



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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* Case No.CPN/3008/2010-11,

Name of the complainant : Harish B Shetty,
501, Balaji Apt., Krishna Vitaka Complex,
Behind Shakti Nagar, Near Jyoti Industrial Estate,
Dahisar, (E), Mumbai-400 068.
VS.
Superintendent of Police,
Thane (Rural)

Date : 21.06.2011

Coram : Justice Kshiti R Vyas (Former Chief Justice), Chairperson

ORDER

The complainant along with the victim Uday G Shetty are present at the time of hearing. None is present on behalf of the respondent. On last date of hearing i.e on 03.05.11 after hearing the parties at length Commission felt that concerned officer of Mira road police station Sr PI, Shri Sawani, API, Shri Ravi Adane, API, Shri Anant Khobre against whom the complainant has made allegations and therefore they are required to be heard in the matter. Accordingly they were summoned to remain present. Today at the time of hearing they have failed to remain present. It is therefore presume that they have no say+ in the matter.

Maharashtra Manav Seva Shangh an NGO has taken up the cause of victims Shri Uday G Shetty, Shri Harish D. Shetty, the President of the said NGO has filed the complaint for the victim Uday Shetty against Sr. PI, Shri Avinash Sawant, API Shri Ravi Adane, API

Anant Khobre of Mira Bhayander Police Station for tyranny, in human treatment and endless torture committed by them to the victim.

The complaint is not happily worded but the documents produced alongwith the complaint i.e. the representation dated 13.09.10 to Shri R. R. Patil, Hon'ble Home Minister, and the photographs showing injuries sustained and the medical certificate showing treatment given to the victim, support the allegations that the victim was assaulted and beaten by the police.

As per the allegations made by the complainant the victim is serving as manager in Newyork Bar and Restaurant in Mira Road. It is alleged that the police raided the said Bar & Restaurant and whisked away female bar singers, female waitresses along with male staff members of the restaurant at about 10 to 10.15 p.m. on 06.08.10. The victim Uday Sheety serving as manager was on leave, when came to know about the incident went to police station where he was also made to sit for the entire night. The police registered offence U/s 294 IPC against the hotel staff as well as the female singer/waitresses. They were released on bail by the court. As per the allegations made by the complainant Sr. PI Sawant as well as API Adane & Shri Khobre entered hotel in the private Centro car and demanded Rs.2 Lakhs by way of bribe and threaten to implicate staff in false case. Not only that but they forcibly taken away Rs.52,000/- from pocket of victim, meant for paying electricity bill. At the Police Station they were not provided with food or water. The complainant was beaten at the police station, and was also threatened not to inform magistrate regarding beating and demanding money on the

next day at the time of production before the court. The victim was released on bail by the court on the next day and thereafter he went to Bhagawati Hospital for treatment of the injuries sustained at the hands of the police. It is alleged as the condition was not improved the complainant was admitted in the Saibaba Hospital on 25.08.2010 and also in Orbit Hospital, Kashmirira on 03.09.10.

The complainant with these allegations has prayed for inquiry and action against aforesaid police officers.

In the report submitted by Dy. SP Mira Road division, the allegations made in the complaint are denied. It is pointed out that an enquiry was made with respect to the allegations made in the complaint and the allegations are found to be baseless and without substance.

Having perused the report of the enquiry conducted by Dy. SP, Mira Bhayander zone, it is clear that the victim along with the male and female staff of the Newyork Bar & Restaurant were whisked away to the police station for the alleged offence U/S. 294 IPC and they were produced before the concern court on the next day where they were released on bail. As far as these facts are concern nothing can be said against the police as it was within their rights to initiate action against the persons concerned. The Commission is also not concern regarding the allegations of demanding illegal bribe and extortion of money from the victim by the police as the allegations are not supported with necessary proof. The Commission is really concern with respect to the allegations of beating amounting to the breach of Human Rights of the victim Uday Shetty. It is alleged by

him that he was illegally detained on the night of 07.08.2010 in the lock up of Mira Bhayandar police station where he was assaulted and beaten by the police personals named in the complaint. It is not in dispute that the police has not referred him to the Government Hospital either on the night of 07.08.2010 or thereafter i.e. before or after he was released on bail by the court. It is stated by API, Shri Surve that an explanation was sought from the concerned police officer of Mira road police station for not referring victim to the hospital. It is brought on record by the complainant that immediately after he was released on bail he had gone to Bhagwati Hospital for treatment. Perusing the medical case papers it is stated the concerned doctors, case history as "assaulted" at Mira Bhayandar police station by three persons by hands / fists and wooden sticks at about 11.15 p.m. on 07.08.2010. The complainant has given this version against police, no sooner he was released on bail by the court before the doctor, while taking medical treatment on the first available opportunity. The injuries on the left foot and right shoulder noticed by the doctors can be seen on the photographs produced by the complainant. Nor stating atrocities committed by police to the magistrate on production, in my opinion will not come in the way of the victim, as he has explained in his complaint that he was warned, and threatened by the police not to say anything against the police personals. In any case once the complainant has disclosed beating by the police to the doctors on the first available opportunity. Mere denial by the police will not help the police. The commission fails to understand as to the need to beat the complainant by the police. He is not the hard core criminal, nor any information was required to be

ascertained from him in connection with the case under investigation. The offence in question is not a serious one and is a bailable offence. Taking in to consideration the above aspect of the matter the commission is of the opinion that assaulting and beating the complainant in the police lock up was totally illegal, uncalled for, and in violation of the Human Rights of the complainant, warranting some action against erring officers.

It is noticed by the Commission that in recent time incidence of police beating in the lock up are increasing. The innocent citizens for no reason become victims of the torture and atrocities. Police under the influence of power and position many times fail to realize, status, reputation and position the person called at the police station, and is given the same treatment which is ordinarily given to hard core criminal. The present case is not an exception. As stated above police could have full stopped after taking legal action against complainant. There was absolutely no need to assault and to beat him after he was booked U/S. 294 IPC. No useful purpose will served in recommending only Departmental Inquiry against them. In order to have a deterrent effect, Commission feels that complainant should be adequately compensated. It is therefore by recommendatory direction, directed that all the three police officers named in the order shall pay from their salary jointly Rs. 25,000/- to the complainant Shri Uday Shetty, PI, Shri Avinash Sawant's contribution shall be Rs. 15,000/- while contribution of both API, Shri Adane and Shri Khobre shall be Rs. 5000/- each. They are directed to comply with this direction within 8 weeks

from the receipt of the order. The Secretary of the Commission
to ensure compliance of this order, through State Government.

sd/-
(Justice Kshitij R. Vyas)
Chairperson.

Mumbai.

