

KARNATAKA STATE HUMAN RIGHTS COMMISSION

1-4th Floors, 5th Stage, M.S. Building, Bengaluru – 560001

H.R.C No: 4495/10/15/2019
c/w 4512/10/15/2019- H
Date: 16-12-2020

PRESENT

Justice D.H. Waghela
Chairperson

Complainant: Ms. Rekha Prabhakar
#1634, 6th Main,
5th Cross, 2nd Stage,
Vijayanagar,
Mysuru – 570017
Ph No: 9740617345
9980804554

V.

Respondents:

1. Shri P.M. Siddaraju
#349, 4th Main,
8th Cross,
Bankers Colony,
Bogadi,
Mysuru – 570026
2. A.D.G.P (Law and Order)
Bengaluru
3. A.C.S, Department of
Home, Govt. of
Karnataka

OPINION, REPORT AND RECOMMENDATION

1. This proceeding is initiated on the basis of the letter dated 28-11-2019 stating that complainant's uncle, Late S.K. Nagaraj had executed a will bequeathing his house situated at Jayanagar, Mysuru in complainant's favour on 24-04-2019 and he died on 06-09-2019. It is alleged that Shri Shivakumar, Smt. Sudha and Shri Naveen had forcibly broken the lock and entered into aforesaid house

with the help of goondas, looted cash and documents of the house and threatened the life of the complainant on 13-09-2019, 21-09-2019 and 05-11-2019. It is further alleged that in spite of filing complaints on abovementioned dates, Shri P.M. Siddaraju, then Police Inspector of Ashokapuram Police Station, Mysuru and Commissioner of Police, Mysuru had not acted upon her complaints and had not taken any action against aforesaid persons. Copies of complaint dated 19-09-2019 addressed to D.C.P (L & O), Mysuru City and complaints dated 13-09-2019, 21-09-2019 and 05-11-2019 addressed to Police Inspector, Ashokapuram Police Station, Mysuru are enclosed to the complaint herein. As the respondent officer had concluded the enquiry in Petition No – P00048190600508 upon the complaints submitted by complainant on 13-09-2019 and 21-09-2019, the complainant filed another complaint before the Commission which is registered as H.R.C No: 4512/10/15/2019, requesting for necessary action.

2. Upon issuance of notice to the Addl. Director General of Police (Law & Order), Bengaluru to submit their response to the complaint, the report dated 07-02-2020 is received alongwith report dated 07-02-2020 of I.G.P, Central Division, Bengaluru. The opinion part of the report which is originally in Kannada language is translated into English as under:

1. Shri P.M. Siddaraju, the Police Inspector of Ashokapuram Police Station, Mysuru has not taken any action when several

- complaints were filed by the complainant before him and his higher authorities.*
- 2. No action is taken against the opposite parties in spite of the fact that they had trespassed into the house by breaking open the door.*
 - 3. It is seen that the F.I.R is registered after several weeks of receiving the complaint.*
 - 4. Even after registration of F.I.R, appropriate action is not initiated against the opposite parties.*
 - 5. No action is taken by the officer concerned in spite of issuance of clear directions by the Commissioner and A.C.P of Krishnaraja Sub-Division.*
 - 6. The complainant has submitted two compact discs. Upon keen observation, it appears that the conversations were mainly between P.I., Shri P.M. Siddaraju, Shri Prabhakar and Smt. Rekha Prabhakar. It is seen that P.I., has evasively replied to the explanation of the couple, as regards the injustice happened to them. The officer concerned has not, in any way, responded with the concern of providing justice to them.*

“It is opined that had the P.I., Shri P.M. Siddaraju immediately registered the complaint and properly investigated into the matter, justice could have been provided to the complainant. In spite of filing several complaints that Shri

Shivakumar, his wife Smt. Sudha, Shri Naveen and others had broken the lock of complainant's house, trespassed into it and threatened her life, the P.I., Shri P.M. Siddaraju has not cared to visit the spot in time, drew any mahazar and register the case. Thus, it is prima facie proved that the officer concerned has shown dereliction and negligence in discharging his duties."

- 3.** Copies of complaints dated 13-09-2019, 21-09-2020, 08-10-2019, 05-11-2019, 06-11-2019, 07-11-2019, 11-11-2019, 03-01-2020 addressed and submitted to the Police Inspector of Ashokapuram Police Station, Mysuru; Endorsement dated 11-10-2019 issued by the P.I. stating that the subject matter of the complaint is of civil nature; copy of the complaint dated 19-09-2019 addressed to Deputy Commissioner of Police (Law & Order), Mysuru; copy of the complaint addressed to Deputy Commissioner of Police (Crimes), Mysuru; copy of the complaint dated 22-11-2019 addressed to Commissioner of Police, Mysuru City; copy of the complaint dated 04-01-2020 addressed to A.C.P, Krishnaraja Sub-Division and copy of the F.I.R registered on 13-01-2020 vide Cr. No: 05/2020 u/s 454, 457, 380, 448 and 34 I.P.C are enclosed to the report.
- 4.** A copy of the abovementioned report was sent to the complainant for her comments. The complainant has submitted her comments vide letters dated 17-03-2020

and 10-06-2020. The complainant has submitted in her letter dated 17-03-2020 as under:

“..... The above Enquiry officer, after fully verifying all our documents (26) and 2 CDs, thoroughly, did a detailed enquiry of we two & the inspector and his 82 page documents / enclosures, he is fully convinced about the culpability of Inspector Mr. Siddaraju, he has found the FULL & CORRECT TRUTH and has given his DAMNING REPORT correctly that the Inspector guilty of completely failing in his duty in this case, corroborating with my opinions above. We can, without any Doubt say the Inspector has FULLY CONNIVED with the Accused for illegal gratification. His corrupt practices & Dereliction of duty, I feel is very much established and simultaneously as a result of his dereliction of duty, I feel is very much established and simultaneously as a result of his dereliction of duty, this Inspector has concurrently done contempt of High Court orders (dated 13-04-2017 on a criminal Petition No. 7793/2016,) in which the Hon’ble High Court, Karnataka has strictly issued orders to Police Chief of Karnataka, that they should not interfere. (or assist, connive, aid, help, join illegal Claimants of others’ property without

proper Registered Will document from the Testator), in property dispute matters, and they should be directed to approach civil Court, but they have not done this. Now, this Inspector & Commissioner have done these stated above & they have done contempt of The Hon'ble High Court, for which, they deserve punishment, Sir.

“May I request your Honour Sir, for a suitable monetary compensation for various damages caused by these criminals, including my mental suffering, loss of my health due to my existing BP and resultant tension, anxiety, loss of household articles due to theft by these accused, damage to plants in the compound, etc.,.”

5. The parties were called upon to remain personally present before the Commission for further enquiry. Accordingly, the complainant and her husband were present before the Commission on 28-07-2020 and they were heard *in extenso*. The respondent officer was present before the Commission on 09-09-2020 and he submitted his written statement dated 09-09-2020 in his own handwriting in Kannada language alongwith 2 sets of documents in his defence. On 22-09-2020, he again remained present before the Commission and filed his statement on oath dated 21-09-2020 and orally stated that he has performed his duties quite well during his service and he is now retired since 31-07-2020. He also

stated that he has received his terminal benefits and he is getting pension regularly.

6. In the written statement dated 09-09-2020, the respondent officer has stated that on 13-01-2020, he registered the complaint vide Cr. No: 05/2020 u/s 454, 457, 380, 448 and 34 I.P.C and rushed to the spot as shown by husband of the complainant and there was no sign of any damage to the door. He has further stated that the subject matter of previous complaints filed by the complainants were of civil nature and hence they were verified, enquired and reports thereof are submitted to his higher authorities. Replying to Opinion – 3 of report dated 07-02-2020 of the I.G.P, Central Division, Bengaluru, respondent has stated that on 13-01-2020, the complainant appeared in the police station and submitted a complaint. As the offences mentioned in that complaint were cognizable, he registered the F.I.R. and initiated investigation. The respondent has further stated that opinions of I.G.P, Central Division, Bengaluru in his report dated 07-02-2020 are far from truth and he does not accept the same. Documents such as copies of Case Diary (1 – 6) of the case and copies of 6 photographs which appear to have been captured in front of the house in question are enclosed to the written statement.

7. The respondent officer has submitted his replies to 6 opinions of the I.G.P, Central Division, Bengaluru in report dated 07-02-2020. The replies stated in Kannada are translated into English as under:

1. *This is far from truth and I totally disagree/refuse, as I have conducted enquiry after receiving the complaint copies from the higher authorities and given endorsement to the complainant and submitted enquiry report to the higher officers.*

2. *The written complaint by Smt. Rekha Prabhakar was received on 13-01-2020 and it was registered in Case No.05/2020 u/s 448, 454, 457, 380 R/w 34 I.P.C and I rushed to the spot alongwith staff went to conduct spot mahazar. It was found that the house and gate were locked. Upon asking the complainants about this, they told they don't have the keys. Hence the statement that no action has been taken is far from truth.*

3. *But, since the subject matter of the complaints submitted by complaints were of civil nature, they were verified and enquired and reports thereof were submitted to the higher officers. Later, when the complainant came to the station and gave a written complaint on 13-01-2020, I registered the F.I.R, as it was a cognizable offence F.I.R and took further needful action.*

4. *After registering the F.I.R, I went in search of the accused but they were not found in the said address. And the said houses were found locked. Hence, it was*

not possible to do their enquiry. Therefore, this allegation is far from truth and it is totally false. Due to COVID – 19 emergency bundobasth duty since March, enquiry could not be completed and on 31-07-2020, I got retired from service.

5. I have duly followed the directions issued by Commissioner of Police and A.C.P Krishnaraja Sub-Division without any fail and submitted reports.

6. In this connection, I do not know if the complainant has ever called me over phone. But her husband, Shri Prabhakar has phoned me several times during odd hours. I do not exactly know/remember as to what I spoke to him over phone. Hence, this allegation is far from truth and I do not accept it.”

The respondent has further stated *inter alia* as under:

“.....But since the house was locked and the complainant did not have the keys, we could not conduct mahazar inside. Since the incident occurred on 05-11-2019, we did not take dog squad and fingerprint experts to the spot.”

“In this case, it is found prima facie that, the owner of the house, Late Nagaraj had executed the property to the complainant through a will. But the son of Nagaraj, Shri Shivakumar was telling that he is his

father's heir and he is the owner of the said house. Further, it was orally stated by Shivakumar that as per the will executed by his grandfather, Late Krishnappa, the said house No.239 belonged to his father S.K.Nagaraju. In his will, it is stated that after his demise, his son, S.K.Nagaraju will be the sole owner of the property and no other sons or daughters or their children or grandchildren have any rights or ownership whatsoever on the said property. Hence, the complainant who happens to be the daughter of his father's brother has no rights in the said property. In this regard, complainant, Smt.Rekha and her husband Prabhakar are forcing the police to break open the house hand over the said house situated in Jayanagar. Since the case is of civil nature, it was instructed to the parties to approach Hon'ble Court. In spite of this, complainant has made it a habit to give petitions to higher officers time and again."

".....In the meanwhile, I got retired from government service on 31.7.2020. As per the instructions of the Commissioner of Police, Mysuru City, I handed-over the case file to in-charge Police Inspector, Shri Prakash, Ashokapuram Police Station and got relieved from service. After 31.7.2020, the case is being enquired by the Ashokapuram in-charge police inspector."

“.....The enquiry is in progress of the said case and the Investigation Officer will submit his final report after conducting enquiry in the matter....”

8. It is clear from the facts coming on record that after issuance of notice to the IGP, Southern Range, Mysuru alongwith copy of the complaint, by this Commission by order dated 02.12.2019 and re-issuance of notice to the Additional Director General of Police (Law and Order) to hold an enquiry and make a report to this Commission on or before 10.02.2020, the report dated 07.02.2020 is received with the conclusion enumerated in Para 2 hereinabove. Thus, the police department at the highest level has already found and reported that P.I Shri P.M. Siddaraju, in-charge of Ashokapuram Police Station, Mysuru had committed serious dereliction of duty by not acting upon the complaints of the complainant, not registering an F.I.R for several weeks, not taking appropriate action against the persons accused in the F.I.R, (in spite of issuance of clear directions by the Commissioner and A.C.P of Krishnaraja Sub-Division) and committed negligence in discharging his duties. Despite these clear conclusions reported to the Commission by report dated 07.02.2020, no departmental action is stated to have been taken to punish P.I Shri P.M. Siddaraju and to redress the grievances of the complainant before the Commission. This fact has made it incumbent upon this Commission to hold an enquiry and make appropriate

recommendations. It may be pertinent to note here the important dates of significant events. The alleged acts of trespass, breaking open the locks of a house with the help of goondas, looting cash and documents and threatening the complainant, happened in September, 2019, for which complaints were made to the Inspector on 13.09.2019, 21.09.2019 and 05.11.2019. After approaching higher officers, the F.I.R was registered on 13.01.2020 vide Cr.No.05/2020 under section 454, 457, 380, 448 and 34 of I.P.C. The P.I accused before the Commission retired from service on 31.07.2020. Thus the officer *prima facie* found to be guilty in February 2020, of serious and conscious negligence and dereliction of duty even in the enquiry held by the highest authorities, got away without any adverse consequences and any relief or justice to the ordinary citizen, dependent upon the police for at least a fair and proper enquiry into the serious crimes alleged by them. Notwithstanding possible civil disputes among the heirs and relatives of the deceased owner of the property, the P.I of the police station concerned was in no way absolved of his primary duties of attending the complaints of the complainant, registering an F.I.R in time for the alleged cognizable offences and immediately investigate into them. Therefore, in spite of his retirement since 31.07.2020, P.I concerned Shri P.M. Siddaraju has to be held directly responsible, in the first instance, for violating human rights of the complainant succinctly enshrined in Article 14 of the Constitution, which is **“The State shall not deny to any person equality before the**

law or the equal protection of the laws within the territory of India”. In the facts of this case, the complainant was subjected to hostile discrimination obviously and presumably to favor and protect the persons accused by them, which may have adverse legal and financial consequences for them and would necessarily result into serious mental suffering, anxiety, frustration and loss of faith in the rule of law.

9. In the facts and for the reasons and conclusions recorded here-in- above, after affording reasonable opportunity of being heard to the officer concerned, the Commission is constrained to deprecate failure of the police department in enforcing its own rules of discipline and taking punitive departmental actions against P.I Shri P.M. Siddaraju. In order to redress the grievances of the complainant and to compensate violations of their fundamental rights, it is recommended that:-

(a) The State Government of Karnataka should, in the first instance, pay to the complainant by an account payee cheque in her name, a sum of Rs.1,00,000/- (Rupees one lakh only), by way of compensation;

(b) The Additional Director General of Police (Law and Order) should issue appropriate mandatory standing instructions to the officers in-charge of all the police stations to promptly and impartially attend to complaints

related to property, in accordance with law, keeping in view the provisions of sections 149, 150, 151, 154, 155, 156, 157 and 158 of The Code of Criminal Procedure, 1973.

(c) The State Government should withhold or recover the amount of Rs.1,00,000/- (Rupees one lakh only) with such penalty as deemed proper, from the pension or other terminal benefits payable to P.I Shri P.M. Siddaraju, in accordance with the provisions of Part IV of the Karnataka Civil Services Rules, 1966.

10. 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 2007, 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.

11. A copy of this Opinion, Report and Recommendations shall be sent to the complainant and respondents forthwith.

Sd/-
(Justice D.H.Waghela)
Chairperson

V.M.N