

P.R.No:028

Date: 05.01.2022

STATE HUMAN RIGHTS COMMISSION, TAMIL NADU

“Thiruvarangam”

No. 143, P.S. Kumarasamy Raja Salai
(Greenways Road), Chennai 600 028

Tuesday, the 4th day of January 2022

PRESENT

HON'BLE MEMBER DR. A. CHITTARANJAN MOHANDOSS I.A.S, (RETD.)

SHRC Case No.7793 of 2019

Mr. B. Vidayaranya ... Complainant

-Vs.-

1. Thiru. Saravanan
Inspector of Police
HUDCO Police Station
(at the relevant point of time)

2. Thiru. Suresh
Sub-Inspector of Police
SIPCOT Police Station (Crime)
(at the relevant point of time)

3. Thiru. Parthiban
Sub-Inspector of Police
HUDCO Police Station
(at the relevant point of time)

...

Respondents

ORDER:

The complainant is a business man dealing in computer spares parts in and around the town of Hosur and Karnataka State. One Mrs. Swapna Reddy, an interior designer engaged the complainant for her project. In the line of business transaction a dispute arises between them with regard to payment, and the said Mrs. Swapna Reddy misused the Cheque given by the complainant and presented the Cheque for collection, this matter led to the issue of legal notice between them. Mrs. Swapna Reddy filed a private

complaint against the complainant for dishonor of Cheque. Mrs. Swapna Reddy along with her friend Mr. Suresh Babu and Mr. Raju threatened the complainant to settle a lump sum immediately, and the same was refused by the complainant. The complainant claims that Mrs. Swapna Reddy along with her friend Mr. Raju and Mr. Suresh Babu have conspired with Mr. Saravanan, Inspector of Police HUDCO Police Station, Hosur and Mr. Suresh, Sub-Inspector of Police, Crime Branch, SIPCOT Police Station, Hosur to harass the complainant.

On 28.08.2019 at about 1.00 p.m. the complainant received a call from Mr. Saravanan, Inspector of Police, HUDCO Police Station, the Inspector of Police asked the complainant to attend an enquiry. The complainant rushed to the HUDCO Police Station at about 2 p.m. on the same day. The complainant states that when he entered the Police Station, Inspector of Police Mr. Saravanan took him to the SIPCOT Police Station and to a room which is situated behind the SIPCOT Police Station and there he was kept under illegal custody. The complainant claims that Mr. Saravanan and Mr. Suresh forcibly took away his mobile phone, car key, wallet and removed his dress also. He further states that at about 7.00 p.m., Inspector of Police Mr. Saravanan and Sub-Inspector of Police Mr. Suresh came to the said room and started to beat him with PVC plastic pipes on both the legs. They insisted that he settle the amount to Mrs. Swapna Reddy. Apart from that they demanded that he settle other business related dues to Mr. Suresh Babu, Mr. Raju and Mr. Sadasiva Reddy. The complainant states that he had informed them that he was ready to settle the amounts after scrutinizing the accounts and vouchers. The complainant states despite this

Mr. Saravanan and Mr. Suresh demanded that he pay a sum of Rs.20 Crores immediately otherwise they threatened to kill the complainant as well as the complainant's family members. The complainant states that both the police officials beat the complainant with PVC pipe, on 28.08.2019 and that he was kept under illegal custody.

The Complainant's wife and his family members searched for the complainant in various places as they could not contact him. They then approached a lawyer namely Mr. Robinraja for help, as per his advice they made a complaint to the Superintendent of Police, Krishnagiri and to the Judicial Magistrate, Hosur on 29.08.2019. The complainant states that he was taken to his house by Mr. Saravanan and Mr. Suresh, both the Police personnel entered his house without any search warrant and he claims that they removed the hard disc of the CCTV camera and other valuable documents/items from the complainant's home. The complainant states that his wife was utterly shocked after seeing her husband's condition and the illegal activities carried out by both the police officials. They also threatened the complainant's wife that she will be implicated in a false case, if she makes any complaint before any higher police authority about the incident. He further claims that he was taken to various places in a private car without providing any food, water and medical treatment. The complainant was illegally detained in the same place where he was detained the previous night.

On seeing the physical condition and unlawful activities carried out by police persons, on 29.08.2019 the father-in-law of the complainant rushed to

Chennai and filed a Habeas Corpus petition before the Hon'ble High Court in HCP No.1880 of 2019. The said case was taken as an urgent case. The complainant states that, after the Habeas Corpus petition was filed, the police personnel filed an anti-dated FIR in Cr.No.312/2019. The Hon'ble High Court had taken up the matter at 1.30 p.m. and passed orders after perusing the affidavit and FIR *"though we are not happy with the way in which the respondent police has proceeded with the matter, in as much as FIR has been filed and arrest has been shown, Liberty is given to the petitioner to work out his remedy in the manner known to law, we are also constrained to note that even the compliant discloses prima facie as civil dispute"*.

On 30.08.2019 at about 7.50 p.m. the complainant was produced before the Judicial Magistrate. At the time of producing the complainant before the Magistrate at his residence, the Inspector of Police Mr. Saravanan who was accompanied by Mr. Parthiban, Sub-Inspector of Police and 2 constables have scolded the complainant with un-parliamentary words "டேய் பரதேசி நாயே, போலீஸ் மேல கோர்ட்ல கேஸ் போடுற, நீ இப்போ மேஜிஸ்ட்ரேட்கிட்ட ஏதாவது நாங்கள் அடித்தோம், உதைத்தோம் என்று புகார் கூறினால், உன்னையும் உன் குடும்பத்தையும் நாசம் பண்ணிவிடுவோம். உன் குடும்பத்தில் உள்ள அத்தனை பேர் மீதும் என் காவல்துறை நண்பர்களின் உதவியுடன் குறைந்தது 10 FIR ஆவது போட்டு உன்னையும், உன் குடும்பத்தையும் காலி பண்ணிவிடுவேன் என்று மிரட்டினார்." Due to the threat made by Inspector of Police the complainant was constrained to keep quiet while being remanded before the Judicial Magistrate, about his illegal detention, and physical torture. The Learned Magistrate Hosur struck down the offences u/s. 406 and 420 of IPC in the FIR and remanded the complainant for the offences u/s.323, 506(1) of IPC

and 4 of Tamil Nadu Prohibition of Harassment of Women Act 2003. The complainant states that, the Inspector of Police Mr. Saravanan, having registered the FIR amounts to abuse of his power under Code of Criminal Procedure in order to gain illegal custody. The complainant states that no such incident ever happened as alleged in the FIR. He claims that the intention to file FIR was to extract money from the complainant at the instance of Mrs. Swapna Reddy, Mr. Raju, Mr. Suresh Babu and Mrs. Sadasiva Reddy. The complainant claims that he reliably understood that Mr. Saravanan, Inspector of Police, HUDCO Police Station and Mr. Suresh, Sub-Inspector of Police, Crime Branch, SIPCOT Police Station, Hosur have jointly received a sum of Rs.5 Lacks as bribe amount from Mrs. Swapna Reddy and Mr. Raju. The complainant was kept under illegal detention by Mr. Saravanan, Inspector of Police and Mr. Suresh, Sub-Inspector of Police for more than 48 hours and thereafter he was arrested and remanded without informing him of the grounds for arrest. He states that this case was filed only after his family had filed the Habeas Corpus Petition before the Hon'ble High Court of Madras. The illegal detention, brutal assault, and filing false case against the complainant by the respondents are illegal, inhuman and against human rights. Therefore, the complainant is constrained to file this complaint against the respondents to take suitable action against them for the violation of human rights committed against the complainant.

2. While pending enquiry of this complaint, the complainant filed another complaint dated 21.01.2020, alleging that there was a continuous threat from Mr. Raju on the instigation of Mr. Saravanan, Inspector of Police

and Sub- Inspector of Police Mr. Suresh. Further he states that during his illegal custody, Mr. Suresh, Sub-Inspector of Police took his car and sold the car without the complainant's knowledge. The complainant states that the sale agreement issued by Sri Balaji cars is given as proof about the involvement of Sub-Inspector of Police Mr. Suresh, thereby he has illegally swindled a huge sum by selling the complainant's Mercedes Benz car. The complainant claims that the Respondents knowing all the facts, and that, they could not succeed in the case and will be punished by the Human Rights Commission, were threatening the complainant to withdraw the complaint, failing which they threatened the complainant that they will kill him and throw him in the forest at Anekal Border (Karnataka). The Complainant's counsel Mr. Robinraja was also threatened by the police officials and also by the respondents. Mr. Robinraja, Advocate had also lodged a complaint against the respondents and also filed a direction petition before the Hon'ble High Court. The complainant claims that Mr. Suresh, Sub-Inspector of Police, by using his Crime Investigation tips was tracing the complainant's calls, and had also threatened that he will execute Plan-II, i.e. finishing the complainant's life with the help of anti-social elements. The illegal detention, brutal assault, and filing false case against the complainant by the respondents are illegal, inhuman and against human rights. Therefore, the complainant is constrained to file this complaint against the respondents to take suitable action against them for the violation of human rights committed against the complainant.

3. The defense of respondents gathered from the common counter affidavit filed by them is as follows:-

The respondents denied all the allegations contained in the complaint except those that are specifically admitted herein. They state that the version of the affidavit filed before the Hon'ble High Court of Madras vide Habeas Corpus Petition No.1880/2019 by the father-in-law of the complainant and the version filed by the complainant before this Hon'ble Commission is very dramatic. The Second respondent visited the house of the complainant on 29.08.2019 and he was not present in his house. The respondents informed the wife of the complainant herein and left the house immediately. The respondents arrested the complainant on 30.08.2019 and informed the Hon'ble High Court of Madras and the Habeas Corpus Petition was disposed off. The complainant herein has filed many petitions for police protection for himself and his family members and he is making the same prayer before this Hon'ble Commission and the said prayer is also null and void as according to law, investigation was done in a proper manner. The allegations against the respondents are false and the respondents had not violated the human rights of the complainant. Therefore the complaint is liable to be dismissed.

4. Pending enquiry of the complaint by this Commission, the complainant leveled several allegations against the respondents Mr. Saravanan and Mr.Suresh stating that the respondents are threatening the complainant to withdraw the complaint, failing which the respondents will finish the complainant and his family. Hence as per the protection of Human Rights Act, this Commission decided to send the complaint to the Investigation Division attached to this Commission.

5. On 23.12.2020 the Inspector of Police, Investigation Division, State Human Rights Commission Tamil Nadu, filed the report, after perusing the copy of the report, the collected documents and the statement of witnesses enquired by the Investigation Division, a copy of the above listed documents was served to the respondents and complainant. It is seen from the Investigation Report that the Sub-Inspector of Police Mr. Parthiban had also acted in a way that violates the Rights of the complainant. Therefore, the enquiry report was given to all three Police Officials and an equal opportunity was given to both the parties for replies by their oral or written submission if any. Oral arguments of the complainant's counsel heard and the respondents' counsel filed written objections.

6. The points for consideration before this Commission are as follows:

- 1) Whether the respondents had violated the human rights of the complainant?
- 2) If so, to what relief is the complainant entitled?

7. The counsel for the complainant while advancing his arguments stated that this complaint is filed by the complainant against the respondents that the respondents interfered in a money dispute between the complainant and Mrs. Swapna Reddy, Mr. Raju, Mr. Suresh Babu and Mr. Sadasiva Reddy. That he had paid Mrs. Swapna Reddy a sum of Rs.57 Lakhs, which is a major part of the agreed amount of Rs.65 Lakhs and that, as there was some difference of opinion about the things supplied, the complainant had kept a small portion of Rs.8 Lakhs from being paid. That he had been abused, assaulted, and while he was being detained by the Respondents

in illegal custody. That the complainant was illegally detained from 28.08.2019 to 30.08.2019 by the Inspector of Police Mr. Saravanan and Sub-Inspector of Police Mr. Suresh. He states that, documents collected by the Investigation division will prove the case of the complainant, that he was illegally detained by the respondents. He further states that as for the statement of respondent and supporting witnesses on the side of the respondent will prove that other than the respondent, Sub-Inspector of Police Mr. Parthiban, Mr. Dhanapal and Mr. Madesh had also conspired with the respondents with regard to the arrest and illegal detention. He states that, the documents, general diary, Sri Balaji cars buyer and seller details, registered post receipt produced by the complainant's wife, copy of the complaint sent by the complainant's wife, and observation made in the Habeas Corpus Petition will prove the case of the complainant that the complainant was illegally detained by the respondents and the other police officers have helped the respondents to do this illegal act. The lawyer for the Complainant states that the complainant's Benz car was sold by Sub-Inspector of Police Mr. Suresh with the help of another police, and the same will be proved through documents collected from Sri Balaji cars and that the said car was parked at the police station on 29.08.2019, photographs taken at the police station was collected by the Investigation Division. That the Cr.No.312/2019 was registered after coming to know of the complaint sent to various officials by the complainant's wife, in order to escape from the crime of illegal detention after Habeas Corpus Petition, they the respondents have shown that they have arrested the complainant on 30.08.2019 in connection with the above case. The Investigation Division also filed this report stating

that there was an illegal detention and that the complainant's car was sold by the police officials, hence there has been human rights violation.

8. Per Contra the respondent's counsel filed written objection, that they have not committed any illegality in arresting the accused Vidayaranya, based on the complaint given by Mrs. Swapna Reddy a case was registered on 29.08.2019, and the accused Vidayaranya was arrested on 30.08.2019. The accused was arrested by Mr. Parthiban, with the help of Mr. Suresh and the Police party. They denied that the Benz car was sold by the second respondent and claimed that the documents pertaining to the sales transaction are fabricated. And that several cases were pending against the complainant, in order to escape from the cases the complainant had filed a false complaint against the respondents. Hence the complaint should be dismissed.

9. Mr. Parthiban, Sub-Inspector of Police had stated in his objections that he registered a FIR in Crime No.312/2019 and remanded the accused Mr. Vidayaranya to judicial custody in adherence to the laws and regulations in force. Further, G.D. entries are being made and maintained by the Writer at the Police Station. He claims that due to lack of proper communication and human error, the entry has been added as of "Left for on-going investigation". He states that he has no role pertaining to any harassment or violations, and so to discharge him from the complaint.

10. It is now the duty of this Commission to decide whether the allegations against the respondent are proved and whether the respondents had violated the human rights of the complainant. Based on the merits of the

documents collected, the statements recorded by the Investigating Team, the SHRC Investigation Division has concluded that there has been violation of Human Rights as claimed by the complainant.

11. **The facts of this case:** As per the statement of Mr. Vidayaranya on 28.08.2019 at 1.00 p.m. he received a phone call from Mr. Saravanan, Inspector of Police, HUDCO Police station, and directed the complainant to attend an enquiry, the Inspector Mr. Saravanan refused to give any other details over the phone. The complainant went immediately to HUDCO Police station at about 2.00 PM on the same day. The complainant stated that with the help of an Advocate his wife sent complaints to various authorities by way of RPAD. The question is why did Mr. Vidayaranya's wife send letters to the higher officials and to the Judiciary. The letter Dated 29.08.2019 sent by complainant's wife is found at Page No.49 of the Report of the Investigation Division and copy of the acknowledgments dated 29.08.2019 was found at Page No.45 of the SHRC Investigation Division report. In the said letter she had stated that “தற்போது HUDCO ஆய்வாளர் மற்றும் Hosur Crime Police எனது கணவரை உயிருடன் வெளியில் விட வேண்டும் என்றால் 8 கோடி ரூபாய் வேண்டுமென்று கேட்கிறார்கள். எனது கணவர் 28.08.2019-ஆம் தேதி மதியம் 2 மணி முதல் தற்போது வரை HUDCO காவல் ஆய்வாளர் சரவணன் கஸ்டடியில் உள்ளார்.”. Statement of Mrs. Praveena was recorded and it can be found at Page No.47.

12. On the next day that is on 30.08.2019 the father-in-law of the complainant filed Habeas Corpus petition and the said petition was taken up as an urgent case and the Hon'ble High Court disposed the HCP with an

observation *“though we are not happy with the way in which the respondent police has proceeded with the matter, in as much as FIR has been filed and arrest has been shown, Liberty is given to the petitioner to workout his remedy in the manner known to law, we are also constrained to note that even the compliant discloses a prima facie civil dispute”*.

13. On 21.09.2020 Mr. Sadasiva Reddy's statement was recorded by the Investigation Division which is placed at Page No.89, in his statement he stated that *“He brought one furniture maker Smt. Swapna Reddy of Bangalore and introduced her to me, she agreed to supply all furniture that I require for my hotel and also agreed to receive cost of the same from Mr. Vidayaranya. She supplied furniture worth Rs.50-60 laks in the month of May 2018, later Smt.Swapna Reddy came to me and complained that Sri. Vidayaranya is not paying her part of the money, instead he was threatening her with a criminal case. Finally, Mrs. Swapna Reddy had lodged a complaint against Mr.Vidayaranya with HUDCO Police Station, Hosur. When HUDCO Police enquired with me about truth of Mrs. Swapna Reddy complaint, I confirmed with the police that it is a fact, she has supplied furniture to my hotel at the instance of Mr. Vidayaranya and he had to pay the money. She has also filed “Cheque Bounce” cases in Bangalore Magistrate Court against Mr.Vidayaranya”*.

14. The Investigation Division had collected CSR dated 09.06.2019, in the said CSR the Defacto complainant is Mrs. Praveena, W/o. Vidayaranya, the accused party is Mrs. Swapna Reddy and her husband. The said complaint was registered at HUDCO Police Station.

15. Statements of respondents Mr. Saravanan and Mr. Suresh and other witnesses Mr. Parthiban, Mr. Dhanapal and Mr. Madesh were recorded on the side of the respondents by the Investigation Division. Mr. Saravanan in his statement had stated about the registration of case and arrest of accused Mr. Vidayaranya in Cr.No.312/2019. Mr. Suresh and Mr. Parthiban in their statement stated that, on 30.08.2019 at about 11.30 hrs. the complainant Mr. Vidayaranya was arrested by them, and they have denied all the allegation leveled by the complainant. Mr. Dhanapal and Mr. Madesh in their statement have stated that they have assisted the Investigation Officer to arrest the complainant Mr. Vidayaranya. They have also denied all the allegations leveled by the Complainant.

16. POINTS FOR CONSIDERATION.

The Hon'ble High Court vide its order dated 30.08.2019 in HCP No.10880/2019 has clearly stated they are unhappy with the way the respondent police had proceeded with the matter.

17. According to the Respondent's version complainant Vidayaranya was arrested by them on 30.08.2019, based on the complaint given by one Mrs. Swapna Reddy and the said complaint was registered on 29.08.2019. But on 29.08.2019, the wife of the complainant Mrs. Praveena sent a complaint to the District Judge Krishnagiri, Superintendent of Police Krishnagiri, DGP Chennai, Inspector of Police HUDCO Police Station, Vigilance and Anti-Corruption Chennai and to the State Human Rights Commission Chennai, in the said complaint of Mrs. Praveena, she has clearly stated that her husband, Mr. Vidayaranya was being illegally detained in HUDCO Police

station by Inspector of Police Mr. Saravanan, from 28.8.2019, the said complaint is dated 29.08.2019 and the time is 5.00 p.m. She has produced Postal receipts and it was booked on 29.08.2019 at 17.30 Hrs. This document was not disputed by the respondents. One cannot lodge a complaint in anticipation of an event that is yet to happen. The complainant's wife has claimed that the respondents were demanding a ransom from her husband and that was the reason for which the respondents were illegally detaining her husband.

18. A Habeas Corpus Petition was filed before the Hon'ble Madras High court on 30.08.2019 by the complainant's father-in-law, in the said petition the Hon'ble High court observed, after perusing the affidavit and FIR "*though we are not happy with the way in which the respondent police has proceeded with the matter, in as much as FIR has been filed and arrested as been shown, Liberty is given to the petitioner to workout his remedy in the manner known to law, we are also constrained to note that even the compliant discloses prima facie civil dispute*".

19. In the General Diary data 29.08.2019, it is seen that at 19.15 hours, when Sub-Inspector of Police Mr. Parthiban was on duty, he received a complaint from Mrs. Swapna Reddy and the said complaint was registered in Cr.No.312/2019. Contra to the GD entry on perusal of the FIR (at Page No.103 of the SHRC Investigation Division) it is shown that the FIR was registered by Mr. Saravanan, S.S.I. of Police. This indicates that, after the complaint was sent by Mrs. Praveena, a complaint was received from Mrs. Swapna Reddy and a case was registered hastily. The

Investigation Division served summons to Mrs. Swapna Reddy to ascertain whether she was the author of the complaint, but she has not appeared before the SHRC Investigating Team even after repeated summons. State Human Rights Commission Investigation Officer Inspector of Police Mrs. Akila, in her report has stated that “இவ்வழக்கு சம்பந்தமாக திருமதி சுவெப்னா ரெட்டி என்பவருக்கு பலமுறை சம்மன் சார்பு செய்தும் எந்தவித பதிலும் அளிக்கவில்லை என்பதனை தெரிவித்துக் கொள்கிறேன்”. This raises further doubts on the credibility of the complaint and subsequent FIR. The respondent did not say why the FIR was not sent to the court immediately. When a case under Sec.4 of Tamil Nadu Prohibition of Women's Harassment Act is being registered, the FIR has to be sent to the court at the earliest point of time.

20. As per the Duty Roster found at Page No. 115 of the report, it is seen that S.S.I. No.708 Mr. V.K. Saravanan was deputed to some other duty and as per the duty roster the names of the 2nd Respondent Mr. Suresh and Mr. Madesh and Mr. Dhanapal was not found in the duty roster. It is completely unclear how they came to be present while, arresting the complainant, and how they had assisted Mr. Parthiban in arresting the complainant Mr. Vidayaranya. On perusal of statements given by Sub-Inspector of Police Mr. Parthiban, it is seen that Mr. Suresh, Mr. Madesh and Mr. Dhanapal were also party to the arrest of complainant Vidayaranya. Statement of Mr. Saravanan shows that “he was working in HUDCO Police Station, and case was registered in his police station”. Respondent-2 Mr. Suresh in a statement stated that “he was attached to Crime Police station”, further stated that “30.08.2019-ஆம் தேதி காலை 11.30 மணிக்கு ஓசூர், பகனூர் ரோடு,

அம்மா மருத்துவமனை பிரிவு ரோடு அருகில் காவல் உதவி ஆய்வாளர் பார்த்திபன், ஓசூர் உட்கோட்ட குற்றப்பிரிவு உதவி ஆய்வாளர் சுரேஷ் ஆகிய நானும் மற்றும் போலீஸ் பார்ட்டிகள் சகிதம் இவ்வழக்கின் எதிரியை முறைப்படி கைது செய்தோம்”.

Sub-Inspector of Police Mr. Parthiban Mr. Madesh and Mr.Dhanapal had also stated the same version. Head Constable Mr. Dhanapal and Gr.I.P.C Mr. Madesh were working in Hosur Crime Branch both had no reason to be present here. In a further contradiction, S.I. of Police Mr. Suresh has given a written objection stating that on that date he was working at the Hosur Police Station in his written objections he stated that, “அந்த நாளில் (29.08.2019) S.I. சுரேஷ் ஆகிய நான் ஓசூர் நகர காவல் நிலையத்தில் பணிபுரிந்து வந்தேன்.”. Further in the counter statement of respondents it was stated that “the 2nd Respondent visited the house of the complainant on 29.08.2019 and he was not present in his house. The respondents informed the wife of the complainant herein and left the house immediately.

21. The number of irregularities and inconsistencies and contradictions in the filing of the complaint, the FIR and the subsequent arrest of the complainant, are too many. It is strongly indicative of this being a fabricated case to gain custody of the complainant.

22. The Commission strongly condemns the aspersions cast on the Investigating Team of the SHRC, in the Objections to the Report by the Respondent.

23. It is evident that except for Sub-Inspector of Police Mr. Parthiban other three police Mr. Suresh (2ndrespondent), Mr. Madesh and Mr. Dhanapal are

not attached to HUDCO Police station. As per the Police Act, no police personal can take up any other duty unless an order to do the same has been issued by his officer. The respondents did not give any explanation as to why other station police officials were involved in arresting the complainant Mr. Vidayaranya. This is improper and casts very serious doubts as to the intent of these police personal. The complainant's wife in her complaint, claims that their malicious intent was to grab money from the complainant Mr. Vidayaranya.

24. The Investigation Division collected a copy of General Dairy of HUDCO Police station from 28.08.2019 to 30.08.2019. The said document is found at Page No.289 of the documents submitted by the Investigation Division. It is seen from the document that on 30.08.2019 at about 8.30a.m the Inspector of Police handed over the General Diary to Sub-Inspector of Police Mr. Parthiban he also signed that he took General Diary in his control. It is seen at 8.40 a.m. Sub-Inspector of Police Mr. Parthiban went out for investigation in Cr.No.312/2019. The said wordings was inserted in the General Diary, and it is incomplete **“8.40 மணிக்கு S.I.**

பார்த்திபன் Cr.No.312/19 புலன் விசாரணை செய்வதால் G.D”.

There is no mention about whether the General Diary was handed over by Sub-Inspector of Police Mr.Parthiban at 8.40 a.m., and to whom it was handed over, if we are to understand that at about 8.40 a.m. Sub-Inspector of Police Mr. Parthiban went to investigate Cr.No.312/ 2019. As per the General Diary at about 14.45 hours the Sub-Inspector of Police Mr. Parthiban handed over the arrested Mr. Vidayaranya at the police

station. At about 22.00 hrs. G.D. was handed over to the Head Constable-1260. As per General Dairy from 8.40 a.m. to 14.45 hours Mr. Parthiban was not in the station and he was not handling the General Diary. There is no mention as to when he had handed over the General Diary to any other officer and when he took control of the General Diary again. This creates more doubts on the circumstances leading to the arrest of complainant Mr. Vidayaranya. The General Diary entry is an important document for any Court of Law to establish that the police have done their duty and recorded that time there on. But in this case the over writing of General Diary is condemnable and it cannot be relied upon, Investigation by Independent team of officer of a higher rank can always look into this declaratory alteration done in the General Diary. As no procedures seemed to have been followed, the arrest of complainant Mr. Vidayaranya and how it came about is under a cloud of uncertainty and gives rise to doubts as there were many lapses.

25. The complainant stated in his complaint dated 21.01.2020 that his car was sold by the 2nd Respondent illegally. The Investigation Team collected documents pertaining to sale of the vehicle, from Sri Balaji Cars and the said documents were produced by the Inspector of Police, HUDCO Police station on 14.09.2020 to the Investigation Team, they also collected photo of the Benz car. On perusal of the document, found at Page No. 325, it is seen the Benz car was parked near the Police station on 29.08.2019. Benz car bearing Registration No.TN23-CM-1111 was purchased by the complainant on 15.08.2019 from Sri Balaji Cars, the said document to

confirm this is at Page No.291. Document dated 30.08.2019 found on Page No.299 of the Investigation Report, shows that the said car was sold back to Balaji cars. In the said document it is seen at the seller column, Name of the seller is Mr.Suresh, Sub-Inspector and one Mr. Dhanapalan, and in the Address column it was mentioned as Sub-Inspector of Police, Crime Branch SIPCOT Police station, Hosur. A sum of Rs.5,00,000/- was shown as advance paid for the same. It is seen in the said document “as approved by the Purchase and sale Hearby finalized”. Mr. Suresh, Sub-Inspector of Police handed over the Benz car bearing number TN-23-C1111, which belongs to Mr. Vidayaranya, Hosur”. With regard to sale transaction, on 23.09.2020 statement of Mr. Surya, S/o.Sriramulu of Sri Balaji cars was recorded by the Investigation Division, (the said statement finds a place at Page No.87). The car was found parked outside the police station as per CCTV recording dated 29.08.2019 at 2.15 p.m. It is clear that this car was in the custody of the police, who inturn, instead of showing the car as material object in the court, had gone ahead and sold the car for a sum of Rs.5 lakhs on 30.08.2019. The receipt submitted by Sri Balaji cars is the undisputable evidence of the sale. In a gross violation of procedure by a policeman, the respondent has sold the car of an alleged accused, who was in custody for an enquiry. This is a case of extortion and is punishable u/s.383, 384 and other provisions of Indian Penal Code. The alleged 5 lacks paid by the car dealer, is not shown as case property anywhere. The claims made in the complaint that the police officials have conspired with Mrs.Swapna Reddy, Mr. D. Suresh Reddy and Mr. Raju, have caused not only immense mental agony, but monetary damage as well. The value of the car is Rs.30,50,000/- as on 15.08.2019

from the record of Sri Balaji cars, and the complainant had paid a sum of Rs.7 lakhs as advance. The act of returning the car to the seller by the police and taking a sum of Rs.5 lakhs is totally unprofessional and illegal. The manner in which the complaint has been handled cannot be justified in any way and amounts to clear violation of the rights of the individual.

26. The other aspect of this complaint is that the complainant was beaten up by the police and kept in illegal custody from 28.08.2019 till 30.08.2019 (on the day complainant was produced before Judicial Magistrate). The counsel for the complainant presented that the presence of Physical Visible injury was not possible in this case. As per the regular practice, when a person is produced before the Magistrate, he would be examined by a Government Doctor before being produced before the Magistrate. The complainant could not inform the Judicial Magistrate that he was beaten up as he was threatened not to do so, while in police custody. It is also the practice that after being remanded, the accused will be given to the same police to produce before the jail authorities. This puts the accused at a disadvantage, as they are again at the mercy of the Police and so they would hesitate to make any adverse observations about them.

27. This Commission has given its anxious thoughts to the facts at hand. The Police officers herein and the Private persons Mrs. Swapna Reddy, Mr.D.Suresh Babu and Mr. Raju have worked together to settle the outstanding amount from the complainant Mr. Vidayaranya. It is also clear that from 28.08.2019 to 30.08.2019 the said Mr. Vidayaranya has been held in illegal custody of the police and the private persons. The private persons

should have resorted to a legal solution to the dispute. The Respondents cannot take matters into their own hands and favor one citizen over another. They should have advised the complainants to settle their dispute in a court of law.

28. In view of the facts perused earlier the action on the part of the respondents and other police officials Mr. Parthiban Mr. Madesh, Mr. Dhanapal are not in accordance with the impartial implementation of the law which in turn has victimized the complainant.

29. As discussed above and considering the materials on record the Commission is of the considered opinion that a case has been established by the complainant that the respondent kept the complainant in illegal custody, from 28.8.2019 to 30.08.2019, that a cases has been filed against the complainant hastily which is not based on proper facts just so that the complainant could be held in custody. In another completely irregular and shocking action of the police, the complainant's car was sold by the Sub-Inspector of Police Mr. Suresh the respondents and other police officers and the proceeds have not been accounted anywhere. This is not the duty of the Police Personal and this behavior is condemned in the strongest terms.

30. Therefore this Commission holds that the respondents Mr. Saravanan Inspector of Police, Mr. Suresh, Sub-Inspector of Police and other police officials Mr. Parthiban, Sub-Inspector of Police, Mr. Madesh, Mr. Dhanapal have acted in complete violation of the call of their duty. This has surely impacted the complainant as the very law keepers in blatant misuse of their

powers has caused the complainant to feel victimized, a definite violation of his human rights.

31. In this result, this Commission recommends as follows:-

RECOMMENDATIONS

- (a) The Additional Chief Secretary to Government, Home Department, Secretariat, Chennai shall pay a compensation of Rs.11,00,000/- (Rupees Eleven Lakhs Only) to the complainant Mr. B. Vidayaranya, S/o. Basavaraju residing at MIG 199, Basthi Road, Hosur, Krishnagiri District, within 8 weeks from the date of receipt of this order.**
- (b) After making such payment, the Additional Chief Secretary to Government, Home Department, Secretariat, Chennai may recover a sum of Rs.4,00,000/- (Rupees Four Lakhs only) from the 1st Respondent i.e. Mr. Saravanan, Inspector of Police and a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) from the 2nd Respondent i.e. Mr. Suresh, Sub-Inspector of Police and a sum of Rs.2,00,000/- (Rupees Two Lakhs only) from the 3rd Respondent i.e. Mr. Parthiban, Sub-Inspector of Police.**
- (c) The Additional Chief Secretary to Government, Home Department, Secretariat, Chennai to initiate disciplinary action against the respondents and the other police officials who conspired with the respondents namely Mr. Madesh, Gr.I. P.C.1226 and Mr. S. Dhanapal, H.C.860 (worked at Hosur Crime Branch at the relevant point of time). This should be a warning and should serve as an example to all police personal that their role is to be the guardians of the law to all citizens. It is for the Judiciary to decide the merits of the case, while it is the work of the police to place the facts before the court of law. The government is advised**

to take stringent action against all the police officials who were involved in the above complaint.

- (d) This Commission further recommends initiating Criminal Prosecution against the respondents 1 to 3.**
- (e) The Additional Chief Secretary to Government, Home Department, Secretariat, Chennai to instruct the Director General of Police, Tamil Nadu not to post the respondents in Law and Order Police Station to avoid such a behaviour of the respondents towards the public.**

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