaining and arresting defence personnel for the alleged involvement in a criminal act. Hon'ble Orissa High Court in seisin over **SUO MOTU Writ Petition(C) No. 23735 of 2024 (Registrar Judicial, Orissa High Court vs. Government of Odisha and Others)** vide order dtd. 23.09.2024 have directed in paragraph-13 of the order to know about the steps intended to be taken by the State Government to protect the dignity of the personnel of the Armed Forces in the Police Stations/ out posts premises. In order to enlighten and illuminate the Police Officers in the matters of arrest of defence personnel in deserving cases and to equip them with the skill of proper interaction with the defence personnel in Police Station/ out posts premises, it is felt expedient to issue this SOP.

A. Interaction with the Defence Personnel visiting Police Station

(1) Whenever any defence personnel either on duty or not, approaches any Police Officer inside the Police Station to lodge a complaint, the Police officer shall exhibit due courtesy to him so as to respect dignity of the Officer or defence personnel.

(2) Problems and grievances of the defence personnel shall be promptly attended to by the Police Officer and all required legal and logistic supports shall be extended to him as early as possible.



(3) If any defence personnel tender a written complaint, same shall be promptly attended to in accordance with the Law. Pro-active steps shall be taken by the Police Officer to mitigate his grievance.

(4) All necessary helps shall be provided in the filing of complaint.

(5) If the defence personnel make any oral information revealing commission of cognizable offence, without insisting for written report, the Police Officer shall forthwith reduce the information to writing and obtain signature of the complainant to initiate legal action into motion.

B. Arrest of Defence Personnel

Powers of Police Officer to arrest a person under BNSS 2023 finds an exception u/s 42 of BNSS 2023 wherein it has been provided that no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties, except after obtaining the consent of the Central Government Of course, u/s 42(2) BNSS the State Government has the authority to issue notification specifying class or category of the members of the Force in whose favour the protection will be applicable.

Section 70 of The Army Act, 1950 categorically provides that a person subject to this Act who commits an offence of murder, culpable homicide not amounting to murder, or rape against a person not subject to Military, Naval or Airforce law shall not be tried by a Court-Martial, even if he is in active service or he commits the offence outside India or at a frontier post. Section 72 of The Air force Act, 1950 and Section 78 of The Navy Act, 1957 enjoin provisions exactly similar to section 70 of The Army Act. For ready reference, section 70 of the Army Act, 1950 is quoted hereunder:



“70. Civil offence not triable by court-martial.—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such a person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences— (a) while on active service, or (b) at any place outside India, or (c) at a frontier post specified by the Central Government by notification in this behalf.”

On conjoint reading of Section 4 BNSS, 2023, Section 4 and 70 of The Army Act, 1950, it is made clear that offence of murder, culpable homicide not amounting to murder and rape committed by a member of the Forces attracts jurisdiction and procedure of the common law i.e. BNSS, 2023.

While dealing with investigation of cases and treatment of offenders belonging to the Armed Forces, Ministry of Home Affairs, Govt of India has issued a set of guidelines vide their letter No. VI250/13/6/83.

In the light of the above legal provisions and guidelines of MHA, Government of India the following instructions are hereby issued to the Police Officers which need to be scrupulously followed when dealing with any member of the Forces committing or purports to commit any offence or subjected to the process of investigation for having any complicity in a criminal case.

(1) A Police Officer cannot arrest any personnel of Army, Airforce and Navy while on duty without permission of the Central Government.

(2) The permission of arrest will be given by the nearest Station Commander in the rank of Major General or above. If permission is denied, the officer detained by the Police needs to be handed over to Military Police and they will further look into the matter.



(3) The Police can arrest serving officers of the forces without permission if they are involved in heinous crimes like rape, murder and kidnapping etc. which are unrelated to their duty. If the offence is other than the above crimes, the Police is not authorised to make arrest of any defence personnel without prior permission of the authority.

(4) In case, the Police officer arrests defence personnel in crimes unrelated to performance of their duty, it is mandatory for the Police to inform the nearest Military Station Headquarters with the details of offences, date of arrest and the place of detention and custody.

(5) The complaints against Military personnel may be looked into promptly and the Military commanders may be informed of the action taken or proposed to be taken on the complaints.

(6) The defence personnel under arrest should not be manhandled or assaulted or beaten up. He should not also be handcuffed.

(7) The provisions contemplated under section 521 of BNSS, 2023 (475 Cr.P.C) and the Rule 3.3 of Criminal Courts and Court Martial (adjustment of jurisdiction) Rules, 1978 should be brought to the notice of criminal courts while dealing with an accused belonging to defence forces.

Section 521 of BNSS, 2023 and Rule 3.3 of Criminal Courts and Court martial (adjustment of jurisdiction) Rules, 1978 are quoted hereunder for ready reference.

Section 521 of BNSS- Delivery to commanding officers of persons liable to be tried by Court-martial.

(1) The Central Government may make rules consistent with this BNSS and the Army Act, 1950, the Navy Act, 1957, and the Air Force Act, 1950, and any other law, relating to the Armed Forces of the Union, for the time



being in force, as to cases in which persons subject to military, naval or air-force law, or such other law, shall be tried by a Court to which this BNSS applies, or by a Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this BNSS applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest military, naval or air-force station, as the case may be, for the purpose of being tried by a Court-martial.

Rule 3.3 of Criminal Courts and Court Martial (adjustment of jurisdiction) Rules, 1978–

Where a person subject to military, naval or air force law, or any other law relating to the Armed Forces of the Union for the time being in force is brought before a Magistrate and charged with an offence for which he is also liable to be tried by a Courtmartial, such Magistrate shall not proceed to try such person or to commit the case to the Court of Session, unless- (a) he is moved thereto by a competent military, naval or air force authority; or (b) he is of opinion, for reasons to be recorded.

Any deviation of the above instructions shall be viewed seriously.”

17. In addition to the above, a status report by way of additional affidavit was also filed by Mr. Gangwar, paragraph 5 of which read thus:

“5. xxx

“1. That in compliance of the order of this Hon’ble Court dated 23.09.2024 and 08.10.2024, this deponent have been able to achieve as follows:



a. This deponent have been able to complete restoration work with respect to 96% of the CCTV cameras installed in Police Stations in the State of Odisha and all are live. The remaining 4% of CCTV Cameras would be restored by the end of November 2024 which were damaged due to “CYCLONE DANA”.

b. This deponent have been able to complete the relocation work of CCTV cameras in the 57 Police Stations and installation of cameras in 52 new Police Stations by employing the current system integrator in full and they are functioning properly.

c. This deponent have also been able to integrate 85% Police Stations out of 645 Police Stations in the Central Monitoring System (CMS) of the State Police Headquarters, Cuttack. The process of integration was started after the Bharatpur incident.

d. This deponent have already accomplished the task of connecting 36 districts in the state of Odisha to the Central Monitoring System (CMS) through Video management system (VMS) and the rest 2 districts would be connected well within the stipulated time of 15.11.2024.

2. That it is to state the process with respect to installation of CCTV cameras for 295 Police Outposts has been taken up by OCAC as on 11.11.2024.

3. That it is further pertinent to bring to the knowledge of this Hon’ble Court that this deponent had issued a letter to OCAC bearing No. VIIC-27-2024-46896/Building Dt. 22.10.2024 wherein this deponent had communicated to OCAC that the work for installation of CCTV Cameras in Police Outposts must be undertaken in an expedient manner.

4. That regular correspondences and meetings have been done with OCAC authority explaining the gravity of the situation, as well as communicating the directions of



Hon'ble High Court with the clear time-frame of 31.03.2025 for completion of the installation work. Due approval of Government was also communicated to OCAC to go ahead with the work immediately. That the same has been communicated to OCAC vide Letter Dt. 02.11.2024 bearing No. VIIC-27-2024/48382/Building. 5. That subsequently a letter was issued by OCAC Dt.08.11.2024 bearing Reference No. OCAC-SEGP-INFRA-0021-2021 wherein OCAC has stated their intent to float a fresh tender for the allocation of the work of installation of CCTV Cameras at 295 Police Outposts throughout the State.”

18. As can be seen from the facts noted above, the dark side of the incident is truly shocking which reveals a situation where the two individuals who had gone to the police station to register a case stood implicated in a criminal case of attempt to murder the police personnel of the police station. Further, there is manifest administrative failure on the part of the State in not installing CCTV facilities in the police station, more so, in the capital of the State, which could have easily revealed the truth. We cannot, however, ignore that realizing the lapse the State and its officials in the present case, in our opinion, have acted promptly and with this Court's intervention satisfactory target has been achieved, not only in installation of the CCTV cameras in the police stations, their relocation, maintenance and integration in the Central Monitoring System (CMS) of the State Police Headquarters, Cuttack. As it emerges from the last affidavit filed by Mr. Gangwar, 36 districts in the State of Odisha, the task of connecting 36 districts in the State of Odisha to the CMS through Video Management System (VMS) has already been accomplished and the rest of the two districts, the Court expects, must have been connected by now.



19. We have been informed that not only in the police stations, the work of installation of CCTV cameras in 95 police outposts has been taken up by Odisha Computer Application Center (OCAC) as on 11.11.2024. The OCAC has been asked by the State Government to complete the work of installation of CCTV cameras in the police outposts by 31.03.2025.

20. In view of the facts which have emerged, as have been noted in the present order, we close the present *suo motu* PIL with the following observations and directions:-

- (i) All the police stations and the police out-posts in the State of Odisha must be fully equipped with aptly placed and duly located CCTV cameras by 31.03.2025. Their integration with the Central Monitoring System (CMS) through Video Management System (VMS) must also be completed by the said date.
- (ii) The State Officials/police personnel shall be under the obligation to strictly follow the SOP formulated by the State Government **ON ARREST OF AND INTERACTION WITH MEMBERS OF ARMED FORCES IN POLICE STATIONS** as has been noted hereinabove. The said SOP should be duly publicized and effective steps should be taken to ensure that the police personnel are made aware of the provisions of the SOP. The said SOP should be circulated in odia language to all the police stations and the police outposts of the State.



- (iii) The State Government and the Police Headquarters must ensure that the assurance given to this Court in the affidavits filed by Mr. Gangwar is not breached.
- (iv) We reiterate that no observation made in the present order should prejudice the police investigation being conducted by the Crime Branch or the inquiry being held under the provisions of Commission of Inquiry Act.

21. Before we part with the present order, we place on record our appreciation for the assistance extended by Mr. Gautam Mishra, learned Senior Counsel appearing as Amicus Curiae at the Court's request. Befitting his status as the first law officer of the State, learned Advocate General, Mr. Acharya has assisted this Court with all fairness. Mr. Gangwar discharged his function as an officer of this Court and has acted proactively in obtaining inputs and carrying out the work of installation of CCTV Cameras in the police stations and the police outposts as well as the integration in CMS. We do record our appreciation for his assistance extended to this Court.

22. The writ petition is disposed of accordingly.

(Chakradhari Sharan Singh)
Chief Justice

(Savitri Ratho)
Judge

SK Jena/Secy.

Signature Not Verified

Digitally Signed
Signed by: SANJAY KUMAR JENA
Designation: SECRETARY
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 24-Dec-2024 12:12:19

