

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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

Telephone Number : 2207 3434 Fax : 2207 3434

Website : <http://mshrc.maharashtra.gov.in>

SHRC/VGM/05/2009/ 1613

Case No. -1084/2006-07

Name of the Complainant : Ausabai Dilip Salve
Galli No. 34, Landge's House
Bajipura, Aurangabad.

Vs.

The Superintendent of Police
Aurangabad.

Date : 27 May 2009

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

ORDER

Read the allegations made in the complaint and report received from the Commissioner of Police, Aurangabad and the Investigation Wing of the Commission. Heard the parties.

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

Complainant Ausabai Dilip Salve is resident of Bajipura Aurangabad. One Vinod Dilip Salve (deceased) was her son. His age was about 18 years and he was the only son of the complainant. It is the case of the complainant that on 28.04.2006 at about 11.00 p.m. in the night Police from Police Station Jawahar Nagar, Aurangabad came to her house, forcibly taken her son to the Police Station and he was



detained in Police Station in custody. It was alleged by her the Police severely beaten him, used third degree methods and thus her son Vinod succumbed to death in Police lock up. It was further alleged by her that Police from Police Station Jawahar Nagar taken his dead body and threw it behind Abhinay Theatre Aurangabad. Her son Vinod did sustain head injury due to the assault given by the Police. According to the complainant Police prepared a false and concocted case and tried to show that her son Vinod was found lying in unconscious condition. The Police on patrolling duty noticed that the boy was lying in unconscious condition. The Police taken him and admitted him in Government Medical College, Aurangabad, where he died during treatment.

3. The Police informed the complainant about death of her son in Government Medical College, Aurangabad very late that is on 02.05.2006. It was her grievance that her son was missing during all these days and he did not return home. The Respondent Police did not inform anything to the complainant and therefore, the complainant got doubt about the death of her son, which taken place in suspicious circumstances. The Police reported the death of her son in Kranti Chowk Police Station on 29.04.2006. It was the grievance made by the complainant the Police tried to suppress the truth and prepared false case papers. Autopsy was held on dead body and it was opined that the death occurred because of the head injury. The complainant who lost her only son made allegations that the Policemen beaten and killed her son. She made complaints to several Authorities. When she could not get relief she moved the Commission for necessary action in this matter.

4. Respondent Commissioner of Police, Aurangabad by filing their report denied and disputed all the allegations made in the complaint. According to them firstly, deceased Vinod was a pickpocket and number of offences were registered against him in Police Station. Secondly, criminal cases are filed against him. Thirdly, even preventive action was taken against him by filing chapter case. Lastly, the death of



R/R_HRG-RECOMM.

Vinod occurred only because of dash given to him by unknown vehicle and accordingly offence was registered in Police Station. In short according to Respondent Police they have taken proper action in this matter and calls for no adverse remarks. They denied that deceased Vinod was arrested or detained in Police Station. They denied that the Police severely beaten him and are alone responsible for the death of Vinod. In the last according to the Respondent, present complaint was made before the Commission with malafide intention and motive.

5. Therefore, it is necessary to view the case of the complainant in light of facts and circumstances brought on record and also in the light of legal position.

(i) Attempt was made to show that deceased Vinod was a person of criminal mentality, criminal cases were filed against him and even preventive action was also taken against him. It has come on record that he was addict of drinking liquor. The report of Respondent shows that offence at crime no. 85/2005 u/s 380 of IPC was registered against deceased Vinod Salve in police station Kranti Chowk in respect of theft of colour television, cell phones etc of goods worth Rs. 29,500/-. After completing investigation charge sheet was filed in the Court on 10.10.2005. Similarly, criminal case at crime No. 69/2005 u/s 379 of IPC was registered against his friend Shaikh Anwar in Police Station City Chowk about theft of motor bike and charge sheet was filed in the Court on 16.07.2005. Both these incidents occurred long back and they have nothing to do with the incident of death of Vinod, which occurred on 28.04.2006.

(ii) It was pointed out by the Respondent that on 16.04.2006 deceased Vinod Salve and his friend Shaikh Anwar were found in the crowd, moving in suspicious circumstances. They began to run from that place after



R/R,HRG-RECOMM.

seeing the Police. Therefore, Police from Police Station Jawahar Nagar apprehended them u/s 41 (2) of Cr PC and chapter case No. 8/2006 u/s. 107 Cr PC was filed in the Court of Special Executive Magistrate, Aurangabad. The Magistrate released them on personal bond on 17.04.2006. Attempt was made to show that, the Police from Police Station Jawahar Nagar, thereafter had no reason either to go to the house of deceased Vinod or to call him in Police Station etc. The case of the complainant, cannot be disbelieved, only because criminal cases, were filed against deceased Vinod, in the Court.

- (iii) It is the case of the complainant that on 28.04.2006 at about 11.00 p.m. in the night Police from Jawahar Nagar Police Station came to her house, forcibly taken her son Vinod to the Police Station, detained and beaten him etc. The complainant has come with a case that her son did not return home thereafter. It is a fact that deceased Vinod did not return home after 28.04.2006. The record shows that he was admitted in the Hospital on 28.04.2006 and he expired on 29.04.2006 at about 5.00 p.m. The complainant was not aware of all these things. The report shows that the intimation about death of Vinod was given to his mother too late i.e. on 02.05.2006. Had it been the fact that Vinod died in the hospital on 29.04.2006 during treatment, it was incumbent upon the Police, to inform his parents about his death immediately. It is not known why there was delay in intimating all these things to the complainant. In such circumstances, the submissions made by the complainant, that this much time was taken and spent, in concocting a case of an accident, cannot be disbelieved.



R/R,HRG-RECOMM.

(iv) The report shows that, death of Vinod taken place only because, he was given dash, by an unknown vehicle therefore, offence at crime no. 147/2006 u/s 406 (A), 279 of IPC r/w. Sec. 134 of Motor Vehicles Act was registered on 01.05.2006. As the Police could not trace out the accused in that case they submitted final report. Thus, according to the Respondent, Vinod died accidental death. It was the case of the complainant since beginning that Vinod died homicidal death. The dead body of the Vinod was sent for post mortem examination. The Medical Officer who held autopsy on the dead body of Vinod opined that the death occurred only because of head injury. When the Respondent has come with a case that, Vinod died accidental death then the burden affirmatively lies upon them to substantiate their case. **Firstly**, the copies of the case papers filed on record do not substantiate the case of accidental death. **Secondly**, for want of any material on record, it is difficult to accept that deceased Vinod was given dash by some unknown vehicle. **Thirdly**, though the Respondent registered an offence of death by rash and negligent driving of the vehicle, they could not make any progress in the investigation. **Fourthly**, in mean time the matter was referred to the Investigation Wing of the Commission. Opinion of Police Surgeon, Mumbai was taken on the point of cause of death of Vinod. The Police Surgeon, Mumbai opined that

1) "The deceased did sustain injuries on left hand side and right hand side of his head, there were internal corresponding injuries to the brain and the death occurred only because of these injuries.



R/R,HRG-RECOMM.

2) After taking into consideration all these injuries together, there is every possibility that these injuries were caused because of beating given to the deceased."

Thus, the Police Surgeon in clear words stated that there was every possibility of causing injuries because of beating given to the deceased. The opinion given by the Police Surgeon contradicts the stand taken by the Respondent that the death occurred because of rash and negligent driving of the vehicle. In such circumstances, it is very difficult to accept that the head injury was caused due to dash given, by unknown vehicle.

(v) It was the grievance made by the complainant that the Police from Police Station Jawahar Nagar were alone responsible for the death of her son. She specifically stated that they all forcibly taken her son to the Police Station on 28.04.2006 and thereafter she had seen his dead body. It was incumbent upon Investigating Officer, to consider all the circumstances, appearing in this case, in their sequence and should have come to a correct conclusion. In view of the opinion given by the Police surgeon and in view of the circumstances appearing in this case, I am of the opinion that, proper investigation did not take place in this matter. I therefore make following recommendations in this matter.

(A) Commissioner of Police, Aurangabad either himself or through Senior Police Officer make proper investigation in this crime No. 147/2006 registered in Police Station Kranti Chowk, Aurangabad, to make thorough inquiry



R/R, HRG-RECOMM.

in this matter and to take further action according to law.

- (B) Copy of this complaint be sent to Commissioner of Police, Aurangabad through Secretary, Maharashtra State Human Rights Commission for information and necessary action.
- (C) Compliance may be reported to the Commission.

With these recommendations Case No. 1084/2006-07 is disposed of accordingly.

Dated :27 May 2009



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