

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

1208/WBHRC/Com/11-12

Date : 17.01.13

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 filed by one Manowara Bibi before the Commission. The petition was received on 06.02.12 and the Commission took cognizance of the allegations made in the said petition against CID Police Officers, Medinipore. It was alleged in the said petition that while her husband Motiur Rahaman was in the Police custody, the IO and other Police officers crashed the middle finger of his left hand. Her husband was also assaulted by the Police officers on different parts of his body, it was further alleged. It is also stated in the petition that when her husband was produced before the Court of Ld. ACJM, the injuries of her husband were shown to him for which the Ld. ACJM issued show cause notice upon the concerned Police officers.

2. After taking cognizance, DG of this Commission was directed to cause an enquiry and submit his report. Accordingly the report was submitted.

3. On perusal of the said report, the Commission examined Sri Sisir Roy Dy. S.P. Coastal Police who was Dy. CID WB at the relevant point of time and Tirthankar Sanyal, Inspector CID, WB. During his examination his attention was drawn to the order of the Ld. ACJM Haldia dt. 29.12.11 wherefrom it appeared that Ld. Magistrate noticed some visible injuries on the hand of the accused person for which Ld. ACJM wanted explanation from the IO but the

IO remained silent. Accordingly Ld. ACJM directed the IO to show cause as to why contempt proceedings should not be initiated against him. At this, Sri Sisir Roy stated before this Commission that he was not aware of the order passed by the Ld. ACJM dt. 24.12.11. Similarly the evidence of Motiur Rahaman, the alleged victim and the husband of the petitioner made before the Investigation Wing of this Commission was drawn to the notice of the witness wherein Rahaman stated that on 16.12.11 at about 10.30 p.m. Sisir Roy and others had assaulted on his face, back and legs and he (Sisir Roy) had crushed his left hand nails and middle finger under the leg of his chair to get his confessional statement. Sisir Roy denied that he had assaulted Motiur Rahama. Thereafter the attention of the witness was drawn to the medical report in the file and he stated as below :

“ I admit that the medical reports do indicate that injury on left hand index, right and middle fingers and breeze of the nose. The medical report also shows that the accused was referred to SSKM Hospital for treatment and was also sent for ECG. The medical report also shows that the accused persons was treated continuously for more than two weeks”

The medical report for the treatment of Motiur Rahaman in Haldia Sub Divisional Hospital on 22.02.12 wherein he was ultimately advised for removal of nail of left hand index finger. But Sisir Roy stated that he does not know whether the injuries were serious or not. The attention of the witness was also drawn to the evidence of the petitioner, Manowara Bibi made before the Investigation Wing of this Commission wherein she stated that when she met her husband in Haldia Court on 29.12.11 when her husband stated about the injuries on his left hand fingers caused by the CID officers. At this the witness stated that he had no comments in the matter. The witness denied all the imputations made in the report of the ADG of this Commission, as he then was. It is admitted by him that Motiur Rahaman was in CID custody from 14.12.11 to 28.12.11. Ultimately he stated that he came to learn that the accused person sustained injuries from a door hinge while he remained in CID custody.

4. Tirthankar Sanyal was the IO of the case in which Motiur Rahaman was an accused. He admitted that when Motiur Rahaman was produced before the Court on 29.12.11 after police custody, he did not point out the serious injuries on the left middle finger to the Magistrate, but, it was admitted by him that the accused pointed out his injuries before the court alleging that he was physically and mentally tortured during Police remand. It is again in his evidence that the Ld. ACJM had inspected the accused and noted some visible injuries in his hand and directed to show cause as to why contempt proceedings should not be initiated against Sri Sanyal. In reply to the show cause Sri Sanyal stated before the Ld. ACJM that the accused got his middle finger injured accidentally in a door hinge while in CID custody. He denied to have assaulted Motiur Rahaman during Police custody.

5. After considering the evidence of those two witnesses as stated above, it appears that they wanted to establish that the explanation of the IO that the accused Motiur Rahaman had sustained injuries in his left middle finger during Police custody accidentally at the door hinge had been accepted by the Ld. ACJM, Haldia. The ADG & IGP, as he then was, in his report stated "The Ld. ACJM had accepted IO's reply (P-I09)". But on scrutiny there appears nothing at page No.109 in the file of Investigation Wing that the Ld. ACJM had accepted the explanation of the IO that the victim sustained injuries accidentally at the door hinge while he was in Police custody. A copy of the order of the Ld. ACJM dt. 18.01.12 appearing at page no. 109 of the file of Investigation Wing rather goes to show that the prayer for recording statement of witness u/s 164 Cr.P..C was accepted by the Ld. ACJM. But, at the same time, it is also true that there is no document before the Commission to show that the Ld. Magistrate had not pursued the matter in respect of the injuries caused to the accused, although, the victim consistently maintained that his injuries were caused while he was in Police custody. There is also no denying of the fact that the said injuries of the victim were not caused at police custody, although, it is claimed by the Police authority that the injuries of the victim were caused accidentally. In any case the Police authority cannot shirk their responsibility as regards the injuries on Motiur Rahaman, the husband of the petitioner Monwara Bibi

which were caused while he was in Police custody. It appears from the medical papers submitted before the Commission that the prolonged treatment for the injured finger of the husband of the petitioner went on even at SSKM hospital and ultimately removal of stump from index finger had to be made.

6. Thus, it is clear from the above discussions that the human rights of Sk. Motiur Rahaman were blatantly violated while he was in police custody and there is stringent observation of the Ld. Magistrate in his order dt. 29.12.11 when the husband of the petitioner was produced before him.

7. The Commission, therefore, recommends that a sum of Rs. 50,000/- be paid to the victim Sk. Motiur Rahaman, the husband of the petitioner as compensation for the violation of his human rights at Police custody.

8. 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

Date: Kolkata, the 17<sup>th</sup> January, 2013

---

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

Sd/- (17/01/2013)  
(J. Sundara Sekhar)  
Secretary & CEO