

SYNOPSIS

The present Petition under Article 32 of the Constitution of India is being preferred by the Petitioner for seeking appropriate directions against the respondents to enact law for compensation and rehabilitation of the people who are acquitted having been languished in jails for wrongful prosecution and incarceration for years and years, further for interpretation of Section 2(w) which defines the term "victim" and Section 357-A of the Criminal Procedure Code 1973 which provides victim compensation scheme, the State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation. In the case if the accused is acquitted after spending many years behind bars naturally makes him victim of the system, thus the compensation and rehabilitation should be awarded to the acquitted person who has suffered as a result of the crime. This

Hon'ble Court have always protected rights of the people by upholding the Constitution of India. Article 14 & 21 of Constitution of India guarantee equality before law and protection of life and personal liberty. In the given situation when an accused is acquitted after spending many years behind bars he/she has already lost many precious years of their lives. This happens when the person is wrongfully prosecuted and the delay in the legal system leads to the accused languishing in jail, thus the same is violative of basic spirit of Article 21 of Constitution of India. Some amount of compensation or rehabilitation scheme would help the victim of the system to gain back his/her reputation and build a fruitful life again with dignity. This Hon'ble Court while dealing with such cases have awarded compensation to wrongfully prosecuted persons in numerous cases but in most of the cases no such compensation has been awarded. As there is no perpetual statute to decide the theory of compensation which should be applied in case of person who is wrongfully prosecuted or incarcerated. The Petitioner also seeks liberty to pray

that an appropriate mandamus be issued directing the Respondents to implement the 277th report proposed by the Law Commission of India on 30.08.2018 which laid down legal remedies regarding wrongful prosecution. As India ratified the International Covenant on Civil and Political Rights 1966 (ICCPR) there is no sign of statutes which obligates the state in the case. United Nations Human Rights Committee discussed Article 14 of the ICCPR in detail in its General Comment No. 32 (2007) and explained that “it is necessary that States parties enact legislature ensuring that compensation as required by this provision can in fact be paid and the payment is made within a reasonable time’. The National Crime Relations Bureau data shows that across the country, under trial prisoners continue to be higher in numbers than the convict’s population. The report also reflects that the conviction rate was at 48% and more than 50% was that of acquittal.

The sole purpose of this Petition is to compensate and rehabilitate those persons who are the victim of legal

system. The persons who are accused and later acquitted after spending many years in the jail and who have lost their respect, faced agony and are often seen far behind in the society.

LIST OF DATES

26.01.1950 The Constitution of India came into force securing JUSTICE Social, Economic and Political, LIBERTY of Thought, Expression, Belief, Faith and Worship, EQUALITY of Status and of Opportunities, FRATERNITY Assuring the Dignity on Individuals and the Integrity of the Nation. The Constitution of India envisages the Fundamental Rights in its PART- III and even Article 32 has been recognised as a Fundamental Right. Article 14 speaks about Equality Before Law or Equal Protection of Laws within the territory of India and Article 21 of the

Constitution of India speaks about Protection of Life and Personal Liberty.

That at present there is no statutory or Legal scheme for those who are wrongfully Incarcerated. The respondents are also very well aware of the situation but nothing concrete and statutory has been done to compensate such incarcerated persons which is in sheer violation of Article 14 and 21 of the Constitution of India.

01.04.1973 The Code of Criminal Procedure provides the Machinery for the investigation of crime, Apprehension of suspected criminals, Collection of evidence, Determination of guilt or Innocence of the accused person and the Determination of the punishment of the guilty. Section 2(wa) and Section 357-A of Criminal Procedure

Code deal about the Compensation to the victim.

1986 National Crime Records Bureau was set up as a repository of Information on Crime and Criminals so as to assist the investigators in linking crime to the perpetrators.

19.12.1996 International Covenant on Civil and Political Rights. Adopted by the General Assembly of United Nations.

2015 The National Crime Records Bureau(NCRB) Annual Statics Report called the “Prisoner’s Statics India” (PSI) reflected the information with respect to prisons, prisoners and prison infrastructure. According to PSI 2015 Report there are about 67.2% undertrials and 32.0% convicts. A review of data in PSI report shows that across the country as well as in the states undertrial prisoners continue to

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be higher in numbers than the convict population. The United Nations Human Rights Committee which is an UN Body whose interpretation of the ICCPR are considered to be authoritative, discussed Article 14 of the ICCPR in detail explaining the obligation of state in cases of miscarriage of justice and required that it is necessary that the state parties enact legislature for payment and rehabilitation. This Hon'ble Court and other courts in India have not been ignorant of this situation and have taken cognizance time to time and some wrongfully prosecuted persons have been compensated ex -gratia, though there is no statutory remedy regarding the same. This Hon'ble Court has granted ex gratia compensation to the victim of system in numerous cases but at the same time the same has been denied

in other ones. Since there is no parameter to decide the compensation and to decide as to who is to be awarded and who is not to be awarded, therefore there is an urgent statutory requirement to decide the same as there being grave violation of Article 14 of the Constitution of India.

As per Section 357-A. of the Criminal Procedure Code 1973 provides victim compensation scheme, the State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation. In this case if the accused is acquitted after spending years and years behind bars naturally makes him victim of the system. Thus, the

compensation and rehabilitation should be awarded to the acquitted person who has suffered as result of the crime. The state agencies have already violated the basic principle of Article 21 by holding the innocent person in detention. Any amount of compensation or rehabilitation would help the person lead a new life after the acquittal.

As per Section 358 of the Criminal Procedure Code 1973 the Magistrate may award such compensation not exceeding one thousand rupees in cases of person groundlessly arrested, it is to be put in front of this Hon'ble Court that one thousand rupees in these times is extremely small amount to be counted as compensation. The accused who is later acquitted has to bear many expenses which occur at the time of criminal

proceedings. Awarding one thousand rupees would not rehabilitate the acquitted person or compensate for the mental harm and harm to the reputation caused to him by the prosecution.

In the case of Nambi Narayan v Siby Mathews & other (2018) 10 SCC 804 this Hon'ble Court directed the State Government to pay compensation of Rs.50 lakhs to the Appellant. The compensation was awarded keeping in view the arrest without evidence on record regarding espionage against ISRO Scientist by the State Police. The fact that the payment of compensation was ordered 24 years after the wrongful arrest is a serious reminder of the need to correct wrongs caused by unlawful arrest in a timely manner and to preserve liberty.

That this calls for statutory recognition of the right to compensate in cases of wrongful arrest and imprisonment, which the victim of such accusation can avail without waiting for another several years of litigation before the court.

30.11.2017 The High Court of Delhi vide adjudicating Criminal Appeal in the matter of Bablu Chauhan @ Dabloo vs. State Government Of NCT called for the Law Commission of India to undertake a comprehensive examination of issue of relief and rehabilitation to victims of wrongful prosecution and incarceration.

30.08.2018 In terms of the directions so issued by High Court of Delhi on 30.11.2017 the Law Commission of India submitted an extensive report on 30.08.2018

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It is therefore in terms of facts and circumstances stated above it is incumbent upon the respondents to enact an statute which could safeguard the interest of wrongfully prosecuted and incarcerated persons and who has been the victim of the system and need to be rehabilitated and duly compensated for spending years and years behind the bar having committed no offence.

09.06.2020 Hence the present petition.

IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL EXTRA ORDINARY JURISDICTION
CIVIL WRIT PETITION No..... of 2020
(Public Interest Litigation Under Article 32 of the
Constitution of India)

IN THE MATTER OF:

YASH GIRI
S/O SH. DINESH KUMAR GOSWAMI

.....PETITIONER

VERSUS.

1. UNION OF INDIA
THROUGH ITS CHIEF SECRETARY
DEPARTMENT OF MINISTRY OF SOCIAL JUSTICE
AND EMPOWERMENT, SHASHTRI BHAWAN,
NEW DELHI-110001
2. MINISTRY OF LAW AND JUSTICE
THROUGH ITS CHIEF SECRETARY
4TH FLOOR, A-WING, SHASTRI BHAWAN,
NEW DELHI, DELHI 110001
3. MINISTRY OF HOME AFFAIRS
THROUGH ITS CHIEF SECRETARY
NORTH BLOCK, CENTRAL SECRETARIAT
NEW DELHI- 110001

.....RESPONDENTS

A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA IN THE NATURE OF PUBLIC INTEREST LITIGATION FOR ISSUING A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION TO FORMULATE LAW TO DULY COMPENSATE AND REHABILITATE THE ACQUITTED PERSON FOR FALSE PROSECUTION/ INCARCERATION AND MISCARRIAGE OF JUSTICE BY THE PROSECUTING AGENCY AND ALSO TO INTEPRET THE DEFINITION OF VICTIM UNDER SECTION 2(wa) AND INCORPORATED UNDER SECTION 357-A OF CRIMINAL PROCEDURE CODE 1973, FOR BEING VIOLATIVE OF ARTICLE 14 AND 21 OF THE CONSTITUTION OF INDIA. ALSO TO IMPLEMENT THE 277TH LAW COMMISSION REPORT.

To,
The Hon'ble Chief Justice of India
And his companion justice of the
Supreme court of India

THE HUMBLE PETITION OF THE
PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. That the petitioner above named is filing the present
Writ Petition under Article 32 of the Constitution of

India in the nature of Public Interest Litigation is being filed against the Respondents for issuing a Writ in the nature of Mandamus or any other appropriate Writ, order or direction to enact law to duly compensate and rehabilitate the acquitted person for wrongful prosecution and incarceration and miscarriage of justice by the state and also to interpret the definition of victim under Section 2(wa) and incorporated under Section 357-A of Criminal Procedure Code 1973. And also to implement the 277th Law Commission Report in that regard.

- 1A** That it is clarified that the petitioner has not approached the concerned respondents for any relief as prayed for in the PIL.
- 2.** That the facts of the case in short, leading to filing of the present petition are as under:
 - i. That the petitioner being Yash Giri is a resident of H-2/715, Mahagun Modern, Sector 78, Noida, Gautam Buddha Nagar, Uttar

Pradesh – 201301 having Mobile No.8806434875, PAN No.BQXPG0674G and Aadhar Card No. 7991 6638 3185 pursuing B.A.LL.B(H) (8TH Semester) from New Law College, Bhartiya Vidya Peth University, Pune, Maharashtra and is a law abiding citizen of this country having faith in the Supremacy of Law.

- ii. The Constitution of India came into force on 26th January, 1950 to secure JUSTICE Social, Economic and Political, LIBERTY of Thought, Expression, Belief, Faith and Worship, EQUALITY of Status and of Opportunities, FRATERNITY assuring the Dignity of Individuals and the Unity and Integrity of the Nation.
- iii. The Constitution of India comprises of 22 parts 12 schedules, the Part III of the Constitution of India is the heart and soul of the Constitution of India which deals with the Fundamental Rights and Article 32 of the Constitution of India itself has been incorporated and placed in the

Fundamental Rights and the purpose of the Constitution which talks about Socio-economic justice could have not been fulfilled if the Article 14 and Article 21 were not incorporated in the Constitution. Article 14 speaks of Equality before Law or the Equal Protection of Laws within the territory of India whereas Article 21 of the Constitution of India speaks about Protection of Life and Personal Liberty. Article 21 of the Constitution of India has been interpreted by this Hon'ble Court at maximum number of occasions and most elaborately in the case of *Menka Gandhi v. Union of India* 1978 AIR 597.

- iv. That by way of the present petition the petitioner seeks liberty to bring to the notice of this Hon'ble Court, the sufferings of the innocent persons who are acquitted but after long years of incarceration and lack of legislative framework, they are left with no remedy of rehabilitation and

are also not duly compensated for they being wrongfully confined for years and years together.

- v. That at present there is no statutory or legal scheme for those who are wrongfully incarcerated. The instances of those being acquitted by the High Court or by this Hon'ble Court after many years of imprisonment are not infrequent. They are left with their devices without any hope of rehabilitation in the society as the prime period of their life has been spent in jail.
- vi. That the Respondents are also very well aware of this situation but nothing concrete and statutory has been done to compensate such incarcerated persons which is the sheer violation of Article 14 and 21 of the Constitution of India.
- vii. That Section 2 (wa) & Section 357A of Criminal Procedure Code, 1973 deal with the compensation to the victim of crime but in situation like this whether the person so

remained in jail for a long time for no wrong doing and wrongfully prosecuted is to be considered victim of the system and would fall in that category?

- viii. That United Nations Human Rights Committee which is an UN body whose interpretations of the International Covenant on Civil and Political Rights (hereinafter called "ICCPR") are considered to be authoritative discussed Article 14 of ICCPR in detail explaining the obligation of state in cases of miscarriage of justice and required that it is necessary that the states parties enact legislature ensuring that the compensation as required by this provision can in fact be paid and that the payment is made within a reasonable period of time.
- ix. That a total number of 168 states parties including India have ratified the ICCPR. However, the Respondents have miserably failed to meet their obligation under Article 14(6) of the

ICCPR. International Covenant on Civil and Political Rights had adopted and opened for signature, rectification and accession by General Assembly Resolution on 16th December 1966, however the same came into force on 23.03.1976 in accordance with Article 49 of ICCPR. A true copy of ICCPR resolution dated 23.03.1976 is annexed as **ANNEXURE P-1**(Page No.34 to 246)

- x. That the issue for consideration before this Hon'ble Court is also whether the wrongful prosecution and incarceration would be termed to be miscarriage of justice and whether the person being the victim of the system is entitled for any kind of compensation and rehabilitation and if he or she is so entitled what shall be the modality in that regard?.
- xi. The High Court of Delhi while adjudicating Criminal Appeal in the matter of Babloo Chauhan @Dabloo v. State Government of NCT Delhi 247(2018) DLT 31 on the issue of fine and

awarding of default sentences without reasoning and suspension of sentence during pendency of Appeal, expressed its concerns about wrongful implication of innocent persons who are acquitted but after long years of incarceration and lack of legislative framework to provide relief to those who are wrongfully prosecuted. The Court vide its order dated 30th November 2017, specifically called for the Law Commission of India to undertake a comprehensive examination of issue of relief and rehabilitation to victims of wrongful prosecution and incarceration.

- xii. That in terms of the directions so issued by the High Court of Delhi in the aforesaid case the Law Commission made an intensive research and submitted a report on 30.08.2018 and taken into consideration the earlier reports of the Law Commission.
- xiii. Some of the reports of the Law Commission are mentioned below:

- a. 1st Report on 'Liability of State in Tort' (1956)
- b. 78th Report on 'Congestion of Under Trial Prisoners in Jails' (1979)
- c. 113th Report on 'Injuries in Police Custodies' (1985)
- d. 152nd Report on 'Custodial Death' (1994)
- e. 154th Report on 'The Code of Criminal Procedure, 1973' (1996)
- f. 185th Report on the 'Review of the Indian Evidence Act, 1872' (2003)
- xiv. 273rd Report on 'Implementation of 'United Nations Convention against Torture and Cruel, Inhuman and Degrading Treatment or Punishment' through Legislation' (2017). A true copy of the Law Commission Report dated 30.08.2018 is Annexed as **ANNEXURE P-2** (Page No. **247** to **247**)
- xv. Thus in total the Law Commission had taken into consideration 7 important reports looking into the issue under consideration and made

several recommendations. One of these was endorsing the views in the 113th, 152nd, 185th Reports with respect to insertion of Section 114-B in the Indian Evidence Act, 1872. The commission also noted that this provision (Section 114-B) will ensure that in a case where a person in police custody sustains injuries it is presumed by the court that these injuries have been inflicted by the police and the burden of proof shall lie on the concerned police officer to explain such injury.

- xvi. The Law Commission also took into consideration the International perspective on miscarriage of justice, delving into current scenario.
- xvii. The National Crime Records Bureau (NCRB) annual statistics report called the “Prisoners Statistics India” (PSI) reflected the information with respect to prisons, prisoners and prison infrastructure. According to the PSI 2015 report

there are about 67.2% under trials, 32.0% convicts.

- xviii. That a review of the data in PSI Report shows that across the country as well as in the states, under trial prisoners continue to be higher in numbers than the convict population. It is also to be noted that during the year 2015, 82,585 prisoners were released by acquittal and 23,442 prisoners were released in appeal.
- xix. That such a large number of under trials (more than the number of convicts) year after year and their long detention period shows that under trial spent a substantial period of time awaiting trials/judicial determination of their case. This delay and waiting becomes graver miscarriage of justice when the person is wrongfully accused and is incarcerated pending trials/proceedings, which he should not have been subjected to in the first place.

- xx. That this Hon'ble Court taking note of this dreadful state of affairs expressed anguish over the plight of excused persons languishing in prisons for unjustifiable extended periods of time, in *Thana Singh v. Central Bureau of Narcotics* (2013) 2 SCC 590 observed as under-
“The laxity with which we throw citizens into prison reflects our lack of appreciation for the tribunals of incarceration; the callousness with which we leave them there reflects our imprudence when our prisons are bursting at their seams for the prisoner himself. Imprisonment for the conviction for an offence since the damning finger and opprobrious eyes of the society draw no difference between the two”.
- xxi. That the defence in any of sovereign immunity is not applicable to cases of violation of Fundamental Rights guaranteed under the Indian Constitution. Claim for compensation is a

Constitutional remedy under Article 32 or 226, and the said defence is not available against the same. This view reiterated by this Hon'ble Court in the case of Consumer Education and Research Centre & Ors. V. Union of India AIR 1997 SC 610. And this Hon'ble Court observed as under-

“It is a practicable and inexpensive mode of redress available for the contravention made by the state, its servants, its instrumentalities, a company or a person in the purported exercise of their powers and enforcement of the rights claimed either under the statutes or licensee issued under the statutes or for any enforcement of any right or duty under the Constitution or the law.”

xxii. That the Hon'ble Courts in India have not been ignorant of this situation and have taken cognizance time to time and some wrongfully prosecuted persons have been ex gratia

compensated, though there is no statutory remedy regarding the same.

xxiii. That this Hon'ble Court has granted ex gratia compensation to the victim of system in numerous cases but at the same time the same has been denied in other cases. Since there is no parameter to decide the compensation and to decide as to who is to be awarded and who is not to be awarded, therefore there is an urgent statutory requirement to decide the same as there grave violation of Article 14 of The Constitution of India.

xxiv. That as per Section 357-A of the Criminal Procedure Code 1973 provides victim compensation scheme, the State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require

rehabilitation. In this case if the accused is acquitted after spending years and years behind bars naturally makes him victim of the system. Thus, the compensation and rehabilitation should be awarded to the acquitted person who has suffered as result of the crime. The state agencies have already violated the basic principle of Article 21 by holding the innocent person in detention. Any amount of compensation or rehabilitation would help the person lead a new life after the acquittal.

xxv. That as per Section 358 of the Criminal Procedure Code 1973 the Magistrate may award such compensation not exceeding one thousand rupees in cases of person groundlessly arrested, it is to be put in front of this Hon'ble Court that one thousand rupees in these times is extremely small amount to be counted as compensation. The accused who is later acquitted has to bare many expenses which occur at the time of

criminal proceedings over and above the household expenses. Awarding one thousand rupees would not rehabilitate the acquitted person or compensate for the mental harm and harm to the reputation caused to him by the prosecution.

xxvi. That this Hon'ble Court in the landmark cases of *Rudal Sah vs State of Bihar AIR 1983 SC 1086*, *Nilabati Behera vs State of Orissa AIR 1993 SC*, *D. K. Basu v. State of West Bengal, AIR 1997 SC* to the 2016 case of *Dr. Rini Johar & Anr. v. State of M. P. & Ors. Judgement dated 3 June 2016* has recognized the remedy of recovering appropriate damages from the State as one of the telling ways in which the violation of fundamental rights can be prevented.

xxvii. That in the case of *Nambi Narayan v Siby Mathews & other (2018) 10 SCC 804* this Hon'ble Court directed the State Government to

pay compensation of Rs.50 lakhs to the Appellant. The compensation was awarded keeping in view the arrest without evidence on record regarding espionage against ISRO Scientist by the State Police. The fact that the payment of compensation was ordered 24 years after the wrongful arrest is a serious reminder of the need to correct wrongs caused by unlawful arrest in a timely manner and to preserve liberty.

xxviii. That it is therefore in terms of facts and circumstances stated above it is incumbent upon the respondents to enact an statute which could safeguard the interest of wrongfully prosecuted and incarcerated persons and who has been the victim of the system and need to be rehabilitated and duly compensated for spending years and years behind the bar having committed no offence.

xxix. That the source of knowledge of facts of the present case has been obtained by the Petitioner through media, published articles and government websites.

3. That the cause of action for filing the instant PIL arises only because of statutory recognition of the right to compensate in cases of wrongful arrest and imprisonment, which the victim of such accusation can avail without waiting for another several years of litigation before the court. That if the 277th Law Commission Report is implemented and statute is enacted in pursuance there to the same would result in faster disposal of cases, the prisons would be less crowded and the prosecution would act more cautiously and diligently in assisting the Courts while producing evidence and more importantly there would be less burden on state exchequer.
4. That the petitioner is left with no other alternative and efficacious remedy except to approach this

Hon'ble Court in its inherent jurisdiction under Article 32 of Constitution of India for the protection and for enforcement of Fundamental Rights guaranteed under Article 14 & 21 of the Constitution of India against wrongful prosecution and incarceration.

5. That the petitioner has no personal interest but he is filing the instant PIL in the interest of General Public.
6. That the petitioner has no any Civil, Criminal or Revenue Litigation which has or could have a legal nexus with issues involved in the PIL.
7. That under the aforesaid peculiar circumstances, the present writ petition is being filed before this Hon'ble Court on the following amongst other grounds:-

GROUND

- A. BECAUSE on account of miscarriage of justice and lapses on the part of prosecution the innocent accused suffers violation of

Fundamental Rights guaranteed under Article 14 and 21 of the Constitution of India.

- B. BECAUSE the state has wrongfully prosecuted and incarcerated the acquitted person which led to violation of his basic Fundamental Rights by keeping him behind the bars for years and years until the person is finally acquitted. It is the duty of the state to compensate the acquitted person for the loss of time, mental suffering and the harm caused his reputation.
- C. BECAUSE the acquitted person is not responsible for miscarriage of justice by the state. The pressure on the Judiciary due to less appointment of Judges or for the lack of capability of producing evidence against him by the state does not justify his life wasted behind bars.
- D. BECAUSE the acquitted person who suffers wrongful prosecution falls under the definition of

“victim” defined in Section 2(wa) and Section 357-A of The Criminal Procedure Code 1973.

- E. BECAUSE the respondents have miserably failed to enact any law or statute for awarding compensation or any rehabilitation scheme for the person who has been wrongfully prosecuted.
- F. BECAUSE there is a provision under Section 358 of the Criminal Code Procedure 1973 which empowers the Magistrate of provide compensation not exceeding Rs.1000 to the person who has been groundlessly arrested by the police, which is a very little amount to be considered as compensation.
- G. BECAUSE there is no specific procedure for the Courts to decide the compensation to be awarded to the person who has been wrongfully prosecuted or incarcerated by the state. This Hon’ble Court in many cases have awarded compensation to the person acquitted after

spending years in jails but the same principle is not applied in so many cases.

- H. BECAUSE the state is bound to protect the rights of every citizen of India. The percentage of conviction rate as per the National Crime Records Bureau (NCRB) 2017 report was 48%. Over half of the trials in the country end up in the acquittal of accused. Over 50% of acquitted person have no remedy for compensation or rehabilitation.
- I. BECAUSE the respondents have failed to pay any attention to the report submitted by the Law Commission in August 2018 on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies.
- J. BECAUSE the respondents have miserably failed to consider the implementation of Article 14(6) of the International Covenant on Civil and Political Rights 1966 (ICCPR) which was ratified by India.

- K. BECAUSE it is the duty of the state to help the acquitted person after he or she is acquitted after spending long years in jail to rehabilitate him/ her so that the person can fit back in the society and gain back his raptured reputation.
- L. BECAUSE the respondents have to provide compensation to the acquitted person for the time he/she have lost spending in jail. The state has to provide monetary compensation for the damage caused to the acquitted person as he/she may be only breadwinner of the family who unfortunately had to spend years in jail because of wrongful prosecution and incarceration.
- M. BECAUSE if the 277th Law Commission Report is implemented and statue is enacted in pursuance there to, the same would result in faster disposal of cases, the prisons would be less crowded and the prosecution would act more cautiously diligently assisting the Courts

while producing evidence and more importantly there would be less burden on state exchequer.

8. That the petitioner has not filed similar petition or any other petition before this Hon'ble Court or any other high Courts for same relief as prayed in the instant writ petition

PRAYER:

In view of the aforesaid facts and circumstances and in the interest of justice it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- a) Issue a Writ of Mandamus or any other appropriate writ or order directing the respondents to make statues for compensation and rehabilitation of the people who are acquitted by courts and who have been languishing in jails because of wrongful prosecution and incarceration, and / or
- b) Issue a Writ of Mandamus or any other appropriate writ or order directing the respondents to

implement the 277th report drawn by the Law Commission of India on 'Wrongful Prosecution (Miscarriage of Justice) and Legal Remedies dated 30.08. 2018 and / or

- c) Issue a Writ of Mandamus or any other appropriate writ or order directing the respondents to look upon the International Covenant on Civil and Political Rights 1976 (ICCPR) commitment made by India and / or
- d) Interpret the term "victim" defined under Section 2(wa) and in Section 357-A of the Criminal Procedure Code 1973 as victim can also be the person who is later acquitted and has been a victim of wrongful prosecution and incarceration, and / or
- e) Issue any other or further writ, order(s) or direction which this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE HUMBLE
PETITIONER AS IN DUTY BOUND SHALL EVER
PRAY.

DRAWN ON: 08.06.2020

FILED ON : 09.06.2020

NEW DELHI

FILED BY

(MITHILESH KUMAR SINGH)
ADVOCATE FOR PETITIONER