



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/VGM/2011/ 227

Date: 1/2/2011

Case No. – 3862/2008-09

Name of the complainant : Rupali Anandrao Javalkar
Gurunanak Nagar, Behind Samaj Mandir Hall,
90 Feet Road, Pantnagar
Ghatkopar (E), Mumbai – 400 075.

Vs.

The Commissioner of Police, Mumbai
The Asst Commissioner of Police
Ghatkopar Division, Mumbai

The Sr Police Inspector
Pantnagar Police Station
Ghatkopar, Mumbai.

Date : 24 January 2011
Coram : Justice V G Munshi, Member

ORDER

Read the averments made in the complaint and the report received from Respondent Dy Commissioner of Police (Zone – VII), Mumbai. Read the case papers. Heard the parties. Read the report received from the Investigation Wing of the Commission.



2. Before proceeding with the merits of the case, points to be decided etc it is necessary to acquaint ourselves with the facts and circumstances of the case with which we are concerned.

3. The complainant Miss Rupali Anandrao Javalkar is resident of Pantnagar, Ghatkopar, Mumbai. She does profession of TV Cable operator since year 2005. One Nagane proprietor of Jai Hind Cable was not in good terms with her. That on 26.08.2008 at about 8.00 a.m. in the morning, family members of cable operator Nagane, cut off the TV cable of the complainant and thus, distributed TV operation. Therefore, at about 15.45 hours the complainant with the help of labours was busy in connecting the broken cable. At that time cable operator Balbhim Nagane taken out knife and threaten to kill the complainant. Wife of Balbhim Nagane beaten the complainant by wooden log. The complainant then went in Government Hospital and taken first treatment. Then she went in Pantnagar Police Station. PSI Santosh Gaikwad who was on duty in Police Station accepted her complaint and then registered offence at Cr. No. 188/2008 under sections 323, 427, 504, 506 r/w Sec. 34 of IPC against all these persons at about 19.30 hours. Thereafter, PSI Gaikwad recorded spot panchnama in presence of complainant.

4. Two days thereafter i.e. on 28.08.2008 Suman Nagane daughter-in-law of cable operator Balbhim Nagane, lodged complaint against the complainant. It was alleged that on 26.08.2008 at about 20.30 hours the complainant beaten her by the branch of a tree and after showing knife threat to kill her and her family members. Therefore, PSI Gaikwad registered offence at Cr. No. 190/2008 under sections 324, 427, 323, 504, 506 (2) r/w Sec. 34 of IPC against the complainant. That on 28.08.2008 at about 14.20 hours, Sharada Bhagare, daughter of cable operator lodged complaint in Police Station against complainant and her two brothers. It was alleged that these persons that on 28.08.2008 at about 10.00 a.m. entered into their house damaged TV and video sets and injured them etc. Therefore, offence at Cr. No. 191/2008 under sections



R/R,HRG AND CLOSED - RECOMM.

452, 324, 427, 506 (2) of IPC was registered against them. The complainant in Cr. No. 190/2008 and 191/2008 moved Hon'ble High Court and she was released on anticipatory bail on 10.10.2008.

5. The complainant knocked the doors of the Commission and made following allegations / grievances.

- (i) PSI Gaikwad falsely implicated the complainant in offence at Cr. No. 190/2008 and 191/2008.
- (ii) PSI Gaikwad and PSI More joined hands with other side and thus harassed and ill treated the complainant.
- (iii) Though the complainant was released on anticipatory bail under the orders of High Court, PSI Gaikwad and PSI More harassed her, did not sign her attendance diary dated 13.10.2008 and 20.10.2008, completed the formality of arrest without giving her prior notice of arrest and without following due procedure. She was made to sit in Police Station through out the day, disrespecting the order of anticipatory bail.
- (iv) It was alleged that the complainant was harassed and beaten in Police Station.
- (v) The Police officer recorded statements of witnesses, who later on made clear that, they never made such statements before Police.
- (vi) In the last it was alleged that these Police Officers falsely implicated the complainant in criminal case.

Therefore, the complainant moved the Commission and prayed for suitable action against these Police Officers.



R/R, HRG AND CLOSED - RECOMM.

6. The Respondent Dy Commissioner of Police (Zone – VII), Mumbai by filing their report denied and disputed all the allegations of ill treatment, harassment, false implication etc made against them in the complaint. According to the Respondent after completing investigation, Police filed charge sheets against the complainant in Court and these matters are subjudice before Court. Secondly, the complainant also filed complaint case about the harassment, ill-treatment alleged to have been caused to her by Police Officers and the same matter is also pending in the Court. According to the Respondent there is no substance into the allegations made in the complaint and present complaint was made to the Commission with malafide intention and motive and to pressurize the Police.

7. The Investigation Wing of the Commission also filed their Report. The Special Inspector General of Police in their Report came to the conclusion that the Police Officer was at fault and he falsely implicated the complainant in criminal cases, after joining hands with other side.

8. I have carefully gone through the material on record. There is reason to believe that PSI More joined hands with other side and taken undue interest in this matter. The record shows that the complainant was falsely implicated in Cr. No. 190/2008. Though the complainant was ^{on} anticipatory bail under the orders of Hon'ble High Court, her arrest formalities were hurriedly taken and completed without prior notice to the complainant and when she was not at all ready with surety etc. Deliberately counter signatures were not made in her attendance diary and attempt was made to show that the complainant was irregular in attending Police Station, disobeying orders of the Court. The complainant was unnecessarily detained and made to sit in Police Station, though she was released on anticipatory bail by Court. The complainant even made serious allegations of harassment, beating, ill treatment to her by these officers, in Police Stations. In such circumstances, therefore, there is reason to believe all these allegations of ill treatment etc. The witnesses whose statements



R/R,HRG AND CLOSED – RECOMM.

were recorded in both Cr.No. 190/2008 and 191/2008, by PSI Gaikwad, made it clear that they never given such statements before Police. I therefore, come to the conclusion that therefore, there is truth into the allegations made in the complaint. PSI Gaikwad and PSI More joined hands with other side, harassed, ill treated the complainant and implicated her in criminal cases.

9. In mean time this matter was referred to the Investigation Wing of the Commission. Special Inspector General of Police of State Human Rights Commission, did inquiry in this matter and also came to the conclusion that the Police Officers were at fault. The observations and findings made in the report are reproduced as under.

"It transpires from the above facts that, PSI Gaikwad and More in connivance with Balbhim Nagane, have registered complaints at the instance of Balbhim Nagane and his family members, to mentally harass the applicant. To substantiate these cases, have fabricated evidence by recording false statements of witnesses. Also they have arrested the applicant by applying a procedure which is contrary to the normal procedure followed by, whenever anticipatory bail is granted to the accused by any Court. To justify their actions they have prepared a record by making station diary entries. The supervisory Police Officers, Sr Police Inspector Nagesh Lohar and day Police Inspector Patil of the Pantnagar Police Station have failed to guide properly the subordinates and or have deliberately overlooked all these events."

I see no reason to disagree with the report given by Special Inspector General of Police, MSHRC, Mumbai.

10. In view of this situation I make following recommendations.



R/R,HRG AND CLOSED – RECOMM.

- (i) Commissioner of Police, Mumbai either himself or through any other Senior Police Officer, make inquiry into the allegations made against PSI Santosh Gaikwad and PSI Vikram More in view of the observations made above and if necessary take suitable action according to law.
- (ii) Copy of this order be sent to the Commissioner of Police, Mumbai through Secretary of State Human Rights Commission, Mumbai for information and necessary action and compliance may be reported.

Therefore, Proceeding in Case No. 3862/2008-09 are closed accordingly.

The Secretary to communicate this order to the parties concerned.



sd/
(Justice V G Munshi)
Member, SHRC