

BHIM SINGH V/S STATE OF JAMMU & KASHMIR.

TITLE OF THE CASE LAW: BHIM SINGH V/S STATE OF JAMMU & KASHMIR.

APPELLANT NAME: BHIM SINGH, MLA

RESPONDENT NAME: STATE OF JAMMU & KASHMIR.

DATE OF JUDGEMENT: 22 NOVEMBER 1985.

COURT INVOLVED: SUPREME COURT OF INDIA.

ARTICLES INVOLVED: ARTICLE 21, ARTICLE 22(2), and ARTICLE 32

BENCH OF JUDGES: O. CHINNAPPA REDDY AND V. KHALID.

CITATION OF CASE: AIR 1986 SC 494, (1985) 4SCC 677

INTRODUCTION:

Basically, this case covers the vital element of law involving INJURIA SINE DAMNUM and WRONGFUL CONFINEMENT. The decision of this case came on 22 November, 1985, it was a landmark hearing in which Supreme Court of India ordered that the petitioner was to be awarded fifty thousand rupees for his false imprisonment after he was suspended as a Member and prevented entry in the Jammu and Kashmir Legislative Assembly. The following order of compensation from this case was a turning point in the tort law in India. The mala-fide conduct of police officers, casual and irresponsible behaviour and attitude of Magistrate and Sub judge or their collusion with police in passing orders of police remand against MLA of legislative assembly of state of Jammu and Kashmir, Mr. Bhim Singh was strongly condemned.

In this case the right of a person to personal liberty, freedom, and life with dignity has been guaranteed by the Constitution under Articles 20 and 21

cannot be abrogated even during an emergency, and false imprisonment is incongruous of the same. Where it is shown that a person was arrested and imprisoned with mischievous and malicious intent the Court shall have the power to compensate the sufferer by awarding suitable monetary compensation and exemplary cost.

BACKGROUND AND FACT OF THE CASE

In the following case of ``Bhim Singh vs. State of Jammu & Kashmir`` Mr Bhim Singh, an MLA of Jammu & Kashmir was arrested & detained in police custody & was deliberately prevented from attending the sessions of the legislative assembly to be held. There was also a voting session which was going to be held and since he was not allowed to go. At the assembly session where his vote was very important. Though the person to whom he wanted to vote won but his right to vote was infringed. He was arrested and was not even presented before the court for four days and was kept in a hidden place. The case is all about the violation of personal liberty where the police though obtaining remand of the arrested person, not producing him before the magistrate within the requisite period. There was a gross violation of rights under Article 21 & Article 22. It was held that there was an arrest with the mischievous & malicious intent & the plaintiff was entitled to the compensation of Rs. 50,000 since there was an arrest of a member of the legislative assembly while he was on his way to the legislative assembly which resulted in the deprivation of the right to attend the impending assembly session. In the cases of Injuria Sine Damnum, the court has the jurisdiction to compensate by awarding suitable monetary compensation. It was concluded that the member of the legislative assembly was arrested while in route to the seat of assembly & in consequence of the member was deprived of his constitutional rights to attend the assembly session & responsibility for the arrest & hence is entitled to reasonable compensation.

ISSUE INVOLVED IN THE CASE

- Whether monetary compensation was a suitable remedy or not?
- Whether the detention of the M. L. A was valid or not?

JUDGEMENT OF THE CASE

In this particular case the court dawned upon statements by M.A. Mir, superintendent of police to be untrue, neither the superintendent was in position to explain why he expected Bhim Singh to travel through Qazi kund on the night of his arrest. The court also instituted that the lengthy affidavit filed by inspector general Khajuria comprised of statements of facts that he could not possibly have been aware off. The court ruled that there "certainly was a gross violation of Shri Bhim Singh's constitutional rights" and condemned the authoritarian acts of the police. The judges though stated that the police were but minions and that they were in no doubt that the top levels of the Government of Jammu and Kashmir where ultimately responsible.

The Supreme Court in a landmark judgement that impacted tort law in India, awarded bhim Singh a compensation of fifty thousand rupees for his illegal detention and false imprisonment by the police. Bhim Singh had left jail with a fractured leg and claimed during his false imprisonment the police and state agencies had made an attempt on his life.

CONCLUSION

After looking into insight of this particular project of Bhim Singh vs Jammu and Kashmir we arrive on the conclusion that the following case was really a landmark case which evolved the tort law in India. The particular case dwells on the theme of Wrongful Confinement and Injuria Sine Damnum.

According to me the court gave the correct decision in the following case as from my point of view there was no other way for the court to compensate the plaintiff. In the present case the court narrowed the space between State and citizen. By the following order it may at one point appear the weakening of original doctrine of Sovereign immunity and changing conception of state. "thus, by making the state to pay compensation the Supreme Court

established the following principle that the state and citizen are on same juristic plane." thus the principle of compensation which would generally apply to the rectification of private wrong like trespass, negligence etc. would also apply to public wrong too.