

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/VGM/03/2009/1090

Case No. – 1958/2003

Name of the Complainant : Dwarkabai Rajabhau Dahale
Member of Nagar Parishad,
Purna, Mahavir Nagar,
Tal. Purna, Dist Parbhani

Vs.

The Superintendent of Police
Parbhani

Date : 2 March 2009

Coram : **Justice V G Munshi, Member**

ORDER

Read the allegations made in the complaint and report received from the Superintendent of Police, Parbhani and Investigation Wing of the Commission. Read the case papers. Heard the parties.

2. The important facts of the case of the complainant may be briefly stated as under.

Complainant is resident of Purna, Dist. Parbhani. She made present complaint before Commission making allegations against Police Inspector Dhurewar and PSI Pokalwar who were then attached to Police Station Nanalpeth. It was alleged that this police officials did file false criminal cases against Rahul Dahale son of the complainant, secondly, Police detained her husband in



police station and beaten him and lastly, police demanded and accepted bribe amount of Rs. 4 Lacs in order to show favour in this matter.

3. The complainant was then working as Member Nagar Parishad, Purna and she resided on the given address along with her husband and sons, her husband did the business of cloth shop while her son was then running Jewellers shop. On 24.02.2003 at about 2.00 p.m. in the noon two unknown boys came on her shop and they wanted to sell golden ornaments. The son of the complainant refused to purchase those ornaments. It was alleged by the complainant that her son did not commit any offence, even then the Police taken him to the police station along with the ornaments from the shop. The complainant has come with a case that her husband went in police station to make inquiry. The Police detained him, abused him and beaten him. It was further alleged that, the police even beaten her son and tried to take confessional statement from him. The Police pressurized her son and husband to admit the offence, of the receiver of the stolen property. If they did not admit the guilt, then the Police threatened them, to take their procession in the town. It was further alleged that, the police taken signatures of these persons on the blank papers and did filed several cases against her son. It was further alleged that, her son was not taken before Magistrate within 24 hours. In the last, according to the complainant, the police accepted bribe amount for showing favour in this matter. The complainant made such complaints to different Authorities. In the last she moved the Commission for necessary action in this matter.

4. Respondent Superintendent of Police, Parbhani by filing their report denied and dispute all the allegations made in the complaint.



5. Therefore, it is necessary to view the case of the complainant in the lights of facts and circumstances brought on record.

(i) The report shows that in all 10 offences under Sec. 454, 380 of IPC were registered against the complainant's son in police station Nanded, Police Station Nava Modha, Police Station Kotwadi and Police Station Nanalpeth in Parbhani District, during years 2001 to 2003. Thereafter, in the year 2005 offence at crime No. 264/2005 under Sec. 457, 380, 379 r/w Sec. 411 of IPC was registered in Police Station Bhaggya Nagar at Nanded. Even charge sheet is also filed in Court. It was pointed out that, the son of the complainant is a habitual receiver of the stolen property. The report further mentions that even stolen ornaments of worth Rs. 75,783/- were recovered from Rahul Hadale. The Respondent has come with a case that, present complaint was made with malafide intention and motive and to obstruct the Police from making investigation in these crimes and from taking further action against her son Rahul. There is force in the submission made by the Respondent and therefore, we have to accept the same. On this background we have to view the case of the complainant.

(ii) It was alleged by the complainant that Police falsely implicated her son in all the criminal cases. All these aspects are to be considered and decided by the Court or Courts where criminal cases are pending and not by the Commission. When these matters are sub-judice before competent Court it will not be proper on the part of the Commission to go so deep into the merits of the case and record findings on the



merits of the case. Moreover, such grievances were not made in respect of the offences registered earlier to 24.02.2003.

(iii) In the complaint much grievances were made in respect of incident dated 24.02.2003 and in respect of offence 20/2003 registered in Police Station Nanalpeth, Parbhani u/s. 457, 380 of IPC. The allegations pertain to arrest, detention, seizure of property, harassment, ill-treatment etc.

The report shows that in this offence Police arrested six accused persons on 06.03.2003 and arrested Rahul Hadale on 07.03.2003. He was produced before Magistrate on the same day. He was remanded in Police Custody till 10.03.2003. In meantime Police recovered stolen ornaments from the shop of Rahul. He was again produced before Magistrate on 10.03.2003, for further remand. It was pointed out that Rahul on both the occasions i.e. on 07.03.2003 and 10.03.2003, when he was produced before Magistrate did not make any complaint of harassment, ill treatment, illegal detention etc. In such circumstance how it can be believed and accepted that, the Police beat, ill-treated Rahul etc.

(iv) In Crime No. 20/2003 under Sec. 457, 380 of IPC Police Inspector Pokalkar arrested accused. It was alleged that arrest was illegal, proper procedure was not followed. He was not medically examined etc. In this crime No. 20/2003, the Investigating Officer, after completing investigation did file charge sheet in Court and the said matter is sub-judice before Court. The complainant could very well make all these grievances before the Court where the said criminal case is sub-judice. From the report of Investigation Wing it is seen



that though husband of the complainant was present at the time of arrest of Rahul and though it was incumbent upon PI Pokalkar to take his signature on arrest Panchnama, he omitted to take signature. For that act of omission, and negligence, strict warning was given to PI Poklakar by the Authority. The report of Superintendent of Police, Parbhani shows that, information about arrest of Rahul was given to his father. Superintendent of Police, Parbhani filed on record the parawise report (Article – A) in respect of the compliance of guidelines issued by the Apex Court and also copy of order (Article – B) whereby strict warning was given to PI Pokalkar. The report shows that medical examination of all the other six accused person was made after their arrest. The report (Article – A) point No.8 shows that Rahul refused to have his medical examination and this fact has become clear from the statement of PI Pokalkar. PI Pokalkar had no reason to deny medical examination of Rahul, when he medically got examined other six accused in the said crime. Moreover, Rahul whenever, he was produced before Magistrate for remand, did not make any such grievance, about ill treatment or about medical examination etc. It must be borne in mind that medical examination of accused is mandatory before arrest. If any such person refuses medical examination, then such fact must be brought to the notice of concerned Magistrate at the time of remand. It was incumbent upon the Respondent to take all the care and to follow proper procedure at the time of arrest etc. The Authority has already given strict warning to PI Poklakar for the irregularity committed by him at the time of arrest of Rahul, which



amounts to punishment. It is incumbent upon the Respondent, to see that the guidelines are properly followed and no such irregularity is committed or repeated in future.

(v) The last point remains for consideration is about the allegations made by the complainant about demand of bribe amount by PI Pokalkar and its acceptance etc. It was alleged that PI Pokalkar demanded bribe amount of Rs. 4 Lakhs for not filing criminal cases against Rahul etc. It was the case of the complainant that on 04.03.2003 her husband sold their house and raised funds and thus, anyhow collected total amount of Rupees Four Lakhs for being paid to PI Pokalkar and it was actually paid to him through Pravin Agrawal and in presence PC Shamim and PSI Gopinath Jadhav. It was her grievance that even thereafter PI Pokalkar falsely implicated her son Rahul in number of criminal cases.

(vi) The complainant in order to substantiate the allegations, that they sold house and paid amount of Rs. 4 Lakhs to PI Pokalkar, has cited witnesses, Nagar Sevak Pravin Agrawal, Abhay Chate, Nagar Parishad Vice President Baburao Dhobare. In this matter Vice President Baburao Dhobare even did file an affidavit in support of his case. PSI Pokalkar also filed his affidavit denying all these things. Read the copies of documents filed by the complainant in support of her case of giving bribe amount to the Police Officer after selling house property. Serious allegations of corruption were made against Police Officers / Officials. From the report of Superintendent of Police, Parbhani it does not appear that, any inquiry was made by the Authority in this corruption matter. In the given circumstances inquiry is necessary in



this matter by a competent Authority. I therefore, in view of the provisions of Sec. 18 of the Protection of Human Rights Act, 1993 and make following recommendations.

- (i) **Superintendent of Police, Parbhani either himself or by any superior Police Officer nominated by him to make thorough inquiry into the allegations of corruption made by the complainant and to take action according to law if necessary, at early date.**
- (ii) **Copy of this order be sent to Superintendent of Police, Parbhani for information and necessary action according to law through Secretary Maharashtra State Human Rights Commission, Mumbai.**

Therefore, Case No. 1958/2003 is disposed of accordingly.

Dated : 2 March 2009



V G Munshi
(Justice V G Munshi)
Member, SHRC