



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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SRB/Case 3752 /2011-12

Name of the complainant : **Rekha S.Parekh**
V/s.
Asst.Police Inspector,
Dahisar Police Station.

Date : **18th March , 2014**

Coram : **Justice S.R.Bannurmath**
(Chairperson)

ORDER

This complaint by Smt.Rekha S.Parekh is in respect of the alleged illegal detention and assault on her son Amit Parekh by the Dahisar Police and especially by the then A.P.I. Shri.Khatke.

In response to the notice issued by the Commission, the D.C.P Zone XII has made detailed inquiry including recording the statements of the complainant and the A.P.I Shri.Khatke & submitted his report. In the report it is submitted that the allegations of the complainant that Amit Parekh was illegally arrested/detained and that the said A.P.I used obese words towards the complainant are not proved & so far as the alleged assault on Amit by the police, it is stated that in the absence of any medical report in this regard of any Hospital produced by the complainant or victim, it cannot be held that there was an assault. However, the D.C.P has found that the said A.P.I has failed in his duty in not making proper entries about taking

into custody and letting off Amit Parekh and as such only in this regard the API has been punished with 'strict warning'.

After the receipt of the report, in order to satisfy myself, I had directed the complainant to produce the medical reports and she informed her inability because of some technical problem. As such this Commission in order to do complete justice, issued request-notice to the Dean, Dr.Babasaheb Ambedkar Hospital to submit the medical records in respect of Amit if any during the relevant point of time. Accordingly, on 27.01.2014 Dr.Avinash Pandirkar undertook to produce the records and same were produced before me. On going through the medical reports including case-sheet and the MLC certificate, it is apparent that Amit Parekh was indeed treated on 03.08.2011 for certain injuries. The medical report maintained by totally independent and responsible medical officer does indicates that on 03.08.2011, when Amit was examined, he has stated the history as "assault by police with belt and other blunt substance on previous day". The injury is mainly on the right buttock and according to the Doctor the injury is simple bruise in nature and can be caused with blunt substance like belt or lathi. Thereafter Amit was referred to X-ray department but no fractures noticed.

Since prima-facie there is injury on the body of Amit during relevant point of time and taking into considerations the allegation of his mother about the assault by the API, to give opportunity to the said API Shri.Khatke he was called and given opportunity to explain the allegation against him before this Commission.

Shri.Khatke reiterates his denial interalia stating that on 01.08.2011 as there was some verbal exchange between one Sameer Jutani on hand and Shri.Santosh Parekh and his son Amit on the other hand Shri.Prakash Kadam PSI then incharge of the police station had registered a N.C case 2705 of 2011 under Section 323, 504 IPC against said Santosh and his son Amit and in this regard they were brought to the police station. According to Shri.Khatke this has taken place even

before he took charge on that date but while he took charge both Santosh and Amit were present and at that time one Rakesh Raju Yadhav who had lodged an auto theft case against two unknown persons incidental came to the police station and identified or rather suspected Amit Parekh as one of the possible person for theft of his autoriskhaw. The API states that after careful inquiry with said Rakesh, as he did not find any incriminating material against Amit, he was let off. It is stated that though he is innocent and has not either illegally detained or assaulted said Amit Parekh, a false complaint has been given against him for the reason best known to the complainant.

On the other hand the complainant and Amit Parekh present before the Commission reiterate their complaint against the said API.

On perusal of the entire records and the statements made by both the sides before the Commission, prima-facie the presence of Amit Parekh on 01.08.2011 in the Dahisar Police Station is not much in dispute. The only question is whether he went voluntarily to the police station to inquire about the arrest of his father Santosh Parekh, as per the complainant version or that both Santosh and Amit Parekh were brought to the police station for inquiry in respect of N.C case 2705/2011 and during that time co-incidentally on the statement of one Rakesh Yadhav (complainant in another case) Amit Parekh was for some time detained in the police station and was let off without any assault, as contended by API Shri.Khatke.

The Commission finds there are certain contradictions in the API's statement. Though according to him Santosh Parekh and Amit Parekh were brought to the police station by Shri.Prakash Kadam much earlier to the taking charge on that date by Shri.Khatke. This fact has been revealed for the first time before this Commission. This does not find place in the inquiry made by the D.C.P in pursuance of notice issued by the Commission.

Even if, this version of Shri.Khatke API is accepted, still the fact remains that after he took charge of the police station on 01.08.2011 said Amit parekh was present in the police station. In the vary statements of the complainant before this Commission it is admitted that while Amit Parekh was in the police station, on the basis of suspicion expressed by Shri.Rakesh Yadhav that possibly Amit was involved in auto theft case and as such Amit Parekh was detained for sometime and after inquiry as no prima-facie material was available for his alleged involvement in auto theft case of Rakesh Yadhav, he was let off without any assault on the part of the API.

The D.C.P who has held an inquiry and after giving due opportunity to both the API and complainant herein, as earlier noted even though held that there is no truth in the complainant's allegations of abused hurled against her by said API and in the absence of any corroborative medical evidence gave benefit of doubt to the API, however as the said API has failed to make proper entries in the police station record about the alleged detention and released of Amit Parekh, punished him with strict warning.

As such it is clear that there was no material to show that said Amit Parekh was detained and released for the inquiry of another case namely auto theft case lodged by Rakesh Yadhav. This gives strong support to the complainant's version that as the father of said Amit was brought to the police station, Amit had gone to the police station to inquire about it. Otherwise reason for his presence in police station is contradictory. As per API Shri.Kadam, P.I has brought both of them viz. Shri. Santosh & his son Amit to police station but N.C is registered only against Santosh. This was so in the absence of registering N.C case against said Amit by the police even though it is stated that Samir Juthani had given complaint against both father and son and in that respect they were brought to the police station for inquiry but now the API says only Santosh was in police station & Amit was

loitering near gate of police station. Whatever may be reasons as to why Amit Parekh was present in the police station, as noted above the fact remains that he was detained for sometime atleast in the police station as a suspect in another case and in this regard as found by the D.c.P no entries were made in the police station record. As such prima-facie I find that Amit Parekh was detained for sometime in the police station illegally in the sense no proper entries were made in police station.

This coupled with the next question as to whether the police assaulted said Amit in the police station has to be looked into. Even though the API has denied the alleged assault on Amit, the medical records at un-disputed point of time indicate otherwise. The injury bruise/contusion especially on the buttock of Amit and as per the medical opinion caused by blunt weapon like stick or belt and more importantly the history of injuries given by said Amit at the earliest point of time “assault by police” clearly indicates that there was assault on Amit by the police. Added to that as per the present version that while Amit and his father were in the police station and incidentally another complainant Rakesh Yadhav walked inside the police station and suspected the Amit Parekh as one of the thieves whose stole his autoriskhaw appears to me far fetch story only in order to substantiate the present stand.

On careful consideration of the entire material the Commission is of the view that prima-facie it is substantiated that on 01.08.2011 Amit Parekh was illegally detained and during his detention he was assaulted. Though the injuries may be simple in nature but that does not absolve the API since he has failed in making proper entries in the police station records and there is every reason to believe that Amit Parekh was assaulted during the alleged inquiry in the police station which are clear violation of human rights.

Time and again the Hon'ble Supreme Court, National Human Rights Commission have laid down guidelines for the police for arrest, detention and prohibited use of third degree methods including the guidelines in D.K. Basu case. In view of the prima-facie findings by this Commission as to the alleged act of said API Shri.Khatke violating the human rights of Amit Parekh, find it necessary to make following *recommendations* :-

RECOMMENDATIONS

- (a) The Police Officers are required to be sensitized about the various guidelines issued by the Apex Court NHRC in respect of the illegal arrest/detention and prohibition of use of third degree by the concerned police and proper training and sensitization of the police officers has to be done regularly.
- (b) On going through the entire facts and the circumstances of the case , as injuries on Amit Parekh are simple in nature and for dereliction of duty the said API Shri.Khatke has been punished with “strict warning” do not propose to take any further action against him.
- (c) However, as the valuable human rights of the complainant's son Amit Parekh have been violated, the Govt. is directed to pay a compensation of Rs.50,000/- to the victim Amit Parekh within four weeks from the date of receipt of this order and report compliance thereafter forthwith.

(Justice S.R. Bannurmath)
Chairperson

Mumbai.