

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Nandini Satpathy v. P.L. Dani

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In this constitutional milestone authored by Justice V.R. Krishna Iyer, the Supreme Court dramatically expanded the fundamental right against self-incrimination guaranteed by Article 20(3) of the Constitution and the statutory protection under Section 161(2) CrPC (now Section 180(2) BNSS, 2023). The Court held that the constitutional right to silence applies with full vigor during police interrogation and investigation, extending not only to persons formally charged in an FIR but to any person or witness summoned for questioning. An accused has the absolute right to refuse answering questions whose answers have a tendency to incriminate them, and can have an advocate present within sight during custodial questioning.

- * **Article 20(3) Extends to Police Interrogation:**The right against self-incrimination operates at the threshold of police questioning, not merely during trial.
- * **Tendency to Incriminate Standard:**The privilege covers not only direct confessions but any answer that could form a link in the chain of prosecution evidence.
- * **Right to Counsel During Questioning:**Suspects have the right to have an advocate present within viewing distance (though outside hearing distance) during police interrogation.
- * **Prohibition of Coercive Questioning:**Physical brutality, psychic torture, atmospheric pressure, and threats of Section 179 IPC prosecution violate Article 20(3).
- * **Strict Enforcement of Section 160 CrPC Proviso:**Police cannot summon women, minors under 15, or senior citizens to a police station; interrogation must occur at their residence.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The appellant, Nandini Satpathy, a former Chief Minister of Orissa, was investigated by the Vigilance Police for offences under the Prevention of Corruption Act and Section 165 IPC following a political change of regime.

The Deputy Superintendent of Police (Vigilance) served a notice under Section 160(1) CrPC requiring her appearance at the Vigilance Police Station, Cuttack, and handed her an exhaustive questionnaire containing dozens of probing questions regarding her finances.

Satpathy attended but refused to answer the questions, invoking her constitutional right against self-incrimination under Article 20(3) and Section 161(2) CrPC.

The investigating officer lodged a criminal complaint against her under Section 179 IPC (refusing to answer a public servant legally authorized to question) before the Magistrate, who took cognizance and issued process.

Satpathy challenged the prosecution before the High Court of Orissa, which dismissed her petition. She then appealed to the Supreme Court.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
Does the right against self-incrimination under Article 20(3) apply to police interrogation under Section 161 CrPC?	Yes. The constitutional privilege extends to police interrogation and investigation, protecting any person from compelled incriminating answers.
Can a person who refuses to answer incriminating police questions be prosecuted under Section 179 IPC?	No. Refusal to answer self-incriminating questions is constitutionally protected, and initiating prosecution under Section 179 IPC in such cases is unconstitutional.
Can female witnesses or suspects be summoned to attend a police station for interrogation?	No. The proviso to Section 160(1) CrPC / Section 179(1) BNSS strictly prohibits summoning women to a police station; interrogation must take place at their residence.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
CrPC Section 160 (Witness Attendance Proviso)	BNSS Section 179	Police power to require attendance; mandatory proviso protects women, minors under 15, and seniors over 60 from being summoned to police stations.
CrPC Section 161(2) (Right to Silence)	BNSS Section 180(2)	Statutory right to refuse answering questions tending to expose to criminal charge; preserved in BNSS Section 180(2).
IPC Section 179 (Refusing to Answer Public Servant)	BNS Section 222	Penal provision cannot be used to coerce answers in violation of Article 20(3) constitutional silence.
Constitution Article 20(3) (Self-Incrimination)	Constitution Article 20(3)	Fundamental protection against compelled self-incrimination; operates during police investigation, custodial interrogation, and trial.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * Selvi v. State of Karnataka (2010) 7 SCC 263:Extended Nandini Satpathy to ban involuntary narco-analysis, polygraph, and brain-mapping under Article 20(3).
- * D.K. Basu v. State of West Bengal (1997) 1 SCC 416:Incorporated the right to meet with legal counsel during interrogation.
- * Prabir Purkayastha v. State (NCT of Delhi) (2024) 8 SCC 117:Cited regarding the absolute sanctity of legal representation during investigative arrest.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * Do Not Threaten Prosecution Under Section 222 BNS:Never warn an interrogated suspect that exercising the right to silence constitutes an offence under BNS Section 222 / IPC Section 179.
- * Strictly Comply with Home Examination Rules:Never summon women, minors, or senior citizens to a police station; conduct all interviews at their residence under Section 179 BNSS.
- * Permit Advocate Presence Within Sight:If requested, allow counsel to sit within viewing distance to protect against subsequent allegations of custodial torture.
- * Advise Strategic Right to Silence:Instruct clients to answer pedigree and factual questions truthfully but invoke Section 180(2) BNSS / 161(2) CrPC on questions touching guilt.
- * Challenge Police Station Summons to Women:If female clients receive a notice to attend a police station, file an immediate protest under Section 179 BNSS proviso citing Nandini Satpathy.
- * Move Application for Counsel Presence:File an application before the Magistrate seeking permission for an advocate to be present within viewing distance during custodial interrogation.