

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

Administrative Staff College Compound, 9, Hazarimal Somani Marg, Opp. C.S.T.(VT), Mumbai- 400 001.

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SHRC/VGM/06/2009/ 1822

Case No. – 926/2007-08

Name of the Complainant : Shri S K Dubey – Adv
105/C, 1st Floor,
144 Esplanade Mansion
Fort, Mumbai – 400 023
(Client – Mr J N Sonkar)

Vs.

1. The Dean
Nair Hospital, Mumbai
2. The Dy Commissioner of Police
Zone – III, Mumbai
3. Maharashtra Medical Council
Anand Complex, Sane Guruji Marg,
Jacob Circle, Mahalaxmi,
Mumbai – 400 011.

Date : 2 June 2009

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

ORDER

Read the allegations made in the complaint and report received from the Dean – Nair Hospital, Mumbai. Read the case papers.

2. Present complaint is made by Adv S K Dubey for and on behalf of his client J M Sohankar resident of Shiv Darshan CHS, Andheri, Mumbai. The main grievance of the complainant is reproduced as under



"Criminal offence has been committed by the doctor and his associate technician both were pre-planned in this act, of Nair Hospital Mumbai on the day of 5th June 06. When my injured wife brought to Nair Hospital and admitted for treatment. On the same days in the evening when we were took her for Sonography test it happened by the young doctor and his associate. Doctor came in her room without lady nurse. The doctor has done such a extremely serious heinous, shocking, sinful and shameful act, it was beyond the rape only and my young son was eye witnessed."

3. Wife of the complainant on 05.06.2006 was travelling by city bus along with her relative. Suddenly she fell down from the running bus near Hajiali turning point and did sustain head injury and it started bleeding. The bus conductor arranged taxi and taken her to Nari Hospital. According to the complainant, his wife was taken in ICU room. The Doctor present their given her injection and slowly his wife became unconscious. In the meantime, she was taken for CTS Scan. After some time the Doctor arrived their, along with technician. Nurse was not present in the room at that time. In the meantime Doctor told the complainant to leave that place. Accordingly, complainant left that place and went outside the room along with his son. When they both entered in the room after 30-35 minutes they were really shocked. They saw the Doctor misbehaving with and mishandling the patient. In short according to him, it was an indecent assault made by these persons on his wife. Thereafter the complainant made complaint to Dr. S N Oak Dean of Nair Hospital. As he could not get any satisfactory reply he made complaint to Agripada Police Station. Even the Sr. Police Inspector neither taken cognizance of this complaint nor did take any action. Therefore, he did write complaint to Sr. Police Officer. As the complainant could not get any relief in this matter, he did file present complaint before Commission and sought necessary action in this matter.



R/R,HRG – RECOMM.

4. The Respondent Dean Nair Hospital by filing their reply denied and disputed all the allegations made in the complaint. According to them, the patient was admitted in the hospital and the patient was given proper medical treatment. It is their case that, the patient was admitted in emergency ward on 05.06.2006 at 5.50 p.m. as she did sustain head injury. The patient was conscious throughout the hospitalization. The said patient was investigated with city scan, ultra sonography, abdomen chest, to rule out internal injuries with routine blood investigation. It further mentions that, on 05.06.2006 during evening hours, during the sonography process, patient's indwelling catheter was found in urethra. The Doctor on duty attempted to put the catheter inside the urinary bladder. However, the Doctor on duty could not succeed to put the catheter inside bladder. The report further mentions that balloon of the catheter was deflated and catheter was removed. According to the Respondent, this was the emergency process which was carried out. In other words according to the Respondent they were required to undergo such process. Though entire things were explained to the complainant, the complainant misinterpreted the above procedure, and continued to make such allegations of misconduct against young Doctor. In the last it was mentioned that the complainant never made such grievances during hospitalization period. In short according to the Respondent such complaint was made with malafide intention and motive.

5. Thus, according to the complainant the Doctor and the technician misbehaved with his wife and also behaved in a indecent manner. According to the Respondent the complainant, he is the witness on this incident of indecent assault on his wife by Doctor. According to the Respondent, **firstly**, the Doctor who did treat the patient, was required to give such emergency treatment to the patient and therefore, the bonafides of the doctors cannot be doubted. **Secondly**, proper treatment was given to the patient, she therefore, recovered fast and she was discharged from the hospital. **Lastly**, the complainant did not make such complaint during the period of hospitalization of the patient.



P/R,HRG - RECOMM.

6. It was the case of the complainant that though he made such complaint to Dean of the hospital, he did not take any action or cognizance and told Dr Mahesh Shah to look into this matter. As it was matter of serious nature, it was incumbent upon the Dean of the Hospital, to take immediate action in this matter and he should not have assigned such work to the subordinate Doctor. It was alleged that, Dr Shah neither called those two doctors nor did make any inquiry and only misguided the complainant. In short according to the complainant, Dr Shah and Hospital Administration only tried to suppress the incident and to save the doctors. The case of the complainant entirely based on his oral testimony. It is hard to believe that, complainant made false allegations against the doctors, and when it pertains to dignity, reputation of his wife. Therefore, the complainant has knocked the doors of the Commission and prayed for necessary action in this matter. Taking into consideration all the circumstances appearing in this case in their sequence, I am of the opinion, that it is a fit case, which needs proper and thorough inquiry by competent Authority.

7. In view of the Clause 2 of the Government Resolution dated 07.10.2005, in such cases proper inquiry should be made by Council (Parishad). In that case Police should give such instructions to the complainant, that he should file complaint before Council (Parishad) and secondly, Police should send all the information about the case to the Council (Parishad).

After considering all these aspects, I make following recommendations.

- (A) **Maharashtra Medical Council to make proper inquiry into the allegations of medical negligence, misconduct, misbehavior etc by the Doctors, who performed operations, given treatment, to the wife of the complainant.**
- (B) **The complainant to move the Maharashtra Medical Council, accordingly, with his complaint / grievances.**



R/R,HRG - RECOMM.

- (C) Respondent Police to furnish all the necessary information to the Maharashtra Medical Council
- (D) Copy of this order be sent to Maharashtra Medical Council, complainant, Respondent Dean - Nair Hospital and Dy Commissioner of Police (Zone - III) for information and necessary action.
- (E) The copies of order be sent through Secretary, State Human Rights Commission, Mumbai.

Case No. 926/2007-08 is disposed of accordingly with these recommendations.

Dated : 2 June 2009



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