

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.390/WBHRC/Com/2010-2011
and
No.28/WBHRC/Com/10-11

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

A raped Victim submitted a complaint to the Commission which was received in the office of the Commission on 27th July, 2010 alleging that certain miscreants raped her on 14-4-2010 at 8.30 P.M. She further stated in her complaint that she duly informed Jalangi P.S. in details but no action was taken by the concerned Police Station. Ultimately, she had to approach the Court of Ld. C.J.M., Berhampore and instituted a case u/s 376/511/34 I.P.C. and Ld. Court directed the Jalangi P.S. to treat her complaint as F.I.R. and to take appropriate action in the matter. She further alleged in her complaint that the Court had sent this order vide Memo No.600/2010 dt.10-5-2010 but the police did not take any action on the Court's order. Under the circumstances, she approached the Commission for taking appropriate action

against the culprits who according to her had some nexus with the officials of Jalangi P.S..

2. The Commission took cognizance of the matter and directed Supdt. of Police, Murshidabad to cause an enquiry and submit the report. The S.P., Murshidabad got the enquiry done by S.D.P.O., Domkal and forwarded his report to the Commission. S.D.P.O. reported that a specific case was registered vide Jalangi P.S. Case No.373/10 dt.17-6-2010 u/s 376/511/34 IPC on the Court complaint of the raped Victim duly forwarded by the Ld.CJM, Berhampore vide Memo No.600/10 dt.10-5-2010 regarding the incident of rape mentioned in her petition. He further stated in his report that I.O. held several raids to secure arrest of the two accused persons but did not succeed. Ultimately, the accused persons were granted anticipatory bail on 13-7-2010. He added further that the case was under investigation. He concluded that the allegation of remaining inactive on the part of Jalangi P.S. is fabricated.

3. On consideration of the report of the S.D.P.O. and materials on record, the Commission decided to examine the following police officials :-

- i. Subir Chatterjee, A.C. (HQ), Asansol Commissionerate and
- ii. Debasish Sarkar, O.C., Lalgola P.S., Dist – Murshidabad.

4. Subir Chatterjee in his evidence before the Commission stated that he had enquired into the matter and submitted his report when he was posted as S.D.P.O., Domkal. He admitted that it was stated in the petition that the petitioner went to the Police Station and submitted a written complaint there but on enquiry, he did not find any complaint filed before the Police Station. He also admitted that the Court complaint was shown to have been sent to Jalangi P.S. vide Memo No.600/10 dt.10-5-2010. But the said Court complaint was received only on 17-6-2010 and immediately F.I.R. was registered. He further stated in his evidence that I.O. had directed the victim for medical examination on 06-12-2010 but she refused such medical examination.

5. Debasish Sarkar stated in his evidence before the Commission that he was the O.C. of Jalangi P.S. at the material point of time. He further stated that he could not start the case early as the Court complaint was not put up before him by the duty officer. He also stated that he was not aware that the Court order dt.14-5-2010 was received by the Jalangi P.S. on 14-5-2010. He further stated he was transferred from Jalangi P.S. in September, 2011 and he could not recollect whether any arrest was made in this case.

6. From the consideration of the facts and circumstances of the case, the enquiry report and the materials on record it is clear that the petitioner was

raped on 14-5-2010 but the police instituted the case only on 17-6-2010. It is also to be borne in mind that the petitioner had complained that she had approached the Police Station with all the necessary details but since police did not take any action, she had to approach the Court of Ld. C.J.M., Berhampore on 10-5-2010 and on the same date the Court complaint with C.J.M.'s order was despatched to Jalangi P.S. but again no action was taken by the police and thereafter she had to approach the Commission. The Commission directed the D.G. of the Commission to verify when the Court complaint sent by the Court of Ld. C.J.M. vide Memo No.600/10 dt.10-5-2010 was actually despatched and when it was received by Jalangi P.S. D.G. of this Commission reported that the Court S.I. of Sadar Court, Berhampore confirmed that the Court complaint vide CJM Memo No.600 dt.10-5-2010 was despatched vide Serial No.505 dt.14-5-2010 in the Court Issue Register to O.C., Jalangi P.S. through C/176 Dilip Adhikary of Jalangi P.S. who received the same in the Court Peon Book on 14-5-2010 (P-23). C/176 Dilip Adhikary (since retired) of Jalangi P.S. had stated that he received the aforesaid Court complaint from CJM Court, Berhampore on 14-5-2010 and handed over the same to the duty officer of Jalangi P.S. on 14-5-2010 evening. As per practice, the duty officer put up the same on the same day to the O.C. for further orders. But the O.C., Jalangi P.S. had got the Court

complaint entered in the P.S. Receive Register only on 17-6-2010 and got a case registered on the same on 17-6-2010 by ASI, Nazrul Islam. Therefore, D.G. concluded in his report that “S.I. Debasish Sarkar, O.C., Jalangi P.S. is only responsible for the delay in registration of the case from 14-5-2010 to 17-6-2010.” In the backdrop of the rising curve of offences against women in the State, it is to be expected that the police officials should be prompt and duly careful in pursuing cases involving offences u/s 376 IPC. It is, therefore, clear that ASI, Debasish Sarkar is not only guilty of gross dereliction of duty but also negligent in preventing violation of Human Rights.

7. As regards the conduct of the S.D.P.O., Subir Chatterjee his enquiry report was perfunctory and he did not at all apply his mind. It is also not clear what prompted him to come to the conclusion that “the allegation of remaining inactive on the part of Jalangi P.S. is fabricated.” The bare facts of this case clearly indicate inaction on the part of the police officials of Jalangi P.S. In course of his examination by the Commission, the following question was put to him :

“Do you think that the police was prompt in starting the case and in investigation the case?”

He did not give any reply and kept mum.

8. Accordingly, the Commission recommends that
- i. Disciplinary proceedings be initiated against ASI. Debasish Sarkar, the then O.C. of Jalangi P.S., Dist – Murshidabad.
 - ii. Subir Chatterjee, the then S.D.P.O. of Domkal should be cautioned to ensure that he acts with due care and diligence while conducting enquiries in connection with the violation of Human Rights.
9. 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, 19th December, 2012.

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

Sd/- (19/12/2012)
(J. Sundara Sekhar)
Secretary & CEO