

Present: –

Justice Girish Chandra Gupta,

Chairperson

File number 1761/25/8/2019

The case is another example of the police taking upon itself the task of facilitating illegal construction/repairs by assaulting and taking the owner of the adjacent building in custody in order to prevent her and her family members from putting up any opposition.

A complaint¹ dated 20th June 2019 was received by the commission on 25th of July 2019 from Smt. Sunita Sadhukhan alleging that their adjacent neighbour Ratan Krishna Das Sharma on 9th June 2019 commenced illegal construction from the very morning ignoring the objection of the petitioner and the members of her family. He assaulted the petitioner by a cane aiming her head and also assaulted her mother at about 3 PM. He then called in the police. Sub inspector Maji Babu and another accompanied by two civic home guards and male and female police personnel dressed in blue, broke in their house by breaking open the main gate when she was standing in her bedroom dressed in a nighty. Maji Babu and another pulled her by the hand. When she tried to let loose he hit her on the hand by his baton which instantly created a bluish mark. The accompanying female civic volunteers held her by the hair and brought her down the stairs. Sub inspector Maji hit her by his leg. When her mother sought to rescue her, two male civic volunteers dragged her down the stairs to the police vehicle. Around 4 PM she and her mother were taken to the Chinsurah police station. Their mobile phone was snatched, because she had taken photographs of the illegal construction, which was returned only after 3 days. Both of them were detained in the police station. When her mother asked for water the same was refused with a slang. The ordeal continued until their advocate reached the police station and raised his objection. They were released at 10:15 PM.

She disclosed emergency prescription slip bearing² number 5591 dated 10th June 2019 recorded at 12:05 AM indicating alleged physical assault upon the petitioner. The doctor on examination found “Bruise 2x2 cm on left forearm.....”.

Another emergency prescription slip³ bearing number 5592 concerning alleged physical assault of Chaina Sadhukhan was produced containing the following findings upon examination. “Swelling (2x1 cm) on forehead (R), scratch mark on (L) 5th finger.”

She also produced a discharge certificate⁴ issued by the government hospital indicating that Sunita Sadhukhan was hospitalised at 12:24 AM of 11th June 2019 complaining of headache and was released on the following day.

¹ P.37

² P.40

³ P.40

⁴ P.41

The case of the petitioner that in order to facilitate illegal construction by Ratan, the owner of the adjacent building, the petitioner and her mother were taken into custody by the sub-inspector Maji Babu and his associates is proved by the oral evidence of various police personnel who were examined after the Asst Commissioner of police Mr. Dhali furnished a wishy washy report⁵ dated 30th December 2019 and a hesitant report⁶ dated 24th December 2020 was furnished by another ACP Bhupendra Singh.

Mousumi Sikdar, civic volunteer (civic 325) recorded her statement⁷ which after removal of chaff from the grain reads as follows: – “I have seen and known that the two houses are adjacent to each other. There is no open space between the two houses. The petitioner drew an electric line through the building of the other side. Whether that was electrified or not could not be ascertained by me. The opposite party was insisting upon removal of that line. But the petitioner was reluctant to remove the line. That triggered the disturbance. The other side could have easily removed that wire but they did not do so nor did the police ask him to do that. However our Sir (Maji Babu) asked the petitioner to remove the wire but she did not agree. I do not know why the officer did not ask the opposite party to remove that wire. It is true that we had gone to the spot on the complaint of Ratan Babu. But Majhi Babu told the petitioners to have their case registered in the police station rather than asking Ratan Babu to do so. I do realise that such a request should have been made to the owner of the adjacent building but instead of doing that such a request was made to the petitioner. At one point of time the ladies attempted to assault Ratan Babu then the sub-inspector Maji Babu directed us to take them to the police station in order to control the situation. Then we picked them up, in the police van, i.e. both the mother and daughter. Sunita at that time was dressed in a nighty. I do not remember whether they were offered water or any eatable in the police station. I do not know when were they released from the police station”

Partha Ghosh Constable (1522) recorded his statement⁸ which after similar exercise reads as follows:-

“Both the houses belonging to the petitioner and the opposite party Ratan Babu are adjacent to each other without any open space in between. Sunita had installed a wire in her house which Ratan Babu wanted to be removed. Sunita did not agree and this had triggered the dispute and the discord. We asked the petitioner Sunita to remove that wire. Based on my common sense I am unable to follow why was such a request made by our Sir (Majhi Babu). I am unable to say whether use of the roof of the petitioner was necessary to carry out the repairs to the shed of Ratan Babu. Our Sir (Maji Babu) asked Sunita to lodge her complaint if any with the police station. The age of the petitioner appeared to be between 20 and 25 years.”

Shyamal Gupta, civic volunteer (civic 51) recorded his statement⁹ which after similar exercise reads as follows: – “Both the houses are adjacent to each other. There was some

⁵ P.36

⁶ P.29

⁷ P.15

⁸ P.14

open space between the two but I am unable to say the width thereof. The other side was repairing his shed/roof. The petitioner had drawn a wire on her own roof which could have been dangerous to the other side which is why she was requested to remove the same but she did not agree to do so. In the circumstances we requested them to visit the police station.

Sabina Khatun civic volunteer (civic 357) recorded her statement¹⁰ which after similar exercise reads as follows: – “The petitioner had drawn an electric wire in the house of the other side. Whether the same had been electrified or not is not known to me. After receiving telephonic message our sir (Maji Babu) went to the spot accompanied by us and asked the petitioner to remove the wire which she refuse to do.”

From the aforesaid oral evidence the following picture emerges:-

The petitioner Sunita daughter of Gopal Sadhukhan and her family and the said Ratan Babu are owners of adjacent houses. There is visibly no or very little open space between the two houses. Ratan Babu had undertaken the job of repairing his roof top or the shed thereof. In order to carry out the repairs, in the absence of any open space between the two houses, he was required to use the roof of the petitioner’s house. The petitioner was not willing to allow him to do so. In order to prevent him from using her roof the petitioner drew an electric line/wire on her roof. Ratan Babu was apprehensive that the electric wire could be dangerous to the workers in case they descended on the roof which is why he was interested to have the same removed. When the petitioner refused to remove the wire he informed the sub-inspector Maji Babu who promptly came accompanied by a large number of police contingent; requested the petitioner and her mother to remove the wire but when they refused to do so both the mother and the daughter were arrested in whatever condition they were; lifted them on the police van and detained at the police station.

The aforesaid inference finds support from the statement¹¹ of ACP Bhupendra Singh also examined on the same day. He stated as follows: –

“I inspected the place of occurrence and found that both the houses are attached to each other. There is no open space between the two houses. The house of Ratan was constructed in violation of the building rules without leaving space mandatorily required. He wanted to repair his shed utilising the roof of the petitioner which she was not willing to allow which ignited the dispute between the two and in consequence whereof the petitioner and her mother were taken into custody.”

The sub- inspector Maheshwar Maji misconducted himself in recording GD¹² entry number 476 suppressing altogether that he had arrested the mother and the daughter and projecting a false picture by recording inter alia “then I requested Ratan Krishna Das Sharma to take shelter before the Id court to disconnect the said electric connection made by Gopal Sadhukhan and after I requested Gopal and his family members to maintain peace in the

⁹ P.17

¹⁰ P.18

¹¹ P.11

¹² P.23

locality and left the spot after the situation become peaceful. I noted the fact in GD for future reference.”

Based on the aforesaid GD entry he instituted a proceeding, Chinsura PS NCR¹³ number 855/19 dated 28th June 2019 under section 107 CRPC against the petitioner and her parents projecting the self same false picture before the Id court with the wrongful intention of having them punished or at any rate harassed.

The said Maheshwar Maji during his examination persisted on his false contention but at least admitted¹⁴ that “after dropping the petitioner and her mother in the police station, at around 10:15 PM when I came to know that a Id advocate came to the police station to obtain their release and they were allowed to go.” If the petitioner and her mother had voluntarily come to the police station “for the purpose of lodging a complaint” as alleged by him where was the question of their being “allowed to go?” He also admitted that “no complaint was lodged by the petitioner or her mother with the police station.” The ACP Mr Dhali, deputed for the purpose of making an enquiry sought to shield the sub-inspector Maheshwar Maji by alleging in his report¹⁵ dated 30th December 2019 that “As such her allegation that police misbehaved with her is utter baseless.” He had tried to soft-pedal the action of the said sub-inspector of wrongfully arresting the mother and daughter by alleging that “To control the situation the petitioner was escorted to police station with the help of Lady volunteers” When the aforesaid observation was shown to the sub- inspector, he replied “the said ACP has falsely alleged that “to control the situation the petitioner was escorted to the police station.” Another report¹⁶ dated 24 December 2020 submitted by Mr Bhupendra Singh similarly seeking to shield the sub-inspector, though Mr Singh regretted his aforesaid act before the commission, found disapproval of the said sub-inspector who stated “the aforesaid statement of the ACP is not true.”

It is a matter of record that Mr Palash Chandra Dhali in his report dated 30th December 2019 did not deal with the complaint of the petitioner that when objection was raised to the illegal construction undertaken by Ratan Krishna Das Sharma she was assaulted by a cane aiming her head; Maji Babu accompanied by large contingent thereafter broke in their house breaking open the main gate; assaulted the petitioner; when her mother sought to rescue her both the mother and the daughter with the help of civic volunteers were forced into the police van even though the petitioner was dressed in a nighty. They were detained in the police station till 10:15 p.m. The petitioner was made to sit in the police station in her torn nighty. The mother of the petitioner asked for water in the police station which was refused with a slang. After the petitioner and her mother were released from the PS they went to the Chinsurah Hospital where they were treated which is evidenced by emergency prescription slip number 5591 and 5592 annexed to her complaint. The petitioner had to be hospitalised at about 12:24 AM of 11 June 2019 and she was released on the following morning which is

¹³ P.26

¹⁴ P.12

¹⁵ P.36

¹⁶ P.29

evidenced by the discharge certificate also annexed to her complaint. No part of these allegations was dealt with by Mr. Dhali though he was deputed to make an enquiry of her aforesaid complaint. Yet Mr. Dhali during his examination alleged "it will not be correct to say that the major portion of the allegations appearing in the complaint were not dealt with by me in my report dated 30 December 2019. I have dealt with all the allegations of the petitioner. It is however possible that one or two points have been missed out."

Mr Dhali further persisted on his stand by stating during his examination that "it will not be complete truth to allege that the police assaulted and arrested the petitioner and her mother in order to facilitate construction of illegal shed by utilising the roof of the petitioners and by my report dated 30 December 2019 tried to shield the police officer and the atrocities committed by the police including assault injury and illegal arrest. I did not shield anyone. The police did not arrest anyone."

The complaint of the petitioner that she was assaulted by Ratan Krishna Das Sharma by a cane aiming her head finds corroboration from the discharge certificate dated 11th June 2019 issued by the government hospital. Her complaint that she was assaulted by the sub-inspector Maji Babu by his baton on her hand finds corroboration from the emergency prescription slip number 5591 and the complaint that her mother was assaulted by the civic volunteers finds corroboration from the emergency prescription slip number 5592. The fact that both the mother and the daughter were arrested from their residence and forced into the police van without even allowing them to properly dress themselves and kept under detention at the police station approximately between 4 PM and 10:15 PM finds corroboration from the evidence discussed above. The mother and daughter not only were arrested without any complaint against them but also with the intention of letting the adjacent owner Ratan Krishna Das Sharma to complete the repair of his tin shed utilising the roof of the petitioner is corroborated by the evidence of Sri. Bhupendra Singh noted above. The human rights of the petitioner and her mother including their fundamental rights to life liberty and dignity were trampled upon by the sub-inspector Maheshwar Maji; the constitutional mandate contained in article 51A of the Constitution of India to renounce practices derogatory to the dignity of women was thrown to the winds by the said Maheshwar Maji which was concealed by Palash Chandra Dhali with the intention of screening him from legal punishment.

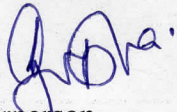
The commission in the circumstances makes the following recommendations: –

- a) both the ACP Mr Palash Chandra Dhali and sub-Inspector Maheshwar Maji be proceeded against by way of disciplinary proceedings ;
- b) compensation of a sum of ₹ 1 lakh each be paid to the petitioner Ms. Sunita Sadhukhan and her mother Smt. Chaina Sadhukhan;
- c) the State of West Bengal shall be entitled to recover the aforesaid sum from the sub-inspector Maheshwar Maji in accordance with law and
- d) a report be submitted by 31 March 2022 to the commission indicating steps taken to implement the recommendation.

The Additional Secretary cum officiating CEO is directed to communicate the recommendation to the Chief Secretary to the state of West Bengal duly authenticated as required under the provisions of protection of human rights act.

The Id Registrar is directed to upload the recommendation in the website of the commission and to communicate a copy hereof to the petitioner Ms Sunita Sadhukhan.

All the connected papers¹⁷ be annexed to the recommendation.



Chairperson.

Justice Girish Chandra Gupta.

Signed this 8th day of December 2021

¹⁷ PP 7-41