

CBI v. Kishore Singh, (2011) 6 SCC 369

Penal Code, 1860

Ss. 326/335, S. 326 r/w S. 120-B and S. 342 - Custodial violence and atrocities - Infliction of grievous hurt - Conviction confirmed - Premeditated act - Inference of - Defence of grave and sudden provocation under S. 335 - Plea of, rejected - Victim Js penis cut off (bobbitted) by accused Constable K with a barber's razor in police station while accused ASI S held him, on Js admission that he was having affair with accused Bs wife - B being a relative of K - Held, there cannot be said to be grave and sudden provocation so as to attract S. 335, rather it was a premeditated act - Normally, policemen do not carry sharp-edged weapons like razors which K was carrying - Moreover, S was not related to either B or his wife and hence, there was no justifiable ground for sudden provocation on his part at all - Furthermore, evidence revealing that J was subjected to third-degree methods while he was locked up in police station from 2-2-1994 to 5-2-1994, without being produced before Magistrate - Contention of S that his presence at police station was not established rejected, since his presence there was proved vide testimony of J - Hence, S. 326 and not S. 335 applicable - K convicted under S. 326 and sentenced thereunder to 5 years' RI and under S. 342 to six months' RI, with a fine of Rs 50,000, while acquittal of S set aside and he convicted under S. 326 r/w S. 120-B and sentenced thereunder to 3 years' RI and under S. 342 to six months' RI, with a fine of Rs 50,000 - K to suffer default imprisonment of six months' RI and S one year's RI on non-payment of fine - Fine to be paid as compensation to J , (2011) 6 SCC 369-A

Penal Code, 1860

S. 342 - Wrongful confinement - Conviction of SHO of police station therefor, restored - Sh was SHO of police station where J was locked up from 2-2-1994 to 5-2-1994 and subjected to third-degree measures (amongst other acts of torture, J's penis was cut off) without producing him before Magistrate - Evidence also indicating that Sh was present at police station when J was brought there and had also slapped him - Held, Sh being SHO must have been aware of activities in police station and was also guilty of omitting to produce J before Magistrate within 24 hours of arrest, as required - Hence, Sh guilty under S. 342 and sentenced to six months' SI and fine of Rs 10,000 with default stipulation of one month's SI, (2011) 6 SCC 369-B

Police

Police Inaction/Atrocities/Custodial Violence or deaths/Illegal Detention

Third-degree methods used in police stations - Violation of directives in D.K. Basu case, (1997) 1 SCC 416 - Sentencing policy - Held, policemen who commit criminal acts deserve harsher punishment than others who commit such acts, because it is their duty to protect people and not to break law themselves, (2011) 6 SCC 369-C

Police

Police Inaction/Atrocities/Custodial Violence or deaths/Illegal Detention

Sole testimony of victim - Reliability of - Absence of independent witness in police station - Effect - Held, in a police station there cannot be any witnesses is except policemen and the victim - Hence, absence of other independent witnesses is inconsequential - Normally more weight is attached to testimony of injured witness - Hence, in present case police personnel concerned, including an ASI and SHO, convicted under S. 326 r/w S. 120-B and S. 342 IPC, respectively, based on sole testimony of victim, (2011) 6 SCC 369-D

Criminal Trial

Sentence

Fine converted as compensation to victim - Three policemen convicted for voluntarily causing grievous hurt to a person illegally confined in police station - Apart from sentencing them to imprisonment, fine also imposed on them - Strict default stipulations made, to compel payment of fine - Fine of Rs 50,000 imposed on constable cutting off penis of victim with default stipulation of six months' RI; Rs 50,000 fine with default stipulation of one year's RI imposed on ASI who held victim while his penis was being cut off; and Rs 10,000 fine imposed on SHO with default stipulation of one month's SI -

Fine, held, to be paid to victim as compensation, (2011) 6 SCC 369-E