

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.109/WBHRC/COM/2012-2013

Date : 24-8-2012

P r e s e n t

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|----|--------------------------------|---|-------------|
| 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 Shri Ranjit Banerjee, 398/1/A, Bally View Apartment, G.T. Road, P.S. Bally, Dist-Howrah alleging that on 05-4-2012 night when he and his friend, Raj Bhattacharya were going from Salt Lake to Barasat by their car, S.I. Tapas Ghosh and others of Barasat P.S. stopped them and started abusing them and they were accused of drinking on the road. They alleged that S.I. Tapas Ghosh and others demanded a lump sum amount of money right there. Since they could not provide the money, they were arrested and taken to Barasat P.S. and kept in the police lockup.

2. The Commission took cognizance of the matter and directed A.D.G. and I.G.P. of this Commission to cause an enquiry and report. A.D.G. & I.G.P. of this Commission accordingly submitted his report.

3. The enquiry conducted by A.D.G. revealed that on 05-4-2012 night the complainant, Ranjit Banerjee a film actor and dancer and his friend Raj Bhattacharya, a film actor were going to Salt Lake from Barasat at about midnight. They stopped their car near Government College, Barasat to attend to call of nature. S.I. Tapas Ghosh and S.I. Ashis Dolui along with police force of Barasat P.S. who were on night patrol duty charged the petitioner and his friend stating that they were drinking alcohol on the road and searched them and their car but found no alcohol. Even then S.I. Tapas Ghosh arrested them, took away their mobile phones, wrist watches and money bags and brought them to Barasat P.S. and kept them in the lockup in spite of their protests that they were innocent. S.I. Tapas Ghosh neither prepared any arrest memo at the place of arrest nor sent the arrested persons for medical examination as required. The S.I. also did not inform or allow the victims to inform their family members about their arrest.

4. It was further revealed in the enquiry of the A.D.G.& IG P of this Commission that Tapas Ghosh had subsequently shown on record the arrest at 04.45 hrs on 06-4-2012 u/s 34 Police Act near Govt. College, Barasat stating that the arrested persons were drunk and causing disturbances to the passers by on the road. In the arrest memos prepared by him later at the

Police Station, the S.I. did not obtain the signature of the arrested persons stating that they refused to sign. As asked by S.I. Tapas Ghosh, the duty officer S.I. Mantu Chandra Mondal made GDE No.450 dt.06-4-2012 showing the arrests as above and made GDE No.453 dt.06-4-2012 showing their release on bail. It further transpired from the enquiry that S.I. Mantu Chandra Mondal had himself secured a Muhuri Md. Mujibar Rahaman, obtained bail bond from him and signatures of the arrested persons on a white paper which was later filled up as a P.R. Bond. The said S.I. had collected Rs.1500/- from the petitioner through muhuri. The said S.I. had later sent non FIR Prosecution Report No.201/12 dt.06-4-2012 u/s 34 Police Act against arrested persons for causing public nuisance without citing any public witness to prove the offence.

5. The enquiry also revealed that the muhuri himself had prepared the guilty plead petition but did not obtain signatures from the arrested persons. Vakalatnama was also prepared similarly. Both were signed and filed by the Advocate, Aslamuzzaman. Based on them, the Court had convicted the accused persons and fined them Rs.50/- each which was paid by the muhuri. ADG & IGP found that the petitioner and other two arrested persons were completely ignorant about their prosecution, pleading guilty and payment of

fine on their behalf by the Advocate and muhuri-all arranged by the duty officer S.I., M..C. Mondal himself.

ADG & IGP concluded that S.I., Tapas Ghosh, S.I., Ashis Dolui and S.I. M.C. Mondal had misbehaved with the petitioner and illegally arrested and detained them in Barasat P.S. lockup on the night of 05/06-4-2012 and implicated them in a false case by misusing their official position.

6. The Commission considered the report of the ADG & IGP of this Commission and decided to examine the following officials :-

- i. S.I. Tapas Ghosh
- ii. S.I. Mantu Ch. Mondal
- iii. S.I. Ashis Dalui

all of Barasat P.S.

7. S.I. Tapas Ghosh in his evidence before the Commission stated that while he was on R.T. duty he found three persons Ranjit Banerjee, Raj Bhattacharya and driver Tapas Barui at 5 a.m. on 06-4-2012 talking amongst themselves using slang language near Barasat. He then arrested the said persons, searched them, seized their mobile phones and money bags and brought to the Barasat Police Station. He however admitted in his evidence that he could not remember the number of the vehicle in which he was performing the R.T. duty. He also could not remember the name of the

driver who was driving the vehicle, although, the incident took place only 3/4 months ago. On returning to the P.S. he did not record the incident in G.D. and also did not mention the incident in P.R./NCR which was subsequently submitted. He could not produce any document to establish that on the night of 5/6-4-2012 he had been on patrol duty. On returning to the Police Station with the arrestees, he did not record any G.D. He simply mentioned the fact to the duty officer who recorded Barasat P.S. G.D.E. No.450 dt.06-4-2012.

8. S.I. Mantu Chabdra Mondal stated in his evidence before the Commission that on the date of the incident he was duty officer of Barasat P.S. He further stated that on 06-4-2012 at about 5.50 a.m. S.I. Tapas Ghosh along with two constables brought three persons and kept them in front of the police lockup. According to him S.I. Tapas Ghosh reported that those three persons were disturbing the members of the public near Government College but he clarified that Tapas Ghosh did not tell him the manner and the type of disturbances created by those persons. On the basis of Tapas Ghosh's report he made the G.D. Entry No.450 dt.06-4-2012. He further stated Tapas Ghosh instructed him that if the accused persons wanted to take bail they might be granted bail on production of a guarantor. He also stated that one muhuri came to the Police Station on his own and that muhuri

contacted those three persons and stood as guarantor and the bail was granted to those three accused persons. Those three accused persons were released on furnishing their personal bonds.

9. S.I.Ashis Dalui stated in his evidence that in the early morning of 06-4-2012 he was sleeping in the Barrack of the Police Station on the 1st floor of the P.S. He came down and found one Raj Bhattacharya along with two other persons brought to the P.S. by S.I. Tapas Ghosh. He further stated that he came to know that all these three persons were creating public nuisance near Govt. College.

10. On consideration of the enquiry report of ADG & IGP, WBHRC, evidence of the witnesses and materials on record, it is clear that S.I. Tapas Ghosh arrested Ranjit Banerjee, Raj Bhattacharya and driver Tapas Barui without sufficient reason. The complainant stated that S.I. Tapas Ghosh charged them stating that they were drinking alcohol on the road, searched them and their car and even though no alcohol was found they were brought to Barasat P.S. and kept them in the lockup in spite of their protest that they were innocent. These allegations were substantiated in the enquiry conducted by ADG & IGP of this Commission. It is also apparent form the evidence of S.I. Tapas Ghosh that he was acting with an ulterior motive. He claimed to be on R.T. duty but he could not produce any document to

substantiate his claim. He could remember neither the number of the vehicle nor the name of the driver who was driving the vehicle although the incident was only 3/4 months old. The accused persons were arrested on the ground of creating nuisance and he claimed that those three accused persons were talking amongst themselves using slang language at 5 a.m. in the morning where there was an assembly of 30/40 people at that place yet he could not mention any name of a public witness to the duty officer who recorded the G.D. In the arrest memo he did not take the signature of a local witness where the accused persons allegedly causing indecent behaviour and public nuisance in front of 30/40 people. Instead, S.I. Tapas Ghosh had obtained the signature of one Rajeev Biswas who runs a computer shop near Barasat.

11. The enquiry report conducted by ADG & IGP also establishes that S.I. Mantu Chandra Mondal misused his official position in connivance with a muhuri and lawyer arranging for the release of the accused persons on P.R. Bond and preparing their guilty plead petition in the Court without even the knowledge of alleged accused persons.

12. From what has been discussed above, it is apparent that S.I. Tapas Ghosh illegally arrested those three persons with ulterior motive. He had misbehaved with the petitioner and his associates, illegally arrested them and detained them in the Barasat P.S. lockup on the night of 5/6-4-2012,

implicating them in a false case by misusing his official position. S.I. Mantu Chandra Mondal was also guilty of preparing false P.R. Bonds and arranging for the guilty plead petition of the alleged accused persons. Thus, the conduct of these two officers is reprehensible and they deserve to be punished for their deliberate offences. Particularly, S.I. Tapas Ghosh had interfered with the liberty of three citizens with ulterior motive and is thus guilty of gross violation of human rights of the three victims. On the other hand, S.I. Mantu Chandra Mondal was an accomplice in this heinous act. The Commission however, does not find any thing adverse against S.I. Ashis Dalui since he had no direct involvement in this incident of arrest and subsequent developments.

13. The Commission, therefore, recommends :

- i. Disciplinary proceedings be started against S.I. Tapas Ghosh with immediate effect.
- ii. Disciplinary proceedings be also initiated against S.I. Mantu Chandra Mondal with immediate effect.
- iii. Compensation to the tune of Rs.20,000/- to each of the three victims, viz, Ranjit Banerjee, Raj Bhattachary and Tapas Barui be paid immediately.

iv. Out of this total compensation of Rs.60,000/- Rs.30,000/- be recovered from the salary of S.I. Tapas Ghosh.

14. 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
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Date: Kolkata, the 24th August, 2012

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

Sd/- (24/08/2012)
(J. Sundara Sekhar)
Secretary & CEO