



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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Case No.16/2008-09 | 5774 ✓

Name of the complainant : Advocate Mr. Sushan Kunjuraman
(For Najma Mukhtar Shaikh)
Room No. 98, Chamber No. 4 & 5, Esplanade Mansion
Khalaghoda, Mumbai-400001. 21/6/08

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V/s

1. The Inspector General of Prisons
Pune.
2. The Superintendent
Mumbai Central Prison (Arthur Road Jail)
Mumbai.

Date : May 2, 2008.

Coram : Justice Kshitij R. Vyas (Former Chief Justice), Chairperson.

PROCEEDINGS

In compliance with the order dated 30th April 2008, Shri Ashok S. Karkar, Jailor Group-1 has produced the accused Mukhtar Abdul Sattar Shaikh before the Commission.

He has stated that on 6.4.2008 at about 5.30 p.m. Circle Officer of the jail Shri Agashe demanded contribution from him in the name of painting of jail premises. As he refused to make payment, the Jail Superintendent Swati Sathe ordered Constable Shri Dilip Chavan, Officer Shri Sachin Chikane and Circle Officer Shri Agashe to beat him. Thereafter all these three officers started beating him one by one with bamboo. He has further stated that these officers also beat co-accused Viky Sharma. When they were beaten, over and above the aforesaid officers, jail doctor Shri Khan was also present.

Today At the time of hearing the Jail Superintendent, Mumbai Central Prison also produced the report. The report reveals that U.T. prisoner Mukhtar Abdul Sattar Shaikh is lodged in the prison since 20.12.2005 in connection with two cases pending against him. As far as the incident happened on 5.4.2008, it is stated that with the help of jail guard regular searches were started in Circle No.6. At that time the prisoner refused to give search and started shouting loudly. The prison Officer politely told him to maintain discipline and cooperate. He abused the staff and misbehaved. Again he denied to give search. He became out of control and got excited in presence of the mob of 200 prisoners and to control them only 20 searching staff, It was likely that other prisoners could take advantage of the behaviour of accused prisoner, ~~hence~~ to control the situation, the jail staff used minimum force.

Thus, there are two versions regarding the incident, given by the prisoner and the jail authority.

The version given by the prisoner namely the Circle Officer Shri Agashe demanded the contribution from the prisoner in the name of painting does not appear to be convincing. Except making bald allegations against jail authorities taking bribes in the name of contribution to substantiate the same, nothing is produced. The manner in which the incident is described does not inspire confidence and appears quite unnatural.

The version given by the jail authority namely the prisoner refused to give search and thereafter gave abuses and misbehaved with the staff appears to be natural and believable. Admittedly, the prisoner is in the jail since 28 months. He has never objected to give search

for any time in the past. On a given date he refused to give search for any reason, may be due to over stay in jail or frustration, it is difficult to answer. The question arises whether the jail Authorities by using minimum force in fact used minimum force or something more than that of. It is the say of the prisoner that he was beaten one by one by Circle Officer Shri Agashe, other Officers Shri Sachine Chikne and Constable Dilip Chavan.

In the report submitted before the Commission, the medical report of doctor of Mumbai Central Prison Hospital is also produced who has examined prisoner Mukhtar Shaikh. It is stated there in that accused prisoner gives alight history H/o beaten by bamboo/stick 17 days back. It further states that accused not willing for giving proper history and any more details. O/e Wounds appeared to be 12-15 days old wound: superficial burns partially crusted in a good healing stage. No e/o any contusion/harmatoma. The medical certificate supports the say of the prisoner in as much as it tallies with the date of the incident, which confirms the say of the accused that he was beaten by bamboo/sticks 17 days back and wounds to be 12/15 days old in a healing stage.

Shri Karkar has stated before the Commission that the prisoner was given some fists and kicks. This version does not get support from the medical certificate. Even in the report submitted by the Jail Superintendent today, wherein it is stated that when the prisoner was produced before the Esplanade Court on 22.4.2008, 2/3 days before the Court date with the help of unknown article U.T.P. Mukhtar Shaikh made some wounds on his own back to get sympathy by showing that he has been grievously beaten up by prison staff before the Court. The aforesaid explanation given by the Jail Authorities does not inspire confidence. In the opinion of the Commission the version given by the prisoner namely that he was indiscriminately beaten by the Jail Officers with bamboo/sticks appears to be true and reliable. Prima facie, therefore, it appears that the jail staff instead of using minimum force to control the prisoner who misbehaved with them, used maximum force by beating him with bamboo/sticks. There is nothing on record to show that prisoner was given medical aid immediately thereafter. The complainant has alleged that the prisoner was not provided with any medical aid. Under the circumstances, the Commission has reason to believe that the husband of the complainant was inhumanly assaulted and beaten by the Jail Authorities and no medical aid or treatment was given to him. These are the prima facie findings recorded by the Commission on the basis of the materials produced before it. The Commission feels that something more is required to be enquired into the matter. Under the circumstances, following recommendatory directions are given:

The **Inspector General of Prisons, Pune** either himself or by Officer next to him shall hold appropriate enquiry and shall take action against the concerned Officers who were involved in beating the prisoner Mukhtar Shaikh and shall also hold inquiry against the concern Officer for not providing medical aid to the prisoner Mukhtar Shaikh, ~~in time~~ as early as possible.

The compliance report may be submitted before the Commission within **two months** time from the date of receipt of the order.

With this direction, the case stands disposed off.

Mumbai; May 2, 2008.



(Justice Kshitij R. Vyas)
Chairperson.