

KARNATAKA STATE HUMAN RIGHTS COMMISSION

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

H.R.C No: 2077/10/31/2019

Date: 20-10-2020

PRESENT

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Shri R.K. Dutta
Member

Complainant:

Ms. Kavya
#159, 12th Cross,
4th Block,
Peenya 1st Stage,
SRS opp road,
Bengaluru –58
Ph: 7406814884

V.

Respondents:

1. Shri Venkate
Gowda,
Police Inspector,
Soladevanahalli
Police Station,
Bengaluru
2. Shri Shivaji Rao,
Police Constable,
Soladevanahalli
Police Station,
Bengaluru
3. Shri Srinivas
Police Constable,
Soladevanahalli
Police Station
4. D.G. & I.G.P,
Karnataka

5. A.C.S, Home
Department,
Government of
Karnataka

OPINION, REPORT AND RECOMMENDATIONS

- 1.** In this proceeding, one Kumari Kavya, D/o Siddagangaiah has filed a complaint stating that on 21-05-2019 in the midnight, Head Constable, Shivaji Rao, Constable Srinivas, both of Soladevanahalli Police Station, Bangalore alongwith 2 others had come to the complainant's house, beaten her minor brother Kishore and neighbour Arun, forcibly taken Access two wheeler, mobile phone and thereafter they had taken them to the Soladevanahalli police station and have illegally detained them till the date of the complaint i.e., 24-05-2019.
- 2.** Pursuant to the report, the Commission, by its order dated 24-05-2019, ordered to supply copies of the complaint to A.D.G.P attached to Karnataka State Human Rights Commission to hold a preliminary enquiry and report on 27-05-2019.
- 3.** On perusal of the enquiry report submitted by the Dy.S.P, K.S.H.R.C, Kumari Kavya and Shri Kishore Kumar who is minor aged 16 years have reiterated the averments made in the complaint regarding illegal detention of Kishore Kumar between 21-05-2019 and 24-05-2019 and also assaulting him. The A.D.G.P in his

comments dated 07-06-2019 opined that as the statement of Arun was not recorded and as the medical report of Kishore Kumar was yet to be obtained, the finding could not be concluded. In view of the same, it was decided to call the complainant, the victim and police officials and also the doctor who has issued wound certificate and they were given opportunities to give their statements. On 05-09-2019, Shri Kishore and Smt. Ramakka and Mrs. Lakshamma were present on behalf of the complainant. The police officials had requested for an adjournment. Again on 17-10-2019, both complainant and the victim were present and police officials including Police Inspector Venkate Gowda remained absent and sought date by a letter. The complainant and victim were examined. The police officials were present on 29-11-2019 and were examined. Dr. Sridhar was also examined on 07-10-2020.

4. The complainant, Kumari Kavya states that on her return to Bangalore from Hyderabad on 24-05-2019, she learnt that her brother Kishore and one Arun were taken by Shri Shivaji Rao, Head Constable and Shri Srinivas, Police Constable both of Soladevanahalli police station, at midnight on 21-05-2019. She came to the Commission and went to the police station alongwith Dy.S.P of the Commission and Kishore and Arun were not found in police station. Shri Kishore Kumar who is the victim and who is a minor, states that two policemen had taken him from the house on 21-05-2019 in the midnight and also one Arun to search his brother Kiran. As Kiran could not

be traced, Kishore was made to sleep in the police station that night. According to him, the P.I., Shri Venkate Gowda came to the police station on 22-05-2019, assaulted him with a belt on his palm and after that he was put in the lock-up. On 24-05-2019, a police person took Kishore out of the lock-up and after providing food in a hotel, gave him Rs.30/- and asked him to go home. He further states that because of injury he went to K.C. General Hospital and took treatment. He has also received the out-patient record and wound certificate which he identified before the Commission. He had also stated about assault by Shri Shivaji Rao. The police officials Shri Shivaji Rao and Shri Venkate Gowda have just denied in their statements about illegal detention of Kishore.

5. Kumari Kavya has stated about the fact of her brother Kishore and Arun being taken to the Soladevanahalli police station on 21-05-2019 itself. She also states about coming to the Commission on 24-05-2019. Sri Kishore Kumar is a minor which is not in dispute. And he states that he was taken to the police station on 21-05-2019 at midnight by two policemen. He also states about assault by Sri Venkate Gowda and Shri Shivaji Rao. He states about his illegal detention till 24-05-2019. The police officials remained absent when Kumari Kavya and Sri Kishore Kumar were examined and as they did not choose to contest their version during latter dates of hearing, their version remains uncontroverted. Further, Dr. Sridhar who is the C.M.O of K.C. General Hospital

states about his treating Kishore Kumar on 24-05-2019 and identifies both the out-patient record and wound certificate. The history is given by Smt. Ramakka, mother of the victim and Kishore Kumar himself. The contents of wound certificate, though written on 08-07-2019, are true facts as written in the M.L.C book on 24-05-2019 itself as per the version of the doctor. This wound certificate is also collected by the police. The out-patient record and wound certificate clearly show the history of assault by the police officials written at an undisputed point of time. There is no reason for the doctor to write the history himself. This doctor has treated Kishore Kumar. Though the injuries are minor, he accepts the injury would have healed to some extent as they were 24 hours to 36 hours old. No enmity is seen between police officials and Kishore Kumar. Moreover, the police, in the garb of investigation connected to his brother, should not have called the minor to the police station.

6. So, the statements of Kumari Kavya, Sri Kishore Kumar and Dr. Sridhar alongwith contents of out-patient record and wound certificate corroborate each other to conclude that there was an illegal detention and assault. On the other hand, the statements of police officials indicate that they were in search of Kiran against whom a complaint was there and they were visiting the house of Kumari Kavya. Admittedly, no case is registered against Sri Kishore Kumar.

7. Considering the above facts, it is found to be a clear case of illegal confinement of and injuries to a minor without any legal formality or consideration by the police and a gross case of violation of human rights of the minor. The actions of the police would also amount to violation of clear provisions of Section 10 (1) of The Juvenile Justice (Care and Protection of Children) Act, 2015. And unfortunately, as admitted by the doctor, Shri Sridhar in his statement on oath, even a proper Medico Legal Case was also not registered. All these facts point to complete insensitivity and disregard of human rights of a minor child by the police in the name of investigation into some alleged offence in which the victim was not even an accused person.

8. In the above facts and circumstances, after careful consideration of the material coming on record, the Commission is constrained to make its recommendations as under:

(a) The Additional Chief Secretary, Home Department, Government of Karnataka, should pay by way of compensation the sum of Rs. 30,000/- in favour Sri Kishore Kumar by account payee cheque which shall be deposited in fixed deposit for a period of one year in any nationalised bank near his house with liberty to encash the same after one year.

(b) Director General and Inspector General of Police, Karnataka should order holding of a proper and full-fledged departmental enquiry in accordance with law and the relevant service rules on the basis of material which have come on record in this proceeding so as to afford an opportunity of hearing to the concerned officials and consider recovery of the amount of compensation from such officials as may be found guilty of any offence, misconduct, negligence and / or dereliction of duty.

9. 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.

- 10.** A copy of this Opinion, Report and Recommendations shall be sent by e-mail to the complainant and respondents forthwith.

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

Sd/-
(Shri K.B. Changappa)
Member

Sd/-
(Shri R.K. Dutta)
Member

V.M.N