

**Joginder Kumar  
Vs.  
State of U. P**



<b>Title of the Case:</b>	<b>Joginder Kumar Vs. State of U. P</b>
<b>Citation:</b>	1994 AIR 1349, 1994 SCC (4) 260
<b>Case No.:</b>	WRIT PETITION (CRL) NO. 9/1994
<b>Court:</b>	Supreme Court of India
<b>Appellant:</b>	JOGINDER KUMAR
<b>Respondent:</b>	STATE OF U. P
<b>Bench:</b>	M.N. VENKATACHALLIAH (CJ), S. MOHAN (J), A.S. /
<b>Date of Judgement:</b>	25/04/1994

**Facts: –**

- **The petitioner is a 28-year-old guy who obtained his LL.B. and has registered as an advocate.** The petitioner was summoned to the Senior Superintendent of Police's office in Ghaziabad to speak with him regarding Some case Issues.
- **The petitioner personally appeared on 7-1-1994 at around 10 o'clock** with his brothers Shri Mangeram Choudhary, Nahar Singh Yadav, Harinder Singh Tewatia, Amar Singh, and others. The petitioner was detained in his custody.
- When the petitioner's brother asked questions about the petitioner, he was informed that the petitioner will be released that evening after looking into the matter.

- In spite of repeated inquiries, the petitioner's whereabouts were unknown on 7-1-1994 at approximately 12.55 p.m. The petitioner's brother was concerned about the intentions to send a telegram to the Chief Minister of U.P., suspecting his brother's involvement in some criminal cases and further suspecting the petitioner being shot dead in a fake encounter. The petitioner's location could not be found after repeated inquiries. On the evening of 7 January 1994, it was discovered that the petitioner was being detained against his will by SHO, P.S. Mussoorie.
- On January 8, 1994, it was disclosed that the fifth respondent was holding the petitioner in custody while doing more research on a specific matter. The petitioner has not yet been seen by the relevant Magistrate.
- Next day, when the petitioner's brother and other family members visited P.S. Mussoorie in the evening to check on their brother's welfare, it was discovered that the petitioner had been transported somewhere secret. **Given these facts, the petitioner here, Joginder Kumar, has chosen to request his release through the current petition.**
- Considering the importance of the issues raised it **was treated as a written Petition.**
- On January 11, 1994, this Court issued a notice order to the State of U.P. and SSP, Ghaziabad, On January 14, 1994, the mentioned Senior Superintendent of Police, and the petitioner both appeared before this court and the main issues comes out here why petitioner has been detained for 5 days and not presented with magistrate.

#### **Issues: –**

. Inherent in Article 21 and 22(1) of the Constitution, these rights must be acknowledged and carefully preserved. Does Respondent Violate Personal Liberty and freedom, and whether this arrest resulted in violation of human rights as well??

#### **Contention of Appellant: –**

The Petitioner Parties are directly points out the finger on **illegal detention**, Petitioner's brother, who was suspicious of Respondent 4's motives, **sent a telegram to the chief minister** of Uttar Pradesh, alleging that his brother was involved in a criminal case and that the petitioner had been killed in a staged encounter, and Petitioner Party want that Petitioner(Joginder Kumar) must be released from unlawful detention and Criminal action must be Initiated against Ghaziabad's Senior Superintendent of Police along with their teammates.

**Contention of Respondent: –**

The Respondent Clearly ignores, Lies, and denies the detention of Petitioner by saying that the Petitioner was helping us in some cases relating to **Abduction** and Petitioner was very cooperating as well, therefore no question comes regarding detention of petitioner. The Respondent does not want this petition to be Considered as Writ Petition.

**Judgement: –**

The illegal or Unlawful Detention of Petitioner about 5 days puts a very bad impact on Societies. The Court feels that the matters must be enquired. As a result, it orders the learned District Judge in Ghaziabad to conduct a thorough investigation and **submit his report no later than four weeks after receiving this order**. The Courts ordered in favour of Petitioner and ordered immediate release of Petitioner. To stop the abuse of police authority, restrictions on the right to make arrests should be put in place. **It would be preferable to require through departmental instructions that a police officer conducting an arrest also record the circumstances of the arrest in the case diary, thus demonstrating his adherence to the predetermined standards.**