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**An Article on**

CUSTODIAL VIOLENCE HAS ALWAYS BEEN A GREAT CONCERN FOR CIVILIZED SOCIETY.

BY

MR.KALYAN RAO PEDDI REDDI B.COM (HONS) IN COMPANY LAW & SECRETARIAL PRAC. & BUSINESS ADMINISTRATION & ECONOMICS, ECONOMIC DEVELOPMENT; LL.M (CONSITUTIONAL LAW of India), COMPARATIVE STUDY IN **U.S. American Constitution, Swiss Constitution, FRENCH CONSTITUTION & British Constitution)**,

C.E.O OF KALYAN LEGAL EXCEL CARE SERVICES ONLINE FOR CITIZENS & N.R.Is.

www.legalexcelcare.com

(LAUNCH: 1.1.2018),

Former District & Sessions Judge, now lives at HYDERABAD, INDIA

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CUSTODIAL VIOLENCE COULD TAKE THE FORM OF THIRD DEGREE METHODS TO EXTRACT INFORMATION- THE METHOD USED NEED NOT RESULT IN ANY PHYSICAL VIOLANCE BUT COULD BE IN THE FORM OF PSYCHOLOGICAL VIOLENCE. CUSTODIAL VIOLENCE COULD ALSO INCLUDE A VIOLATION OF BODILY INTEGRITY THROUGH SEXUAL VIOLENCE—IT COULD BE TO SATISFY THE LUST OF A PERSON IN AUTHORITY OR FOR SOME OTHER REASON. THE “Mathura Rape case” is one such incident that most are familiar with. Custodial violence could, sometimes, lead to the death of its victim who is in a terribly disadvantaged and vulnerable condition. All these form of custodial violence make it abhorrent and invite disparagement from all sections of civilized society.

In the order of 5th January, 2016 the Hon’ble Supreme Court had dealt with the issue of overcrowding in prisons and had issued certain directions. In the said case, the Hon’ble Supreme court had considered unnatural deaths in prison. The website of NCRB indicates that the deaths in judicial custody, both natural and unnatural, are as under:

Year Natural deaths Unnatural deaths

2012 1345 126

2013 1482 115

2014 1507 195

2015 1469 115

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The distinction made by the NCRB between natural and unnatural deaths is unclear. For example, if a prisoner dies due to a lack of proper medical attention or timely attention, would that be classified as a natural death or an unnatural death.

On the issue of defining natural and unnatural deaths, the learned Amicus Curie drew Court’s attention to the Guidelines on Investigating deaths in Custody issued by the International Committee of Red Cross (ICRC). The Court has perused the guidelines provided by the IcRS and was of the view that these guidelines deserve consideration and circulation by the Central Government and all the State Governments.

Detailing the characteristics of a prison environment that make suicide in prisons more likely, the N.H.R.C monograph mentions the following:

1. Authoritarian environment.
2. .No apparent control over the future
3. Isolation from family, friends and community
4. The shame of incarceration
5. Dehumanization aspects of incarceration.
6. Fears
7. Staff insensitivity to the arrest and incarceration phenomenon
8. Hostility and bullying by other inmates.
9. Lack of adequate medical and psychological counseling and treatment facility.
10. Delay in deciding the parole.

The Hon’ble Supreme Court was of the view that on the facts and in the circumstances before the Court, the suggestions put forward by the learned Amicus and the learned counsel appearing for the National Forum deserve acceptance and, therefore, the Court issued the following:

The Secretarial General of this Court will transmit a copy of this decision to the Registrar General of every High Court within one week with a request to the Registrar General to place it before the Chief Justice of the High Court to register a suo motu public interest petition with a view to identifying the next of kin of the prisoners who have admittedly died an unnatural death as revealed by the NCRB during the period between 2012 to 2015 and even thereafter, and award suitable compensation, unless adequate compensation has already been awarded.

The operating part of the judgment reads as under: Adverting to the Nelso Mandela Rules, the learned Attorney General also expressed the view that the State Governments have several development priorities and while they will certainly look after the interests of prisoners, there are other issues that might require greater attention and greater financial commitment. If the Fundamental right to life and liberty postulated by Article 21 of the Constitution is to be given its true meaning, the Central Government and the State Governments must accept reality and not proceed on the basis that prisoners can be treated as channel.

All that we can say in this regard is that while the Central Government may have noble intentions and is perhaps taking steps to improve prison administration and to bring about reforms in prisons, the fact remains that conditions in prisons leave a lot to be desired and there are quite a few unnatural deaths in prisons. Suggestions and recommendations made by the Central Government do look good on paper but they do not seems to have any remedial effect. Perhaps it is time that the MINISTRY OF HOME AFFAIRS takes a more proactive interest in prisons and prison reforms by having sensitization programmes for those at the helm of affairs in prisons so that there is a positive impact on the ground.

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After all, even if it is assumed that the Central Government has certain constitutional limitations with regard to prison management, surely, it cannot be said that that Central Government need not share its expertise or give any guidance to the state Government.

Lastly, the MINISTRY OF WOMEN & CHILD DEVELOPMENT OF THE GOVERNMENT OF INDIA which is concerned with the implementation of Juvenile Justice (Care and Protection of Children) Act, 2015 is directed to discuss with the concerned officers of the State Governments and formulate procedures for tabulating the number of children (if any) who suffer an unnatural death in child care institutions where they are kept in custody either because they are in conflict with law or because they need care and protection. Necessary steps should be taken in this regard by 31 st December 2017.

SATYA MEVA JAYETHE====MERA BHARAT MAHAAN HAI =====JAIHIND