

West Bengal Human Rights Commission
Bhabani Bhavan, 2nd Floor, Alipore, Kolkata - 27.

1853/WBHRC/Com/12-13

Date : 16.09.13

Present :.

1. Justice Asok Kumar Ganguly .. Chairperson
2. Justice N.C. Sil .. Member
3. Shri S.N. Roy .. Member

There appeared a news item in the Ananda Bazar Patrika published from the city on 3rd Jan. 2013 wherein serious allegations were reported against the Police officers of Karaya P.S. It was in the report that one Mir Amirul Islam went to Karaya P.S. on 31st October 2012 with a complaint that one minor girl was allegedly raped on several occasions. Mir Amirul Islam was a graduate in Commerce. It was also alleged that Mir Amirul Islam took the victim girl to the Karaya P.S. and as the victim girl did not know English, Mir Amirul Islam, on behalf the victim girl had written a complaint and the same was submitted to the P.S. on 31st October 2012 against an influential person namely Sahazada Box of the locality. But immediately after lodging the FIR against the said influential person, pressure was created upon Mir Amirul Islam by Sahazada Box and the Police to withdraw the complaint. It was also alleged that in order to create pressure upon Mir Amirul Islam, a dacoity case was instituted against him as Sahazada Box had considerable influence upon some Police officers of the said Karaya P.S. Thus, on December 3rd. 2012, Mir Amirul Islam committed suicide in front of Karaya P.S. by setting fire on his person and before that, he had written to his parents that for his death Sahazada Box and the Police were responsible. The said last letter of Mir Amirul Islam was also signed by him. Amirul Islam was admitted to the hospital on 1st Jan, 2013 and subsequently he succumbed to his burn injuries. It was also reported in the news paper that on 3rd December 2012 Police recorded the dying declaration of Amirul Islam and there also Amirul Islam stated that Police officers like Ranjit Yadav and Vinod Kumar of Karaya P.S. took the side of Sahazada Box and they entered into a conspiracy in this regard. It is also stated by him there before the Police that despite the allegations of rape of the minor victim girl, Sahazada Box was not arrested.

Considering the gravity of the allegations published in the said newspaper, suo-moto cognizance was taken by the Commission and the Commissioner of Police was directed to conduct an immediate enquiry by a senior officer and submit his report

together with his specific comments to the Commission within a period of two weeks from the date of communication of that order.

On 6th Feb. 2013 the Commission received the report of Joint Commissioner of Police, Kolkata forwarded by the Commissioner of Police, Kolkata. It was in the report that on 03.01.13 a criminal case being case No. 06 dt.03.01.13 u/s 306/506/120B IPC was started against S.I. Vinod Kumar, S.I. Ranjit Yadav, C/Haroon Khan and C/Nasim Khan on the complaint of Shanaz Izhar and the said case was taken up for investigation by the Detective Department.

It is also in the report that one Debasish Baidya, AC(A), SED had been transferred to Special Branch on 07.01.13 along with Prosenjit Bhattacharyee, O/C Karaya P.S. from Karaya P.S. to Special Branch on the same day. It is further in the report that departmental proceedings had been initiated against the O/C Prosenjit Bhattacharjee. It is also in the report that departmental proceedings had been drawn up against Inspector Sitaram Bhattacharjee, erstwhile O/C Karaya P.S. who is presently posted to Special Branch. It is again in the report that S.I. Vinod Kumar of Karaya P.S. had been placed under suspension along with S.I. Ranjit Yadav both with effect from 05.01.13 afternoon and the departmental proceedings had been drawn up against Constable Nasim Khan who was placed under suspension with effect from 05.01.13. It is again in the report that departmental proceedings had also been drawn up against Constable Nasim Khan.

It appears from enquiry report made by Mr. Tripurari, Joint Commissioner of Police who made indeed a thorough enquiry that a written complaint of the victim girl who was only 16 years old was received at Karaya P.S. on 31.10.12 alleging molestation upon her by Sahazada Box @ Dagi. In the said complaint it was also alleged that Sahazada Box had raped the minor girl of 13 years old and Sahazada called one of his friend Salim to do the same upon the said girl in the first week of September of 2012. It is in the report that upon that complaint Karaya P.S. Case No.484 dt.31.10.12 u/s 354/509/506 IPC was started and S.I. Ranjit Yadav of Karaya P.S. was directed to take up the enquiry. It is further observed in the report of the Joint Commissioner of Police, Kolkata that the FIR was not started under proper sections of law which should have been looked into by the inspector Prosenjit Banerjee the then O/C Karaya P.S. It is specifically observed in the report “had the case been registered under proper section of law, the medical examination of victim girl would not have been delayed.” The report contains every details of the events and the role of the police officers and victim girl. The Joint Commissioner of Police, Kolkata made the observation as follows:

“The then O/C Karaya P.S. Inspector Sitaram Bhattacharjee should have ensured that the minor girl victim-complainant was accompanied by the lady constables/officers and not by the male officers as alleged when she went to the Karaya P.S. on 31.10.12 for submission of her complaint.

After receipt of the complaint Inspector Sitaram Bhattacharjee, Ex-O/C Karaya P.S should have recorded the case immediately. But it was found during enquiry that the complaint was endorsed by his successor Inspector Porasenjit Bhattacharjee.

Inspector Sitaram Bhattacharjee, then O/C Karaya P.S. during his examination denied receipt of any such complaint from Simran Khatoon on 31.10.12.

3. Initial recording of FIR on the complaint submitted by minor victim girl Simran Khatoon dated 31.10.12 under improper sections of law led to considerable delay in the medical examination of the victim minor girl and in delay in investigation

4. The upgradation of Sec. 395 IPC will be properly examined during investigation of the concerned case.

5. The presence and extent of unholy nexus between Shahzada and some of the police personnel, if any, will be examined in depth during the investigation of the concerned case vide Karaya PS C/N06/13 u/s306/506/120B IPC.

It appears from the report that the Police administration had immediately taken action against the erring Police personnel and the following actions had been taken as it appears from the report of the Joint Commissioner of Police, Kolkata.

“1. On 03.01.13 Karaya P.S. case No. 6 dated 03.01.13 u/s 306/506/120B IPC have been started against S.I. Vinod Kumar, S.I. Ranjit Jadav, Ex. Constable Haroon Khan and Nashim Khan upon the complaint of Shahnaz Izhar of 12/2/1, Palm Avenue, Kolkata-700 019, mother of deceased Mir Aminul Islam. The case has been taken up for investigation by Detective department on 05.01.13.

2. Shri Debashis Baidya, the then AC(A), SED has been transferred to SB Vide CO No. 10 dt.07.01.13 and has been released on 07.01.13 to join his new place of posting.

Shri Prasenjit Bhattacharjee, the then O/C Karaya PS has been transferred to S.B. vide C.O. No.8 dt.07.01.13 and has been released to join his new place of posting on 07.01.13. Departmental proceedings vide proceeding No.11 dt.01.02.13 has been drawn up against him.

4. SI Vinod Kumar of Karaya PS has been placed under suspension with effect from 05.01.13 afternoon vide SED DD No.6 05.01.13.

5. S.I. Ranjit Yadav has been placed under suspension with effect from 05.01.13 afternoon vide SED DD No.7 dt.05.01.13.

6. Const. 4779 Nasim Khan has been placed under suspension with effect from 05.01.13 afternoon vide SED DD No.8 dt.05.01.13.

7. Departmental proceeding vide Proceeding No.10 dt.01.02.13 has been drawn up against Insp. Sitaram Bhattacharjee, the then O/C Karaya P.S. presently posted to Special Branch.”

On receipt of the report the Commission examined Mr. Tripurari, Joint Commissioner of Police, Kolkata (O) who enquired into the matter and subsequently Mr. Pallav Kanti Ghosh, Joint Commissioner of Police, Kolkata (Crime). Mr. Tripurari stated in his evidence before the Commission that during enquiry he did not find any action to have been taken on the complaint of rape of the minor victim girl and on the contrary it was found that O/C Sitaram Bhattacharjee was transferred and in his place Prosenjit Bhattacharjee took the charge of O/C, Karaya P.S. who started a case of “only” molestation u/s 354/509/506 IPC. Mr. Tripurari further stated that if proper steps had been taken by the Police to whom the petition was submitted by the victim girl in time, the incident of self-immolation of Amirul could have been prevented. He further stated that the presence and extent of unholy nexus between Sahazada and some of the Police officers was being examined in depth by the Joint Commissioner of Police, Kolkata. It appears from the evidence of Pallav Kanti Ghosh, Joint Commissioner of Police, Kolkata (Crime) that the investigation of Karaya P.S. Case No.6/13 dt. 13.01.13 was still not completed and as many as 46 witnesses have been examined till date.

Thus, from analysis of the evidence and the enquiry report of the Joint Commissioner of Police, Kolkata, it is clear that the Police officials of Karaya P.S. were prime-facie responsible for the unfortunate incident of self-immolation of a young man with a bright future ahead who came forward as a whistle blower against influential person of the locality like accused Sahazada Box. The allegations of Amirul Islam against Sahazada Box amongst others was that he had unholy nexus with the Police of Karaya P.S. for which Sahazada Box was not arrested even on complaint of repeated rape upon a minor girl. On the contrary various pressures created upon Amirul including institution of a false dacoity case against him appear to have been prime-facie substantiated from the actions taken by the Police administration by way of suspension and departmental proceedings against the erring Police officers of Karaya P.S. and this has desisted us from making any recommendation against those erring Police officers. Accordingly, it has been established from the above discussions that Amirul, a graduate in Commerce had to lay down his life for the over active Police (by instituting a false dacoity case against Amirul) on the one hand and again for inaction (for not lodging a rape case against Sahazada Box for having unholy nexus) on the other. This had led us to hold that the human rights of the whistle blower Mir Amirul Islam were blatantly

violated and as such the next kins of Amirul are entitled to compensation from the State. Accordingly the Commission recommends as follows:

- 1. that a compensation of Rs.500,000/- (five lakhs)
be paid by the Govt. to the next kin of Amirul Islam.**

The Govt. should inform the Commission within a period of two months from the date of receipt of the recommendation as to the action taken or proposed to be taken in this regard.

sd/-
(S..N. Roy)
Member

sd/-
(Justice N.C. Sil)
Member

sd/-
(Justice Asok Kumar Ganguly)
Chairperson

Dated Kolkata, the 16th September, 2013.

Comments of the State Government will be uploaded as and when received.

Sd/- (16/09/2013)
(J. Sundara Sekhar)
Secretary & CEO