

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.134/WBHRC/COM/2010-2011

Date : 05-10-2012

P r e s e n t

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

The Commission received a complaint from one Santosh Kumar Rana, Vill – Banshyamnagar, P.O.Choto Banshyamnagar, P.S.Pathar Pratima, Dist – South 24 Parganas alleging that her daughter, aged 15 years, was gang raped on 10-4-2010 by two miscreants, viz., Bidesh Gole and Chandan Gole. The girl was seriously injured and lost her consciousness. When she regained consciousness, she picked up her clothes and was crying. At that time Tapan Gole, uncle of Bidesh Gole and another person appeared, carried her in their motor bike and left her near her home. They also threatened her that in case she gave out what had happened serious consequences would follow.

2. It is also in the complaint that they first consulted a quack doctor and started initial treatment. The next day i.e. 11-4-2010 the complainant's wife

took her daughter to Pathar Pratima P.S. There she informed everything to the O.C. who got certain blank papers signed by them and the duty officer recorded only a G.D.E. (no.490 dt.11-4-2010.) The police officers also assured them to take all necessary action. When her daughter wanted to go to hospital, the police officers discouraged and said that there was no need to go hospital and sent them back home. Next day on 12-4-2010 the complainant and his wife again took their daughter to the Police Station. There A.S.I. Hiranmoy Chakraborty abused them and threatened to put them in the lockup and drove them out informing that notice for a meeting at the Thana had been sent for working out a compromise. Accordingly, the complainant came back home and after reaching home he got the notice from the Police Station intimating that a sitting would be held on 14-4-2010 in the Police Station for working out a compromise. Since the condition of the victim girl deteriorated, the complainant consulted the doctor of Pathar Pratima Hospital on 13-4-2010 and the doctor advised that her daughter should be admitted in a hospital. Accordingly, the complainant took his daughter to Kakdwip Sub Divisional Hospital on 14-4-2010 where the doctor, seeing the condition of his daughter, admitted her in the hospital. The victim of the gang rape, remained in the hospital from 14-4-2010 to 19-4-2010. It has been further stated in the complaint that in the

hospital twenty-two bottles of saline and a large number of medicines were prescribed. The complainant further alleged in his petition that pressure was brought upon him to accept a compromise with the offenders and he was also allegedly threatened by the police that in case he did not accept compromise he would be implicated in false cases. It was further alleged in the complaint that on 05-5-2010 accused Tapan Gole and Basudeb Mondal came to their house and threatened to kill them. The complainant prayed for justice and stern action against the delinquent police officials.

3. The Commission took cognizance of the matter and directed Superintendent of Police to submit a report in the matter. It was specified by the Commission that the enquiry should be conducted by an officer not below the rank of Addl.S.P. Supdt. of Police, South 24 Parganas forwarded the report submitted by Addl. Supdt. of Police (Rural), South 24 Parganas.

4. In the report of Addl. S.P. (Rural), South 24 Parganas it was confirmed that Bidesh Gole and Chandn Gole had raped the daughter of the Petitioner on 10-4-2010. Thereafter, she was left unconscious and when she awoke, she saw that she was lying near a river. At that time Tapan Gole uncle of Bidesh Gole and one Naresh Ch. Bhuinya saw her and they dropped her near her house. At that time Tapan Gole and Naresh Ch. Bhuinya threatened her if she told the fact to anybody they would teach her a lesson.

Her mother and sister rescued her from the spot. It is further stated in the report of the Adl.S.P. that on the basis of a Court complaint Pathar Pratima P.S. Case No.46 dt.03-6-2010 u/s 363/366/376/120B IPC was started. The principal accused Bidesh Gole was arrested. Prayer was submitted before the Ld. Court for changing the section 376 IPC to 376(G) IPC and efforts were being made to apprehend Chandan Gole and other accused persons. However, Adl.S.P. clearly stated in his report that the allegation regarding collusion between police officers of Pathar Pratima P.S. and accused persons could not be substantiated during enquiry.

5. The Commission considered the report of the Adl.S.P.(Rural), South 24 Parganas and found that serious allegations made in the complaint about conduct of police officers of Pathar Pratima P.S. have not been adequately and specifically dealt with in the report of the Adl.S.P. (Rural), South 24 Parganas. It is also noted by the Commission while medical report clearly indicated the sexual assault on the victim but police did not start any specific case and simply recorded a G.D. Accordingly, the Commission decided to examine Adl. S.P.(Rural), South 24 Parganas who enquired into the matter, Gopal Biswas, the concerned O.C. of Pathar Pratima P.S., Hiranmoy Chakraborty, the then ASI of Pathar Pratima P.S. and Shri Tara Sankar Pal, the then S.I. of Police, Pathar Pratima P.S.

6. Ranendra Nath Banerjee who in his capacity as Addl. S.P. (Rural), South 24 Parganas enquired into the matter and submitted report to the Supdt. of Police, South 24 Parganas was examined by the Commission. He admitted that he had not enquired into the allegations made in the complaint against the police personnel of Pathar Pratima P.S. because he claimed that when he examined the complainant such allegations were not raised before him. He could not remember when he examined the victim girl. He admitted that he did not collect personally the medical reports of the victim girl from the hospital not did he check whether the same was collected at all by the Police Station from the Kakdwip Sub Divisional Hospital. He also admitted that the allegations mentioned in the petition of complaint were not at all enquired into by him either questioning the victim girl or by consulting the medical reports of the hospital. He also admitted that the observation which was recorded in his report that there was no collusion between police officers of Pathar Pratima P.S. and accused persons was not based on any materials on record. He expressed his deep regret for his perfunctory report and tendered unqualified apology for the same.

7. Gopal Biswas who was posted as O.C. of Pathar Pratima P.S. at the material point of time was examined by the Commission. On the basis of the G.D.E. No.490 dt.11-4-2010, he stated that proceedings were initiated

u/s 107 Cr.P.C. He also admitted that a notice for a meeting to arrange a compromise was issued from the Police Station but he claimed that he had not directed to issue such notice which was done by ASI Hiranmoy Chakraborty. He stated that he had not taken any action against ASI Hiranmoy Chakraborty prior to the receipt of the notice of enquiry from the West Bengal Human Rights Commission. He also admitted that doctor's examination reports dt.14-4-2010 and 16-4-2010 show that there was history of sexual assault. He further stated that charge sheet was submitted after enquiry and the prime accused Bidesh Gole was arrested on 28-6-2010.

8. ASI, Hiranmoy Chakraborty who was posted at Pathar Pratima P.S at the material point of time stated in his evidence before the Commission that on 10-4-2010 victim girl and her mother came to the Police Station to lodge a complaint. Victim girl's mother alleged that one Bidesh Gole who used to call her mother "Dharma ma" intercepted her daughter while she was going to her relative's house and told her that he wanted to make lover with her. He diarised the matter and immediately brought it to the notice of the O.C. who in turn advised him to arrange a compromise between the two parties. Accordingly, he issued a notice but the efforts were not fruitful as there was no response from the side of the victim. On the basis of the said diary, he drew the prosecution report u/s 107 Cr.P.C. on 16-4-2010.

9. Tara Sankar Paul, S.I. of Police appeared before the Commission and he stated that he joined Pathar Pratima P.S. on 19-5-2010 whereas incident of rape occurred on 10-4-2010.

10. From an analysis of the evidence of the witnesses and the materials on record, it is absolutely clear that two miscreants Bidesh Gole and Chandan Gole raped a 15 year old girl on 10-4-2010 and the police officials of Pathar Pratima P.S. tried their very best to ensure that no action was taken against the accused persons. On the next day of the sexual assault of the girl, the complainant's wife took the victim girl to the P.S. but nothing was done excepting recording a G.D. entry being No.490 dt. 11-4-2010 which gave out an absurd story that one Bidesh Gole intercepted the victim girl while she was going to her relative's house and told her that he wanted to make lover with her. In fact, the Commission in course of examination of Ranendra Nath Banerjee, the then Addl.P.S. (Rural), South 24 Parganas put the following question to the witness : -

“Q :-Would you believe as a senior police officer that petition of complaint shows a clear incident of gang rape but the complainant would go to the Police Station and only lodge a G.D.?”

Ans :- Normally, in such a case merely G.D. will not be made by the victim.”

11. Hiranmoy Chakraborty, the then ASI of Pathar Pratima P.S. who recorded that very G.D. Entry on 11-4-2010 also admitted in his evidence that it is not believable that a victim girl of gang rape will go to the Police Station along with her mother and simply would lodge a diary that the wrong doer just wanted to make love with her.

12. It is also in the complaint of petition that when the victim girl was taken to the Police Station by her mother, they met the Officer-in-Charge who got certain blank papers signed by them and the ASI, Hiranmoy Chakraborty merely recorded a G.D. entry. Even after recording such a outlandish G.D., police officials of Pathar Pratima P.S. arranged for a sitting between the accused persons and the complainant to workout a compromise and for that purpose a meeting was called in the Thana on 14-4-2010. The then O.C., Gopal Biswas tried to shift the blame for convening the meeting for working out a compromise to ASI, Hiranmoy Chakraborty by stating in his evidence that he had not directed to issue such notice which was done by ASI, Hiranmoy Chakraborty. But ASI, Hiranmoy Chakraborty in his evidence clearly stated that he was advised by O.C. to arrange a compromise between the parties and therefore, he issued a notice. O.C. Gopal Biswas stated that he had submitted a report against ASI, Hiranmoy Chakraborty for his conduct. He produced an unsigned copy of the alleged incident which

was sent to the Addl.S.P. On perusal of the report, Commission noted that the O.C. had made no clear observation against the conduct of ASI, Hiranmoy Chakraborty.

13. Considering the gravity of the offence, the Commission while taking cognizance of the matter directed that the matter should be enquired by an officer not below the rank of Addl. S.P. Ranendra Nath Banerjee, then posted as Addl.S.P., enquired into the matter but he was utterly callous and negligent in preparing the report. When the Commission directed a senior officer to personally enquire into the matter, he not only did not realize the gravity of the alleged offence but produced a misleading report shielding the officers of the Pathar Pratima P.S. He made a bland observation in his statement that allegation of collusion between the offenders and the police officials of Pathar Pratima P.S. had not been substantiated but he admitted in his evidence that the said observation was not based on any materials on record. He further admitted in his evidence that the allegations in the petition of complaint were not at all enquired into by him either by questioning the victim girl or by consulting the medical reports of the hospital. He also admitted in his evidence that he did not examine ASI Hiranmoy Chakraborty in spite of there being a specific allegation against him in the petition of complaint.

14. Thus, all these three police officers, viz., Ranendra Nath Banerjee, the then Addl. S.P. (Rural), South 24 Pgs., Gopal Biswas, the then O.C. of Pathar Pratima P.S. and ASI, Hiranmoy Chakraborty who was posted at Pathar Pratima P.S. at the material point of time are guilty of gross dereliction of duty and their negligent conduct resulted in gross violation of Human Rights of the victim girl, where a girl of 15 years had been gang raped in a brutal manner and when the victim girl and her parents approached the Police Station, all efforts were made by the police officials to suppress the story of the crime and instead put every undue pressure on the victim girl and her family for working out a compromise with the offenders. In the context of the growing curve of crimes against women in the State, the Commission feels that stringent punishment should be accorded to the delinquent police officials.

15. Accordingly, the Commission recommends that

- i. Disciplinary proceedings immediately be started against Ranendra Nath Banerjee.
- ii. Disciplinary proceedings immediately be started against S.I. Gopal Biswas and he be placed under suspension with immediate effect.

- iii. Disciplinary proceedings be immediately started against ASI Hiranmoy Chakraborty and he be placed under suspension with immediate effect.
- iv. a. Compensation to the tune of Rs.1,00,000/- (Rupees one lakh) be provided to the victim girl.
- b. Recoveries may be made @ Rs.25,000/- each from Ranendra Nath Banerjee, Addl.S.P. and S.I. Gopal Biswas and @ Rs.20,000/- from ASI Hiranmoy Chakraborty.
16. The Government should intimate the Commission about the action taken or proposed to be taken on the recommendations within a period of two months from the date of communication.

sd/-
(S.N. Roy)
Member

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

sd/-
(Asok Kumar Ganguly)
Chairperson

Dated Kolkata, the 05th October, 2012.

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

Sd/-

(J.Sundara Sekhar)
(05/10/2012)
Secretary & CEO