



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/SRB/05/2014/

Date: May 2014

Case No. – 3454/2011-12

Name of the complainant : Mohd Rais Khan
Room No.73, Madina Nagar,
Kuttiwadi, 60 feet Road,
Dharavi, Mumbai – 400 017.

Vs.

Name of the Respondent : The Commissioner of Police
Mumbai

The Dy Commissioner of Police
Zone – V
Worli Police Station Building
5th Floor, Dr. Annie Beseant Road
Mumbai.

The Sr. Police Inspector
Dharavi Police Station
Mumbai

Date : 22 May 2014

Coram : Justice S. R. Bannurmath, Chairperson

ORDER

This complaint by one Shri Mohd Rais Khan of Dharavi, Mumbai alleging unnecessary harassment and assault by Police of Dharavi Police Station, Beet No.4. It is alleged that on 29.09.2011 in the midnight two Police Constables along with an officer and two individuals by name Zaheer Gaus Mohammad and Riyaz came to his house, took him to the Police Station and there he was assaulted mercilessly. It is further alleged that when the victim requested the Police Personnel as to why he was brought to the Police Station and being beaten, he was abused mercilessly and made to sit in a corner and was also threatened that unless he settles the dispute between said Zaheer in Uttar Pradesh, as said Zaheer has connections with the criminal don Dawood in Saudi Arabia, he will be taken care of even by implicating in murder cases.

As the allegations were of serious nature this Commission called for the report and Dy Commissioner of Police Zone – V has filed a report denying the allegations made in the complaint inter alia stating that no doubt there was a complaint of one Zaheer Khan on 30.05.2011 in the midnight that his relative Zafar is abusing over mobile phone and in this regard a case in Crime No. 3956 of 2011 for the offences u/s 323, 504 IPC has been registered. Thereafter apprehending further assault by said Zafar, Zaheer Khan once again came to the Police Station and as per the instructions of PSI Sawant the SHO Police Constable Katkar went to the house of one Sharif but said person was not found. Instead his relative Mohd Rais Khan was found and on his inquiry he informed that there is no connection whatsoever between him and said Zafar and dispute alleged is not local but to the original residents (UP). The Dy Commissioner of Police has further reported that the complainant was instructed to behave properly and solve the problem amicably. It is further stated that thereafter the present complainant himself came to the Police Station and again after giving advice he was sent home. According to the Dy Commissioner of Police as per the statement of the Police Constable Katkar there was no incident of either assault or abuse of the complainant by the Police. In conclusion it is stated that only because the Police went to the house of the complainant in the mid night the present false complaint has been given. It is further stated that if really the complainant was beaten he should have approached the Doctor and produce the medical certificate and as such the complaint before Commission is false.

On perusal of this report as further procedure copy of the same was sent to the complainant twice but he has neither filed rejoinder nor appeared before this Commission.

Normally, when a report is received unless the same is contraverted or dispute the Commission take the view that the report of the Police Officers especially a Senior Officer like Dy Commissioner of Police can be accepted.

But in the present case even in the absence of complainant, as the Commission itself feels the correctness or otherwise of the reports submitted, tried to find out the veracity. Shri K.B. Jadhav – PSI present today is unable to answer the queries put forth by the Commission. In fact when the Commission wanted to look into the alleged statement of the concerned Police said to have been recorded by the Dy Commissioner of Police. The PSI is unable to proceed the same in fact except the complaint and the copy of the report of the Dy Commissioner of Police which are already with this Commission no other records are with him.

Time and again the NHRC and this Commission has issued enough guidelines in respect of not only the orderly and civilized manner behaviour with the Public, be it when a citizen goes to the Police Station to lodge complaint or when he is called to Police station to make enquiry in respect of any crime or even when a suspected accused is brought to the Police Station either for interrogation or inquiry.

It is to be noted though the behaviour of the Police Officials in dealing with the Public has improved but on many occasions like the present one it still remains in gray area. As already noted the Dy Commissioner of Police while submitting the report appears to have accepted blindly the report of the SHO and the Police Constable Katkar from the report the Commission fails to understand why the present complainant himself came to the Police Station when in fact as admitted in the report the Police had earlier gone to his house and after inquiry found that the complainant had nothing to do with the dispute of Zaheer Khan and Zafar. There is no clarity as to who this Sherif is (who was staying with the complainant). It is more surprising if really Police instructed or explained to the complainant not to get involved with the dispute (even though) admittedly he has nothing to do with the same, however, more shocking is the report that inspite of this the complainant voluntarily going to the Police Station in dead of night when neither he is an accused nor is concern with the alleged altercation between two other individuals Zaheer Khan and Zafar.

It is common behaviour of the citizens especially of the people of lower level avoid going to the Police stations as normally everybody dreads to walk into the Police Station that too in mid night. This fear psychosis is created because of misbehaviour of some of the Police Officials who have no respect for the human rights. No doubt after the enactment of Protection of Human Rights Act, 1993 and guidelines given by both Hon'ble Supreme Court (D.K. Basu Case), High Courts, National and State Human Rights Commissions, the atmosphere and behaviour of most of the Police Officials has improved but there are few black sheeps like in the present case and as such the Commission is compelled to take actions in such cases.

In the result the Commission makes the following recommendations :-

- a) **The State especially the Home Department, the Director General of Police and the Superior Officers like Commissioner of Police , Superintendent of Police and their immediate superior officers not only must follow the guidelines issued in D.K. Basu Case and other recommendations of the NHRC and State Commissions but also should**

make all the efforts to sensitize the lower level officers like PI, API, PSI, ASI, Constable etc... regarding protecting human rights of the citizens and it is high time regular sensitization programmes to be conducted in this regard. It is made clear that the MSHRC will always be available for the guidance in this regard. If any such approach is made.

- b) The State Government has to sensitize its superior officers regarding submissions of the reports whenever called for by the Commission. In the sense whenever such reports are called it is the responsible superior officers like Dy Commissioner of Police, Asst. Commissioner of Police, Superintendent of Police , Dy Superintendent of Police who have to conduct independent inquiry in respect of the allegations of the violation of human rights complained to the Commission and submit their independent opinion without just reproducing what they concern PI or Constable says.
- c) In the peculiar facts and the circumstances of the case the Commission awards an interim compensation of Rs. 10,000 to be paid to the complainant within 4 weeks from the receipt of this order and submit the compliance report within four weeks from thereof.

The Secretary to communicate this order to the parties concerned.

(Justice S. R. Bannurmath)
Chairperson, SHRC