

Article 11
Article 13(1)

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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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Your No. }

දිනය } 2018-2-19
திகதி }
Date }

1. W.M.J.S. Wijayasundara,
Notharis Watta, Hindagolla.

Complainant

Complaint Number : HRC/2102/14

Vs.

Through the Police Legal
Division

1. Officer in Charge, Division
Crimes Unit, Police Station,
Kurunegala.
2. Sub Inspector Nayananda,
Police Station, Kurunegala.
3. Police Sergeant 3887 Adikari,
Police Station, Kurunegala.
4. Police Sergeant, 26515 Ranjith,
Police Station, Kurunegala.
5. Police Sergeant 23853
Dissanayake, Police Station,
Kurunegala.
6. Police Sergeant 48226 Ranjith,
Police Station, Kurunegala.

Respondents

The Complaint

The Complainant states as follows:

- On 16.04.2014 the Complainant, who was 13 years old at that time, was arrested at 9 am and taken to the Police Station.

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14, R. A. De Mel Mawatha, Colombo - 04.

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- The officers had stated that they would shoot the Complainant's father Sumedha Dharmapriya and bomb him.
- They also threatened to arrest the Complainant by planting drugs on him.
- The officers had frightened the Complainant in a dark and forcibly made him sign on blank papers.
- The child was taken to the station with his grandmother. They were only released at 11.00 pm when the Complainant's mother was able to come to the station.

Affidavits have been provided by the Complainant's mother, grandmother and uncle. They state the following facts;

- The Complainant's father was supposed to produce himself to the Police regarding a land dispute, however he went missing.
- At 9.00am, that day the Police came to their residence in a jeep and threatened the family asking for Sumedha (the complainant's father) to be produced.
- The officers then took the Complainant and his grandmother to the Wahara Divisional Crimes Investigations Unit, stating that they would keep the child in custody till the father produced himself.
- While on the way, they called the Complainant's father and made the Complainant ask his father to produce himself.
- The grandmother and the Complainant were kept in separate rooms at the police station. The child was not given any food to eat.
- The Complainant's mother and uncle were at the Mawathagama Police Station under the impression that the Complainant was being held there.
- The Complainant's father produced himself to the Mawathagama Police that night.

The Respondent's Reply

At the inquiry held at the Commission the 1st Respondent states as follows.

- The Complainant's father Sumedha Dharmapriya was involved an incident where an individual was severely beaten.
- The matter came under the purview of the Mawathagame Police Station but the police were unable to arrest him. As a result, the villagers began to be uneasy and began protesting.
- The Senior Police Inspector of Kurunegala Ajantha Samarakoon informed the Officer in Charge of the Crimes Investigation Division Inspector Fernando, that this suspect must be arrested.
- The 1st Respondent therefore on 16.04.2014 left the station at 9.00am and arrived at Notharis Hindigolla around 11.00am with Sub Inspector Nayananda, Sergeant 3887 Adikari, 26515 Ranjith, and 23853 Dissanayake.
- There was a 15 year old boy and 55 year old woman in the house. The suspect was not in the house.
- The officers then left the place and were on their back to the station. On the way, they noticed a crowd gathering at the Complainant's house so they went back to the place. People had surrounded the house and were shouting.
- The officers decided to take the Complainant and his grandmother with them for their safety. They informed the Mawathagama Police Station and brought them to the Divisional Crimes Investigations Unit.

- The Complainant and grandmother were later handed over to the Complainant's mother. The IB report states that this was around 7.35pm.
- Statements were recorded of the Complainant and his grandmother. The Complainant was not harmed.
- The Mawathagama Police Station had arrested the Complainant's father.

Observations


- The Respondent's submissions vary as to the age of the child and therefore the Complainant's claim that the child was 13 or 14 years must be accepted.
- In the extract from the Information Book, page 160 paragraph 102 the Complainant and his grandmother are referred to as "suspects". If the Complainant was taken into custody for his own safety, there is no need to have referred to them as suspects. This casts a doubt on the Respondent's intentions.
- The Respondents accept that the Complainant's father was avoiding arrest. However taking his son in custody seems like a ransom to ensure the Complainant's father produced himself.
- A question also arises as to why the child was not handed over to his mother at the Mawathagama Police Station when they were aware that she was there.
- Even if the Complainant was kept at the station for less hours than the Complainant states, taking the child to the station at all cannot be justifiable.
- It is concluded therefore that the Respondent's actions caused undue harassment to the child.

Conclusion


In the above circumstances it is concluded that the Respondents have violated the Fundamental Rights of the Complainant guaranteed under Article 11 and 13 (1) of the Constitution.

Recommendation

- In terms of the provisions in section 15 (3) (c) of the HRC Act, it is recommended that this matter be referred to the Inspector General of Police to take suitable action to remedy the wrongful procedure that gave rise to the Fundamental Rights violation in this case.
- In terms of the provisions in section 11 (g) of the HRC Act, the Commission recommends that the Respondents pay the Complainants a sum of Rs. 7000/as costs incurred by them for the complaint made.



 Saliya Pieris PC,
 Commissioner
 Human Rights Commission of Sri Lanka



 Ghazali Hussain
 Commissioner
 Human Rights Commission of Sri Lanka

Copy to- 1. Inspector General of Police

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