

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

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

Dated this the 18th January, 2011.

H.R.M.P.No.653 of 2010

Petitioner : Arifa Beevi, Mele veettil,
Elambazhannur muri, Kadakkal village.

Respondent :

ORDER

The complaint of the petitioner, who is A3 in crime No.1039/09 registered at Kadakkal Police Station, is that at 9.30 a.m. on 20-12-2009 she was assaulted by Ramli, a Member of the Panchayat, and his henchmen while she was in her house and that her husband was not in the house at that time. According to her, when she was about to go to the Police Station to file a complaint her husband Kabeer and Shanavas, a relative, reached the house and they were also assaulted by Ramli and one person died in the quarrel. According to her, she was arrested by the Circle Inspector of Police, Kadakkal Police Station and his party at 10.30 a.m. and tortured at the Police Station for two days and later was produced before the Judicial First Class Magistrate (JFMC) –II, Kottarakkara and that she complained to the Magistrate who directed the Superintendent of the Sub Jail to provide medical treatment. It is further alleged that while she was in jail her house was robbed and set on fire but no action was taken by the police.

In the report prepared by the Deputy Superintendent of Police (Dy.S.P), Punalur, which was forwarded to this Commission by the Superintendent of Police, Kollam, it is stated that the petitioner's husband and his relative committed

murder of one Abdul Jabbar and attempted to murder Ramli and in that connection crime 1039/09 was registered at Kadakkal Police Station. According to the report, the accused were found absconding and the petitioner was arrested on 21-12-2009 from her relative's house with the assistance of women police constables and that she was taken to Kadakkal Police Station under the supervision of women police constables and was produced before the Court. According to the report, the other accused in the crime were arrested on 30-12-2009 and all they are in bail.

In the report the allegation of assault on the petitioner by the Police is denied. It is also stated that the allegation of theft in the house of the petitioner is not true and that on the complaint that the house of the petitioner was set on fire a crime in crime No.85/10 was registered at Kadakkal Police Station and the investigation in the said crime is progressing. It is further stated in the report that the petitioner is also an accused in two other crimes, namely, crime No.164/07 and crime No.502/08 registered at Kadakkal Police Station.

After the report was received, the petitioner sent a letter stating that the arrest memo, inspection memo, custody memo, etc, produced before the Court in connection with crime No.1039/09 are false and she also forwarded a list of witnesses along with the said letter with a request that they should be examined while considering the HRMP. She also forwarded copies of the wound certificate, arrest memo, custody memo and the complaint given to the Magistrate.

The above report prepared by the Dy.S.P and forwarded to this Commission by the S.P., Kollam, therefore, shows that the petitioner was arrested in connection with crime No.1039/09. Though in the enquiry report prepared by the Dy.S.P, Punalur, it is denied that there was no assault on the petitioner by the

police the documents now forwarded by the petitioner and received by this office on 13-10-2010 show that the petitioner, in fact, was examined by a doctor at the Taluk Hospital, Kottarakkara, on being produced by the jail warder on 22-12-2009. The doctor noted the injuries in the accident register-cum-wound certificate. The accident register-cum-wound certificate also shows that at the time of examination the doctor was informed by the petitioner that she suffered those injuries on account of the assault by the police at Kadakkal Police Station which statement was recorded by the doctor in the said certificate.

There is also another wound certificate attached with the letter sent by the petitioner which indicates that the medical officer examined the petitioner at 1.00 p.m. on 26-12-2009 to whom it was alleged that she was assaulted by the police officials at Kadakkal Police Station on 20-12-2009, 21-12-2009 and 22-12-2009 and that the petitioner was produced before the medical officer from the central jail. CT scan was also conducted on the petitioner in the hospital on the advice of the doctor as could be seen from the report issued by the Department of Radiodiagnosis. A copy of the complaint given to the magistrate by the petitioner is annexed to the letter where in she has made the similar allegations.

In view of the above facts, it is necessary for an enquiry to be conducted by the Inspector General of Police, Thiruvananthapuram Range by nominating a senior police officer to go into the allegations of illegal police custody of the petitioner from 20-12-2009 and the alleged assault on her while in the said illegal custody. The above certificates were actually sent by the petitioner to this office only 13-10-2010, that is after the report of the Dy.S.P which was forwarded by the S.P. was received and therefore, in the light of the above documents which had

come to the knowledge of this Commission it is necessary that a proper enquiry is required in the matter. **Therefore, I recommend that a proper and thorough enquiry is to be conducted by a senior police officer nominated by the Inspector General of Police, Thiruvananthapuram Range who will give opportunity to the petitioner, the police officials concerned and others who are necessary parties to arrive at a proper decision. The officer so nominated will give sufficient notice in advance to the parties and after the enquiry he will pass appropriate orders according to law.**

It is to be stated that this Commission has no jurisdiction to go into the truth or otherwise of the allegations in a crime and also cannot give any finding that the documents produced before the Court are false since such findings can be given only by the Court. This Commission also has no jurisdiction to examine the witnesses to find out whether all the documents are true or not and also to find out the truth or otherwise of the allegations in the said crime. Therefore, the petitioner's request to examine the witnesses mentioned in the list of witnesses cannot be considered and it is for her to take up and adjudicate the issue before the Court. The above enquiry is ordered only to find out as regards the allegation of illegal detention of the petitioner at Kadakkal Police Station and the alleged assault on the petitioner during such illegal detention.

The petition is closed with the above recommendation. Send a copy of this order each to the petitioner and the Inspector General of Police, Thiruvananthapuram Range.

Justice N.Dhinakar,
Chairperson.