



CASE COMMENT: HANSURA BAI & ANR. V. STATE OF MADHYA PRADESH & ANR. (2025)

Anushka Agarwal*

INTRODUCTION

The National Human Rights Commission (NHRC), established under the Protection of Human Rights Act, 1993, functions under the guiding motto “Sarve Bhavantu Sukhinah”, meaning “May all be happy.” This reflects a rights-based framework where the dignity and well-being of every individual are paramount. Even though the NHRC mandates that every custodial death be reported within 24 hours, with a post-mortem conducted by a panel of doctors and videographed, data from the same body reveals a persistent accountability crisis: between 2016 and 2022, India recorded 11,650 custodial deaths with almost no convictions. Further, NHRC data from 2018–19 to 2022–23 shows 687 deaths in police custody—averaging two to three every week. Custodial torture in India—the infliction of physical or mental harm on individuals in police or judicial custody—is a grave human rights violation, disproportionately impacting marginalised communities such as Dalits, Adivasis, and the poor. The adoption of the Universal Declaration of Human Rights in 1948 marked a global commitment to safeguarding fundamental human rights. Article 5 expressly provides that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Yet, despite this solemn proclamation, incidents of such abuse persist across the world. While most civilised nations formally condemn these practices and undertake measures to eliminate them, the reality shows that the problem remains far from eradicated. Despite protections under Articles 14, 20, and 21, the Supreme Court guidelines ¹ (1997), and recent criminal law provisions (2023) prohibiting coercive confessions, custodial abuse persists due to the absence of a standalone anti-torture law, weak oversight, impunity for offending officers, and the pervasive fear among victims. This paper, through the lens of *Hansura Bai & Anr. v. State of Madhya Pradesh &*

*LLB, SECOND YEAR, PUNJAB UNIVERSITY, CHANDIGARH.

¹ D.K. Basu v State of West Bengal (1997) 1 SCC 416

Anr²., seeks to examine whether the transfer of investigation in custodial death cases to an independent agency, as directed by the Court, represents a necessary constitutional safeguard to uphold the right to life and dignity under Article 21, or whether it amounts to an excessive judicial intervention into the domain of the executive. It aims to assess whether such judicial mandates are an indispensable tool to prevent conflicts of interest and ensure accountability, or an overreach that disrupts the balance of powers envisioned under the Constitution.

FACTS OF THE CASE

The sequence of events unfolded with the filing of an FIR (No. 232/2024) at Myana Police Station, alleging theft and house trespass from Bhagwan Singh's residence. Deva Pardhi, 25 years old, had his marriage scheduled for mid-July 2024. During the Haldi ritual, a large police contingent arrived in multiple vehicles and stormed the ceremony, forcibly seizing Deva and his uncle Gangaram Pardhi. Both were assaulted in the presence of family members and subsequently were taken to the Jhagar Chowki. The police assured their family that they would be released the next morning. Contrary to this assurance, they were subjected to severe "third-degree" methods—beaten with ropes, scalded with hot water, forced into contact with salt and chilli powder on wounds, hung from the ceiling, suffocated, and otherwise abused to extract a confession in the theft case. Deva could not survive the ordeal and was declared dead upon being taken to the hospital. Gangaram was produced before a magistrate after more than 24 hours and was then remanded to judicial custody. A magisterial inquiry into the incident resulted in the registration of FIR No. 341/2024, naming several police personnel, including the Town Inspector, for offences such as culpable homicide and voluntarily causing hurt to extort a confession; subsequently, provisions under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act³ were also invoked. Despite these charges, no arrests were made, and the investigation made little progress. Alarming, Gangaram—the sole eyewitness to the custodial death—was booked in multiple other FIRs, seemingly to ensure his continued detention and pressure him into changing his testimony. In the High Court, the appellants sought two primary reliefs, namely the transfer of the investigation to an independent agency, such as the CBI or a Special Investigation Team, and bail for Gangaram. While the High Court declined to grant bail, it acknowledged the potential danger to Gangaram's life and directed his transfer from Guna District Jail to Central Jail, Gwalior, for enhanced protection. These

² Hansura Bai v. State of Madhya Pradesh (2025) INSC 711

³ Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (33 of 1989)

circumstances, marked by excessive police violence, procedural delay or inaction, intimidation of the witness, and lack of credible investigation formed the basis for the appellants' subsequent appeal to the Supreme Court where the appellants—mother and aunt of the deceased, Deva Pardhi, filed a special leave petition challenging the Madhya Pradesh High Court's refusal to transfer the investigation into his custodial death to an independent agency and to release the sole eyewitness (Gangaram Pardhi) on bail.

LEGAL ISSUES

- Whether the Supreme Court's direction to transfer the investigation in a custodial death case to an independent agency is constitutionally permissible while exercising judicial power under Articles 32 and 142 of the Constitution or not.
- Whether the investigation by the same police department implicated in the alleged offence violates the principles of *nemo judex in causa sua*.
- Whether continued incarceration of the sole eyewitness in multiple allegedly motivated criminal cases amounts to a violation of his fundamental rights.
- Whether judicial intervention to ensure impartial investigation constitutes an encroachment upon the executive's domain or is justified as a constitutional safeguard to uphold fairness, transparency, and accountability in cases involving state actors.

OBSERVATION OF THE SUPREME COURT

In this case, the Court underscored the settled position of law that the credibility of an investigating agency must be unimpeachable, and the power to transfer investigations should be exercised sparingly to safeguard public trust. The court observed that if the investigation is conducted by an agency allegedly privy to the dispute, the credibility of the investigation will be doubted, which would be contrary to both public interest and the interest of justice.⁴ That, where the agency itself is implicated, the principle of *nemo judex in causa sua* mandates independent investigation. The Court observed that when allegations are directed against local police, entrusting the probe to an impartial body like the CBI is essential to instil public confidence⁵. In the instant case, the custodial death of Deva Pardhi, allegedly at the hands of Myana Police officials, was marred by evident police interference—from preventing FIR registration and omitting murder charges to influencing the autopsy report. Despite eight

⁴ Mohd. Anis v Union of India (1994) 1 SCC 145

⁵ R.S. Sodhi v. State of U.P. (1994) 1 SCC 143

months since FIR registration, no arrests had been made, and the sole eyewitness faced credible threats necessitating transfer to another jail. These circumstances, coupled with corroboration from the magisterial inquiry, led the Court to conclude that an impartial investigation by the CBI was imperative in the interest of justice.

DECISION

The Court advocated that the investigation into the custodial death of Deva Pardhi could not be left in the hands of the local police, as the circumstances revealed a lack of fairness and transparency, coupled with a real risk of the prosecution being compromised by the accused police officials shielding their colleagues. Recognising the gravity of the situation and the influence already exerted over the probe, the Court directed that FIR No. 341 of 2024 be transferred forthwith to the Central Bureau of Investigation, with a mandate to register the case, arrest the responsible police officials within one month, and complete the investigation within 90 days from the date of arrest. The Court also addressed the plight of Gangaram Pardhi, the sole eyewitness to the incident, noting the repeated attempts to implicate him in multiple cases to keep him incarcerated and prevent him from testifying. Given this, the Court granted him liberty to directly approach the Madhya Pradesh High Court at Gwalior for bail in all such cases, urging the High Court to decide his applications expeditiously while keeping in mind the observations made. Emphasising the State's duty under the witness protection framework, the Court directed that the Principal Secretary (Home) and the Director General of Police, Madhya Pradesh, ensure his safety and security, both in custody and post-release. The appeal was accordingly disposed of in these terms, with all pending applications also closed.

ANALYSIS

At the heart of *Hansura Bai v. State of Madhya Pradesh*⁶ lies not merely a procedural question of which agency should conduct an investigation, but a deeper constitutional query—what does justice mean when the alleged perpetrators of a crime are the very custodians of law? The principle of *nemo iudex in causa sua* acts as a safeguard against institutional bias, yet the present case reveals something more insidious: the possibility of justice being structurally denied through delay, intimidation, and manipulation of evidence. Justice, as envisaged by our constitutional framework, is not a passive state but an active guarantee. The Preamble sets the tone by promising justice—social, economic, and political—to all citizens. Article 21, as

⁶ *Hansura Bai v. State of Madhya Pradesh* (2025) INSC 711

expansively interpreted in *Maneka Gandhi v. Union of India* (1978)⁷, holds that life means living with dignity and freedom from arbitrary deprivation. In my opinion, when a citizen dies in custody, allegedly due to state violence, and the machinery meant to investigate the crime shields its own, it is a direct assault not just on the individual but on the constitutional promise itself. The State's duty to "secure a social order for the promotion of welfare"⁸ is rendered hollow if its agencies act to protect institutional comradeship over truth. In this light, the Court's intervention to transfer the investigation to the CBI is not simply an administrative choice—it is a reaffirmation of the constitutional vision that no person, however powerful in uniform, stands above the law. The deliberate omissions in the autopsy report, the systematic harassment of the sole eyewitness, and the inaction over eight months despite clear evidence collectively point to a breakdown of public confidence in the local investigative apparatus. As Abraham Lincoln said, "If you once forfeit the confidence of our fellow citizens, you can never regain their respect and esteem. You can indeed fool all the people some of the time, and some of the people all the time, still, you cannot fool all the people all the time". Thus, the decision is not merely about changing the investigating agency; it is about restoring the moral legitimacy of the justice system. In ordering the CBI probe, the Court upholds the idea that justice must not only be done but must be manifestly seen to be done. In protecting Gangaram Pardhi under the witness protection framework, the Court reinforces that safeguarding truth-tellers is as essential to justice as punishing the guilty. The ruling, therefore, operates at the intersection of procedural integrity and constitutional morality, ensuring that the promise of justice retains both its substance and its soul.

CONCLUSION

The ruling in *Hansura Bai & Anr. v. State of Madhya Pradesh & Anr.* stands as a crucial reminder that justice in a constitutional democracy cannot be left at the mercy of those accused of subverting it. By transferring the investigation to the CBI and extending witness protection, the Court not only addressed procedural lapses but also reaffirmed the constitutional promise that no authority is beyond accountability. This judgment reinforces that *nemo judex in causa sua* is not a mere maxim of legal theory but a living safeguard against systemic bias. In doing so, the Court restored public faith in the impartiality of justice, underscoring that the legitimacy of the rule of law rests as much on its perception as on its practice. Ultimately, the decision

⁷ *Maneka Gandhi v. Union of India* (1978) 1 SCC 248

⁸ The Constitution of India, 1950, Art. 38

bridges the gap between procedural correctness and constitutional morality, ensuring that justice is not only done but is transparently and fearlessly seen to be done.