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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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திகதி } 29.01.2018
Date }

Complaint Number: **HRC/3960/12**

T.N. Abeywickrema
295/14, Ariyasinhala Mawatha,
Kalapaluwawa,
Rajagiriya.

Complainant

for

P.A. Nuwan Sankalpa
295/14, Ariyasinhala Mawatha,
Kalapaluwawa,
Rajagiriya.

Party Aggrieved

vs.

1. Officer-in-Charge
Police Narcotics Division,
Colombo 1.
2. IP Jayasekara
Special Task Force,
Colombo 07.

Respondents

A. THE COMPLAINT

1. The Commission received this Complaint on 30.10.2012.

2. The Complainant is the wife of the Party Aggrieved. At the time of the Complaint, the Party Aggrieved was 26 years old. According to the Complaint, the Party Aggrieved was assaulted by officers of the Narcotics Division and the Special Task Force and placed under illegal arrest on

නො 14, 30.10.2012 දිනේදී, අප 2012
இல 14, 30.10.2012 இரவு 04.
2012 දී, 30.10.2012 දිනේදී, අප 2012

ප්‍රධාන කාර්යාලය பிரதான அலுவலகம் Head Office	165, කිංසි පාර, කොළඹ - 08. 165, கிண்டி வீதி, கொழும்பு - 08. 165, Kynsey Road, Colombo - 08.	සභාපති தவிசாளர் Chairman	011-2696470 013	ෆැක්ස් தொலைநகல் Fax	011-2694924	විද්‍යුත් තැපෑල மின்னஞ்சல் e-mail	sechrc@slnet.lk
දුරකථන தொலைபேசி	94 - 11 - 2694925, 2685980, 2685981	දුරකථන தொலைபேசி	011-2689558	විද්‍යුත් තැපෑල மின்னஞ்சல்	011-2689558	විද්‍යුත් තැපෑල மின்னஞ்சல்	

B. THE INQUIRY

a) The Medico-Legal Report

3. The Commission was sent a Medico-Legal Report dated 06.09.2015. The said report states that the Party Aggrieved was subjected to a Medico-Legal Examination on 22.10.2012 at the "ILMT, Colombo" [sic]. He had complained of the following history, as a summary, that his hands, feet and eyes were bound; a pole was tied between his legs; polythene bags smelling of petroleum were used to cover his head until he could not breathe; various parts of his body was assaulted, including his head; he thinks he was beaten by weapons; he was assaulted from 18th to the 19th.

4. The report notes nine injuries on his person, and that they are compatible with the history complained of by the injured.

b) Other Proceedings

5. 1st Respondent has consistently resisted the submission of extracts to the Commission. By report dated 07.01.2013, 1st Respondent has cited the liability for the death sentence for the suspected offence as the basis for not submitting extracts. By report dated on 11.01.2013, 1st Respondent has cited S.77A of the Poisons, Opium and Dangerous Drugs Act (as amended) as another basis. (That section refers to the Government Analyst procedures relevant to substances taken as evidence.)

6. The report dated 07.01.2013 further states that the arrest of the Party Aggrieved was effected on 19.10.2012 by officers of the Special Task Force (STF), led by the 2nd Respondent, in response to an information received by SI Chathuranga from a personal informant. The Party Aggrieved was then produced by the 1st Respondent before the Aluthkadey Magistrate on 20.10.2012.

7. At Inquiry held on 11.02.2013, the 2nd Respondent accepted responsibility for the team of 9 officers (including himself), who carried out the arrest. According to his statements, the injuries were inflicted when the suspect attempted to flee the scene, in the ensuing physical struggle between him and the 1st Respondent. The injuries were caused when they both fell on the ground in this struggle.

8. At Inquiry held on 05.05.2014, an officer of the STF who participated in the arrest described the planned operation. His statements describe the participation of over a dozen of officers in the operation. At least five officers are described as immediately present at the time of the arrest.

C. OBSERVATIONS

9. The Medico-Legal Report is conclusive of extensive injuries, and the Judicial Medical Officer examining the Party Aggrieved has confirmed the consistency between his complained history and the injuries found.

10. Though Respondents have claimed that the injuries were the necessary result of preventing the suspect's escape, the number of officers present at the scene casts doubt on this narrative. By the account of the operation received by the Commission on 05.05.2014, from an officer participating in that operation, it is evident the suspect was well surrounded at the time of his arrest, and that the

operation was well prepared for the possibility of an escape. As such, it is observed that the account of a physical struggle to prevent escape fails to adequately explain the extent of injuries reported by the Judicial Medical Officer.

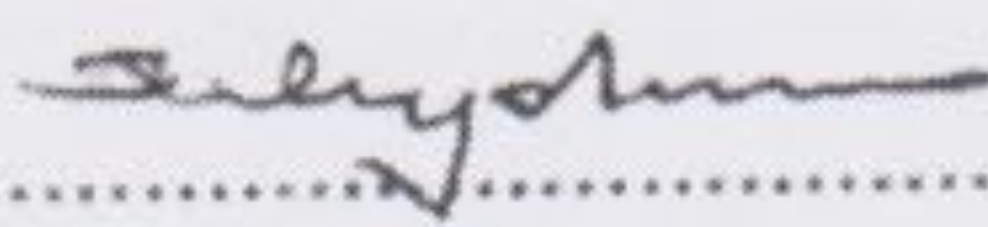
D. CONCLUSION

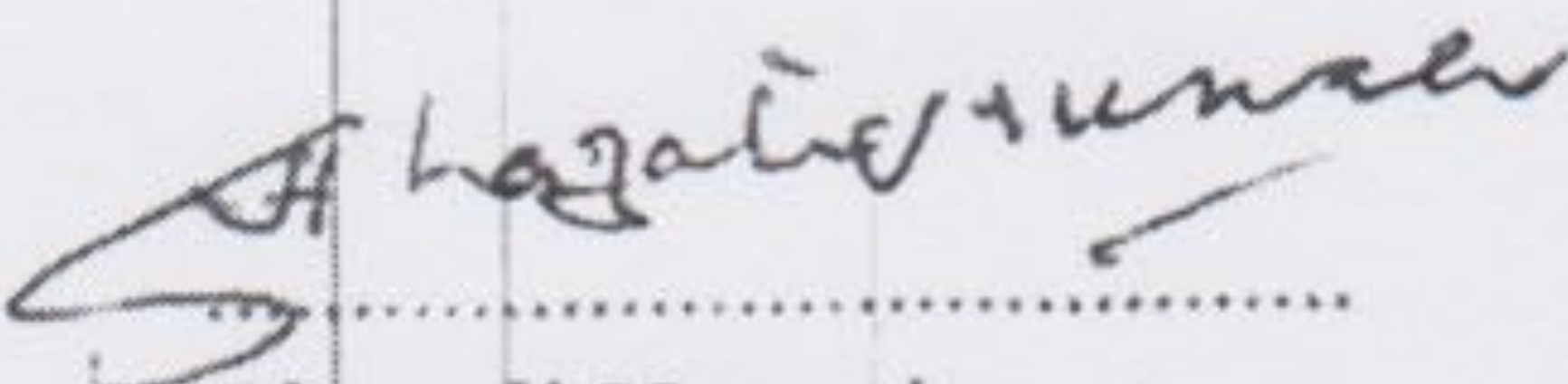
11. Based on the foregoing, it is concluded that the Complainant's petition discloses violations of the Fundamental Rights of the Party Aggrieved under Chapter III of the Constitution. Namely, his rights under **Article 11**.

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. 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