



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/SRB/ 05/2014/

Date: May 2014

Case No. – 4550/2011-12

Name of the complainant : Surekha Jagtap,
At Malusarwadi, Post Wanjarwadi
Tal. Baramati, Dist. Pune.

Vs.

Name of the Respondent : The Superintendent of Police,
Pune (Rural)

Date : 5 May, 2014

Coram : Justice S. R. Bannurmath, Chairperson

ORDER

Complainant as well as Shri Satish B.Hodgar, Assistant Police Inspector, Local Crime Branch, Pune (Rural) is present on behalf of respondent.

This is a serious case of lapses, negligence on the part of the police machinery in respect of a heinous crime reported to it.

The allegation of the complainant Smt. Surekha Shankar Jagtap is that she has daughter by name Varsha who is married in the year 2007 to one Shri Santosh Sampat Gawali of Undhwadi and she is a mother of a child. According to the complainant, in the month of October, 2011 as the complainant's son-in-law and daughter did not come for diwali festival when she contacted her son-in-law, she was informed that her daughter Varsha is in Mumbai. On this information when the complainant tried to contact her daughter on mobile phone repeatedly but there was no answer from her daughter and as such after searching with the relatives, when she contacted her son-in-law Santosh Gawali she was informed that he has lodged a missing

complaint in this regard and there was news item in the local paper about the same on 01.11.2011. The complainant states that on 3rd or 4th November, 2011 the complainant received a call from an unknown person stating that her daughter Varsha is with him and she can be taken back. As such as the person was unknown the complainant contacted Vadgaon Police Station to help her, Shri Pansare the Head Constable who was available in the Police Station and she gave the information about missing of her daughter, the anonymous phone call and the phone number from which this call came. But without recording any complaint the said head constable advised the complainant to talk nicely with the person when he makes another call and try to get released her daughter. As such the complainant and family members went on making efforts to get the daughter back. Thereafter one day she was intimated that someone will bring the daughter to Indapur Bus Stand on 05.11.2011. As such on 05.11.2011 when the complainant was waiting in the Bus Stand along with her relatives, about five unknown persons came in a Indica Car with the daughter of the complainant and at that stage the relatives of the complainant who were present caught hold of three persons and after securing the daughter, brought them to the Vadgaon Police Station and handed them over to the very same Head Constable Sri Pansare. On inquiry by the police the daughter informed about the illegal criminal act committed by those five persons by giving her a sedative tablets, taking her to an unknown place wherein she was continuously sexually assaulted and was kept in illegal detention and they also took away the gold ornaments worn by her and after sometime as noted earlier on 05.11.2011 brought her to Indapur wherein her mother and relatives rescued her.

Inspite of such a serious nature of crime reported and some accused caught and handed over to the police, it is alleged that the said head constable just took signature of the complainant and her daughter on some papers and informed them that proper action would be taken. Even on the next two dates when the complainant went to the police station the said head constable went on dodging the inquiry by the complainant as to the steps

taken and ultimately on 08.11.2011 she was informed that he has received a sum of Rs.1,30,000/- from the accused towards the value of the gold ornaments and that the complainant should be satisfied by accepting the money and should not pursue the case as the accused are very powerful & notorious persons. For the purpose of taking money he asked her to come to the police station on the next date. It is complained that thereafter though the complainant went to the police station on number of occasions she was not given the money and other hand she was threatened by the said head constable that if she persist with the case, he will see that she will be involved in some other case. As such the present complaint.

After issue of the notice and calling for the report from the Superintendent of Police Pune (Rural) API of Wadgav Nimbalkar Police Station has submitted a report in this regard. On 5 March, 2014 when the matter was taken for consideration, noticing the apathy on the part of the Senior police officers in not making proper enquiry, this Commission observed that whenever the Commission calls for reports from superior officers like Commissioner of Police, Superintendent of Police, they are expected to make independent enquiry by themselves and cannot send or rely on the report of API. In this regard a detailed order was passed by the Commission and same was communicated the concerned with a direction that the Superintendent of Police, Pune (Rural) to be present on the next date of hearing along with all the records including action taken report against the erring police constable Shri Pansare and case was adjourned to 09.04.2014. However, on that day as a request was made for adjournment due to ensuing parliament election, the case was adjourned to 05.05.2014.

Today also again instead of being present and at the minimum producing the records as directed to Superintendent of Police, one Shri Satish Hodgar, API, Local Crime Branch, Pune Rural is sent, who again makes a request for adjournment on the ground of election duty.

At the outset the Commission notes its displeasure for the apathy shown by the concerned Police Officers. It is to be noted that on all the days the matter was taken up, the complainant Smt. Surekha Shankar Jagtap (the mother of the victim of the alleged crime of abduction, rape and theft of gold ornaments) is present but no responsible Police Officer is present except an Asst Police Inspector who does not know about the progress of the case and investigation. The complainant has opposed the adjournment on the ground of carelessness and defying attitude of the Police concerned suspecting collusion of police with the accused. The Commission is also of the view that in spite of clear directions and opportunity given the concern police as they have failed to put up it's version, the matter has to be decided on the available material. Hence heard the complainant, perused the records.

At the outset it is noted that no doubt as per the prima facia material as can be seen from the report of the API dated 22.10.2012 after receipt of the complaint, a case in crime no. 118 of 2012 has been registered on 23.07.2012 for the offences u/s. 363,376,406,r/w 34 IPC, some persons are arrested and according to the report charge sheet has also been filed already. Further it is also noted that there is a finding as to the dereliction of duty on the part of the Head Constable, Shri Pansare in not registering the case immediately.

In my view merely because a case is registered, that does not absolve the police concerned from dereliction of duty. Time and again the Hon'ble Supreme Court and High Courts as well as the Human Rights Commissions have emphasized importance of immediate registration of a case and investigation, least, because of the delay, important and valuable evidence necessary would be either lost or destroyed.

In the present case though undisputedly the incident of abduction and rape etc. took place on 27.10.2011 and initially a missing complaint is lodged on 1/11/2011 and immediately after the rescue of the victim and apprehending some accused by the family members, a complaint in this regard has been filed with the concerned police on 05.11.2011 but unfortunately even without

registering a case the matter is postponed unnecessarily. It is only after nearly eight months when the complainant informed higher officers the case has been registered on 23.07.2012 and investigation is taken up.

It is to be noted that even thereafter the investigation which for practical purpose has become a farce because of inordinate delay and it has proceeded at snail's pace. It is to be noted that the report submitted to the Superintendent of Police dated 22.10.2012 by the Asst. Police Inspector that the complaint given by Smt Surekha Jagtap is false but the action on the part of the constable Shri Pansare in not registering the case is wrong. These two statements are contradictory. Added to that as already noted even after this Commission took cognizance and called for report but there apathy on the part of the higher ups is writ large. So far no action appears to have been taken against the erring Police Constable.

As such the Commission in view of the uncontroverted facts disclosed comes to the conclusion that non-registration of complaint even in respect of a heinous crime reported and even when the alleged few of the criminals are apprehended and produced before the Police by the complainant and even thereafter a long delay without any valid reason goes to show that there is not only clear dereliction of duty on the part of the concerned Police, possibly due to collusion with the accused involved. This is a serious violation of human rights of the victim of a crime.

As such the Commission is of the view that on the face of what is already recorded, not only there is negligence on the part of the officials of the concerned police station but also indifferent attitude of the Superintendent of Police concerned. Such conduct squarely falls under the category of violation of Human Rights of a citizen. As such the Commission feels it necessary to make following recommendations :-

- a. The state government shall ensure that whenever a complaint of cognizable crime is reported, without lapse of any time the station**

house officer shall register the case, draw FIR and take up investigation and file charge sheet within minimum reasonable required time.

- b. Since inspite of the direction of the Commission issued on 05.03.2014 as no action appears to have been taken against the erring police Head Constable an inference can be drawn that so far no action has been taken and as such direction is issued to immediately take action against the said erring police official.
- c. In view of the clear findings of the Commission regarding the violation of Human Rights of the complainant and the unnecessary harassment caused to her, right from the day of the lodging of missing complaint till date, the Commission feels it necessary to order interim compensation of Rs. 1,00,000/- to be paid to her within 4 weeks from the date of receipt of this order and report compliance.

With these directions the case is closed.

The Secretary to communicate this order to the parties concerned.

(Justice S. R. Bannurmath)
Chairperson, SHRC