



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2024 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Case Comment: Individuals who are Foreign Nationals, Stateless or Classified as Aliens also Possess Certain Rights in any Nation, as Highlighted in the Case of the Chairman, Railway Board & Ors. v Mrs. Chandrima Das & Ors

Apeksha Soni^a

^aNMIMS, Indore, India

Received 16 September 2024; *Accepted* 17 October 2024; *Published* 21 October 2024

INTRODUCTION

It is a case¹ involving gang rape under public law that has emerged, primarily because the accused were employees of the national railway. Mrs. Chandrima Das, a distinguished advocate at the Calcutta High Court, has submitted a petition under Article 226 of the Indian Constitution², advocating for compensation on behalf of Smt. Hanuffa Khatoon, a Bangladeshi citizen who tragically fell victim to a gang rape perpetrated by railway personnel within the confines of a room at Yatri Niwas, Howrah Station. The High Court has decreed a compensation of Rs. 10 lakhs, determining that the Railway Board bears vicarious liability for the misconduct of its employees, particularly as the heinous act transpired on railway property.

¹ *The Chairman, Railway Board & Ors. v Mrs. Chandrima Das & Ors* (2000) 2 SCC 465

² Constitution of India 1950, art 226

This matter encompasses a thorough examination of the implementation of United Nations resolutions within the domestic sphere, particularly focusing on the Declaration on the Elimination of Violence Against Women and the Universal Declaration of Human Rights. The Court ultimately at the end determines that the victim is entitled to seek redress under the public law that governs the actions of public entities and their interactions with individuals. This legal framework mandates that public bodies operate in a manner that is lawful, equitable, and rational while also upholding the human rights of those impacted by their decisions. Furthermore, public law plays a crucial role in defining the structure and functioning of these entities, particularly in light of the infringement of fundamental rights as articulated in the international declarations and especially in the Indian Constitution.

FACTS OF THE CASE

On the 26th of February, 1998, at approximately 14:00 hours, Hanufa Khatun, a national of Bangladesh, arrived at Howrah Railway Station, poised to embark on the Jodhpur Express at 23:00 hours for a pilgrimage to the revered Ajmer Sharif. Her journey commenced on the 24th of February when she arrived in Calcutta and took refuge in a hotel before making her way to Howrah Station at the designated time. However, possessing a waitlisted ticket, she sought the assistance of a Train Ticket Examiner to ascertain the status of her berth. The Examiner kindly directed her to the Ladies Waiting Room, where she settled in to await further developments in comfort.

At approximately 5:00 PM on February 26, 1998, two individuals, later recognised as Ashoka Singh, a tout who claimed to wield significant influence within the Railway, and Siya Ram Singh, a railway ticket broker well-acquainted with certain staff members at Howrah Station, approached her. They took her ticket and returned it after verifying her reservation on the Jodhpur Express. By around 8:00 PM, Siya Ram Singh reappeared, accompanied by a young man named Kashi, and suggested that she join him at a nearby restaurant if she wished to dine that evening. Following this advice, she went to a local eatery with Kashi around 9:00 PM and enjoyed her meal. However, shortly after dining, she became ill and returned to the Ladies Waiting Room.

At approximately 9:00 PM, Ashoke Singh, along with Rafl Ahmed, a Parcel Supervisor at Howrah Station, visited the Ladies Niwas before boarding the train. Although she initially harboured some reservations, she was reassured by the lady attendants on duty regarding their legitimacy, prompting her to accompany them to Yatri Niwas. On their way, Sitaram Singh, a Khalasi from the Electric Department at Howrah Station, joined their group. They arrived at room No. 102 on the first floor of Yatri Niwas, which had been reserved in Ashoke Singh's name using Railway Card Pass No. 3638 since February 25, 1998. Inside room No. 102, two additional individuals, Lalan Singh, a Parcel Clerk at Howrah Railway Station, and Awdesh Singh, a Parcel Clearing Agent, awaited their arrival.

Hanufa Khatun began to sense something was amiss when Ashoke Singh compelled her into the room. Awdesh Singh secured the door from the outside, standing guard. Meanwhile, the remaining four individuals – Ashoke, Lalan, Rafl, and Sitaram – indulged in liquor within the confines of the room and forcibly urged her to partake as well. Four individuals present in the room severely assaulted Hanufa Khatun, leaving her in a state of shock and confusion. Once she regained her composure, she managed to flee from Yatri Niwas and returned to the platform, where she encountered Siya Ram Singh, who was conversing with Ashoke Singh. Noticing her distress, Siya Ram feigned concern for her well-being and confronted Ashoke Singh with verbal abuse and a slap. Given that it was well past midnight and the Jodhpur Express had already left, Siya Ram offered to take Hanufa to his home to spend the night with his family, promising to assist her in boarding the Poorva Express the next morning. Subsequently, Siya Ram, along with his friend Ram Samiram Sharma, escorted her to Ram Samiram Sharma's rented flat. There, Siya Ram assaulted Hanufa, and when she fought back, both he and Ram Samiran Sharma restrained her by gagging her mouth and nostrils, causing her to bleed profusely. The landlord, alerted by Hanufa's cries for help, notified the Jorabagan Police, who came to her rescue.³

LEGAL ISSUES

The appeal brought forth several prominent legal challenges that emerged in this case:

³ *The Chairman, Railway Board & Ors. v Mrs. Chandrima Das & Ors* (2000) 2 SCC 465

1. Whether is it correct to state that, due to Smt. Khatoon's status as a Bangladeshi national may lack the standing to file a complaint concerning the violation of fundamental rights, which are generally reserved for citizens.
2. Whether Mrs Das possesses the requisite Locus Standi to initiate the petition, considering her lack of direct association with the victim.
3. Whether the Railway Board be held vicariously liable for the criminal actions of its employees.
4. Whether the claim for damages in these circumstances be addressed under public law instead of private law, especially when fundamental rights are at stake.

OBSERVATION OF SUPREME COURT

The Supreme Court of India articulated the Railway Board's vicarious liability through a nuanced examination of pivotal legal doctrines and contextual elements. The court underscored the nature of employment, asserting that the Railway Board's personnel were engaged in a commercial enterprise by managing Yatri Niwas, which offered lodging and boarding services to travellers for a fee. This operation was classified as non-sovereign, aligning it with activities typically associated with private enterprises, thereby rendering the Railway Board liable for tortious actions executed by its employees in the course of their duties.

Rape stands as a profound affront to the very fabric of society, inflicting irreparable harm on the psyche of a woman and plunging her into profound emotional turmoil. It is, without question, the most reviled of offences. This heinous act constitutes a violation of fundamental human rights, undermining the victim's most treasured entitlement, the right to life, which encompasses the right to exist with dignity, as enshrined in Article 21.⁴

In the realm of Public Law, the Supreme Court maintained that the matter fell within this domain, permitting claims for compensation linked to infringements of fundamental rights. The court recognised Mrs. Chandrima Das's standing to initiate the petition in the public interest, given the case's critical implications for safety and dignity under Article 21 of the Constitution.

⁴ Constitution of India 1950, art 21

⁵It emphasised that fundamental rights, as enshrined in Articles 14⁶ and Article 21⁷, are accessible to all individuals, including foreign nationals such as Smt. Hanuffa Khatoon, thereby reinforcing the state's duty to safeguard individuals from harm inflicted by its employees.

The court dismissed the notion of sovereign immunity, deeming it an antiquated concept within the framework of a welfare state. It argued that failing to hold government entities accountable for their employees' conduct would foster arbitrary actions and a lack of accountability in public service. To safeguard against arbitrary actions by the State or public entities, certain measures are implemented. The Supreme Court, in various instances, has granted compensation for personal injuries inflicted by government officials. A notable case is *Rudal Shah v State of Bihar*⁸, where the court determined that Rudal Shah's extended detention following his acquittal was unlawful and infringed upon his fundamental rights. Consequently, the Court mandated his release and awarded compensation for the wrongful detention. Thus, in this context, compensation can be rightfully claimed under public law, specifically Article 226.⁹

The judgment also referenced prior cases like *State of Rajasthan v Mst. Vidhyawati*,¹⁰ where the state was deemed liable for torts committed by its employees while performing their official duties, thereby establishing a legal precedent that affirms the vicarious liability of state entities for wrongful acts occurring in the course of their employment, particularly when such acts result in personal injury or the infringement of rights.

JUDGEMENT

The Court determined that rape constitutes a grave offence against society¹¹, infringing upon essential rights, notably the right to life and dignity as enshrined in Article 21¹² of the Constitution. It established that the Railway Board bears vicarious liability for the conduct of its employees, underscoring that public institutions cannot shirk accountability for the wrongful

⁵ *Ibid*

⁶ Constitution of India 1950, art 14

⁷ Constitution of India 1950, art 21

⁸ *Rudul Sah v State of Bihar & Anr* (1983) 3 SCR 508

⁹ Constitution of India 1950, art 226

¹⁰ *The State of Rajasthan v Mst. Vidhyawati & Anr* (1962) 2 SCR SUPPL 989

¹¹ *Dhananjoy Chatterjee v State of W.B* (1994) 1 SCR 37

¹² Constitution of India 1950, art 21

actions of their personnel. The Court recognised Mrs. Chandrima Das's standing to initiate the petition, as it served the public interest by confronting a pressing social injustice. The Supreme Court rejected claims suggesting that remedies were confined to private law, reaffirming that compensation could indeed be sought under public law for societal wrongs.

Furthermore, the Supreme Court upheld the High Court's ruling to grant Rs. 10 lakhs in compensation to Smt. Hanuffa Khatoon reinforces the tenets of equality and non-discrimination while emphasising the obligations of governmental bodies to protect human rights. The Railway Board's appeal was dismissed, mandating that the compensation be disbursed to the victim through the appropriate channels within a three-month timeframe.

ANALYSIS

The Court has previously articulated in the *Bodhisattwa*¹³ case that the act of 'rape' constitutes a grave infringement of the fundamental rights bestowed upon women under Article 21 of the Constitution.¹⁴

In my view, Smt. Hanuffa Khatoon, despite her status as a Bangladeshi national, was entitled to the full spectrum of constitutional rights, particularly concerning her 'Right to Life'. She deserved to be treated with the utmost dignity and was entitled to the safeguarding of her person as enshrined in Article 21.¹⁵ As a foreign national, she should never have been subjected to indignity or physical violence, especially at the hands of government officials who violated her modesty. The infringement of her rights under Article 21¹⁶ is evident.

The perpetrators should face charges under Section 376D,¹⁷ Section 307¹⁸, and Section 354¹⁹ as per the Indian Penal Code of 1860, and they must receive a fittingly severe punishment for their heinous acts. Consequently, the State bears a constitutional obligation to provide her with

¹³ *Shri Bodhisattwa Gautam v Miss Subhra Chakraborty* (1995) 1 SCC 490

¹⁴ Constitution of India 1950, art 21

¹⁵ *Ibid*

¹⁶ *Ibid*

¹⁷ Indian Penal Code 1860, s 376D

¹⁸ Indian Penal Code 1860, s 307

¹⁹ Indian Penal Code 1860, s 354

compensation. Thus, the ruling by the Calcutta High Court, which granted her compensation for the gang rape she endured, stands unblemished by any legal shortcomings.

CONCLUSION

At last, the Supreme Court upheld the decision made by the High Court to award compensation to the victim, thereby reinforcing the critical principle that public institutions hold accountability for the actions of their employees. This is particularly pertinent in cases involving serious misconduct, such as sexual assault, where the implications of such actions extend beyond the individual perpetrator to the institution that employs them. The ruling serves as a reminder that public entities must take responsibility for ensuring the safety and well-being of individuals who interact with their services.

While it is acknowledged that there may be differing opinions and interpretations regarding similar legal issues in various contexts or cases, this specific judgment concerning vicarious liability about the Railway Board demonstrated a clear and unified agreement among the justices. They collectively recognised the gravity of crimes such as rape, asserting that these heinous acts demand not only legal repercussions for the offenders but also robust protective measures for potential victims. The justices articulated that victims of such egregious offences are entitled to fair and just compensation, reflecting the need for a legal framework that prioritises the rights and dignity of individuals who have suffered harm.

This ruling not only sets a precedent for future cases involving vicarious liability but also highlights the judiciary's commitment to addressing issues of sexual violence with the seriousness they warrant. By affirming the High Court's decision, the Supreme Court has sent a strong message that public institutions must be vigilant in their oversight of employee conduct and that they cannot evade responsibility when their employees engage in reprehensible behaviour. Ultimately, this judgment underscores the necessity for systemic changes within public institutions to foster a safer environment for all individuals, particularly those who may be vulnerable to exploitation or abuse.