

Case: The Supreme Court of India Observes on Custodial Violence and Death in Police Custody ### Summary: The Supreme Court of India has made significant observations on custodial violence and death in police custody, emphasizing the need for protection of individuals from torture and abuse by law enforcement officers. The court emphasized that custodial violence is a matter of concern in a free society, striking a blow at the rule of law. The court also highlighted the great responsibility of the State to ensure that citizens in its custody are not deprived of their right to life except in accordance with the procedure established by law. The court issued a set of requirements to be followed in cases of arrest or detention of a person till legal provisions are made in that regard as preventive measures. ### Main Arguments: The main arguments presented by the Supreme Court include: - The need to protect individuals from torture and abuse by law enforcement officers. - The great responsibility of the State to ensure that citizens in its custody are not deprived of their right to life except in accordance with the procedure established by law. - The requirement for law enforcement officers to bear accurate, visible, and clear identification, and name tags with their designations. - The need to prepare a memo of the arrest at the time of arrest and to inform the arrestee's next friend or relative about the arrest. ### Court Decisions: The Supreme Court of India has made several decisions in this case, including: - Observing that custodial violence and death in custody is a matter of concern. - Emphasizing the great responsibility of the State to ensure that citizens in its custody are not deprived of their right to life except in accordance with the procedure established by law. - Issuing a set of requirements to be followed in cases of arrest or detention of a person till legal provisions are made in that regard as preventive measures. ### Legal Precedents or Statutes Cited: The Supreme Court of India has cited several legal precedents and statutes, including: - Article 21 of the Constitution of India, which guarantees the right to life. - Nilabati Behera vs. State of Orissa (1993 CrLJ 2899), where the Supreme Court awarded damages against the state to the mother of a young man who was beaten to death in police custody. ### Quotations from the court: The court has made several observations, including: - "Custodial violence and death in custody is a matter of concern. The protection of an individual from tortures and abuses by the police and other law enforcement officers is a matter of concern in a free society." - "Custodial violence, including torture, strikes a blow at the rule of law, which demands that the powers of executive should not only be derived from the law but also that the same shall be limited by the law." - "There is a great responsibility on the state to see that citizens in their custody are not denied their right to life except in accordance to the procedure established by law." ### Conclusion: The Supreme Court of India has made significant observations on custodial violence and death in police custody, emphasizing the need for protection of individuals from torture and abuse by law enforcement officers. The court has also issued a set of requirements to be followed in cases of arrest or detention of a person till legal provisions are made in that regard as preventive measures. ### Case: The Indian Legal Judgment in question is not explicitly mentioned in the provided text. However, based on the context and the cited cases, it appears to be related to an Indian court's decision on enforcing rights and compensation for contravention of fundamental rights. ### Summary: The judgment held that the power to enforce rights imposes a duty to create new tools, such as compensation, where it is the only available remedy. This remedy is considered to be in public law, based on strict liability for contravention of fundamental rights, and is not subject to the principle of sovereign immunity. ### Main Arguments: The main

arguments presented by the court include the interpretation of the power to enforce rights and the creation of new tools, such as compensation, as a remedy for contravention of fundamental rights. The court also relied on the principle of strict liability and the non-applicability of sovereign immunity in public law cases. ### Court Decisions: The Court of Appeal relied on the judgment of the Supreme Court of Ireland in *Maharaj v. Attorney-General of Trinidad and Tobago*, [1978] 2 All ER 670, which held that the Constitution permits an order for monetary compensation as redress for contravention of basic human rights and fundamental freedoms. ### Legal Precedents or Statutes Cited: The judgment cited the following legal precedents: - *Maharaj v. Attorney-General of Trinidad and Tobago*, [1978] 2 All ER 670 (Supreme Court of Ireland) - *Byrne v. Ireland*, [1972] (Privy Council) However, the specific Indian statute or constitutional provision is not mentioned in the provided text. ### Quotations from the court: The judgment states that the power to enforce rights imposes a duty to "forge new tools", of which compensation is an appropriate one, where that is the only remedy available. ### Conclusion: The judgment holds that the power to enforce rights imposes a duty to create new tools, such as compensation, as a remedy for contravention of fundamental rights. This remedy is considered to be in public law, based on strict liability for contravention of fundamental rights, and is not subject to the principle of sovereign immunity. The judgment relies on the principle of strict liability and the non-applicability of sovereign immunity in public law cases.