

KARNATAKA STATE HUMAN RIGHTS COMMISSION

PRESENT

Justice D.H. Waghela
Chairperson

**H.R.C Nos: 1694/10/31/2019 C/w
1716/10/31/2019, 1717/10/31/2019
& 1737/10/31/2019**

Date: 04-08-2021

- Complainants:
1. Mohammed Musaveer,
S/o Mohammed Afzal,
No. 6/1, Rahath Regency,
3 A Main Road, Ratan Singh
Layout, Kavalbyra Sandra,
R.T. Nagar,
Bengaluru – 560 032.
 2. Adarash G.K.,
No. 101, Shradha Sapphire
Apartment, BEML Layout,
Behind Tubrahalli Bus Stop,
Whitefield Main Road,
Bengaluru
 3. R. Manohar,
manorights@gmail.com
 4. Dhana Kumar,
C-3/441, 3rd Floor,
Janakpuri,
New Delhi – 110 058
 - V.

Respondent: A.C.S., Dept. Of Home,
Govt. of Karnataka.

OPINION, REPORT AND RECOMMENDATIONS

1. This proceeding was initiated on the basis of complaint dated 22-04-2019 alleging that, on 10-04-2019 at about 2.00 A.M, while the complainant's brother, Mohammed Tanveer and his friend Danish were returning home after purchasing medicine, D.J. Halli police stopped them for using mobile while riding bike and hit the complainant's brother severely with police stick on left side of his shoulder and other parts of the body. Thereafter, they were taken to D.J. Halli police station at 2.30 A.M and Police officials namely Ayyappa, Santhosh, Krishna and Govindappa had beaten them mercilessly in the lock-up after removing their clothes. Further, a petty case was booked against them and were released after writing "I will not do this mistake again" for thousand times in Kannada. It is stated that the complainant's brother has sustained severe internal injuries resulting in damage to his kidneys and their family has been pressurised by D.J. Halli police not to take any legal actions against them.

2. Similar complaints were received from Shri Adarsh G.K., Shri R. Manohar and Shri Dhana Kumar on the same incident which are registered as HRC Nos. 1716/10/31/2019, 1717/10/31/2019, 1737/10/31/2019. These complaints were clubbed with HRC No. 1694/10/31/2019.

3. After taking cognizance in the cases, the matters were referred to Ld. A.D.G.P of KSHRC, Bengaluru to submit a preliminary report. The findings and opinion of Ld. ADGP in the report dated 06.07.2019 is under:

"Findings

The allegation made by the Mohammed Musavir against D.J.Halli police in HRC No: 1694/10/31/2019 dated

22-04-2019 is true based on the statements of the witnesses and the medical records.

The verification of documents shows that the ASI Sri. Govindiah of D.J. Halli police station took no action on the report given by the PC-16756 Sri. Ayappa of D.J.Halli police station against Tanveer and Danish. The report was retained as such till the next morning. He informed the station P.I, Sri. Keshavamurthy and got relieved from duty for the day.

The night patrol PSI, Sri. Santhosh Kumar too did not look into the severity of the matter and instructed his staff to take them to the station and continued his night rounds. The following day while winding up his duties, though Tanveer and Danish were still in the station he did not take any cognizant action and returned home showing his grave negligence to duty.

On the following day Sri. Siddaraju, ASI too failed to take any action on the report of PC-16786, Sri. Ayappa and filed a petty case against Mohammed Tanveer and Danish under 248/2019 and 249/2019 u/s 92 (O)(R) K.P. Act and made entries of the same in the S.H.D register on 09-04-2019 at 11-45 am.

The PI Sri. Keshavamurthy of D.J. Halli police station did not examine the complaint/ report from PC Ayappa, instead physically punished the two by asking them to do 100 'Baskis' and making them to write 1000 times that they will not scold the police and that they will speak in Kannada.

Opinion

.. ASI Sri. Nayaz Ahmed who registered the case against the police on the complaint of Mohammed Tanveer who was under treatment a(t) Shifaa Hospital did not initiated enquiry.

Therefore in HRC No: 1694/10/31/2019, there has been a clear violation of Human Rights..."

4. Upon perusal of above report dated 06-07-2019 of Ld. ADGP of the Commission, as it *prima-facie* appeared that the case required further enquiry for making recommendations and in order to give a

reasonable opportunity of being heard, notice was issued to the complainant and notices were issued under section 16 of The Protection of Human Rights Act, 1993 to Shri. Keshavamurthy, P.I., Shri L. Santhosh Kumar, P.S.I, Shri Govindaiah, A.S.I, Shri Siddaraju, A.S.I, Shri Ayyappa, P.C – 16786, Shri Manjunath, H.C – 8642, Shri Vittal, P.C – 11480 of D.J. Halli police station to remain personally present before the Commission with relevant material and evidence for recording their statements.

5. Pursuant to the previous order dated 16-07-2019, Shri Santhosh Kumar, PSI at relevant time, Shri Nayaz Ahammed then ASI and Shri Manjunath, Head Constable were present on 06-09-2019. Learned Advocates Shri Binu and Ajay Kumar were also present for Shri Santhosh Kumar and Learned Counsel Shri Rohith D.K had appeared for Shri Niyaz Ahammed. Shri Santhosh Kumar submitted his written statement dated 29/30-08-2019 along with four annexures i.e., copy of his suspension order dated 22-04-2019, copy of the revocation of suspension order dated 10-05-2019, copy of the Station House Diary dated 08-04-2019 and 09-04-2019 and a copy of the complaint lodged by Mohammed Tanveer dated 21-04-2019. Shri Manjunath submitted affidavit dated 05-09-2019 of Shri Keshavamurthy, Police Inspector of D.J. Halli police station and a letter dated 05-09-2019 stating that Shri Govindaiah, Siddaraju, Ayyappa and Vittal were on bandhobasth duty and could not appear before Commission and hence requesting to adjourn the case.

6. On 25.09.2019, Shri Keshavamurthy, P.I. (R-1), Shri L. Santhosh Kumar, P.S.I. (R-2), Shri Nayaz Ahmed, A.S.I. (R-3) Shri Govindaiah, A.S.I (R -4), Shri Siddaraju, A.S.I (R-5), Shri Ayyappa, P.C. (R-6), Shri Manjunath, H.C (R-7), Shri Vittal, P.C. (R-8) of D.J.

Halli Police Station and their advocates remained present and submitted their Memorandum of Objection to the report dated 06.07.2019 of Ld. ADGP, KSHRC. The complainant did not appear before the Commission despite notice and telephonic message. Therefore, the Commission ordered to serve notice personally to the complainant and only Shri Keshavamurthy or Shri Santhosh Kumar, Police Inspector to be present on the next date.

7. On 18.10.2019, the Complainant's brother Shri Mohammed Tanveer and Mr. Danish remained present along with the Complainant Mohammed Musaveer and Respondent Nos. 1, 2, 6 and 7 also remained personally present. The parties on both sides sought time to prepare for recording of statements and cross examination.

8. On 26.11.2019, the complainant, his brother Mohammed Tanveer and Danesh remained present with their learned Advocate Shri Saddam Hussain. Respondent Nos. 2, 3, 6, 8 were also present along with their advocates. The statement on oath of Shri Mohammed Tanveer was recorded on separate sheet. Thereafter, on 27.11.2019, Shri Mohammed Tanveer was administered oath and his replies to the queries of the Commission and to the questions asked by or on behalf of the police concerned were recorded on separate sheet. The complainant produced Medical record and the same was taken on record.

9. On 28.11.2019, statement of Danesh was recorded. The complainant's advocate cross examined Shri Santhosh Kumar, P.S.I (R-2). Shri Govindaiah, ASI (R-4) made his statement on oath and has been allowed to be cross examined by learned advocate for the complainants.

10. Thereafter, on 11-12-2019, the statement on oath of Shri Keshavamurthy, Police Inspector in reply to the queries of the Commission and in answer to questions by advocate for complainant was recorded. Then the matter was reserved for receiving written submissions which learned advocates for complainant and respondents proposed to submit. But, none submitted their written statements.

11. Shri Santhosh Kumar, Police Inspector (the then P.S.I. of D.J. Halli police station) has stated in his reply to the notice of the Commission that on 10.04.2019, during his night rounds an instance of public nuisance and hostile behaviour towards police-men was reported and hence, he went to the spot and instructed the Hoysala team to take the accused (victims herein) to the police station and to file a report on the said incident. Both the victims were neither assaulted during their travel nor in the police station during his presence. His duty ended at 5.00 a.m. on the same day. Further, it was reported to him that a petty case was charged on both the victims and they were released on payment of fine and a sworn statement of better behaviour. Upon Mohammed Tanveer's complaint, an FIR was filed and the case is in progress. It is further stated that, he was suspended for a period of 19 days and was reinstated after the enquiry found him not guilty of any dereliction of duty. There was a wide media campaign accusing him for this incident by posting his photo alongwith his daughter which caused huge pain and agony to him and his family.

(All underlines are added)

12. Shri Santhosh Kumar's statement on oath was recorded on 28-11-2019. He has submitted on oath as under:

“On the night of the incident when I reached the spot with Hoysala, the police on duty there told me that Mohammed Tanveer and Danish were not allowing them to do their duty and were not showing the documents of the vehicle. At that time routine checking was going on due to the elections. I have mentioned the incident in my diary. I have not met the complainants after the incident on the road at night. I had visited D.J. Halli police station later on, the next day in connection with my election duties. D.J. Halli police station did not have CCTV cameras at that time. It is not true that at the instance of the police I had wrongly sent the complainants to the police station by Hoysala.”

(All underlines are added)

13. Shri Keshava Murthy, Police Inspector, D.J. Halli Police Station has submitted in his Affidavit dated 05-09-2019 as under:

“3. ...when the said Mohammed Tanveer and then Danish were found by the beat constable on the road at 2.30am on the night of 10/04/2019 using his mobile and riding and when the beat constable stopped him and requested him not to ride the bike using the mobile then the said Mohammed Tanveer and Danish used abusive vulgar and threatening languages against the beat constable Sri. Ayyappa, The said beat constable intimidated the Hoysala and the Hoysala came to the spot and took Mohammed Tanveer and Danish to the Police Station and left them in the Police Station. The next morning immediately after the Police Inspector Sri. Keshavamurthy.N.N coming to the Police Station and notice was issued for a petty case Under Sections 92(o)(r) K.P. Act, and told to report to the Court as and when called, both the said Mohammed Tanveer and Danish left the Police Station in good health without being subjected to any assault abuse or threats as claimed by the petitioner.

“4. ...the said Mohammed Tanveer has very belatedly got obtained the Medical Certificate claiming that he has internal injuries which is absolutely false as admittedly his reporting to the hospital and his leaving the Police Station his clearly after 8 days.”

14. Further, Shri Keshava Murthy’s statement on oath was recorded on 11-12-2019. He has submitted on oath as under:

“Looking at the photo copies of the notices dated 09.04.2019 addressed to the complainants, I say that they are issued by the ASI of D.J. Halli police station and according to the Station House Diary they are issued at 11.45 A.M. on 09.04.2019. The offences mentioned in the notice are for offence punishable u/s 92 (o) and (r). I will produce the copy of the official gazette notification issued u/s 92 of Karnataka Police Act, 1963 (K.P. Act) for the period and for the area concerned in this case. I say from the record of the police station that the complainants were brought into the police station at 1.45 A.M. on 09.04.2019. At that time ASI Govindaiah was present in the police station. No one else is shown to be present in the station house diary. Govindaiah would have completed his duty at 8.00 A.M. and thereafter Sri Siddaraju was the ASI present at the police station. That means, that the complainants were in the police station from 1.45 A.M. to 11.45 A.M. I was in the police station from 9.00 A.M. to 10.25 A.M. I have seen both the complainants in the police station. They were sitting behind the table of station house officer when I attended the police station. It is true that for any offence u/s 92 of the K.P. Act no police officer has any power to arrest anyone. There is no power that any police officer under any legal provision to detain a person who is accused of any offence u/s 92 of the K.P. Act.”

“I was informed by the telephone by ASI Sri Govindaiah about detention of the complainants in the police station. Sri Govindaiah told me that Sri Ayappa has given a report with a complaint that the complainants had committed offence u/s 353 I.P.C. I say from the reading of the station house diary that at 9.15 A.M., Ayappa has given a report complaining about offence u/s 353 of I.P.C. On that basis I have also myself written that since the parents and the relatives of the complainants have come and apologized and assured that the complainants will not commit such mistake in the future, I instructed ASI Sri Siddaraju to file only a petty case. It is true that the police inspector does not have such power or authority to record a compromise in a cognizable non- bailable case, triable in Court of Session. I cannot remember how long did I talk to the complainant at that time. No other police officer objected to let him go the complainants or insist upon registering a case for offences u/s 353 of I.P.C. When I talked and saw the complainant in the police station, they were in good health and I did not see any marks of injury on their bodies. It is true that afterwards there were many press reports with photographs and details of injuries and treatment of”

the complainant and in all such reports it was reported that the complainant was injured by the police. On the press reports I have not made any enquiry because I had earlier made enquiries. Earlier I had enquired about what had happened to the constable and the complainant. In that earlier enquiry I had found that the complainant had committed mistake by obstructing Ayappa and home guard in discharging their duties. So there was no enquiry about any injury to the complainants. After reading the press reports, I have not made any enquiry about the alleged injuries to the complainant as reported in the press.

“However, thereafter the DCP, Bengaluru East division suspended Sri Ayappa and Sri Santhosh Kumar. Now, after referring to their suspension orders, I say that they were suspended by order dated 22.04.2019 w.e.f. 22.04.2019. I do not remember on what basis the suspension orders were issued prior to the press reports. While issuing the suspension orders, the office of the DCP had not consulted me or obtained my opinion. I cannot question or enquire as to why without any report by me, the office of the DCP would issue order of suspension to the officers subordinate to me. According to my information, the charge against Ayappa and Santhosh kumar is that of negligence in discharge of their duties.”

(All underlines are added)

15. Shri Govindaiah, A.S.I. has stated in his statement on oath on 27-11-2019 as under:

“I say that I was incharge of the D.J. Halli police station from 8 P.M. to 8.00 A.M. I say that both the complainants were brought to the police station in a Hoysala at about 2.30 in the early morning and both the complainants were made to sit in the police station outside the lock-up. I reported to the police inspector Sri Keshava Murthy all that happened during my charge. I had given my phone to Mohammed Tanveer to call up his family. No body was beaten in the police station in my view. I have nothing more to say.

“In reply to the questions of learned advocate Sri Tahir, I say that I have not recorded about their presence in the station house diary. As per law, details of those who are detained or arrested are only to be mentioned in the station house diary. I was alone in the police station during the

particular time i.e. between 2.00 A.M. and 8.30 A.M. Ayyappa who is a police constable did not come to police station between 2 A.M. and 8.30 A.M. Sri Santhosh, sub inspector came to the station between 2.00 to 5.00 A.M., apart from him no other officer came to the police station. It is correct that one victim was inside the lock-up and other one was sitting outside at the instance and direction of Sri Santhosh, sub inspector. Tanveer was directed to sit inside the lock-up. It is wrong to say that either myself or Santhosh, sub inspector directed Tanveer to remove his pants. During this period police constable Ayyappa never came to the police station. Neither me nor Ayyappa nor any other person directed Tanveer to remove his pant and assaulted him. A petty case filed on victims is by one Siddaraju who assumed day-duty.

“Subsequently, I came to know about this fact from the station house diary. According to me, on any person whenever we file any criminal case on petty offence, we used to send them for medical examination. I do not know whether victims were sent for the medical examination at the time of filing petty case against them or not. If any accused person is booked in any criminal case are sent to medical examination or not, the details used to be mentioned in the station house diary. I presented the station house diary before the Hon’ble Commission. It is false to say that on that relevant time 4 to 5 police personnel lead by constable Ayyappa came to the police station and assaulted Tanveer in the lock-up and that I being a colleague., I am giving false evidence before the Commission.

“.....

“During the stay of the complainants in the police station, nobody assaulted anybody nor did any other policemen come into the police station nor did the complainants tried to escape from the police station. I had provided the complainants water to drink. I do not know the complainants before they were brought to the police station and I have not beaten the complainants. I cannot say why the complainants would have involved me in their complaint. There was no enmity between Ayyappa and the complainant. I cannot say why serious allegations are made by the complainants on oath before the Commission. It is correct that I did not have any good reason or legal authority to make the complainants stay in the police station from 2.30 A.M. till I left the charge at 8.30 in the morning..... I am retiring from my service on this 30th November 2019.”

(All underlines are added)

16. Shri Ayyappa, Police Constable has stated in his statement on oath on 27-11-2019 as below:

“...I was serving as P.C. on 9.4.2019 from 8.30 P.M to 8.30 A.M. in vehicle check point nearby Lavanya Bakery, M.M. Layout in beat No.3. I saw the complainant near Lavanya bakery at about 1.45 A.M. They were coming on a two wheeler. They were coming with speed and I stopped the vehicle but they did not stop. At that time, they were talking on their mobile phones and tried to go away. Then, I with a home guard stopped the vehicle. I extended my hand to stop the vehicle and it was stopped. They did not answer to any questions, I asked for the documents and the name of the rider. They stopped talking on the mobile and asked me who were we to stop them. I said that we are checking all vehicles on election duty. Mohammed Tanveer asked me as to what power do I have to stop them or ask questions. He also said that only police officer with a star could do that. I insisted that I am authorized and he has to show the documents to me. He scolded me in Hindi Language. He said that he will not show any documents. He tried to catch my collar and beat me. Then, I called Hoysala and then Sri Santhosh Kumar came with Hoysala. Then, he was sent to the police station in Hoysala with Danish. I also took a vehicle of the complainant to the police station. I parked the vehicle in police station and gave the key to the centry at the police station. Then, I returned to my duty.....Then, I came back to the police station at about 9 A.M. in the morning. The officer in charge asked to register a petty case against the complainant and obtained my signature. I only described the incident and a case was registered. I do not know the offence for which a case was registered against the complainant....”

“.....”

“I say in reply to the questions put by learned counsel Sri Tahir that I am in police service since last three years. At that relevant time, I was checking the vehicles in the check post and I used to maintain one register containing the details of checked vehicles. I have not entered the details of the vehicles of the complainant in the above said register. When I went to the police station to drop the complainant’s vehicle, I have not given any complaint against the complainants herein. I do know any police constable by name Krishna. While I am on duty in night shift between 8.30 P.M. and 8.30 A.M. I do not go to police station until and unless I receive any complaint. That day I

went to the police station only once, that too for dropping the vehicle. I do not know how many people were there at that time in the police station. That day one Govindaiah was also on duty along with me. At the time I left to my duty at about 9.30 P.M. on 8th April 2019, Govindaiah was in the police station. Normally five to six persons used to be there in the police station during night time. I did not give a complaint against the assault made by the complainant, as I was on beat duty. At the time of incident four people were there with me but nobody came along with me to the police station to drop the complainant's vehicle. That night complainant has stopped the vehicle due to obstruction of a wall; otherwise he would not have stopped his bike inspite of my signal. They stopped the vehicle almost 5 mtrs. from me. Nobody shouted at the complainant at that time. I only informed Hoysala. Within five to ten minutes Hoysala came to the spot. During this five to ten minutes, I did not speak to them, I just removed the key of the bile and kept with me and they also stood there. At about 9.00 A.M. when I went to the police station to relieve from my duty, I have seen the complainant and his friend. I cannot say at that time how many police personnel were there in the police station. At that time nobody enquired with me about the incident. I have not informed about this incident to anybody. I have never seen the complainant inside the lock-up. Normally, six persons used to be there in night duty. I cannot tell their names as I do not know their names. It is false to say that I have gone with other 5 to 6 police personnel and assaulted the complainant Tanveer in the police lock-up. Even, I have not seen the complainant Tanveer at the time of putting signature on petty complaint. I have not given any complaint myself; only at the instance of my senior officer I have put my signature on the petty case against the complainant. It is wrong to say that myself and other 5 to 6 police personnel assaulted the complainant Tanveer and just to get away from this, lodged a false petty case against him. I am not aware of the fact that Tanveer was admitted in the hospital. I did not enquire my higher officers for what reason I was been suspended for 36 days. I just came to know that some organisations have put pressure to suspend me from duty. It is wrong to say that I am aware about all the facts regarding assaulting the complainant and his subsequent admission in the hospital due to said assault. ACP did not call me and enquired about the incident but, police inspector called me and enquired about this incident. I have not informed the police inspector about the night incident but I informed the Sub Inspector Santhosh. We do not enter any details in the police station as police do not maintain any book in the police station; we

only enter details in Point book regarding our duty. I do not know whether CCTV was installed in the police station or not at that relevant time. Nobody was doing any videography in the check point where I was deputed...

“In reply to the queries of the Commission, I say that it is correct and I know that the incident at that night with the complainant was published in so many newspapers. It is true that after the publicity several police officials were suspended. Thereafter, the police inspector of Pulakeshinagar made enquiry with me. I have not given any statement before any authority. I do not know whether any other officer have given any statements in any enquiry.”

(All underlines are added)

17. Shri Mohammed Tanveer (Victim) has stated in his statement on oath on 26-11-2019 as under:

“1. Presently, I am unable to work, but my normal occupation was preparing documents. On 10-04-2019, my friend and neighbour Shri Danesh had asked me to get tablet/medicine for his mother. On the night of 09-04-2019, myself and Shri Danesh, had gone out on motorcycle on M.M.Layout road and had taken u-turn after Kaval Byrasandra. I was driving the motorcycle and Shri Danesh was the pillion rider. It was late night around 2 A.M. in the early hours of 10-04-2019. At that time, I received a call from my father and was talking to him, while I was riding. At that time, four police men were standing outside M.M.Police Station Chowki. They stopped and asked me to disconnect the call, with some words of abuse. At the spot, I asked them as to why they were talking with words of abuse. Then, immediately, police constable Shri Ayyappa assaulted me with a lathi, in his hand. I told him that he did not have any right to beat me like that. At that time, other constable also started beating me and Shri Danesh was pulling me. Then, Shri Ayyappa, the constable called Hoysala and immediately P.S.I. Shri Santoshkumar came on the spot and after talking to Shri Ayyappa, Shri Santoshkumar sent me to the police station. During travel to the police station, other policemen in the car took away my mobile phones and told me and Shri Danesh that the

police have every right to abuse us. Then, at the police station, another policeman, who is not present here today, started beating me on the leg with a thick plastic pipe and while beating, I was taken inside the police station. Then, the A.S.I. took away my ring and band and the string of the night pant was drawn out. Then, four to five policemen started beating me, after making me stand facing the wall, near the lock up in the police station. I was beaten like that for thirty minutes. All were beating me with PVC pipes and lathis and out of them, three PVC pipes broke while I was being beaten. Then, I was placed in the lockup. At that time, Shri Danesh was sitting in the reception area of the police station. At the early morning, one single star A.S.I. came and enquired me and Shri Danesh, as to why we were there. Upon narration of the event in the night, by the police, he instructed to file a case and put me and Shri Danesh into the lock up. That A.S.I. whose name I do not know, had a single star and he grabbed me from behind the bar and spat at me. He spoke many words of abuse. Thereafter, Police Inspector Shri Keshavamurthy came to the station. But, before that, Shri Ayyappa, came and called me and spat at me. Then, myself and Shri Danesh were made to do sit-ups in the lockup and when I could not continue sit-ups due to pain, I was once again beaten and asked to continue sit-ups. Then, myself and Shri Danesh were asked to sit like a cock. Then, I was questioned and I replied him in English, since my knowledge of Kannada is week. For that reason, I was asked to write "ನಾವು ಪೊಲೀಸಿನವರಿಗೆ ಬಯ್ಯುವುದಿಲ್ಲ, ನಾವು ಕನ್ನಡದಲ್ಲೇ ಮಾತನಾಡುತ್ತೇವೆ" (we won't abuse the police, we will speak in Kannada only), thousand times. Shri Danesh was also asked to do similarly. Both of us, did so, by sitting outside the lockup, till 06-30 P.M. During that time, words of abuse were hurled at us, involving the other members of my family, including my wife and also the members of the family of Shri Danesh. At 06-30 P.M. Shri Keshavamurthy came back to the station and threatened me that next time he will open rowdy sheet for me. Then, Shri Danesh was forced to slap me four to five times. Then the members of my family and that of Shri Danesh were called and after registering a case, we were released from the police station.

“2. Before that, the A.S.I. took my signature on three papers of which two were blank and then my brother Shri Mohammed Musaveer, who had come to the police station paid Rs.1,000/- to the A.S.I. for which no receipt was given.

“3. For the next two days I took treatment from a nearby clinic for the pain and stoppage of urine. However, I was not cured and urine was passing with some blood in it and the pain continued. I also started having vomits. Then, I took treatment at Bombay Clinic, on 15-04-2019. Then my health deteriorated and I had to be admitted to Sheefa Hospital. There, I was treated for 24 days and I was told that my kidneys were blocked. I had to spend Rs.5,00,000/- to Rs.6,00,000/- for my treatment, for which I can produce the bills and receipts. For almost 24 days, I was unconscious or semiconscious and could not speak. I underwent dialysis for six times, during hospitalization. Before 15-04-2019, I was taking treatment for pain. I was in the I.C.U. for almost 24 days. Thereafter, on three occasions, I had become unconscious and only two weeks before now, I had gone to the hospital on account of such sudden unconsciousness.”

(All underlines are added)

18. Shri Mohammed Tanveer (Victim) has stated in his further statement on oath on 27-11-2019 as under:

“It is true that I have filed F.I.R. in respect of the alleged incident on 10 and 11-04-2019. In the F.I.R. the date is mentioned as 09-04-2019, because of the incident having occurred after 12'o clock in the night, the correct date and time of the alleged incident was the early morning of 10-04-2019. I have brought the bills and vouchers about the treatment which I had undergone. I have brought the copies of the bills relating to the expenditure made for my treatment and medicine and the list of such bills with the amount are produced now by me, before the Commission. It is true that the total amount of all the bills of which photo copies are also being produced comes to Rs.77,768/-. Two to three days after the incident I was advised by my mother and brother to take treatment in Bombay Clinic and then to get admitted to Shifa Hospital. Among the bills I have brought today, there are no bills relating to the treatment

taken by me in Shifa Hospital, but I can produce them later. It is not true that I was not advised by any doctor to get admitted into a hospital. I say that Dr.Bhandari of Bombay Clinic had advised my admission into a hospital. I do not know which doctor advised my treatment in the Intensive Care Unit, but I think it was Dr.I.A.Khan. But, I do not know what his designation was. I do not know that medico legal case was registered and FIR was written, for the injuries I had suffered. Details of FIR were read over to me and I do not remember the exact date on which FIR was registered. At that time, I knew the name of the Circle Inspector and Shri Ayappa and names of other police officers were not known to me. I do not know what happened pursuant to the registration of that FIR. But, four months thereafter, my statement was recorded in connection with my FIR...”

(All underlines are added)

19. Shri Mohammed Tanveer’s (victim) reply to the questions put by Shri Swamy, advocate for Shri Keshavamurthy, the Police Inspector, is as under:

“I am aware about the rules to be followed while driving the vehicle.It is not true that because, I replied in a very high tone in reply to the questions of the police, the police had reason to be suspicious. I say that in fact the police first hurled words of abuse at me before putting any questions to me. It may be that few other police men were also on duty, in the area, at that time. It is true that the police had called other police officers at the spot, but I say that it was not because of my shouting at the police, who had first stopped me. It is not true that I continued to shout at the police even after other policemen who were on patrol duty at that time, arrived at the spot. It is true that I was taken in the Hoysala van for further interrogation, to the police station. But, I do not agree that that was because I did not stop shouting at the police. It is not true that the telephone numbers of my brother and parents were collected after reaching the police station. It is not true that my brother and father came to the police station in the early hours of the morning of 10-04-2019. It is true that Shri Danesh was with me in the police station throughout. It is true that I did not inform my parents and brother about me

being taken to and kept in the police station, because two phones belonging to me and one belonging to Shri Danesh had been taken away by the police in Hoysala van itself and for the same reason, Shri Danesh too may not have informed his family members about he too being taken to the police station. I do not know that my parents and brother were informed by the police due to which they came to the police station.It is not true that because I refused to apologize, the police officer informed and called my father and brother. I came to know in the police station that the police was proposing to file some other petty case against me. It is true that Police Inspector Shri Keshavamurthy was not in the police station when I was brought to the police station. I do not exactly remember whether Police Inspector Shri Keshavamurthy came to the police station at 9 A.M. or 10 A.M., after the incident. I am not sure whether it was 10 A.M. in the morning. It is not true that the Police Inspector Shri Keshavamurthy remained in the police station for hardly twenty minutes. He was there for about one hour. It is true that at that time, my father and brother were also present in the police station.Later, I learnt from my father and brother that the police proposed to initiate a petty case against me. It is not true that my father and brother were allowed to go within ten minutes after discussion with the Police Inspector. It is not true that Shri Keshavamurthy had not talked to me at all. It is not true that Shri Keshavamurthy did not make me to do sit-ups or write a particular sentence for one thousand times. It is true that the police had come to Shifa hospital for taking my statement. It is true that the doctor who treated me was also present when the police recorded my statement.It is not true that no police officer has insulted me or committed any atrocity upon me either in a public place or inside the police station.It is not true that I was hale and hearty, even while I was under treatment in the hospital. It is not true that I have never visited Bombay Clinic near the locality. It is not true that after treatment, I have obtained a particular medical certificate to suit my claim and convenience. It is not true that Shri Keshavamurthy has not committed any wrong or atrocity against me and he has only discharged his duties and that too, only for 15 to 20 minutes, he was in the police

station. It is not true that I have tried to implicate Shri Keshavamurthy with a mala fide intention.”

(All underlines are added)

20. Shri Mohammed Tanveer’s (victim) reply to the questions put by Shri Ajay, advocate for Shri Santosh Kumar, the then Sub-Inspector of Police, is as under:

“It is true that I had a tiff with the police at around 2 A.M. on 09-04-2019. At the time of the incident in the night, Shri Santoshkumar, the P.S.I. came to the spot in Hoysala van. However, he did not accompany me back to the police station, but other police men accompanied me to the police station. At that time, Shri Santoshkumar had not assaulted me. Thereafter, there was no interaction between me and Shri Santoshkumar, the P.S.I.”

21. Shri Mohammed Tanveer’s (victim) reply to the questions put by Shri Mohankumar, advocate for Shri Manjunath, Shri Govindaiah, Shri Vittal, Shri Ayyappa and Shri Siddaraju, the Police constables, is as under:

“...I am now shown the photocopy of the request memo of Shifa Hospital in respect of my case and looking at it, I say that it is dated 19-04-2019 (learned advocate places the copy of that document on record). It is not true that there was no violation of human rights or any torture or harassment to me in the police station. We have filed MLC late, because till then I was not informed about the temporary failure of kidneys/stoppage of its function. I am now shown the wound certificate issued by Shifa Hospital, at page-75 of Commission’s file and I say that it is the wound certificate issued by the said hospital. I am not sure that I was in the hospital, exactly for 21 days. It is not true that I remained in the hospital because of some other ailment, not related to alleged injuries. It is true that the wound certificate show that the injuries in question were simple in nature, but I say that it is also mentioned that there was assault by police. I do not know whether because of negligence in treatment given by Shifa Hospital,

MLC was registered after four days after my admission into the said hospital.It is not true that there is no violation of human rights in my case....”

22. Shri Danish, friend of Mohammed Tanveer (Victim) has stated in his statement on oath on 28-11-2019 as under:

“...the police were checking the vehicles and Shri Mohammed Tanveer was talking over his cell phone, with his father and the policemen hurled words of abuse at Mohammed Tanveer to stop and disconnect the phone. Then, a policeman Shri Ayyappa beat up Shri Mohammed Tanveer two to three times with a lathi. I was preventing Shri Mohammed Tanveer from arguing and scuffle and at that time, the police called up Hoysala van. Then, the Hoysala van came and after snatching our mobile phones, we were sent to D.J.Halli Police Station in the same Hoysala van. Right from alighting from Hoysala van, the police started beating Shri Mohammed Tanveer and then he was badly beaten in the police station, outside the lock up, with lathi and plastic pipe. He was beaten for about half-an hour. Six to seven police men were involved in beating Shri Mohammed Tanveer and then he was pushed into lockup. There were four to five persons in the lock up at that time. They and I have seen Shri Mohammed Tanveer being beaten. Then, around 6'o clock in the morning one Inspector came and asked my name and put me also into lock up. Around 06-30 A.M. my father came to the police station in search of me. My father got angry with me and went back and informed the father of Shri Mohammed Tanveer about our being in the police station. After that one single star Sub-Inspector came, grabbed Shri Mohammed Tanveer by shoulders from outside the lockup, spat on him and went away. Thereafter, a Circle Inspector with three stars came and made us to do sit ups and asked us to sit like a cock. Then we were made to write a sentence in Kannada, for one thousand times and after writing the said sentence up to 12 noon, the Circle Inspector asked me to slap Shri Mohammed Tanveer three to four times. Thereafter, at about 07-30 P.M. we were released. Then, I went for my work and Shri Mohammed Tanveer was in pain. Then, I

came to know that Shri Mohammed Tanveer was admitted into the hospital.

“Myself and Shri Mohammed Tanveer are neighbours. I have not gone to meet any doctor or any hospital to meet or ask about Shri Mohammed Tanveer. I have seen injury marks on the lower feet of Shri Mohammed Tanveer. I also saw injury marks on one hand....

“When Hoysala van came to the spot of incident Sub-Inspector Shri Santoshkumar, the Sub-Inspector was in it. However, he did not accompany us, when we were taken to the police station in Hoysala van. Shri Santoshkumar has beaten neither me nor Shri Mohammed Tanveer. Thereafter, Shri Santoshkumar has not come to the police station.

“...I am shown the statement made by me on 16-05-2019 before the Dy.S.P., K.S.H.R.C. and I say that it bears my signature and what is stated therein is true. I had gone out on the night of the incident for buying medicine for my father. I do not know the distance between our house and Dr.Ambedkar Hospital. I cannot say what words were told by Shri Ayyappa to Shri Mohammed Tanveer, when he stopped Shri Mohammed Tanveer, because I was playing video game on my mobile phone, at that time. It is true that both of us were not wearing helmets at that time. There were about three police officers when we were stopped. I have not made any complaint before any authority about the incident. I cannot say how many police officers were there in the police station, when we were taken by Hoysala van, to the police station.At the time of the incident, we were carrying documents of the motorcycle, with us. Nobody has asked my statement in the police station. It was around 11-30 in the morning when the Circle Inspector came to the police station. I cannot read Kannada. My father came to know about my being in the police station because he had gone to the police station to make a complaint about my not returning to home in the night. My father had come to the police station around 06-30 A.M. Between 9/10/04-2019 and 16-04-2019, Shri Mohammed Tanveer had not contacted me. It is true that the incident in question appeared in many newspapers. “.....One month after the date of incident, I met Shri Mohammed Tanveer. I came to know about hospitalization of Shri Mohammed Tanveer because of some telephonic talk with his mother. It is not true that no illegal thing had happened in the police

station. I came to know about the complaint filed before the Commission from Shri Mohammed Musaveer, brother of Shri Mohammed Tanveer. I know that Shri Mohammed Tanveer was hospitalized for 21 days. I came to know that he was hospitalized because of some injury to the kidney. It is not true that we had drunk alcohol on the night of the incident and we were in a drunken state.From 02-30 A.M. to 6 A.M. I was sitting in the police outside the lockup.”

(All underlines are added)

23. It transpires from the record placed before the Commission that the victims were brought into the police station at 01.45 a.m. and were detained till 11.45 a.m. as per the station house diary, and they were not allowed to contact anyone outside, which is unlawful and not permissible under law. The respondent officers, namely Shri Keshava Murthy, Shri Govindaiah, Shri Ayyappa and Shri Santhosh Kumar denies the alleged assault on Shri Mohammed Tanveer. But, the wound certificate of Shri Mohammed Tanveer issued by Shifa Hospital shows that the alleged injuries were caused due to assault by the police and they were simple in nature. Further, Shri Govindaiah, A.S.I., Shri Siddaraju, A.S.I. as well as Shri Keshava Murthy, Police Inspector did not make any effort to take action on basis of P.C-16756 Shri Ayyappa’s report alongwith a complaint of offence under section 353 of I.P.C against Shri Mohammed Tanveer and Shri Danish (victims herein) which shows how diligent the police were in discharging their duty. Shri Keshava Murthy, Police Inspector has fairly admitted in his statement on oath that upon request of victims’ parents and their assurance that the victims would not repeat the same mistake, a petty cases under section 92(O) (R) of K.P. Act were filed against the victims despite filing a case under section 353 of Indian Penal Code which is a cognizable offence and non-bailable in nature and in which, Police Inspector has no authority to compromise the case, it being triable by the Court of Session. Even as the police

officers were not expected to admit the alleged torture and illegal acts amounting to serious offences, the allegations were required to be duly investigated and proper report was required to be filed in the court concerned for compliance with due process of law and mandatory provisions of the Code of Criminal Procedure. In the facts of these cases, it is indisputedly established that the victims were taken into custody for which a case of petty offence was registered later on; and the victims were not only taken to the police station but kept confined into the police station or lock-up without intimation to their relatives and without access to any legal aid. If they were not to be punished before trial by the police, there was no good reason to keep them confined in the police station. That is clearly an actionable wrong and legal injury under law of torts. The allegations of severe beating and torture are not conclusively proved, nor the physical injuries and consequential hospitalisation of the victim and related medical expenditure are admitted so as to fix financial responsibility. They would be required to be proved in a court of law in proper legal proceeding therefor. However, it is sufficiently proved that there has been serious violations of human rights of the victims without any legal basis and justification. Assuming that the victims were guilty of some misbehaviour, disobedience or petty offence, that could not legally authorise the police to detain them and inflict punishments of their choice. Police officers concerned have not even claimed any extra-judicial powers to inflict any punishment of their choice, while detaining the victims, admittedly accused of some petty offences. It is obvious and cannot be disputed that, the victims of any atrocious behaviour by the police, would be completely helpless in the confines of a police station. Therefore, it is absolutely necessary to deprecate in no uncertain terms, any ill-treatment, insult or torture, as alleged or otherwise; and to clearly mark it as violation of human rights, entitling

the victims to compensation and redressal. Since criminal cases are already registered in respect of the alleged incidents in this case and the present cases and enquiry are confined to allegations of violation of human rights, it may not be appropriate to record any final conclusion in respect of the alleged offences.

24. Since the Government appears to have initiated its own disciplinary action and a case of cognizable offence is already registered, confining the enquiry to deciding the responsibilities and proper amount of compensation, the Commission is of the opinion that:

- i. When the victims viz Mohammed Tanveer and Danish were taken into police custody, neither police intimated the same to their parents nor allowed victims to inform anyone;
- ii. As the victims were detained illegally, their liberty was curtailed and the illegal detention, with or without any ill treatment, was gross violation of human rights;
- iii. Moreover, as per P.C-16756 Ayyappa's report, no step/action was taken against the victims under section 353 of I.P.C. and later on, a petty case was registered against them which shows how the police have improperly exercised the process of law and denied equal protection of law to the victims.

25. Hence, the Commission is constrained to make its recommendations as under:

a) In the first instance, the Additional Chief Secretary to Government of Karnataka, Department of Home should pay by way of interim compensation the sum of Rs. 25,000/- to Shri Mohammed Tanveer and Rs. 10,000/- to

Shri Danish respectively and recover the same from the police officers concerned in such proportion and in such manner as may be determined by the State Government, in accordance with the relevant legal provisions.

- b) A copy of this order should be served upon all the Police Inspectors and officers in-charge of every Police Station, with suitable instructions to strictly follow the relevant provisions of the Code of Criminal Procedure, particularly in the matter of non-cognizable offences and confinement of accused persons in such cases.**
- c) It should be impressed upon each and every police officer that in the name of or under the cover of enforcement of law, they are not permitted to themselves commit any offence, such as wrongful confinement, hurt, assault, snatching, extortion, insult, annoyance or criminal intimidation; and such incidents amounting to violation of human rights shall be treated as serious misconduct liable for major punishment.**

26. It may be appropriate to point out at the end that under the provisions of Section 18(e) of The Protection of Human Rights Act, 1993, the State Government or the authority concerned is duty bound to forward within a month, its comments on this report and also report the action taken or proposed to be taken. It is hereby brought to kind notice of the authorities concerned that, under the provisions

of Regulation 22 of the Karnataka State Human Rights Commission (Procedure) Regulations 2020, if any application seeking modification or review of order or proceeding passed by this Commission is received, it may be considered by the Commission for appropriate order.

27. A copy of this Opinion, Report and Recommendations shall be sent to the complainants and respondent forthwith.

Sd/-

(Justice D.H. Waghela)
Chairperson

G.S.