

## **Challa Ramakrishna Reddy Summary**

**CONSTITUTION OF INDIA - ARTICLE 21 - Right to life - A prisoner whether convict, under trial or detenu, have all Fundamental Rights including right to life and other basic human rights--Right to life is one of the basic human rights--It is guaranteed to every person by Article 21 of the Constitution and not even the State has the authority to violate that Right--A prisoner, be he a convict or under trial or a detenu, does not cease to be a human being. Even when lodged in the jail, he continues to enjoy all his Fundamental Rights including the Right to Life guaranteed to him under the Constitution--On being convicted of crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of Constitutional rights.**

**According to the definition under the Prisoners Act, there is a convict, there is an under-trial and there is a civil prisoner who may be a detenu under preventive detention law. None of the three categories of prisoners lose their Fundamental Rights on being placed inside a prison. The restriction placed on their right to movement is the result of their conviction or involvement in crime. Thus, a person is deprived of his personal liberty in accordance with the procedure established by law which , as pointed out in Maneka Gandhi v. Union of India, 1978(1) SCC 248 : 1978(2) SCR 621: AIR 1978 SC 597 must be reasonable, fair and just.**

**CONSTITUTION OF INDIA - Doctrine of Sovereign immunity - Article 300 - Negligence on the part of Government Officer on account of which prisoner in jail died--Government cannot take the defence of sovereign immunity--Even where a prisoner is killed in the jail in a bomb attack by outsider, it also would be due to negligence of jail authority and therefore, suit for compensation will be maintainable against the Government.**

**If the act or omission complained of is not alleged to be in pursuance of the statutory authority, this article would not apply. This article would be attracted to meet the situation where the public officer or public authority or, for that matter, a private person does an act under power conferred or deemed to be conferred by an Act of the legislature by which injury is caused to another person who invokes the jurisdiction of the Court to claim compensation for that Act. Thus, where a public officer acting bona fide under or in pursuance of an Act of the Legislature commits a 'tort', the action complained of would be governed by this article which, however, would not protect a public officer acting mala fide under colour of his office.**

**CUSTODIAL DEATH - Fundamental rights available to the prisoners - Custodial death - A prisoner has all basis human rights and those basic rights cannot be defeated by raising archaic defence of immunity--In case a custodial death due to negligence of Jail officials, held the legal heirs of the deceased were entitled to compensation from the State Government.**

**The whole question was again examined by the Supreme Court in Common Cause, A Registered Society v. Union of India and Others in which the entire history relating to the institution of suits by or against the State or, to be precise, against Government of India, beginning from the time of East India Company right up to the stage of Constitution, was considered and the theory of immunity was rejected in this process of judicial advancement. Kasturi Lal 's case has paled into insignificance and is no longer of any binding value. The Supreme Court has already awarded compensation to the persons who suffered personal injuries at the hands of the officers of the Government including Police Officers and personnel for their to Tortious Act. Though most of these cases were decided under Public Law domain, it would not make any difference as in the instant case, two vital factors namely, police negligence as also the sub-Inspector being a conspiracy are established as a fact.**

**LIMITATION ACT, 1963 - ARTICLE 72 - Defence of sovereign immunity - Article 72 - In a suit for damages on account of death in the judicial custody, defence raised that in view of Article 72 the suit was barred by limitation--Defence of sovereign immunity also not available--In the circumstances of the case, Article 72 also not attracted.**

**Since the Sub-Inspector of Police himself was in conspiracy, the act in not providing adequate security at the jail cannot be treated to be an act or omission in pursuance of a statutory duty, namely, Rule 48 of the Madras Prison Rules, referred to by the High Court. Moreover the action was wholly mala fide and, therefore, there was no question of the provisions of Article 72 being invoked to defeat the claim of the respondents as the protection of shorter period of limitation, contemplated by that Article, is available only in respect of bona fide acts. The High Court was justified in not applying the provisions of Section 72 and invoking the provisions of Article 113 to hold that the suit was within time.**