



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/SRB/04/2014/

Date: April 2014

Suo Moto Case No. – 22/2013-14 with Case No. 4529/2013-14

Name of the Complainant : Suryakant Gopal Surve
4/18, Khimji Nagaji Chawl,
Senapati Bapat Marg, Lower Parel
Mumbai – 13

Name of the Respondent : Dy Commissioner of Police,
Zone – IV, Mumbai

Sr. Police Inspector
Bhoiwada Police Station, Mumbai

Sachin Ghadge
Police Constable
Bhoiwada Police Station, Mumbai

Date : **10 April 2014**

Coram : **Justice S. R. Bannurmath, Chairperson**

ORDER

Based on a news paper report in 'Maharashtra Times' dated 18.02.2014 reporting that one Shri Suryakant Surve was illegally detained, and mercilessly assaulted by a Police Constable Sachin Shahaji Ghatge on 14.02.2014, the present suo moto case is registered by the Commission. Thereafter, Shri Suryakant Surve himself has filed another complaint to the Commission regarding the same incident, claiming the merciless beating by the Police for no fault of his and thereby violation of his human rights and especially the violations of guidelines issued by the Supreme Court of India, NHRC and this Commission.

The brief facts leading to the incident as per the complainant victim and the Police Authorities is as follows:-

1. On 14.02.2014 one Dr. Manoj Bachav who was working in KEM Hospital, in the morning reported theft of his money purse and in this regard he lodged a complaint with Bhoiwada Police Station. It is pertinent to note that this complaint was against unknown person, the relevancy of which would be noted in the later part.
2. On receipt of the complaint a case in crime No. 49/2014 for the offence u/s 380 IPC was registered against unknown person and investigation was taken.
3. According to the Dy Commissioner of Police Zone – IV who has filed a report before this Commission, the Police Constable Sachin Ghatge was asked to go to the Hospital and make preliminary investigation about the theft.
4. Accordingly, it is stated that as the said Dr Manoj Bachav suspected the present victim Shri Suryakant Surve as the person possibly stolen his money purse, he was brought to the Police Station around 10.00 a.m. and after inquiry he was let off around 12.45 noon.
5. It is undisputed that as the complainant refused to go out of Police Station as he was mercilessly beaten and insisted upon an inquiry in this regard but later his sister Smt. Madhuvanti Chavan came to the Police Station and took her brother the victim to KEM Hospital for treatment for the alleged injuries suffered by especially the thumb and inner ear portion.
6. At the same time Smt. Madhuvanti also lodged a complaint at Bhoiwada Police Station regarding the alleged assault on her brother and according to the Dy Commissioner of Police, case in crime No. 51/2014 was registered against the Police Constable. Later on he was produced before the Court and was released on bail.

As already noted as there was serious allegation of assault on a free citizen by a Police Official the Commission took up Suo Moto notice of the incident and registered the case. On previous dates of hearing the matter was heard from the point of view of both the sides.

Shri Suryakant Surve the victim of the incident present, submits that though there was no direct connection on his part in the alleged money purse theft

case, only because he is employed in the KEM Hospital itself and was on duty during the relevant time, as a routine without even proper preliminary investigation. During the inquiry in the Hospital itself though the complainant deny the alleged theft by him it is stated that even there he was assaulted and efforts were made to force him to admit the guilt and when he refused, the Police Constable Sachin Ghatge took him to the Police Station and there in the Police Station he was mercilessly beaten with hands and belt all over him only to extract confession from him for the alleged theft of money purse of Dr. Manoj Bachav. It is stated that when the complainant did not yield to the threats and even assault and creating a fear by pointing out revolver at him with a threat of shooting, and he was threatened that if he does not confess, a case will be registered against him for which he will have to stay in the jail and also fight the litigation by spending huge amounts. When these threats did not result in confession of the complainant it is alleged that as a last resort he was asked to pay Rs. 40 – 50,000 to settle the matter, which was also denied by the complainant and as such finding no reason to detain, he was asked to leave the Police Station. The complainant says that he refused to do so unless a case is registered against the Police Official, by which time his sister Smt. Madhuvanti and others came to the Police Station and took him to KEM Hospital for treatment. It is stated that he was in the hospital for treatment for nearly 12 days.

In support of his contentions the victim / complainant has produced the certificates of the KEM Hospital, the complaint given by his sister in respect of the alleged assault and even the protest letter written by Dean, KEM Hospital protesting against the Police action in arresting and taking away a staff without even intimation much less permission from the Hospital Authorities. He has also produced certain Press releases in respect of the alleged incident.

On the other hand, after the issuance of the notice the Dy Commissioner of Police, Zone – IV has sent a report already noted as well as copy of the statements recorded during his independent inquiry into the incident including the statement of Shri Sachin Ghatge, Police Constable.

During the hearing the victim complainant and the Police Constable Shri Ghatge was inquired into.

The victim complainant reiterated the allegations made by him against the said constable and incidentally showing the newspaper items also contended that

though he is working as Ward Attendant in the Hospital for getting regular income, he is also a percussion artist by hobby and he has accompanied many well known exponents in the music field and has also gone abroad along with some of the well known musicians. It is stated because of the illegal assault by the said Constable not only he suffered a major injury to his thumb and injury to his left ear apart from the mental shock he received. He apprehends because of the injuries he may not be able to pursue his hobby properly.

On the other hand Shri Sachin Ghatge the Head Constable stated before the Commission denying the allegations of assault on the victim and says that only as per the instructions of the higher ups in the Police Station on the date of the incident, after receipt of the complaint from Dr. Manoj Bachav he had gone to the Hospital and at the Hospital as Dr. Manoj Bachav suspected the role of the complainant in the theft of his money purse, to make inquiry he was brought to the Police Station and after proper inquiry as his role could not be established prima facie he was let off to go. The Police Constable vehemently refused the allegations of either assault, demand of money or threatening the complainant with revolver.

During the inquiry Kailash Chavan – Police Inspector was asked about the status of the criminal cases 49/2014 registered on the complaint of Dr. Manoj Bachav and criminal case 51/2014 registered against the Police Constable for the alleged assault on the present complainant. It is stated that both the cases are still under inquiry.

On perusal and assessment of the entire material available before me including the statements of the both the sides, certain undisputed facts are

- a) The victim was working in KEM Hospital during the relevant time.
- b) Dr. Manoj Bachav a doctor of the Hospital has lodged a complaint on 14.02.2014 about theft of his money purse in the hostel room located in the hospital premises and as such had given a complaint of theft against unknown.
- c) On the basis of the said complaint a crime No. 49/2014 for the offence u/s 380 against unknown person is registered at Bhoiwada Police Station and investigation was taken up.
- d) Sachin Ghatge the Police Constable was directed to make preliminary inquiry / investigation in this regard.

- e) He visited the Hospital and on the specific allegations alleged to have been made against the victim Shri Suryakant as the probable thief, made inquiry with him.
- f) The said Police Constable brought the victim Shri Suryakant to the Police Station and inquiry was made with him. And around 12 noon as no fruitful information could be gathered he was let off.
- g) It is undisputed that on 14.02.2014 the victim was examined at the KEM Hospital at about 1.35 p.m. and the duty Doctor noted belt marks over left cheek, over back and both palms especially right thumb, slight bleeding from the left ear and as such was referred to ENT for injury to ear and advised X-ray for the thumb injury. And on 26.02.2014 he was discharged from the Hospital.

Apart from the nature of the injuries viz. on cheek, ear and palms what is relevant for the present consideration is who has caused these injuries especially when the allegations of the victim is Police Constable who took him to the Police Station from the hospital and total denial by the said PC against the alleged injuries due to assault by him. But what is significant for my purpose the undisputed and undenied fact that the victim and the alleged assailant the Police Constable do not know each other previous to the incident and as such there cannot be any motive on the part of the victim to pick up the present Police Constable alone without there being factual fact.

This allegation of the victim is sufficiently corroborated by an evidence of total independent nature in the form of the medical reports. I am not referring to the injuries but the fact that within half an hour or so of the alleged incident the victim was admitted to the hospital wherein the important column namely history shows as follows "assault by Police at Bhoiwada Police Station around 10.30 a.m. on 14.02.2014". In addition the fact that the sister of the victim has immediately after getting treatment to her brother, she went to Bhoiwada Police Station and lodged her oral complaint which has been written down and treated as First Information on the basis of which criminal case 51/2014 has been registered against the Police Constable Shri Ghatge. By reading this statement also it is clear that neither the victim nor his sister have any enmity or ill will against the Police Constable, in fact in her statement itself she has stated that the name of the Police Constable who

assaulted her brother as Sachin Ghatge was made known to her later through inquiries.

These facts established and coupled with undisputed chain of events and the medical records undisputedly go to show that the victim was brought on suspicion to the Police Station and was assaulted in the Police Station causing not only serious injuries may be affecting his career as a percussion artist but also must have led to mental agony.

Inspite of repeated law laid down by the Hon'ble Supreme Court including the 11 guidelines / commandments to the Police in general as to how they have to follow procedure in case of arrest or detention and repeated pronouncements of the Hon'ble high court, guidelines and trainings conducted by National and State human Rights Commissions, it is painful to note that the violations of citizens of their human rights especially while being arrested, investigated or detained even temporarily in the Police Station. The said norms are over thrown or discarded.

The moto of the Indian Police Sadrakshanalya khalnigrahaya i.e. to protect the innocent and to punish the accused has just remained a motto without being implemented properly. The Commission makes it clear that this observation is not accusing the entire Police machinery in general but it is painful to note that for the disorderly act of few the entire name and prestige of the Police force who are the guardians of the citizens is being doubted by the normal citizens. As such time and again the NHRC and this Commission has made many recommendations, unfortunately many of them have not been implemented in its strict sense and hence once again the Commission through this case makes following recommendations with a fond hope that at least now onwards the State and the higher ups in the department wake up to protect the human rights of the citizens.

In conclusion the following recommendations are made.

- a) The State Government is directed to implement the guidelines issued in D K Basu Case and the concerned higher ups in the Police Department make periodic checks as to whether these guidelines are implemented to the letter by each of the Police Officials.**
- b) A sensitization programme in the form of seminar / workshops etc are to be organized to bring awareness and sensitization of the Police Personnel especially of the rank below Superintendent**

of Police who are directly involved in preliminary investigations and directly dealing with the citizens who are brought to the Police stations either for investigation or suspects or arrested.

- c) In the light of growing though few incidents of the assault by the Police Personnel apart from sensitization programme severe action against the Police Officials who violate the human rights should be taken which will have deterrent effect on the others.
- d) In the light of the peculiar circumstances as noted earlier, as due to the merciless assault on the victim complainant by the Police Constable Sachin Ghatge resulting in severe injury to his ear possible with deprivation or reduction in hearing capacity and injury to his thumb which is basically needed by him to play percussion instruments and though these injuries may be healed and he will return back as a normal person but the mental agony pain he has suffered due to the assault leaving a mark on his mind necessitates this Commission to direct the State Government to pay a interim compensation of Rs. 1.5 lacs within four weeks from the date of the receipt of this order and report back the compliance within six weeks thereof. It is made clear itself that this interim compensation awarded shall not come in the way of complainant claiming compensation independently as this is only an interim compensation.

Before closing the Commission places on record its appreciation to the 'Maharashtra Times' News Paper for bringing to the notice of Commission the gross violation of human rights.

With these recommendations case is closed.

The Secretary to communicate this order to the parties concerned.

**(Justice S. R. Bannurmath)
Chairperson, SHRC**