

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

450/WBHRC/Com/10-11

Date : 23.07.2012

Present :.

1. Justice Asok Kumar Ganguly .. Chairperson

2. Justice N.C. Sil .. Member

3. Shri S.N. Roy .. Member

1. This is to consider a petition filed by one Sudipta Ray in which it is inter-alia alleged that on 31.07.10 at about 10.00 a.m. when he was going to Kolkata from his house he was intercepted by two ASIs namely ASI Santanu Ghosh and ASI Parimal Dutta of Amta P.S. and they forcibly took him to the Police Station and put him in Thana Lock-up. In such a situation Samir Ray, father of the petitioner and Sri Arun Ghatal, driver of the car tried to meet the O/C of the Police Station, Sri Subhrojita Majumder but the O/C abused them in the most filthy languages and threatened to implicate them in a case under Arms Act. After two hours, the petitioner was taken out of the Thana lock-up and sent to the Duty Officer. At about 8.00 p.m., the petitioner was told that one Sitaram Sharma of Kolkata had purchased some lands through agent but documents of those lands were not proper for which the petitioner was asked to pay a compensation of Rs.15 lakhs. The petitioner tried to convince the O/C that he did not sell any property to Sitaram Sharma and Sitaram Sharma was not known to him. At that time the petitioner was physically tortured and his signature was forcibly taken on some non-judicial papers of Rs.10/-.. The O/C at that time took a bribe of Rs.70000/- from the father of the petitioner and told that the petitioner was made accused u/s 290 IPC and the petitioner was then released on personal bond at about 9.00 p.m. on

that night. Thereafter the petitioner was treated in West Bank Hospital and Siddhi Bhinayak Ayurvedic Hospital. It is also alleged by the petitioner that everyday the petitioner was being threatened from the Police station so that Rs.15 lakhs be paid otherwise he would be involved in narcotic case. On 16.08.10 at about 10.13 a.m. the petitioner received a mobile call from the O/C threatening him to pay a sum of Rs.15 lakhs within 7.00 p.m. on that evening. He has mentioned in the petition his mobile No. and the mobile No. of the O/C which are 96471 61827 and 98316 40067 respectively.

2. After receiving the complaint of Sudipta Roy, the Commission took cognizance and directed the S.P. Howrah to make enquiry and to submit report. Such report was received by the Commission and in its order dt.18.04.11, it was observed that the S.P. Howrah did not deal with the allegations made in the petition specifically for which the ADG & IGP of this Commission was directed to cause an enquiry and to submit his report within a period of four weeks from the date of communication of the order. After enquiry, the ADG & IGP of this Commission submitted his report.

3. It is stated in the report that the allegations made by the petitioner in his petition were substantiated. The relevant portion of the report reads as under :

“One Sitaram Sharma (W-7) of Salt Lake, Kolkata had purchased some land near Amta through some brokers including the petitioner, for Rs. 21,00,000/- during 2010. Later he lodged a written complaint on 12.07.2010 to O/C Amta PS against the land brokers for cheating him in the land deal by giving him some forged land documents. As no case was registered on the said complaint, he had lodged another complaint on 03.08.2010 (P-38, 39). As no case was registered on this complaint also he had lodged another complaint against the petitioner, his father and others on 21.08.2010 as asked by SI Subhrajit Mazumder, O/C Amta PS. This was registered as Amta PS Case No. 211/10 dt. 21.08.2010 u/s 419/ 420/ 466/ 467/ 468/ 120B/ 506/ 34 IPC (P-35-37).

“In view of the above complaints of Sitaram Sharma, O/C Amta PS had started demanding a huge bribe of Rs. 15,00,000/- from the petitioner Sudipta Roy over phone for amicable settlement with the complainant of the cheating case, threatening the petitioner that he would be arrested in a false case of fire arms/

dacoity/ ganja. As the petitioner did not agree to his demand, the O/C got him arrested on 31.07.2010 at about 10.00 hrs. near his house by ASI Santanu Ghosh and ASI Parimal Dutta, both of Amta PS, and kept him in PS lock-up. This was witnessed by the petitioner's driver Arun Khotel (W-8) and his friend Krishanu Mazumder (W-9). Later the O/C had physically tortured the petitioner with lathi in O/C's room in PS for allegedly cheating Sitaram Sharma in the land matter and threatened that he would be arrested in an Arms Act/ dacoity case unless he pays Rs. 15 lakhs. This was witnessed by the petitioner's father Samir Roy (W-2) and Arun Khotel (W-8).

Later on 31.07.2010, at about 2 PM, ASI Santanu Ghosh had called the petitioner's father Samir Roy (W-2) who was waiting in the PS compound and in presence of the petitioner had demanded a bribe of Rs. 1,00,000/- for release of the petitioner. After a lot of request by the petitioner and his father, the ASI had agreed for release of the petitioner if they pay a bribe of Rs. 70,000/-. Finding no alternative, the petitioner's father had borrowed Rs. 60,000/- from Amarnath Saha (W-11) of Amta by pledging a gold chain (P-40) and brought another Rs. 10,000/- from his house to the PS. In the PS compound the petitioner's father had got the money counted (thousand rupee notes sixty pieces and five hundred rupee notes twenty pieces) by Krishanu Mazumder (W-9) in presence of Arun Khotel (W-8) and sent the money in a plastic packet to ASI Santanu Ghosh who was waiting on the PS varanda. Accordingly Arun Khotel handed over the said money packet to the said ASI on PS varanda on 31.07.2010 at about 18.00 hrs. This was witnessed by the petitioner's father (W-2) and Krishanu Mazumder (W-9) who were in the PS compound only.

The ASI had gone inside the PS for checking the money received by him, returned to the varanda shortly and told the petitioner's father in presence of Krishanu Mazumder and Arun Khotel that everything would be all right after the O/C returned to the PS (as the O/C was not in the PS at that time).

Later on 31.07.2010 at about 20.00 hrs. the O/C had returned to PS and got a false GDE No. 2375 (P-18) made by ASI Parimal Dutta falsely showing that ASI Santanu Ghosh had arrested the petitioner on 31.07.2010 at 19.35 hrs. when the petitioner was creating public nuisance at Amta Cinematala. The O/C had also made ASI Parimal Dutta to write NCR No. 404/10 against the petitioner u/s 290 IPC for creating public nuisance at Amta Court on 31.07.2010 at 19.30 hrs. (P-34) and got the petitioner released on PR and Bail Bond at 20.35 hrs. vide GDE

No. 2377 (P-17). As the petitioner had contested the said case u/s 290 IPC, it is subjudice. The cheating case (Amta PS Case No. 211/10) is still under investigation.

Thus the enquiry had substantiated the petitioner's allegation that one SI Subhrajit Mazumder, O/C Amta PS had got the petitioner arrested on 31.07.2010 at 10 AM by ASIs Santanu Ghosh and Parimal Dutta, both of Amta PS, and kept him in the PS lock-up, physically tortured him with lathi in the PS, demanded and extorted a bribe of Rs. 70,000/- from the petitioner's father through ASI Santanu Ghosh of Amta PS and later got the petitioner released on bail on the same night, by falsely showing him arrested in a case u/s 290 IPC. ASI Santanu Ghosh, who had shown the arrest of the petitioner vide GDE 2375 did not prepare any Arrest Memo nor sent the petitioner for medical examination as required".

On the basis of that report the following witnesses were examined :

1. Sri Subhrojita Majukder, O/C Sankrail P.S.
 2. Sri Santanu Ghosh, ASI
 3. Sri Parimal Dutta, ASI
 4. Sri Mrinal Kanti Majumder, Addl. S.P. Lalbagh
 5. Sri Akhilesh Choturbedi, Dy, S.P. Howrah (Rural)
 6. Sri Samir Roy, father of the petitioner and
 7. Sri Subhash Roy, C.I. Amta P.S.
4. Sri Subhrojita Majumder who was the O/C at the relevant point of time of Amta P.S. stated that he did not see Sudipta Roy at the P.S. although he was there at the that time and only when a lawyer approached him for granting bail for Sudipta Roy, he came to learn that Sudipta Roy was arrested u/s 290 IPC. Immediately he told the lawyer that Sudipta Roy may be released on bail. He also stated "**I did not see any document that the petitioner was shown arrested at the P.S. in the night of 31.07.10. In case of such arrest, it was a serious mistake on my part.**" He admitted that the petitioner has been contesting the prosecution report submitted u/s 290 IPC before the court. He pleaded his ignorance about the public nuisance caused by the petitioner. He also stated that one Swapan Chakraborty forwarded the prosecution report to the court keeping him in the dark.

5. On the same day Sri Subhash Roy, CI Amta who enquired into the matter and submitted the report was also examined. He stated in his evidence that his report is not correct inasmuch as he submitted the report under pressure of senior IPS officer and he gave the said report as directed by the Addl. S.P. (Rural) Howrah over telephone and all those facts were known to Sri Samir Roy.

6. Sri Subhash Roy C.I. Amta stated in his evidence that he enquired into the matter and submitted the report. He noticed a nexus between the SDPO and the O/C Amta P.S. Subhro Majumder and O/C, Joypur P.S. Susanta Chakraborty. He complained that he was not allowed to operate freely and discharge his duty according to law. The evidence of Subhash Roy was drawn to the notice of Sri Subhrojita Majumder and he denied that there was any unholy nexus between him and SDPO.

7. Santanu Ghosh, ASI, Amta P.S. stated in his evidence that he along with ASI Parimal Dutta arrested Sudipta Roy from Cinematola as he was creating public nuisance by shouting at about 7.30 p.m. when 4/5 people assembled there. It is claimed by him that all of those 4/5 people assembled wrongfully there but he did not try to apprehend them. It is also admitted by him that **there was no independent witness to the incident of public nuisance** in which prosecution report subsequently submitted against the petitioner. He further stated that after arresting Sudipta Roy, he was brought to the P.S. and the incident was immediately informed to the O/C, Sri Subhrojita Majumder who ordered to detain him. After sometime, the said O/C told the witness to arrange for bail for which he called a lawyer who was available near the P.S. and the arrestee was granted bail. He denied the report of the ADG & IGP of this Commission that he was in arrangement of taking bribe and assaulting the petitioner at the P.S.

7. ASI Parimal Dutta who was posted at the P.S. at the relevant point of time stated in his evidence that in the night of 31.07.10, he was working as duty officer at the P.S. when the petitioner Sudipta Roy was brought under arrest by ASI Santanu Ghosh and other

members of the Police force in the evening. He made a G.D. Entry No.2375 dt. 31.07.10 on that matter and it appears from his evidence that no arrest memo was prepared. He also denied the report of the ADG & IGP of this Commission against him.

8. Sri Mrinal Kanti Majumder, SDPO at the relevant point of time stated in his evidence that he was suspended on 06.01.12 in connection with some other cases. It is again in his evidence that Sri Akhilesh Chuturbedi was the Addl. S.P. Howrah (Rural) when he was SDPO, Uluberia. The evidence of Subhash Roy, C.I. Amta that the O/C had some unholy nexus with him and Addl. S.P. was drawn to the notice and he denied the same. But it is admitted by him that during his time Subhash Roy was the C.I. Amta.

9. Sri Akhilesh Chutrubedi who was the Addl. S.P. at the relevant point of time stated in his evidence that he did not remember whether he had given any instruction to the C.I. to submit such a report. But in the next breath he also stated that he had not pressurized C.I. to submit such a report.

10. Sri Samir Roy, the father of the petitioner had accepted the report of the ADG & IGP of this Commission as true when the said report was brought to his attention and further stated that Subhrojit Majumder got his son arrested from his house when his son was going to Kolkata for treatment and both ASIs kept his son in P.S. lock up. At that time the O/C had physically tortured his son and ultimately extorted a sum of Rs. 70000/- as bribe through ASI Santanu Ghosh of Amta P.S. Subsequently, O/C Amta released his son on bail by falsely showing him arrested in a case u/s 290 IPC. The said case is being contested by the witness in the Court. It is claimed by him that neither any arrest memo was prepared nor was he sent for medical examination after his arrest. He denied any pressure, as claimed by Subhash Roy. CI. Amta, was created by senior officers to submit such a false enquiry report.

11. From the evidence discussed above it is clear that the father of the petitioner who had been examined by this Commission could not produce any cogent proof except his own oral

evidence to substantiate his claim of payment of a bribe of Rs.70000/- to the O.C through ASI, Amta P.S. But at the same time the Police personnel particularly the O/C Subhrojit Majumder and the ASI Parimal Dutta could not substantiate the ground of arrest of the petitioner for committing any offence u/s 290 IPC. Of course, it is claimed by ASI Parimal Dutta in his evidence that he was working as Duty officer at the P.S. in the night of 31.07.10 but Santanu Ghosh claimed in his evidence, "I along with Parimal Dutta arrested the petitioner Sudipta Roy."

12. It is in the evidence of ASI Santanu Ghosh that the petitioner created public nuisance by shouting when 4/5 people assembled there and while the petitioner was apprehended the other 4/5 persons escaped. Again he stated that there was no independent witness to the incident. Thus the Commission does not place any credence on the evidence of Santanu Ghosh that the petitioner created public nuisance by shouting. On the other hand Samir Roy the father of the petitioner stated in his evidence that ASI Santanu Ghosh had arrested his son from near his house in the night of 31.07.10.

13. There was an abortive attempt made by Sri Subhrojit Majumder in his evidence as if he was absolutely ignorant about the incident but the same ended in fiasco when he stated that the matter came to his notice when a lawyer approached him for bail of Sudipta Roy who was arrested u/s 290 IPC. He stated further that he did not see any documents to the effect that the petitioner was shown arrested at the P.S. in the night of 31.07.10 and it is admitted by him "in case of such arrest it was a serious mistake on my part." It is again in his evidence that the prosecution report u/s 290 IPC against the petitioner was forwarded to the Court by Sri Swapan Chakraborty, one of his subordinates, suppressing the said fact from him.

14. Thus, it is clear that Sri Subhrojit Majumder had played a dubious rule in the arrest and release of the petitioner. It is again a pointer to note that the petitioner is contesting the said prosecution report u/s 290 IPC before the Court which is ordinarily very uncommon in

practice. Admittedly there was no independent witness to prove the claim of the prosecution that the petitioner had caused public nuisance. It is also queer to note that the two ASIs could not arrest or could not give any name of any of the other persons with whom the petitioner was allegedly making quarrel on the night of occurrence. Thus, it is very much indicative that those two ASIs namely Santanu Ghosh and Parimol Dutta had arrested the petitioner at the instance of the O/C, Sri Subhrojita Majumder. Even the arrest memo was not admittedly prepared.

15. The role of Sri Subhash Roy, CI Amta who held the enquiry is also not above reproach inasmuch as he failed to establish that he submitted incorrect report before the Commission under pressure from his superior officers. In order to substantiate his claim he stated that Samir Roy, father of the petitioner was in the know of the said facts that he submitted the report under pressure from his superior officer which was denied by Samir Roy in his evidence. Thus, Sri Subhash Roy, CI, Amta appears to be guilty of not performing his duty properly by sending the proper report to this Commission for which the Commission had to get the enquiry done by its own investigating team.

16. In order to draw conclusion it has been established that the human rights of the petitioner Sudipta Roy was grossly violated by the acts of the O/C and two other ASIs namely ASI Santanu Gohos and ASI Parimal Dutta. Subhas Roy, CI Amta is unbecoming of a public servant by sending an incorrect report claiming to have been pressurized by his superior officers

17. In view of what has been discussed in the foregoing lines the Commission recommends that :

1. Sri Subhash Roy, the then CI, Amta, may be cautioned in future and to act properly as a public servant in future and also in sending proper enquiry reports free from any pressure.

2. departmental proceedings be initiated against Sri Subrajit Majumder, at present posted as O/C Sankrail P.S.
 3. departmental proceedings be initiated against ASI Santanu Ghosh
 4. departmental proceedings be initiated against ASI Parimal Dutta.
 5. a Sum of Rs. 50,000/- be paid to the petitioner Sudipta Roy as compensation.
18. 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)
Member

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

sd/-
(Justice Asok Kumar Ganguly)
Chairperson

Dated: Kolkata, the 23rd July, 2012

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

Sd/- (23/07/2012)
(J. Sundara Sekhar)
Secretary & CEO