

KASTURI LAL RALIA RAM JAIN V. STATE OF UTTAR PRADESH (AIR1965 SC 1039), SEPTEMBER 9, 1964

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Hon'ble Judges: P.B. Gajendragadkar, C.J. J.R. Mudholkar, K.N. Wanchoo, M. Hidayatullah and Raghubar Dayal, JJ.

Date of Judgement: September 9, 1964

FACTS OF THE CASE

On September 20, 1947, Ralia Ram, who was a partner in the appellant firm M/s. Kasturilal Ralia Ram Jain which deals in bullion arrived in Meerut. Whilst on his way to sell his goods in the local market, Ralia Ram was apprehended without apparent cause by three police constables in Chaupla Bazar. The police, lacking clear justification, proceeded to examine his belongings and subsequently transported him to the Police Station.

While in custody, Ralia Ram's belongings, which included two maunds and six and a half seers of silver, 103 tolas, six mashas, and one ratti of gold, were confiscated by the police. Following his release on bail on September 21, 1947, Ralia Ram made efforts to retrieve his seized gold from the police but faced obstacles. As a result, he initiated legal proceedings against the State of Uttar Pradesh, seeking either the return of the confiscated gold or its equivalent value. In the alternative claim, Ralia Ram requested Rs. 11,075-10-0, representing the cost of the gold, along with an additional Rs. 355 as future interest¹. The legal action aimed to rectify the unjust confiscation and secure fair compensation for the appellant, emphasizing the importance of restitution and justice in response to unauthorized actions by law enforcement.

APPELLANT ARGUMENTS

The plaintiff asserted that the State of Uttar Pradesh is obligated to make restitution to the appellant, M/s. Kasturilal Ralia Ram Jain, for the harm done as a result of the respondent's police officers' negligence.

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¹AIR1965 SC 1039

RESPONDENT ARGUMENTS

The respondent stated that the case involved misuse of the property rather than negligence. The respondent further stated that even if the police officer's negligence were to be proven, the State would still not be held responsible for the crime of any servant it had employed.

CASES REFERRED

1. State of Rajasthan v. Mt. Vidhawati.²
2. Secy. of State for India in Council v. Moment.³
3. Mohammad Murad, Ibrahim Khan v. Govt. of United Provinces.⁴
4. Peninsular and Oriental Steam Navigation Co. v. Secy. of State for India in Council.⁵
5. Shivabhajan Durga Prasad v. Secy. of State for India.⁶
6. Secy. of State for India in Council v. Shreegobinda Chaudhuri.⁷
7. Uma Parshad v. Secy. of State.⁸
8. Secy. of State for India in Council v. A. Cockcraft.⁹

QUESTIONS RAISED

1. Whether the police officers involved were careless in how they handled the gold that had been taken from Ralia Ram.
2. Whether the respondent was required to make up to the appellant for the loss brought on by the negligence of the public workers, it hired.

² [1962] Supp2SCR989

³ [1912] 40 I.A. 48

⁴ [1957] I. All. 94

⁵ [1861] 5 Bom. H.C.R. App. I,p.1

⁶ [1904] ILR 28 Bom 314

⁷ AIR 1932 Cal 834, 140 Ind Cas 856

⁸ [1965] AIR 1039

⁹ [1916] ILR 39 Mad 351,

LAW

Sections: 54(1)(iv), 550, 51 and 523 of the Code of Criminal Procedure: Ralia Ram's apprehension and the subsequent confiscation of his belongings found legal grounding in **Section 54(1)(iv) Of the Code of Criminal Procedure**, which authorizes the police to detain individuals in possession of suspected stolen goods. Additionally, **Section 550** provides the authority for the seizure of such items, while **Section 51** justifies the search of detained individuals. Further procedures outlined in **Section 523** highlight the importance of promptly reporting the seized property to a Magistrate, who holds the discretion to determine its disposition, whether through release to the rightful owner or other means.

Article 300(1) of the Indian Constitution, 1950: This matter pertains to **Article 300(1)** of the Constitution, comprising three parts. The first specifies how the government can be sued. The second allows a State to be sued or sue in situations akin to those involving a corresponding Province Pre-Constitution. The third permits legislative provisions on this matter. Details of this article will be discussed in subsequent sections.

JUDGEMENT

The honourable Supreme Court ruled in *Kasturilal Ralia Ram Jain v. The State of Uttar Pradesh* that even though police officials handling goods taken from Ralia Ram were working within their official power, they were nevertheless found to have been negligent. They were acting in accordance with legal sovereign rights, which included the authority to make arrests, conduct searches, and seize property. Even though the officers were clearly employed by the government, their position belonged to a class of work distinguished by the special characteristics of sovereign power.

The critical factor in this case is that a government employee committed the act leading to the claim for damages during the course of their employment, but it was an employment involving the exercise of sovereign powers. This distinction is crucial because actions falling within the realm of sovereign powers are shielded from claims for damages.

This legal position finds its historical precedent in **Chief Justice Peacock's decision in 1861**, which set the precedent that claims against the government in such circumstances are not sustainable. Therefore, based on this understanding and precedent, the present claim for damages

cannot be upheld, as the actions of the police officers, while negligent, were undertaken as part of their employment involving sovereign powers conferred by statute.

ANALYSIS

The facts of this case centred on the issue of state liability for the wrongful actions of its employees under the context of **Article 300(1) of the Indian Constitution**. It was determined that even though the negligent acts were committed by government employees during their official duties, the claim against the State could not be upheld. This was because the nature of their employment fell under a category characterized by sovereign powers, making the state immune from liability.

Article 300(1) of the Indian Constitution, 1950, outlines the legal framework for government liability in India. It can be broken down into three key aspects:

Form and Cause Title: The first part addresses how suits should be filed involving the Government of India or a State government, including their proper titles.

State Liability: The second part states that a State government can be sued or can file suits regarding its affairs, similar to the scenarios that would have applied to a corresponding Province if the Constitution hadn't been enacted. In essence, it asks if such a lawsuit could have occurred against a Province in the absence of the Constitution.

Legislative Authority: The third part allows the Indian Parliament or State Legislatures to enact laws related to **Article 300(1)**. However, in cases where no such law exists, the determination of whether the government is liable to be sued for damages is based on whether a similar lawsuit could have been filed against a corresponding Province. This forms the basis for assessing government liability in the absence of specific legislation.

In this case, since the respondent hasn't passed such a law, the question of whether they can be sued for damages by the appellant is determined by whether such a suit would have been possible against the corresponding Province under similar circumstances.

In my research, I observed that several countries all over the world have developed their own system to deal with the matter of **sovereign immunity**.

Historically in the United Kingdom, the Crown could not be sued for its servants' actions due to the belief that "the king can do no wrong." This made it hard for people to seek compensation for

government servants' misconduct. However, **the Crown Proceedings Act 1947** changed this, allowing lawsuits against the Crown in tort cases. Yet, there are exceptions, and the extent of vicarious liability is not absolute due to exemption clauses.

In the United States, a similar approach to that of the United Kingdom was initially adopted, granting the state immunity from its servant's misconduct. However, recognizing the need for accountability, legislatures introduced the Federal Tort Claims Act in 1946. This act stipulates that the State is not liable for its official's misconduct if the official carried out their responsibilities with comprehensive care and diligence.

Compared to the United Kingdom, the United States has a more defined framework for tortious liability. However, the U.S. judiciary has played a pivotal role in gradually expanding the scope of the State's tortious liability over time. This evolution reflects the changing landscape of accountability and the recognition that responsible governance should entail consequences for misconduct, even within the confines of government service.

India's approach to government liability differs from that of the United States and the United Kingdom. Historically, India, like the UK, initially held that the government, often referred to as the "Crown" in the UK, was immune from civil liability for its servants' actions. However, this stance evolved over time. India's Constitution, through **Article 300**, delineates the liability of both Union and State governments, allowing for suits in specific cases, mirroring the UK's approach after the **Crown Proceedings Act**. Unlike the US, India lacks a comprehensive federal law akin to the Federal **Tort Claims Act** and instead relies on constitutional provisions and relevant statutes. The Indian judiciary, akin to the US, has significantly influenced the landscape of government liability through its interpretations and clarifications, particularly concerning tortious misconduct. India, like the UK, recognizes vicarious liability, enabling government accountability for its officials' wrongful acts in certain situations. In essence, while historical backgrounds and legislative mechanisms vary, the fundamental principle of government accountability and the judiciary's role in shaping it are shared aspects among India, the United States, and the United Kingdom, each with its distinct legal framework and historical context shaping the extent of government liability.

CONCLUSION

While I agree with the Honourable Supreme Court's decision on this subject matter, *considering the time of its deliverance*, one must also consider its relevance in the modern era. The principle

that the Crown was not answerable for the torts committed by its servants holds no good in the Indian system of governance. *In his article titled "The Myth that the King Can Do No Wrong: A Comparative Study of the Sovereign Immunity Doctrine in the United States and New York Courts of Claims," John E.H Sherry argues that sovereign immunity was devised to shield a feeble government from demanding citizens Though I don't endorse the sharp tone used in the original text, I do however, align with Sherry's thought process. In India's governance, where interaction between the State and citizens is pivotal, it's essential to hold the State liable for its agent's actions that could harm citizens. The antiquated idea that the Crown is unaccountable for its agents' actions no longer suits our democratic framework, where checks and balances are vital.*

