

Present: –

Justice Girish Chandra Gupta,

Chairperson.

File number 940/25/22/2019

The discharge certificate dated 4<sup>th</sup> March 2019 issued by Midnapore Medical College and Hospital goes to show that Saman Damankari Maity was hospitalised at 3:48 PM. The final diagnosis was “physical assault (trauma to chest and head)”. After primary treatment the petitioner appears to have “left against medical advice”. In a case of this nature after the commission called for a report by a notice dated 9<sup>th</sup> September 2019 the DSP by his report dated 26<sup>th</sup> February 2020 stated that the aforesaid victim and his friend Deep Manna on 28<sup>th</sup> February 2019 “had stolen around 80 kg of ginger..... the aggrieved villagers restrained and beaten them.” Obviously there is no complaint against the victim or his friend. The victims were beaten even according to the DSP but no complaint against the assailants was recorded by the police. It is further alleged in the report “they confessed their guilt and their statements were videographed by the police. But at the police station both the parties amicably settled the issue and didn’t lodge any complaint against each other. Later on the basis of complaint dated 2<sup>nd</sup> March 2019 submitted by the petitioner Garbeta PS GDE number 96 dated 2<sup>nd</sup> March 2019 was lodged. After enquiry a prayer for prosecution under section 107 CRPC was submitted.” The petitioner is Dulal the father of the victim. Even after a complaint was lodged by the petitioner the police did not start a case. On the contrary a general diary entry was recorded and a prayer was submitted for prosecution under section 107 CRPC. When a person or persons have already been beaten black and blue where is the applicability of section 107 CRPC?

It is evident that the case of violation of law when reported to the police, the police became an arbiter rather than taking steps in accordance with law.

When the commission pointed out by its order dated 15<sup>th</sup> December 2020, communicated by a notice dated 23<sup>rd</sup> December 2020 that an alleged admission before the police is of no consequence in law, a report dated 15<sup>th</sup> June 2021 prepared by the DSP (operation) has been communicated to the commission admitting that “any confession before police is not admissible in the eyes of law. Moreover no recovery of the allegedly theft of 80 KG ginger could be done from the exclusive possession of said Saman Damankari Maity, as such no seizure list was prepared. As per 27 of the Indian Evidence Act, nothing has been recovered leading to the statement of the alleged person by the enquiry officer.”

The Additional SP stated by his letter dated 16<sup>th</sup> June 2021 addressed to the SP “it is evident that the EO Manas Kumar Hait, the then ASI of Sandhipur Camp under Garbeta PS attended the incident on the night of 28<sup>th</sup> February 2019 but failed to take proper steps in accordance with law. He is solely responsible for the gross inconvenience of the petitioner. Then as per report, in orderly room, part 1 and necessary departmental action has been taken against him for his negligent act and apathy.” The letter of the ASP has been communicated to the commission by the SP by his letter dated 27<sup>th</sup> June 2021.

The fact that the police failed to provide protection to the victim Saman son of the petitioner Dulal is whose right to life and liberty were violated with impunity is self-evident from the facts and




circumstances narrated above. The commission in the circumstances makes the following recommendations: –

- a) a sum of ₹ 1 lakh be paid by way of compensation to the victim Saman Damankari Maity within a month and
- b) a report be filed by 31<sup>st</sup> March 2022 indicating the steps taken to implement the recommendation.

The Additional Secretary is directed to communicate the recommendation to the Chief Secretary to the State of West Bengal duly authenticated as required under the Protection of Human Rights Act.

All connected papers duly paginated be also communicated to the Chief Secretary to the State of West Bengal

He is further directed to have a copy of the recommendation uploaded in the website within 24 hours and to communicate a copy hereof to the petitioner.



Chairperson.

Justice Girish Chandra Gupta.

Signed this 16<sup>th</sup> day of December 2021.