

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION,
THIRUVANANTHAPURAM**

Present: Mr.Justice N.Dhinakar, Hon'ble Chairperson

Dated this the 12th October, 2009.

H.R.M.P.No.469/2008

Petitioner : P. Sathyadas,
K.P.N. Mandiram, Thundathil,
Airooppara, Thiruvananthapuram..

Respondent :

ORDER

The complaint of the petitioner is that as he was arrested by the Assistant Sub Inspector of Police, Mangalapuram, on 16..2..2005 on the basis of a warrant issued by the Court he was assaulted and later he was taken to Government Taluk Hospital, Chirayinkizh, where he was treated and then produced before the Judicial Magistrate Court and the Magistrate found that the warrant was wrongly issued against him and released him.

The Chief Investigation Officer (CIO) attached to this Commission was asked to enquire and file a report.

In the report CIO stated that he has examined the petitioner as W.1, Sub Inspector of Police, Mangalapuram as W-2, Circle Inspector of Police, Attingal, as W.3 and along with the report he has annexed Ext. A to D. It is stated in the report that on 7..2..2005, the Police Constable, Balachandran of Mangalapuram Police Station visited the petitioner's house and informed that a warrant is pending. On 16..2..2005 the Assistant Sub Inspector Vijayakumar and the Police Constable Balachandran went to the house of the petitioner at 4 a.m. and the petitioner

attempted to run away from the spot after pushing the Assistant Sub Inspector and while doing so he fell down and sustained minor injuries on his forehead. It is also stated that he was brought to Govt. Taluk Hospital where first aid was given and a case was registered against him and produced before the JFMC Attingal at 3 P.M. The petitioner was released from the Court and the case is pending trial. In the report it is also stated that the petitioner informed him that he has filed a complaint before the District Court against the JFMC II and that he did not produce any record to support his version.

The complaint and the report therefore show that the petitioner sustained some injuries at the time of arrest. The Police version is that petitioner has sustained injuries when he fell down while he was about to be apprehend. Whereas the case of the petitioner is that the Police assaulted him and in support of the said plea he produced an O.P. ticket issued by the Govt. General Hospital, Thiruvananthapuram. In the O.P. ticket it is mentioned that the petitioner was examined on 18..2..2005 and he has alleged before the Medical Officer that the said injuries are on account of the assault by the Police on 16..2..2005. The doctor who examined the petitioner found two injuries near the right eye and above the right eyebrow. He also found some abrasions and contusions on the face of the petitioner.

In the report the CIO has stated that Vijayakumar, Assistant Sub Inspector of Police and Balachandran Nair, Police Constable, are no more and they died while in service. According to the report the then Sub Inspector Anil Kumar, who is now a Circle Inspector, acted in good faith.

I perused the report of the CIO and the statements recorded by him. Though the petitioner (W1) has stated that he went to the General Hospital, Thiruvananthapuram, on 18.2.2005 and took treatment for the assault by the Police the Sub Inspector was not questioned on the said allegation. The documents issued by the General Hospital, Thiruvananthapuram were also not considered by the CIO when he prepared the report. The Sub Inspector, of course, denied his presence when the petitioner was arrested by the Assistant Sub Inspector but the mere denial by the said Sub Inspector cannot be a reason for the CIO to come to a conclusion that the “action of the Sub Inspector was in good faith”. In any event the allegations made by the petitioner have to be considered in the background of the medical record issued by the General Hospital, Thiruvananthapuram, and I therefore feel that an enquiry by a senior police officer not below the rank of a Deputy Superintendent of Police is required. The officer who is to conduct enquiry will be nominated by the Superintendent of Police (Rural), Thiruvananthapuram, and the said officer will give opportunity to the parties concerned for adducing evidence and thereafter the officer will pass appropriate orders according to law. It is also made clear that I refrain from making any comments about the alleged complaint said to have been given by the petitioner to the District Court against the Magistrate as it is in the exclusive jurisdiction of the Court.

With the above direction the petition is closed.

Justice N. Dhinakar,
Chairperson.