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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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Your No. }

දිනය } 2-1-2018
திகதி }
Date }

Complaint Number: **HRC/1849/13**

K. Iranganie Perera
94/2A,
Rajamawatha Road,
Ratmalana

Complainant

for

M. Duminda Suranga Fernando
94/2A,
Rajamawatha Road,
Ratmalana

Party Aggrieved

vs.

Officer-in-Charge
Police Station
Dehiwala

Respondent

A. THE COMPLAINT

1. This Complaint was received by the Commission on 23.06.2013.
2. The Complainant is the mother of the Party Aggrieved.
3. According to the Complaint, the Complainant surrendered the Party Aggrieved to "main officer Ratwatte" of the Dehiwala Police on 17.05.2013, around noon. The Complaint states the Party Aggrieved was assaulted at the Station from 18.05.2013 to 21.05.2013 and then produced in Court on 22.05.2013, about 2pm. The Complaint identifies officers named "Bandara" and "Rupesinghe" and "Herath" as the officers who assaulted the Party Aggrieved,

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பிரதான அலுவலகம் } 165, கின்சீ வீதி, கொழும்பு - 08.
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while claiming that an officer named "Weerasinghe" oversaw them. The Complaint also states that the Party Aggrieved was treated at Prison Hospital, approximating the date to 22.05.2013.

B. THE INQUIRY

4. The Commission received a Report from the Respondent on 18.06.2013 in response to the Complaint. According to that Report, the Party Aggrieved was wanted by the Police in relation to Grievous Offence No. 101/13 reported to the Station. Accordingly, the Party Aggrieved had been arrested by S.I. Weerasinghe, OIC, Crimes Division of the Dehiwala Police Station on 21.05.2013, and produced before Magistrate under Case No. B-1094/13.

5. The Report attaches two extracts from the police books. The first is from GCIB, pages 64-67, dated 15.04.2014, detailing the initial investigation of a housebreaking complaint.

6. The second extract is of GCIB, pages 137 to 140, dated 21.05.2013, which consists primarily in a statement by the Complaint at the Station in the course of surrendering her son to the Station. The statement is handwritten in Sinhala and mostly illegible. At the end of the statement, on page 140, a note by the Reserve Officer PC 68384 indicates he took custody of Party Aggrieved and that he has one, plastered injury on his forehead.

7. A Medical Report received from Prison Hospital, Colombo 09, dated 06.06.2013 indicates that the Aggrieved Party was admitted on 22.05.2013 and discharged on 26.05.2013. The Report indicates a history of "assault by Dehiwala police with wooden bars and iron bars from 17th to 21st of May". The Report also states, *inter alia*, that "he was beaten and bound alternatively during the stay at the Police Station as in a Dharmachakra posture." The Report includes detailed diagrams of injuries, representing multiple abrasions, lesions, contusions and swelling in multiple parts of the body. The injuries also include cuff-marks around the wrists and swelling around the ankles.

C. OBSERVATIONS

8. As early as 22.05.2013 (the day he was produced in Court), the Party Aggrieved has claimed to have been in custody since 17.05.2013 under abuse. His mother, the Complainant before the Commission, has also been consistent in this claim. At the same time, the numbering of paragraphs in GCIB pages 137 to 140 are disordered in a number of instances, raising questions of their credibility. It is also observed that, though the initial complaint and investigation of the housebreaking was received by the Police on 15.04.2013, the statement by Complainant and subsequent arrest of the Party Aggrieved had been taken place on 21.05.2013, over a month later. No records of any investigatory steps taken in the intervening period have been made available to the Commission. This also raises questions of credibility as regards the records of the police investigation.

9. The injuries listed in the Medical Report are extensive and detailed with diagrams. The date of admission to the Hospital is 22.05.2013, which is one day after the date Respondent

claims to have arrested the Party Aggrieved. The Reserve Officer's notes on accepting the custody of the Party Aggrieved indicate only one plastered wound. But according to the diagram, the injuries are marked on multiple visible places, such as his arms and legs. This tends to an indication that the Party Aggrieved received the injuries after being taken into custody.

10. Accordingly, it is highly probable that the numerous injuries detailed in the Medical Report from Prison Hospital were received by the Party Aggrieved while in custody, irrespective of whether he entered into such custody on 21.05.2013 or on an earlier date.

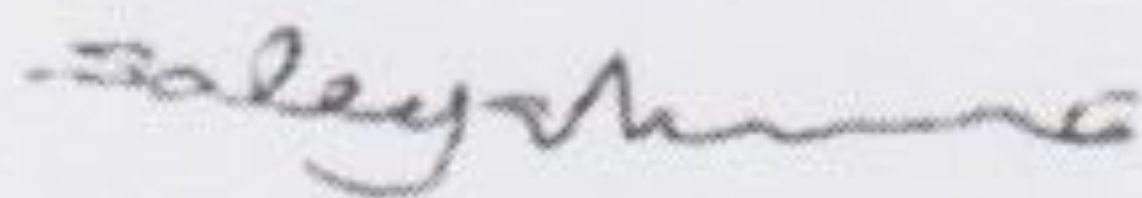
D. CONCLUSION

11. Based on the foregoing, it is concluded that the Complainant's petition discloses a violation of the Aggrieved Party's Fundamental Rights under Chapter III of the Constitution, namely, his rights under **Article 11**.

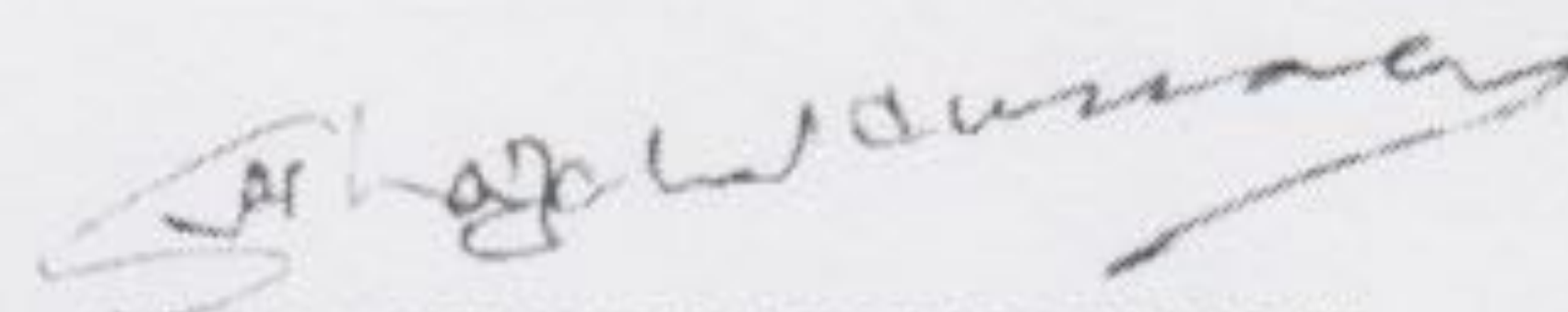
E. RECOMMENDATIONS

12. As per the conclusion/s above, the Commission makes the following recommendations.

- A) In terms of the provisions of Section 15 (6) of the HRC Act, a copy of the recommendation is hereby sent to the Inspector General of Police to investigate the allegation of torture with a view to instituting criminal proceedings, under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No 22 of 1994.
- 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. 100,000 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. Inspector General of Police