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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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My No. }

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உமது இல. }
Your No. }

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திகதி }
Date } 08-02-2018

H. Madusha Eranga,
Akkara 33, Bombuwala

Complainant

Complaint Number: **HRC/2629/09**

vs.

1. Police Sergeant Liyanage 1281,
Police Station,
Dodamgoda.
2. Police Constable Kumara 55232
Police Station,
Dodamgoda.
3. Police Constable Vithana 65063
Police Station,
Dodamgoda.

Respondents

A. THE COMPLAINANT

1. The Complainant was a 23-year-old boy who was searched and stripped naked in public for allegations of possessing drugs.
2. On the allegations of a stealing a cell phone, the Respondents asked the Complainant to report to the police station the next day. At the police station, the Complainant was assaulted and subject to cruel, inhumane and degrading treatment.

B. RELEVANT FACTS

3. On 04.06.2009 the Complainant was stopped by four police officers when he was going into a shop. The Complainant was questioned by the police officers for possessing cannabis (ganja). When the Complainant denied having any drugs in his possession, the Respondents searched the Complainant and asked him to undress. The Complainant states that there was a large crowd that was looking at this incident and the police subsequently told him to wear his clothes.

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14, ஆர்.ஏ.த. மெல் மாவத்தை, கொழும்பு - 04.
14, R. A. De Mel Mawatha, Colombo - 04.

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4. Thereafter, one police officer seized the Complainant's cell phone and alleged that he has stolen the phone that was worth Rs.15, 000. The Respondents have asked for documents to prove that the Complainant was the owner of the cellphone. The Complainant produced a phone bill but the EMI number on the bill did not match the one on the cell phone. On suspicion that the Complainant's phone was a stolen one, the Respondents have asked the Complainant to report to the police station with telephone bills to prove that he is the owner of the cellphone. That evening the Complainant had gone to the police station with his cell phone bills but the Respondents have not released the phone as the bills were registered under one T. Mahinda's name.
5. The next day the Complainant, his mother and T. Mahinda went to the police station to collect his phone. The Complainant was asked to kneel down and the 1st Respondent who confiscated his cell phone had assaulted the Complainant and verbally insulted him. The 1st Respondent had hit the Complainant's back, head and spine. The Complainant's mother at this point had started to scream and asked the police officer to stop. Thereafter, T. Mahinda and the Complainant's mother were asked to leave the police station.
6. The 1st Respondent and another officer had placed a bundle of books over the Complainant's head and had slapped him and beaten his back. The Complainant was made to kneel for 2 ½ hours and was thereafter released from the police station.
7. As the Respondents could not confirm the owner of the cell phone, they have instituted a Magistrate's Court case (MC case 1102/09) in this regard.
8. The Complainant was admitted to the Nagoda hospital on 14.06.2014 at 8.30 p.m.

C. SUPPORTING EVIDENCE

9. The Medico-Legal Examination Form and the Medico-Legal Report both state that there are no external injuries on the Complainant's body.
10. The National Police Commission has submitted a letter dated 30.11.2009 stating that disciplinary action will be taken against the relevant officers.
11. The Kalutara Superintendent of Police issued a letter dated 28.09.2009 to the Complainant stating that disciplinary action was taken against the relevant officers who harassed him.
12. The Dodangoda Police has submitted a letter dated 06.10.2010 stating that the Respondents were subject to a disciplinary inquiry and they were "sternly warned" in this regard.

D. PROCEEDINGS BEFORE THE HUMAN RIGHTS COMMISSION

13. At the inquiry held on 24.04.2011, the Complainant's mother could not identify the face of the officer who assaulted her son. After her husband pointed out that one of the Respondents was present at the inquiry, she identified him as one of the assailants.

14. The Complainant party submitted two affidavits in support of the position that the Respondents have stripped the clothes of the Complainant in a public place.
15. The Respondents have submitted five affidavits stating that the Complainant was not assaulted and made to kneel.
16. The affidavit of T.Mahinda confirmed that he bought the said cell phone and had sold it to the Complainant. He states that the Complainant was asked to kneel and was assaulted.

E. OBSERVATIONS

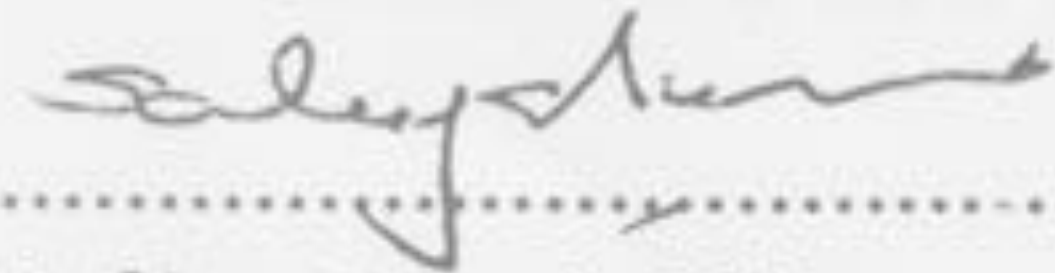
17. The National Police Commission and the Kalutara and Dodangoda police have all issued letters stating that action will be taken against the relevant officers. However, the letter issued by the Dodangoda police states that the officers were only warned in this regard. Therefore, it is not apparent that the officers did undergo any disciplinary action for their acts. The affidavits submitted by the Respondents are contrary to aforementioned letters as the supposed eye witnesses deny seeing the Complainant being assaulted by the Respondents.
18. Even though there are no external injuries on the Complainants body, it can be presumed that the actions of the Respondents (i.e- having the Complainant kneel down, leaving a bundle of books on his head etc.) will not leave any external injuries per se.
19. The Police book extract confirm that all the three Respondents dressed in civil clothing have stopped the Complainant and questioned him regarding his cell phone (Sony Ericsson). However, the extracts do not refer to any suspicion of the Complainant possessing cannabis (ganja) or the Respondents searching the Complainant for cannabis (ganja) but not finding any in his possession.
20. The Complainant was subject to cruel, inhumane treatment as he was stripped naked in a public place. He was assaulted in police custody and was verbally abused. The assault and the unlawful acts are confirmed by affidavits by a passer-by, T. Mahinda and the Complainant's mother.
21. For the foregoing reasons, it can be concluded that the Respondents have violated **Article 11** of the Constitution.

F. RECOMMENDATIONS

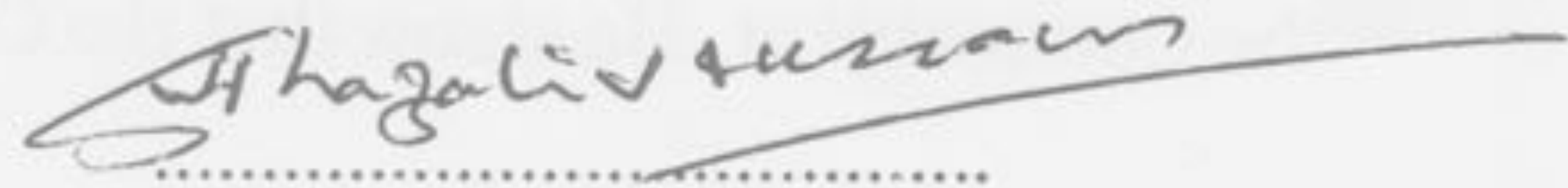
22. On a finding of a violation of Article 11 of the Constitution, the Commission makes the following recommendations:

A) In terms of section 15 (3) (a) of the HRC Act, a copy of the recommendation is hereby sent to the National Police Commission for adequate disciplinary action to be taken against the Respondents.

B) In terms of the provisions in section 11 (g) of the HRC Act, the Commission recommends that the Sri Lanka Police pay the Complainant a sum of Rs. 25,000 as compensation.



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Saliya Pieris PC,
Commissioner
Human Rights Commission of Sri Lanka



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Ghazali Hussain
Commissioner
Human Rights Commission of Sri Lanka

Copy to- 1. National Police Commission