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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

Article 11

මගේ අංකය }
எனது இல. }
My No. }

ඔබේ අංකය }
உமது இல. }
Your No. }

දිනය }
திகதி }
Date } 12-02-2018

L.A.K.Kumara
Kombuwa
Kubukgate

Complainant

Complaint Number: HRC/5026/13/I-13

vs.

Inspector of Police,
D.M Thilakaratne
Police station,
Gokarella

Respondent

A. THE COMPLAINT

1. The Complainant is a private bus conductor who was allegedly beaten and tortured by the Respondent.
2. The Respondent denies all allegations of assault and states that the Complainant was arrested on suspicion of a robbery.

B. RELEVANT FACTS

3. The Complainant was arrested on the charges of robbing gold jewellery of one Kalyani on 10.12. 2013. The police complaint by Kalyani was made on the 17.12.2013.
4. The Complainant was assaulted on several occasions and subject to cruel, inhumane and degrading treatment by the Respondent.

Complainant's position

5. The Complainant was informed by his brother on 09.12.2013 that the police had asked him to come to the police station the next day to give a statement.
6. When the Complainant and his brother went to the police station on 10.12.2013, the police officers had verbally abused them. The police had asked the Complainant's brother to leave and had dragged the Complainant by the collar into the Criminal Investigation Room. He was made to kneel for an hour and was verbally abused by several police officers. The Complainant states that he was kneeling in the room of the Respondent, I.P. Thilakaratne.
7. After an hour of kneeling, the Respondent had instructed a police officer to handcuff the Complainant and put him in the jeep. The Complainant states that the Respondent and two other officers dressed in civil clothing, including the driver, were in the jeep with him.
8. Thereafter, the Complainant was taken to the Kombuwa village and there, he was taken to one Kalyani's house, where the alleged robbery took place, and was beaten on the back by an albeesiya stick. The Respondents had assaulted the Complainant with the stick and had asked him to disclose where he hid the gold jewellery. When the Complainant insisted that he was not aware of where the gold jewellery was hidden, the Complainant was put in the jeep again and taken away. While in the jeep, the Complainant states that the Respondent had put his gun near to his cheek and hit his head. The Complainant was threatened saying that he will be shot if he does not tell where the gold jewellery was hidden.
9. Thereafter, the Respondents had stopped the jeep and removed the Complainant's handcuffs and asked him to remove his pants. His hands were tied and a pole of about 4 inches was sent through his legs. The Complainant was hung on a pole on the roof of the jeep for about an hour.
10. At around 8:15 pm the Complainant was taken again to Kalyani's house and alleged that the stolen goods were at his brother or his mother's house. Thereafter, the Complainant was taken to his brother's house where the Complainant's brother had denied knowing where the robbed goods were hidden.
11. The Complainant was thereafter dragged to his house. At this moment, the Complainant saw that his house was ransacked and the doors were broken. When the Complainant questioned about the state of his house from the Respondent, the officer who was travelling at the back of the jeep had kicked the Complainant's back.
12. After searching the Complainant's house for an hour, the Complainant was taken to his mother's residence. While in the jeep, the Respondent and the officer at the back of the

jeep had kicked the Complainants back and the driver had hit Complainants neck with his elbow. The Complainant was kept at his mother's residence for about 20 minutes and was thereafter taken to the police station at midnight.

13. The next day on 11.12.2013 at 10.00 am, the Complainant was taken again to his mother's residence. The Complainant states that the Respondent and another officer assaulted his back. The Respondent threatened the Complainant's mother to pay money to Kalyani and a letter to this effect was forcefully taken from her.
14. Thereafter, the Complainant was taken to the police station and was released at 5 pm. While the Complainant was released he was threatened that he will be arrested again.
15. The Complainant was admitted to the Kurunagalle hospital on 13.12.2013

Respondent's position

16. The Respondent states that a group of policemen including P.S. 59291 Bandara, P.S. 30374 Herath, P.C. 33480 Wasala, P.C. 51073 Dassanayaka, P.C.D 33971 Wasantha were on night duty in Gokaraella on 10.12.2013 and were travelling in a police jeep with the number plate 0338. The police extracts dated 10.12.2013 states that the aforementioned five police officers were on night duty. At 2.20 am on 11.12.2013, the Respondent states that the Complainant has seen the police jeep and has started to run away. The police had chased the Complainant and caught him when he was hiding in the jungle. The police arrested the Complainant as he did not have his national ID and he did not have any document to prove that he was a conductor.
17. At the time of the arrest, the Respondent states that the Complainant did not have any gold jewellery in his possession and there were slight scrapes and bruises on his hands and legs. However, the minutes of the Reserve officer disclose that the Complainant who was produced by the Respondent did not have any bruises or injuries.
18. The Respondent states that the Complainant was involved in robbing gold jewellery from R.M.Kalyani. According to Kalyani, she only lodged her complaint at the police station on 17.12.2013, as the Complainant's mother has promised to re-pay Kalyani for the stolen goods. The Respondent states that the Complainant has made an allegation of assault by the police to evade the charges levelled against him for the robbery.

C. RELEVANT EVIDENCE

19. The Medico-Legal Report of the JMO discloses that the Complainant was arrested on 10.12.2013 for an alleged case of house breaking and stealing. The report identifies five contusions. The injuries are consistent with the assault narrated by the Complainant as the injuries have occurred on the "back of the chest in his right side in the shoulder area; back of his chest and right forearm." The JMO confirms (at 4.1 of the JMO report) that

“the injury patterns detected at the time of the examination is consistent with the history given by the injured.”

20. The affidavit by the Complainant's mother states that she witnessed her son being repeatedly assaulted by the Respondent and two officers.
21. The detention registry states that Anuruddha, a 28 year old male, was detained on 10.12.2013 at 23:00 and released on 11.12.2013.

D. OBSERVATIONS

22. There are discrepancies between the Complainant's story and the Respondent's story. According to the Complainant, he was asked to come to the police station on 10.12.2013 where he was questioned about a robbery. The Respondent states that the Complainant was arrested on 10.12.2013 at night, due to his suspicious conduct and to question him on a robbery that occurred in the area. However, the police only received a Complaint by Kalyani about her stolen jewellery a week later on 17.12.2013.
23. The reserve officer notes that at the time the Complainant was detained, he had no external bruises. However, when the Complainant was hospitalized, the JMO notes that there were several injuries sustained by the Complainant.
24. Even though the Respondent has sent a B report to the magistrate dated 10.01.2014, it states that the suspect has not been taken into custody. This raises suspicion as to why the Complainant was not produced before the Magistrate directly after he was arrested a month before on 10.12.2013.
25. The Complainant has identified the Respondent as the main assailant who assaulted him.

E. CONCLUSION

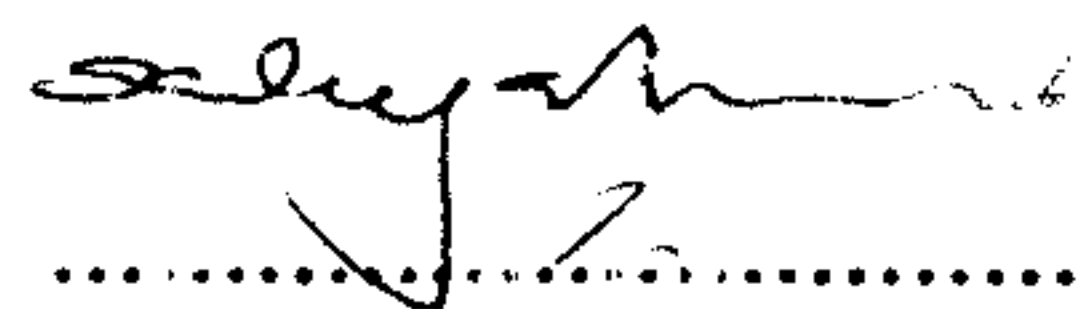
26. As the injuries sustained by the Complainant are consistent with the history of assault, it can be concluded that the Complainant was in fact assaulted after he was taken into custody. The assault is confirmed by the Complainant's mother who witnesses the inhumane way in which her son was treated by the Respondent.
27. Even though there were three police officers, who engaged in the assault, the Complainant clearly identifies the Respondent as the chief assailant. The police book extracts identify five officers who were involved in arresting the Complainant and they deny the allegations of arrest. Taking into consideration the story narrated by the Complainant and the Respondent, it can be concluded that the other police officers who were involved in this incident were acting on the instructions of the Respondent.
28. In view of the above circumstances, it is hereby concluded that the Respondent **has**

violated the Fundamental Rights of the Complainant guaranteed under Article 11 of the Constitution.

F. RECOMMENDATIONS

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

- a) In terms of the provisions in Section 15 (3) (a) of the HRCSL Act, the Commission hereby recommends that this matter be referred to the Attorney General to take suitable action to institute proceedings against the persons infringing such Fundamental Right.
- b) In terms of section 15 (3) (c) of the HRC Act, a copy of the recommendation is hereby sent to the National Police Commission to take disciplinary action against the Respondent.
- c) In terms of the provisions in section 11 (g) of the HRC Act, the Commission recommends the Sri Lanka Police pay the Complainant a sum of Rs. 60,000 as compensation.



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Saliya Pieris PC,
Commissioner
Human Rights Commission of Sri Lanka
Commissioner
Human Rights Commission of Sri Lanka
No. 14, R.A. De Mel Mawatha,
Colombo 04.
Copy to - 1. Attorney General Department
2. National Police Commission



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Ghazali Hussain
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Colombo 04.