

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

1017/WBHRC/Com/11-2

Date : 05.06.12

Present :.

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

1. This is to consider an application made by All India Mahila Sanskritik Sangathan. It is stated in the petition that on 29.11.11 a police party led by ASI Dipak Das of Hariharpara P.S. went to the house of Kutubuddin Mondal to arrest him. The Police party did not find Kutubuddin there and, instead, in the dead of night lifted his wife from her bed. The Police party made her naked and assaulted on her private parts and attacked with lathi and kicked her with their boots. Kutubuddin's wife sustained serious injuries and in such condition she was taken to the Police station where she was sexually assaulted and gang-raped. On the next day she was given a threat not to disclose anything to others, otherwise the members of her family would be killed. However, after 10 p.m. in the night of 30.11.11 she was taken to Hariharpara Health Centre where she was given casual treatment. Thereafter she was left to her house. Considering her serious injuries two of the village women got her treated at Berhampore General Hospital (New). The matter was brought to the notice of the Superintendent of Police where the raped Victim submitted a specific complaint. Despite all this, no effective steps for the arrest of the miscreants were taken by the authorities.

2. It is further stated in the said petition that at the time of submission of the petition to this Commission, raped Victim was under treatment in the hospital at Kolkata.

3. It appears from record that on receipt of the petition, this Commission took cognizance and directed the ADG & IGP of this Commission to cause an enquiry and to submit his report. Thereafter the report of the ADG & IGP of this Commission was received and it appears therefrom that the matter was also enquired by Addl. S.P. (Hq.), Murshidabad and on the basis of that enquiry as many as four Police officers namely S.I. Sandip Sen, S.I. Rajat Das, ASI Dipak Das and constable Samir Sikdar of SAP 9<sup>th</sup> Battalion were suspended and departmental proceedings were initiated against them. It also appears from the report of the ADG & IGP of this Commission that after obtaining a fresh complaint dt.05.01.12 from the Victim, Hariharpara P.S. case No. 08/12 dt. 05.01.12 u/s 342/323//325/354/506/34 IPC was registered against those four police personnel. All the accused persons surrendered before the court and they were on court bail. The case was under investigation. The ADG & IGP of this Commission finally opined that the allegation to the extent that ASI Dipak Das and some other unnamed policemen of Hariharpara P.S. had physically

assaulted wife of Kutubuddin in her house in the night of 29.11.11 had been substantiated.

4. However, the Commission decided to call those four officers to depose u/s 16 of the Protection of Human Rights Act, 1993.
5. S.I. Sandip Sen who was the O/C, Hariharpara P.S. at the relevant point of time stated in his evidence after perusal of the report of the ADG & IGP of this Commission that he agreed with the findings in the report. He admitted that he remained suspended from 05.12.11 to 22.12.11 for that incident. It is again in his evidence that departmental proceedings are pending against him. He further stated that he did not take action against any of the police personnel as nobody lodged any complaint to him. However, he admitted that on the complaint of the Victim, a criminal case being Hariharpara P.S. case No. 08/12 dt. 05.01.12 u/s 342/323/325//354/506/34 IPC was started against ASI Dipak Das and three others. In the departmental proceedings charge against him was that he did not inform the matter to his higher authorities about the assault of wife of Kutubuddin by the Police personnel of the said Police station, he added.
6. Constable Somnath Sikdar stated before the Commission that he was with the raiding party in the house of Kutubuddin. He denied that wife of Kutubuddin was assaulted at the time of raid in her house but admitted that she was taken to the Police station. It is again in his evidence that she tried to assault ASI Dipak Das with a Hansua and in course of all that, ASI Dipak Das sustained bleeding injury in his right little-finger. He cannot of course say as to whether ASI Dipak Das went to any doctor for treatment. It is admitted by him that he was suspended on 05.12.11 for a period of 38 days and departmental proceedings are pending against him. It is further admitted by him that a criminal case is pending against him.
7. various sections of IPC including section 363 of the Code. He then stated :  
“At that time I was attacked by wife of Kutubuddin with Hansua for which I sustained bleeding injury on my right little-finger. I seized the said Hansua but no seizure list was prepared either at the ASI Dipak Das admitted in his evidence that he went for a raid in the house of Kutubuddin at the dead of night on 29.11.11 in connection with a case No. 87/11 dt. 22.11.11 under place of occurrence or at the P.S. I did not get my injury examined by any Doctor as the injury was superficial.”  
He further stated that he did not know anything about the case for which he went for the raid and admitted that the said case for which he went for the raid was not a case of kidnapping. It is also in his evidence that after raid when he tried to bring wife of Kutubuddin to the P.S. there was a collision between him and wife of Kutubuddin. At that time there was a scuffle for which she fell down. He denied to have assaulted her at the time of raid in her house. He admitted that he was placed under suspension on 5<sup>th</sup> December 2011 and departmental proceedings along with a criminal case are pending against him. He also claimed to have brought her at the P.S. on being ordered by Rajat Das, Second Officer when Dipak Das contacted him over phone.

8. Rajat Das admitted in his evidence that he was suspended for the incident of assault on wife of Kutubuddin. Disciplinary proceedings are pending against him. Admittedly Rajat Das was not with the raiding party. It further appears from his evidence that he entered at the P.S. on 30.11.11 at 8.00 a.m and Sandip Sen, O/C of the P.S. came to the P.S. at 9.30 a.m. and on that day Sandip Sen had left P.S. for Kolkata.

9. From the evidence of the witnesses and materials on record it is abundantly clear that all the four Police Officers against whom a criminal case and departmental proceedings are pending were involved in the incident which took place in the dead of night of 29.11.11. A number of photographs of victim showing the marks of her injuries have been collected by the Investigating Team of this Commission. Those photographs also stand to support the case of the petitioner that she was mercilessly assaulted by the raiding Police party. The abortive attempt of ASI Dipak Das that at the time of raid he was attacked by wife of Kutubuddin with a Hansua falls flat with his own admission that his alleged injury on his right little finger was superficial in nature for which she was not examined by any doctor. Thus, his plea that he was attacked by her does not inspire any confidence of this Commission. Although S.I. Rajat Das was not in the raiding party he appears to have suppressed the fact of physical assault on her by the Police Party of Hariharpara P.S.

10. Thus, what has been discussed in the foregoing lines, the Commission comes to this conclusion that the human rights of wife of Kutubuddin was grossly violated by the Police Officers of the raiding party of Hariharpara P.S. which the other Police officer S.I. Rajat Das tried to suppress. But it is already in the evidence of the Police Officers examined before this Commission that all those four Police Officers were suspended for the incident in question and departmental proceedings are pending. It is also before this Commission that a criminal case being Hariharpara PS. Case No. 08/12 dt. 05.01.012 u/s 342/323/325/354/506/34 IPC is pending against those four Police personnel.

11. In the circumstances the Commission is inclined to award an interim compensation to the Victim. The Commission, therefore, recommends that (1) a sum of Rs. 70,000/- be paid to the Victim as an interim compensation and the same be realised from the salary of those four Police Officers namely 1. S.I. Sandip Sen, 2. S.I. Rajat Das, 3. ASI Dipak Das and 4. Constable Somnath Sikdar at the rate of Rs.25,000/-, 2. Rs.15,000/- , 3. Rs.20,000/- and Rs.10,000/- respectively.

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

sd/-  
(S.N. Roy)  
Hon'ble Member

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

sd/-  
(Justice Asok Kumar Ganguly)  
Hon'ble Chairperson

Dated: Kolkata, the 5<sup>th</sup> June, 2012

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

Sd/- (05/06/2012)  
(J.Sundara Sekhar)  
Secretary & CEO