Handcuffing the Accused

What is the issue?

Recently, the Karnataka High Court passed a verdict on handcuffing, which is significant.

What is the High Court verdict about?

- **Circumstances**- The Karnataka High Court has held that an accused who is arrested can normally not be handcuffed.
- It is only under "extreme circumstances" (when there is possibility of the accused/ under trial prisoner escaping custody or causing harm to himself or causing harm to others) that handcuffing of an accused can be resorted to.
- **Reason**- When there is such handcuffing, the arresting officer must record the reasons in the case diary and/or the relevant record.
- **Role of courts**- It is the duty of the court to make inquiries with the person arrested as to whether he had been handcuffed or not and then approve or reject the reasons.
- If a person is under the judicial custody of the court, the court's permission is required for handcuffing except under emergent circumstances.
- **Use of body cameras**- The Director General of Police shall also endeavour to make available body cameras to all the police officers entitled to arrest a person, so manner of arrest is recorded.
- **Training-** A Standard Operating Procedure shall be prepared by the Director General of Police in this regard and suitable training to be provided to such officers.
- **Compensation-** If there is a violation by the arresting officer in putting handcuffs on the petitioner, the petitioner would be eligible for compensation.

In what occasions can a person be legally handcuffed?

- There can be three occasions when a person can be (legally) handcuffed
    - An accused on his arrest and before he is produced before the magistrate
    - An under-trial prisoner during transit from jail to the court and back
    - A convict being transported from jail to the court and back
- The Supreme Court of India, in *Prem Shankar Shukla vs Delhi Administration*, held that the only circumstance which validates handcuffing is when there is no other way of preventing the escape of a convict/an arrestee.

What is the issue with the compensation part?

- It is an established principle that the relief of monetary compensation for infringement of the fundamental right guaranteed under Article 21 of the Constitution is a remedy available in public law.
- But, the issue is about who should pay the compensation.
- **Bombay High Court judgement**- In *State of Maharashtra vs Ravikant S. Patil* (1991), the Bombay High Court held the Inspector of Police responsible for violation of Article 21,

ordering him to pay ₹10,000 as compensation.

- **Supreme Court order**- The Supreme Court upheld the judgment of the Bombay High Court and held that the police officer was not personally liable as he had acted in his official capacity.
- **Karnataka High Court judgement**- The current judgment of the Karnataka High Court as far as payment of compensation by the police officer is concerned, does not appear to be in sync with the Supreme Court judgment.

What are the possible solutions in this regard?

- A National Crime Records Bureau publication on 'Crime in India- 2020' shows that 810 cases of prisoner escape from police custody (against 931) in 2020.
- These numbers are sufficient to substantiate the fact that the use of handcuffs is generally done to prevent escape and not to dehumanise criminals.
- The Supreme Court, in the *Ravikant S. Patil (supra) case*, had said that the authorities concerned may, if they think it necessary, hold an inquiry and then decide on action against the police inspector.
- Therefore, the right approach would be to initiate disciplinary action against the errant officer under service conduct rules, rather than to order the payment of compensation.
- It would be appropriate for State governments to review the mobility of the police, the requirement of additional manpower and technical gadgets (such as body cameras) periodically.

References

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