

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

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

Dated this the 23rd April, 2010.

H.R.M.P.No.551 of 2010

Petitioner : S. Prabha, Indeevaram,  
Ananda Nagar, House No.23,  
Kudappanakkunnu,  
Thiruvananthapuram.

Respondent :

**ORDER**

The complaint of the petitioner is that her brother Ajayakumar was taken into custody by the Police from Kuttichal at 1.30 p.m. on 9-2-2010 and his whereabouts are not known to her.

On the above complaint the Chief Investigation Officer (CIO) of this Commission was asked to enquire and to file his report and accordingly he filed his report after examining the petitioner and her brother Ajayakumar (the victim) as witnesses 1 and 2 as well as the Police officials as witnesses 3 to 8 and their statements are annexed to the report.

On going through the report I find that according to the CIO the petitioner's (W1) brother (W2) was taken into custody by the Police when he was at Kuttichal. In the statement the petitioner (W1) has stated that her brother was taken by the Police on the after noon of 9-2-2010 and at 6.00 p.m. she was asked to go over to the office of the Crime Branch, Ernakulam, and though she wanted to contact her brother his mobile phone was found switched off. According to her, at 2.00 p.m.

on 10-2-2010 her brother rang up and told her that he is being detained at Valiyamala Police Station and therefore, she and her other relatives reached Valiyamala Police Station and only then the Police released her brother.

W2, petitioner's brother Ajayakumar, (who is the victim in this case) had given a statement stating that while he was standing at Kuttichal junction along with his relatives at 1.00 p.m. on 9-2-2010 he was taken in a white Zen car by the Police and he was taken to Valiyamala Police Station where his mobile phone and driving licence were seized and that he also knows the identity of the Police officials who took him into custody and they are Police officials working with the Circle Inspector (C I) of Police, Nedumangad. In his statement he has further stated that on the morning of 10-2-2010 he suffered chest pain and was taken to the Government Hospital, Nedumangad by Valiyamala Police where he was kept under observation for an hour and that he was taken back to Valiyamala Police Station and was released at 4.30 p.m. on 10-2-2010.

W3, a Police Constable working in the temple theft squad under the C I of Police, Nedumangad, had also given a statement stating that Ajayakumar was taken into custody at 4.00 p.m. on 9-2-2010 as he was a friend of Satheesan who is an accused in crime 47/10 which was registered at Peroorkada Police Station and that the said Ajayakumar was taken to the office of the C I of Police, Nedumangad. His statement was also corroborated by a Head Constable (W4) and another Police Constable (W5).

W6, a Head Constable, and the Station Charge Officer of Valiyamala Police Station on 9-2-2010, also stated that Ajayakumar (W2) was brought to

Valiyamala Police Station by W5 and another Police Constable at 7.00 p.m. on 9-2-2010 and that he was brought there on the direction the C I of Police. According to him, since Ajayakumar complained of chest pain on the next day the said fact was informed to the C I and the Sub Inspector (S I) of Police and thereafter he took Ajayakumar in the Police jeep to Taluk Hospital, Nedumangad, where he was detained for an hour for observation. According to him, after sometime he went back to the Police Station. W7, the driver of the Police jeep, Valiyamala Police Station corroborated the versions of W6. The Circle Inspector of Police, Nedumangad (W8) also admitted in his statement that Ajayakumar was taken into custody on his direction and he was released on the next day morning of 10-2-2010 as no useful information could be collected and he also informed the relatives of Ajayakumar about the apprehension of the said Ajayakumar and that he also gave details to the Deputy Superintendent of Police, CB CID, Ernakulam, who is the chief officer of the temple theft squad.

On the statements recorded the CIO had come to the conclusion that there is no reason to disbelieve the statements of W6 and W7 who had taken Ajayakumar to Taluk Hospital, Nedumangad, and the said fact was not disclosed by W3 to W5 and W8. The CIO also opined that Ajayakumar was detained in the Police Station for more that 24 hours for no apparent reason except that he is the friend of an accused in a crime registered at Peroorkada Police Station and the said detention of Ajayakumar has violated his human rights. The CIO could not fix specifically the responsibility of the Police officials for the said act and

according to him, this is a matter to be examined and action for illegal detention of W2 is necessary against the said officials.

The statements of the witnesses and the report of the CIO show that Ajayakumar was taken into custody, he was detained at Valiyamala Police Station from 9-2-2010 and on the morning of 10-2-2010 he was taken to the Taluk Hospital, Nedumangad, since he complained of chest pain. If Ajayakumar was released on the morning of 10-2-2010 as claimed by W8, the C I of Police, then he could not have been taken to the Taluk Hospital, Nedumangad by W6 and W7 and it is also to be remembered, as stated by the CIO, that all the other Police officials have conveniently omitted to mention the said fact probably with a view to escape from the liability of detaining a person illegally in the Police Station. In fact, W8, the C I of Police, went to the extent of admitting that Ajayakumar was taken into custody on 9-2-2010 under his direction and was released on the morning of 10-2-2010 as no information could be collected from him

I am also unable to accept the statement of W8 that he informed the relatives of Ajayakumar about his apprehension. It is to be remembered that the complaint in the above HRMP was filed on 10-2-2010 complaining about the apprehension of the petitioner's brother and also complaining that his whereabouts are not known. If already there was an intimation from W8, as claimed by him, then the complaint in this HRMP could not have been filed even on 10-2-2010.

If it is to be assumed that the Police wanted to question Ajayakumar in crime 47/10 registered, against Satheesan, at Peroorkada Police Station then they could have issued summons to Ajayakumar to appear before the Police for

recording his statement. Instead the Police officials took Ajayakumar into custody in a high handed manner while he was standing at Kuttichal junction along with his relatives and taken to Valiyamala Police Station where he was detained for more than 24 hours. Therefore the CIO opined that the human rights of Ajayakumar was violated and action is to be initiated against the concerned Police officials.

I therefore direct the Director General of Police, Thiruvananthapuram, to initiate an enquiry to fix the responsibility of the Police officials who are involved and then initiate disciplinary proceedings against the concerned Police officials for the said high handed act of illegal detention of Ajayakumar violating his human rights and then award appropriate punishment to the said officials. As Ajayakumar was illegally detained for more than 24 hours a sum of Rs.10,000/- (Rupees Ten thousand only) should be paid to him by the Government and the said amount should be recovered from the officers who are found guilty during the departmental enquiry.

The petition is closed with the above direction. Send a copy of this order to the petitioner and the Director General of Police, Thiruvananthapuram.

Justice N. Dhinakar,  
Chairperson.