

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

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

Dated this the 22nd January, 2010.

H.R.M.P.No.70/2009

Petitioner :. Shajahan, S/o Yoosuf,
Kizhakkan veed, Ponjassery.P.O,
M.H. Kavala, Vengola Village.

Respondents :. 1) Shanmugham, Head Constable,
Kuttippuram Police Station, Malappuram.
2) Another Police Constable
who is identifiable by sight

ORDER

The complaint of the petitioner is that his pick up van met with an accident on 19-12-2008 and the matter was settled by the parties there but the Sub Inspector (S I) of Police, Kuttippuram Police Station took his mobile phone and the bills of the parcels and directed him to go to Police Station and when he reached the Police Station the S I was not there and later a sum of Rs.300/- was demanded from him by the Head Constable of Kuttippuram Police Station (R1) and subsequently the R1 took him to the S I and he was assaulted by the R1 and another police constable and that he was also taken to the hospital for getting a drunkenness certificate and on the basis of which a case was filed. According to him, on account of the injuries at the hands of the Police officials he went to Taluk Hospital, Perumbavoor, for treatment and later he was treated at Government Ayurveda Hospital, Perumbavoor.

In the report forwarded by the Superintendent of Police, Malappuram, it is stated that the S I of Police, Kuttippuram Police Station stopped the vehicle driven by the petitioner in a rash and negligent manner and the petitioner behaved indecently towards the S I and on suspicion that the petitioner might have consumed alcohol he was taken to the hospital where a certificate was obtained and a case in crime No.624/08 was registered against the petitioner at Kuttippuram Police Station u/s 184 and 185 of MV Act. According to the report, the petitioner has filed the above complaint as he was aggrieved against the police for registering a case against him.

The petitioner is present before me and he reiterated the allegations made in the complaint and produced the accident register -cum- wound certificate issued by the Taluk Head Quarters Hospital, Perumbavoor. I have perused the original of the above certificate. A perusal of the above certificate shows that the petitioner was examined by the doctor at 10.00 a.m on 22-12-2008 and that the petitioner complained to the doctor that he was assaulted by two Police Officials at 3.30 p.m. on 19-12-2008 near Kuttippuram Police Station. According to the petitioner after he was released from the Police Station at 7.00 p.m. on 20-12-2008 he went to his house and as he felt pain on his abdomen he went to the Taluk Head Quarters Hospital, Perumbavoor, on 22-12-2008 where he was treated. According to him, as he was not satisfied with the treatment given to him at the Taluk Headquarters Hospital, Perumbavoor, he went to the Government Ayurveda Hospital, Perumbavoor, where he obtained treatment. To support the above statement the

medical certificates issued by the medical officer of the Government Ayurveda Hospital, Perumbavoor, dated 26-12-2008 and 12-1-2009 are produced before me.

The complaint of the petitioner is that he was beaten by the two Police Constables of Kuttippuram Police Station after he was asked to go to the Police Station when his pick up van met with an accident. In the report submitted by the Deputy Superintendent of Police (Dy.S.P), Tirur, which is forwarded by the Superintendent of Police, Malappuram, to this Commission there is no reference to the allegation made by the petitioner as regards the alleged assault perpetrated upon him by the two police officials in spite of the fact that the petitioner made an averment to that effect in the complaint and also annexed a photo copy of the accident register –cum- wound certificate issued by the medical officer, Taluk Headquarters Hospital, Perumbavoor.

In the above circumstances, it is to be presumed that prima facie the allegation made by the petitioner against the police officials is to be true as there is no rebuttal of the said allegation in the report. It is also to be noticed that there is nothing in the report to indicate that the petitioner was enquired during the enquiry and there is nothing to show in the report that the Police Officials were specifically questioned on the allegation made by the petitioner against them.

In the above circumstances, I am not satisfied with the report prepared by the Dy.S.P, Tirur, and forwarded by the Superintendent of Police, Malappuram, as the report is conveniently silent on the main issue, namely, the assault on the petitioner by the two Police Officials.

I therefore, deem it necessary that a proper and thorough enquiry is required in the matter and accordingly I direct the Superintendent of Police, Malappuram, to conduct an enquiry in the above subject matter to fix the responsibility on the officials concerned and then to take action against those who are found guilty. The enquiry shall be conducted by giving opportunity to the petitioner and the Police Officials by giving them sufficient notice in advance.

The petition is closed with the above direction. Send a copy of this order each to the petitioner and the Superintendent of Police, Malappuram.

Justice N. Dhinakar,
Chairperson.