

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

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

Dated this the 8th February, 2010.

1) H.R.M.P.No708 of 2009

Petitioner :. Henry Vijayakumar, S/o Henry,
Louise Garden Colony,
No.18, House No.33/528,
South Kalamassery – 682 109

Respondent :.

2) H.R.M.P.No.714 of 2009

Petitioner : Marshall Dexton, S/o Sivadasan,
Puthuval puthenveed, Parassala.P.O,
Residing at : Louise Garden Colony,
No.18, House No.33/528,
South Kalamassery-682109.

COMMON ORDER

The complaint of the petitioner in HRMP 708 of 2009 is that he was taken at 12.30 p.m. on 10-2-2009 by three Police Constables attached to Thrikkakara Police Station in a private innova car along with his cousin Marshall Dexton and driver Gigi to the office of the Assistant Commissioner of Police (ACP), Thrikkakara, where he was questioned about the alleged missing of money from one Henry and thereafter he and others were detained at the office of the ACP, Thrikkakara, where they were not provided with food. According to him, Marshall and Giji was taken to Hill Palace Police Station, Thrrippunithura, where they were detained illegally and he was taken to Kalamassery Police Station and

detained illegally till midnight and from there to the office of the ACP, Thrikkakara. According to him, the Police officials of Thrippunithura Police Station and Kalamassery Police Station assaulted him and manhandled him using filthy language on account of which he suffered injuries and therefore he was taken to Sunrise Hospital, Kakkanad, where he was admitted and kept in the I C Unit. According to him, he was not permitted to see his advocate and his complaint is against the ACP, Thrikakara, and other Police Officials under him alleging that they are acting as the agents of George and trying to implicate him in serious criminal cases.

HRMP No.714 of 2009 is filed by Marshall Dexton where in similar allegations are made against the Police officials and according to him, on account of the assault he was treated in the Co-Operative Medical College Hospital, Kalamassery, for some pain in the head and body.

In the report submitted by the City Police Commissioner, Ernakulam, it is stated that on an intimation was received at Kalamassery Police Station that a bag containing Rs.24,99,900/- was robbed from Henry after chilly powder was thrown on his face on 10-2-2009 and that the said amount was given to Georgekutty by the petitioner Vijayakumar in HRMP 708/09 who borrowed it earlier, crime 233/09 u/s 394 r/w 34 IPC was registered and during the course of the investigation Vijayakumar was summoned to the Police Station where he gave contradictory statements and informed the Police that he will disclose everything to the ACP, Thrikkakara, and hence he was produced before the ACP where also he gave contradictory statements. According to the report, on taking out the print out of

the phone calls made by the petitioner Vijayakumar it came to the knowledge that those numbers belong to notorious criminals of Kochi city and other districts. It is further stated in the report that while being questioned by John, Additional Sub Inspector of Police and Sinoj, ARP Constable, the petitioner Vijayakumar asked for water and after pushing Sinoj took a steel knife which was on the table used for cutting papers and inflicted a wound on his left hand wrist with a view to commit suicide and therefore he was removed to Sunrise Hospital, Kakkanad.

According to the report, the petitioner Vijayakumar stated before the doctor that he inflicted the wound by himself and a crime in crime No.262/09 u/s 353 and 309 IPC was registered against Vijayakumar and he came out on anticipatory bail. The allegations contained in HRMP No.714/09 are also denied in the report.

I perused the HRMPs and the report and the following common order is passed.

The complaints and the report therefore show that crime 233/09 was registered against the petitioner Vijayakumar and he was summoned to the Police Station for enquiry and another crime in crime No.262/09 was also registered against him u/s 353 and 309 IPC on the allegation that he attempted to prevent a Police officer from discharging his official duties and also for attempting to commit suicide by cutting his left hand wrist with a knife.

In the above circumstances, this Commission cannot give any finding whether the injuries sustained by the petitioner Vijayakumar in HRMP 708/09 were caused by the Police or self inflicted by Vijayakumar since crime No.262/09 is registered u/s 353 and 309 IPC against him and any finding on the said

allegations and counter allegations can only be decided by the Court as the Court alone has jurisdiction to go into the truthfulness or otherwise of on the allegation in a criminal case and this Commission cannot interfere in judicial proceedings to give a findings either in favour of the petitioner Vijayakumar or in favour of the Police officials.

If the petitioners have any grievance as regards the investigation they have to seek their grievance redressed before the Court in view of the judgment by the Supreme Court in 'Sakri Vasu Vs. State of U.P. and Others in AIR 2008 Supreme Court 907'.

The prayer of the petitioner Vijayakumar in HRMP No.708/09 that the investigation should be transferred to some other officer other than the ACP, Thrikkakkara, cannot also be considered by this Commission in view of the above judgment of the Supreme Court which held that no one can insist that an offence be investigated by a particular agency and an aggrieved person can only claim that the offence he alleges be investigated properly, but he has no right to claim that it be investigated by any particular agency of his choice.

The petitions are, therefore, closed.

Justice N. Dhinakar,
Chairperson.