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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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Date }

1. H.W.W. Nuwan Kumara
Bummalakanda,
Kalawila,
Beruwala

Complainant

Complaint Number: **HRC/2864/14**

.. vs.

1. Officer-in-Charge
Police Station
Aluthgama

Respondent

A. THE COMPLAINT

1. This Complaint was received by the Commission on 11.07.2014.
2. At the time of the Complaint, the Complainant was a 20-year-old labourer. He claims he was unlawfully arrested and subjected to physical assaults while in the custody of the Police from 20.06.2014 to 22.06.2014.
3. On 20.06.2014, around 10.00am, officers from both the Beruwala Police and Aluthgama Police arrived at the Complainant's home and accompanied him to the Aluthgama Police to record a statement. He was then detained at the Aluthgama Police Station.
4. The next day (21.06.2014), the Complainant was taken in a jeep, blindfolded and between assaults, to a room at (what he later came to know as) the "Special Forces Unit" at the premises of the Katukurunda SSP's office.
5. There, he was stripped completely naked, handcuffed behind his back, and made to lie down on the floor, face-upwards. He was then assaulted with hands, feet and poles. Assailants climbed on his thighs as he lay on the floor and pulled on his legs in an

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inverse direction. They poured juiced *kochchi* chilli on his eyes and private parts; and also poured the same through his anus. He was then taken, still naked, to a tap, and forced to clean himself. He was returned to the room, where he was bound to a pole on the ground, and kept there until about 3.00pm, when he was taken home in a jeep, where his home was searched.

6. The Complainant claims he was transported in the jeep to various places, including to multiple police stations. Around 9.00pm, he was taken to the Aluthgama Station and produced before the Officer-in-Charge. He had informed the latter of the assaults in detail, and shown where his body had got swollen as a result. The OIC had ordered the officers from Katukurunda escorting the Complainant not to assault him, and to only cuff his hands in front of his body (as opposed to behind his back).

7. When they returned to the "Katukurunda Unit," he was stripped again, and made to sit on the ground, cuffed to a metal pipe fixed to the room.

8. Many of the officers who had assaulted him eventually left. Only two officers remained. One of them, came near him after a bath and dressed only in a towel, and shouted at him in abusive language. Then, he hit the Complainant's fingers with a wooden pole by placing them on the metal pipe. He hit the fingers on both hands in this manner.

9. Though the Complainant was eventually allowed to dress himself in a pair of pants, he was kept awake until the morning, handcuffed and in the same position.

10. The next day, the Complainant was taken to the Nagoda Hospital around 2.00pm, and then produced before a Magistrate at their official residence. A lawyer representing the Complainant had requested a medical examination. He was ordered to be remanded until 02.07.2014. He had not received neither treatment, nor examined.

11. Of the nine charges filed against, the Complainant was eventually cleared of seven, and released on bail. Criminal proceedings as regards the remaining two charges were pending as at the time of the Complaint.

B. THE INQUIRY

12. The Complainant has sworn an affidavit on 18.04.2014 that is largely consistent with his initial Complaint to the Commission.

13. The Complainant's mother has also sworn an affidavit, wherein she corroborates the Complainant's narrative of events. Most notably, she affirms the date of arrest as 20.06.2014.

14. An affidavit sworn by L.G. Shiromi Priyanthi Mala, a friend of the Complainant's family for over ten years, indicates she witnessed the Complainant being assaulted by uniformed police officers at the front-yard of his home, around 3.00pm on 21.06.2014. According to her affidavit, she witnessed the Complainant being beaten with a wooden pole.

15. A Medico-Legal Report pertaining to the Complainant, based on a Medico-Legal Examination conducted on 22.06.2014 at 12.40pm at General Hospital, Kalutara, by MO/Medicolegal confirms the existence of two injuries on the person of the Complainant. The report notes two injuries. The first injury is described as "tenderness with soft tissue, mild firmness at both wrists of the upper limb and the superimposed wrists skin." With regard to this injury, the report comments, "it could probably [have] happened following an application of blunt force around the wrist with tight handcuff". The second injury is described as "1x1cm abrasion on the back of the heel," and the report further comments that, "[this injury] is also a blunt injury which had happened following a blunt force trauma to the heel of right foot".

16. In addition to the above injuries, the MLR notes that there were no other fresh, external injuries; that the conjunctiva was not congested; that there were no injuries to the external genitals. At the same time, the report highlights that, "When the applied force is less and when it is interfering with direct contact of the body, there will be no external injuries to be found on examination, and therefore by available medical evidence, the given history cannot be totally excluded."

17. According to a report from the 1st Respondent received by the Commission on 24.05.2017, the Complainant had been arrested on 21.06.2014.

18. A copy of the relevant page of the Detention Records (date-wise) indicates an "M.V. Nuwan Kumara", aged 22, arrested on 21.06.2014. The time of arrest is illegible. While photocopies of two pages of an information book has also been submitted, they lack headers and page numbers. The text is mostly illegible.

C. OBSERVATIONS

19. Injuries on the person of the Complainant have been corroborated through the MLR. The Medico-Legal Examination was within one day of the claimed date of arrest by Respondent (as per Respondent's report).

20. An eyewitness of the assault has sworn an affidavit to the Commission. The mother of the Complainant has sworn an affidavit corroborating the Complainant's

claim that he was arrested on 20.06.2014.

21. Extracts of police records submitted by Respondent are mostly illegible and appear incomplete, casting doubts on their reliability.

22. The Complainant's account of the assault has remained mostly consistent, both in the initial complaint and affidavit, as well as in the history complained of to the Medical Officer.

D. CONCLUSION

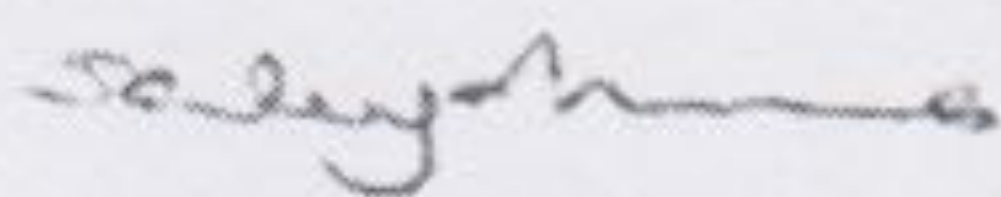
23. Based on the foregoing, it is concluded that the Complainant's petition discloses a violation of his Fundamental Rights under Chapter III of the Constitution, namely, his rights under **Article 11**.

E. RECOMMENDATION

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

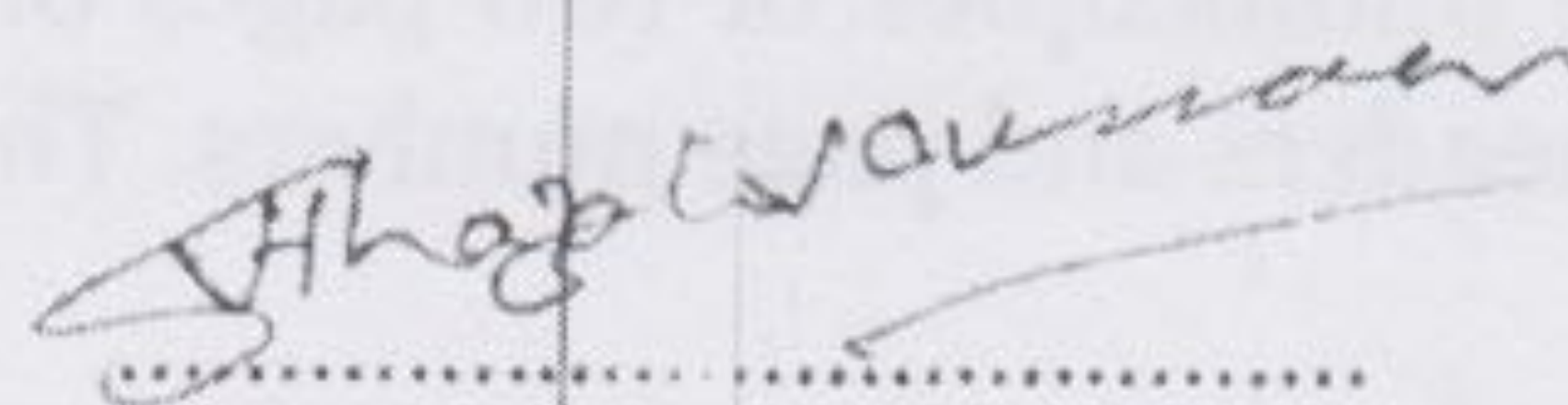
A) In terms of the provisions of Section 15 (6) of the HRC Act, a copy of the recommendation is hereby sent to the Inspector General of Police to investigate the allegation of torture with a view to instituting criminal proceedings, under Convention Against Torture and Other Cruel, Inhuman or Degrading 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. 50,000 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