



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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Case No. – 4010/2013-14

Name of the complainant : Imtiyaz Yunus Bagwan
R/o. Pachbatti Chowk
Bagwan Galli, Tal. Phaltan
Dist. Satara

Vs.

Name of the Respondent : The Superintendent of Police
Satara

Date : 15th June 2016

Coram : Justice S. R. Bannurmath, Chairperson

ORDER

This complaint is by Shri. Imtiyaz Yunus Bagwan of Bagwan Galli, Phaltan, Dist. Satara is against the Phaltan Police Officials especially the Police Inspector Shri. Rajendra More, Asst. Police Inspector Shri. Wagh, Shri. Hange and Shri. Deshmukh about misusing the Police powers, partisan attitude and assaulting the complainant while in custody. According to the complainant there used to be frequent quarrels between the complainant and his family members on one side and Shri. Aziz Mohd. Shaikh and others. It is stated that on 28.11.2012 the complainant had filed a complaint to the Phaltan Police in this regard and the same was registered in Cr.No. 182/2012. Since no action was taken by the Police, he had even approached the Superintendent of Police by way of registered letter on 03.02.2013 but again no action was taken. On 13.07.2013 once again there was an assault on the complainant and his family members.

As such the complainant had given a police complaint which is registered in Cr.No. 107/2013. The opponents have also filed a counter complaint. As such it is alleged that taking a partisan view the concerned Police Officials arrested him and assaulted him in the Police Station with leather belt and sticks. Even though on the next day he was produced before the Court, since he was afraid of the further consequences at the hands of the Police, he did not complained to the Magistrate. However, on releasing on bail on 18.07.2013 he went to the Civil Hospital and after his giving information as to the cause of the injuries being assault by the Police the Doctor registered MLC Case 5143 and reported the same to the Police. But in this regard no action was taken and on the other hand he was threatened that he will be implicated in false cases if he pursues his complaint against the Police. Hence he has prayed for action being taken against the concerned Police Officials for violating his human rights.

Report from the Superintendent of Police, Satara was called for and the same has been filed denying the allegations. On the other hand it is stated that after due inquiry the allegations made by the complainant are all false and the same have been made only because there are many cases against the complainant. It is also stated that though the complainant was produced before the Magistrate and since he has not complained about the alleged assault by Police and has got a medical certificate long after he was released on bail shows that the allegations are not correct and made only to take revenge against the Police Officials.

Unsatisfied by the report of the Superintendent of Police the matter was posted for hearing and was heard on few occasions during

which the complainant and the concerned Police Officials were present and have produced number of documents.

On going through the records it is to be noted that there is no dispute about the complainant being arrested by the Phaltan Police Officials on 16.07.2013 and was produced before the Court on 17.07.2013. There is also no dispute that on 18.07.2013 after securing the bail from the Court the complainant indeed went to the Civil Hospital for treatment of his injuries and on hearing the history of the cause the concerned Doctor has felt it necessary to treat the case as medico- legal case and has made necessary entries in MLC Register at 5143. The complainant has produced several photographs showing the nature of injuries he has received at the Police beating which has remained uncontraverted.

However, what is disputed by the Police is the alleged belated medical report. It is stated that though on 16.07.2013 the complainant was sent for medical examination immediately after arrest, there were no injuries noted by the Doctor and even when he was produced before Magistrate about the alleged ill treatment and assault and only after his releasing on bail on 18.07.2016 he has got himself again examined where in for the first time the injuries were noted. It is to be noted that though the entries in the arrest register shows that he was got examined medically immediately after arrest, no medical records in this regard except a copy of the arrest register showing such entry is produced earlier before the Commission. As such by the order in this regard passed on 02.07.2015 xerox copies of the medical certificate No. 628/13 has been produced which is as blank as can be, in the sense neither there is mentioning of presence or absence of injuries. Even it can be seen by naked eye that the

alleged date of examination is clearly overwritten. This is one of the suspicious circumstances against the Police version.

Apart from this it is to be noted that the MLC entries on 18.07.2013 made by an independent Medical Officer of District Hospital, Satara clearly show the history of injuries as **“alleged assault on 16.07.2013 at 1.30 a.m. in custody of the Phaltan Police Station.”** The MLC certificate show that there were five contusions on right knee, right calf, palm, left forearm and swelling over left dorsum of foot. These injuries also can be visibly seen in the photographs produced by the complainant before the Commission. Even though the Police have not disputed or denied the MLC entries and the photographs, what is disputed is as to the age of injuries. According to the Police Report as the doctor has given the age of injuries as 48 hours approximately, it does not correspond with the time when the complainant was in the Police Custody. At the outset it is to be noted that the age of injuries is an approximate finding, based on the colour and nature of injuries. Even otherwise the Commission fails to understand the objections regarding the time factor. Admittedly from 16th to 17th July 2013 the complainant was in the custody of Police and on 18th July 2013 itself he was examined by the Doctor. By reverse process the age of the injuries 48 hours prior to 18.07.2013 would definitely fall on 16th or 17th July 2013, neither earlier nor later at which time admittedly the complainant was in custody of the Police. As such based on the medical evidence, it can be safely held that the injuries were either on 16th or 17th July 2013. The Superintendent of Police who has filed the report before the Commission had made much fact that after receiving MLC entries according to the statements of Shri. Sanjay More Police Havaldar after

receipt of the MLC report he went to the Hospital on 19.07.2013 and the staff complained that the complainant was not in the Hospital for some time. On the other hand the statement of Shri. Vilas Yadav Asst. Police Inspector shows that on 19.07.2013 when he went to the Hospital on 19.07.2013 the complainant refused to give statement. This is clearly contradiction between the two Police Officials. That apart even the MLC entry does not show the injuries being self inflicted, on the other hand it is stated to be by hard and blunt object. At this stage it is interesting to note the report given by the SDPO to the Superintendent of Police stated to be on 18.04.2015 which mentions that the injuries might have been as a result of fight between the complainant and his opponent Shri. Aziz Mohd. Shaikh and others. If that was the fact then the Medical Officer before whom the complainant was produced immediately after arrest as per the Station Diary entry there would have been mention about the same. As noted earlier the Xerox copy of the medical certificate along with requisition immediately after the arrest of the complainant is also suspicious since the date of examination in the certificate is over written and appears to be interpolated, apart from the same it does not show the certificate as to presence or absence of injuries, which is available in respect of another co-accused at MLC 629/13. These records clearly belates the story put forth by the Police.

Apart from this aspect even the records produced by the Police before the Commission clearly shows a partisan attitude. From bare perusal of the two FIRs registered on 02.06.2013 one on the complaint of the present complainant and the other by his assailants, it appears an attempt is made to make the opponents complaint as the first in time

received (81/2013) and later by the complainant (82/2013), since the FIR Nos. 81/2013 appears to be over written (pertains to the complaint of the opponent).

Considering all these aspects in detail the Commission is of the view there appears to be truth in the allegations of the complainant regarding assault on him by the concerned Police Officials while he was in their custody during 16th and 17th July 2013. As such this is one of the cases where the Commission has to hold that by the conduct of the concerned Police they have violated the guidelines laid down in D.K.Basu Case as well as there is a violation of human rights of the complainant.

As such the Commission makes following recommendations:

- A) Appropriate action must be initiated against the erring police officers who have assaulted the complainant but also appears to have tampered with the records.
- B) In the facts and circumstances of the case the Commission directs the State to pay a compensation of Rs.1,00,000/- (Rupees One Lacs) to the victim Shri. Imtiyaz Yunus Bagwan within six weeks of receipt of the order and send an action taken report to the Commission within four weeks thereafter.

(Justice S. R. Bannurmath)
Chairperson, SHRC