

KARNATAKA STATE HUMAN RIGHTS COMMISSION

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

**H.R.C No: 2691/10/12/2018 c/w
427/10/15/2020**

Date: 16-10-2020

PRESENT

Justice D.H. Waghela
Chairperson

Shri K.B. Changappa
Member

Shri R.K. Dutta
Member

Complainant:

1. *Suo motu*
2. Shri Jagadish,
Haleyur Village,
Piriyapattana Taluk,
Mysuru – 571102

V.

Respondent:

1. Shri Vasantha S.H
Circle Inspector of
Police,
Sakleshpura Circle,
Hassan District
2. Superintendent of
Police,
Hassan District
3. Addl. Chief
Secretary,
Home Department,
Govt. of Karnataka

OPINION, REPORT AND RECOMMENDATIONS

1. This *suo motu* proceeding is initiated on the basis of oral complaint made by Shri Jagadish, an under-trial prisoner

of Hassan District Prison, during the visit of Chairperson of the Commission to the prison on 10-07-2018. It was alleged by the prisoner that he was apprehended by Holenarasipura Rural police in connection with a theft case, kept in illegal custody for 20 days and the police caused him physical and mental harassment. It was alleged by other under-trial prisoners that there were no necessary medical facilities in Hassan District Prison.

- 2.** The investigation into the allegations made by alleged victim, Shri Jagadish, was entrusted to Shri Krishna Kumar, the then Deputy Superintendent of Police of the Commission. Accordingly, report dated 11-07-2018 was received. It was submitted therein that, upon the complaint filed by Shri Dharmapale Gowda on 25-04-2017, a case in Cr. No: 81/2017 u/s 457 and 380 I.P.C was registered and the Investigating Officer of that case, Shri Vasantha H.S., then Circle Inspector of Police, Holenarasipura Circle apprehended Jagadish on 12-06-2018 at 07.30 p.m. by duly following the procedure of arrest, subjected him to medical examination on 13-06-2018 at 06.15 p.m., produced him before the court on the same day and took him to police custody till 18-06-2018 for further enquiry. It was further submitted that Jagadish was again produced before the court on 18-06-2018 and remanded to judicial custody. Since the report was at variance with the version stated by the prisoner, the Deputy Superintendent of Police of the Commission was

instructed and authorised to carry out further investigation and submit a report as regards the exact date, time and location of the arrest of the accused and about the injuries which were alleged to have been inflicted on Jagadish.

- 3.** Pursuant to such order dated 18-07-2018, report dated 22-11-2018 was received from the Dy.S.P attached to K.S.H.R.C. It was opined in the report that statements of medical officers of the Government Hospital, Holenarasapura and Chamarajendra District Hospital, Hassan, are at variance and do not match with that of the allegations made by the prisoner and there were no other independent witnesses apart from the prisoner himself in support of his allegations. It is further stated in the report that in connection with Cr. No. 81/2017 u/s 457 and 380 I.P.C, C.P.I of Holenarasipura Rural Police Station had sent Jagadish to medical examination on 13-06-2018, 16-06-2018, 18-06-2018 in Holenarasipura Civil Hospital. He was first examined by Joints and Bone specialist; on 16-06-2018, he was examined by cardiologist and on 18-06-2018, he was examined by skin specialist. It is stated that Jagadish was found to be fit and he did not complain about any harassment by the police and no injuries were seen on his body. It is further stated that on 02-07-2018, Jagadish made a complaint before the judge, during the court hearing, that he was physically harassed by Holenarasipura police. Upon the orders passed by the court, he was subjected to medical

examination on 03-07-2018 and 08-07-2018. The copies of out-patient medical record of Jagadish issued by Shri Chamarajendra Hospital, Hassan are enclosed to the report. The statements of police officers concerned, alleged victim, Shri Jagadish and doctors of Shri Chamarajendra Hospital, Hassan and Civil Hospital, Holenarasipura are recorded by the Dy.S.P and placed on record. The wound certificate dated 21-08-2018 issued by Dr. Santosh Kumar .S, Specialist (General Medicine) District Hospital, Hassan states as follows:

1. *Healed patterned tramline linear contusion is present over back of left side of chest. Each limb measures 18x 0.5 cm. separated by a clear area of 0.5 cm, faint black in colour at places.*
2. *Healing patterned tramline linear contusion is present over back of right side of chest. Each limb measures 16x 0.5 cm, separated by a clear area of 0.5 cm. Injury is black in colour.*
3. *Healing patterned tramline linear contusion measuring 29x0.5 cms on each limb respectively and separated by clear area of 0.5 cm is present over the back of right side of abdomen and faint black in colour.*
4. *Healing patterned tramline linear contusion measuring 16x0.5 cm on each limb respectively and separated by clear*

area of 0.5 cm is present over the back in midline and faint black in colour.

- 5. Healing patterned tramline linear contusion horizontally placed, five in number, two over left buttock and three over right buttock are present. Each limb measures 13x0.5cms, separated by clear skin measuring 0.5 cms and faint black in colour.*
- 6. Healing patterned tramline linear contusion is present over back of left thigh. Each limb measures 11x0.5 cms, separated by clear skin measuring 0.5cms.*
- 7. Healed hypo pigmented abrasion measuring 21x6 cms is present over front of right leg.*
- 8. Healed hypo pigmented abrasion measuring 26x5 cm is present over front of left leg.*

Opinion:

- a)** *Injuries No: 1 to 8 are more than 2 weeks old.*
- b)** *Injuries are due to hard blunt force impact.*
- c)** *These types of injuries are seen if a person is hit by stick, whip, iron rod etc.*
- d)** *As wound healing is influenced by many factors, IO is instructed to get the opinion from the doctor who has examined first.*

The case was considered for making further enquiry and listed before the full bench of the Commission. Notices were issued to the alleged victim, Shri Jagadish and Shri Vasantha S.H., then C.P.I of Holenarasipura Rural Police Station to remain personally present before the Commission for recording their statements.

4. Accordingly, Shri Jagadish was produced before the Commission on 18-06-2019 and his statement was recorded. He has stated *inter-alia* as under:

“I was involved in a case of goat theft. Subsequently, I am not involved in any theft case, but the police are still foisting false case against me, for the reason that I had assaulted the policemen at Hassan town, when I was being taken to Arakalagud Court, during the 2008. On 31-05-2018, after attending the court at Channarayapatna, I went to bus stand at 11-45 AM. At that time, about five unknown persons in civil dress came from behind and masked my face and took me in a private jeep, to a farm house, where Shri Vasantha, the Police Inspector assaulted me on that day. As I could not eat anything, Police Inspector Shri Vasantha, stopped assaulting me. Police Inspector Shri Vasantha asked me to have my food, but I refused to take anything. On the following Sunday, Police Inspector Shri Vasantha came to the godown where I was

kept, took me to Kittanahalli Bare where he chained and stripped me of my clothes and gave me electric shock for ten minutes and shifted me back to godown. There, the police threw chilly powder into my eyes. On the next day, I was taken to Bettadapura, in a jeep and at that time, constables Harish, Basavaraj and Naveen were present. On 06-06-2018, I was taken to Mysore by Shri Vasantha, the Police Inspector and constables Harish, Basavaraj and Naveen. On 08-06-2018, I was brought to Second Stage, Peenya, Bangalore and again on 10-06-2018 I was shifted to Hassan and was kept in the very same godown, where I had been kept earlier. On 13-06-2018, I was produced before the court at Holenarasipura, after informing my wife. On 02-07-2018, the fact of my illegal detention and assault on me was brought to the notice of the Magistrate by me, in writing, when I was produced before him at Holenarasipur.”

- 5.** As serious allegations were made against Shri Vasantha and constables, Shri Naveen, Shri Basavaraj and Shri Harish, notices were issued to them to appear before the Commission for recording their statements and further enquiry. Accordingly, aforesaid police officer and constables remained personally present and submitted their statements on oath.

6. Shri Vasantha S.H., Circle Inspector of Police, Sakleshpura Circle has submitted in his affidavit dated 13-11-2019 as under:

“On 12-06-2018 around 07-30 PM I was checking the vehicle during that time one person came in two wheeler when I asked for the document of the same vehicle he failed to produce on further enquiry he revealed that two wheeler having number KA 55 s 2998 was stolen by him. After that I asked two person to come as mahajar witness who were available in the circle and explained them regarding the person who was in that place and told them regarding his details and asked the witness to come along with us to my office for personal search after reaching office we searched the suspect Jagadish @ Huliya Jaga S/o Channegowda and he confessed about the crime committed by him, we arrested the person and informed of his arrest to his wife Bharathi, and taken voluntary statement of Jagadish, in his statement he mentioned and revealed about many offences he has committed. There after the accused kept in the police custody.

“Next day that is 13/06/2018 as per voluntary statement he taken us to the spot of offence for investigation and after produced before medical officer and Next

produced the accused Jagadish before the Magistrate of CJ & JMFC of holenarasipura court, we requested the magistrate for police custody, as per our request honourable court given the accused for police custody from 13/06/2018 to 18/06/2018 and taken police custody of the accused and kept in proper guard. From 14-06-2018 to 18/06/2018 he has shown the various places of offence and totally we recovered the property of 11 cases wise.....

“After the completion of investigation on 18-06-2018 he was again produced before medical officer and produced before the magistrate, the Magistrate ordered judicial custody of the accused.

“I studied the statement of Jagadish given before the honourable Chairman of SHRC on 31/06/2018 (31/07/2018) when the honourable chairman visited the Hasssan prison.

“In the statement he made allegation against the H N pura CPI and other police had Kidnapped him on 30-05-2018 and kept him for illegal custody for 15 day and Physically beaten him and booked false against him.

“These allegation are baseless allegation he does the types of allegations so that the police will restrain from arresting or interrogating him in future.

*“The most important thing I Request the honourable commission to consider the matter is, **he not only threaten the police but also tried to threaten the judiciary also so that the way of his behaviour may restrain to influence the judicial officer handling the case. A case has been registered in this regard in Cr No 138/16 of Channarayapatna town police station. In this case honourable Magistrate of JMFC has given the complaint to the police station. He has been convicted in this case, These are all about the modous Operendi of the petitioner. I rule out the allegation of the petitioner about kidnapping and keeping in illegal custody for 15 days and beating him during the police custody.**”*

Shri Vasantha has further stated that Shri Jagadish and wife Smt. Bharathi have made several allegations against police officials on previous occasions. Copies of such 6 letters addressed to various authorities are enclosed to the affidavit. Tower dump details of Shri Jagadish of his mobile number – 8749004159 from 25-05-2018 to 12-06-2018; medical report of Jagadish recorded on 13-06-2018, 17-06-2018, 18-06-2018; order sheet in Cr. No. 81/2017 u/s 457, 380 I.P.C recorded on 13-06-2018 and extract of P.S.R showing the date of arrest of Jagadish are also enclosed to the affidavit.

7. In their affidavits dated 11-11-2019, Shri Basavaraja M.R., CPC – 434, Shri Naveena M.R., CPC 705 and Shri Harisha K., CPC – 259 of Holenarasipura town police station have made similar submission like Shri Vasantha and they have denied the allegations levelled against them by Jagadish.

Further, the statements of Shri Basavaraja M.R., CPC – 434 and Shri Harisha K., CPC – 259 were recorded in the Commission on 14-11-2019. Shri Vasantha S.H. has not remained present before the Commission in spite of service of notice twice.

8. Shri Basavaraja M.R., CPC – 434 has stated on oath as under:

“It is not true that Jagadeesh was taken up and arrested on 31-05-2018, while coming out of Channarayapatna Court. The contents of my affidavit filed are true. It is not true that the suggestions being made by him is correct.

“On 12-06-2018 when we were checking the motor vehicles near the railway station of Holenarasipura, Jagadeesh came there on motor cycle, and I and Harish stopped Jagadeesh for checking the vehicle, and because he was not stopping the vehicle, he was caught hold, and that time we did not have any warrant against Jagadeesh. At that time, myself, Harish and Shri Vasantha S.H., CPI were

there. At that time, we did not know that it was Jagadeesh who was caught in the checking of vehicles. Only on 12-06-2018 I and Harish were asked to trace the accused and the theft articles related to case registered in the C.R No. 149/2018 in Halli Mysuru police station, at that time on 12-06-2018 only myself constable Harish and CPI Shri Vasantha S.H. were there. At that time, we did not know that the person caught was Jagadeesh. On that day we took Jagadeesh to Holenarasipura police station, and after bringing him to the police station, he was enquired by Shri Vasantha S.H and a statement of Jagadeesh was recorded..... We police constables did not have any instructions for arresting any person in connection with theft cases, which were registered in different police stations. None other case of theft was admitted by Jagadeesh. I am not aware if any charge sheet is filed after 12-06-2018. I had no clue to trace or know Jagadeesh as an accused person in any case. It is true that we police constables or Shri Vasantha S.H, CPI were not in search of any thief, pursuant to the number of the number of complaints of theft which were pending or being investigated. Nor we were in search of accused and articles in respect of theft cases in Cr. No. 149/2018. Thereafter,

Jagadeesh was produced before the Magistrate on 13-06-2018 and he was taken on police remand from 13-06-2018 to 18-06-2018. During the period from 13-06-2018 to 18-06-2018 myself and Harish were with Jagadeesh. Within that period of 13-06-2018 to 18-06-2018 we have taken Jagadeesh to Buvanahalli, K.R. Nagar, Piriapatna, Agrahara gate within Holenarasipura for Mahazar. On 18-06-2018, he was sent to district jail of Hassan. I cannot say, how visible signs of physical injuries were found on the body of the Jagadeesh at the time of inspection of jail by the Human Rights Commission on 10-07-2018.”

- 9.** Shri Harisha K., CPC – 259 has stated *inter alia* as under:

“I did not know Jagadish, before his arrest on 12-06-2018. I was present when Jagadish was caught near the railway station at about 07-30 PM, on that day. He was immediately taken to police station. The statement of Jagadish was recorded between 9 and 10 PM. I do not know how many offences were admitted by Jagadish, in his statement, given by him in the lock up. I am not sure whether I have signed the arrest mahazar. Another mahazar was prepared on the basis of the materials

recovered from upon the body of Jagadish. One gold ring, one packet, another two packets, a thread and a cutter were seized under mahazar. I do not know whether there was any complaint about the theft of those articles. The motorcycle on which Jagadish was riding may have been included in the mahazar, but I am not sure about it. I was not informed by CPI Shri Vasantha to catch or arrest Jagadish. On 12-06-2018, we were searching for the accused person relating to Cr. No. 149/2018. Jagadish was brought to the police station, because he could not produce the papers of the vehicle, for violation of traffic rule and regulations. Between 7 and 7-30 PM, five to six other cases were registered under MV Act and the accused persons were fined..... The statement of Jagadish that he was tied and gripped by me and standing on his thighs, when he was beaten mercilessly, all over his body, by Shri Vasantha, the CPI, is false.”

Copies of Mahazar in Cr. No. 81/2017 u/s 457 and 380 I.P.C, voluntary statement dated 12-06-2018 of Jagadish, extract of fines collection register under Indian Motor Vehicles Act, 1988 from 12-06-2018 to 20-06-2018 and illegible copies of receipts of fines so collected are submitted by police officials. However, the police officer

and the constables have not provided an explanation as to how the injuries were inflicted upon Jagadish.

10. Shri Jagadish has submitted 5 letters and an affidavit dated 20-11-2019 to the Commission, in support of his allegations. In the letter dated 12-11-2018, Jagadish has stated that he was picked up by the aforesaid police officer and constables while returning from court after attending hearing in C.C. No: 154/11 and 155/11 and they detained him in a godown for 13 days. It is stated that C.P.I, Shri Vasantha, PC Harish and two other constables were guarding him during night times. During this time, a complaint was filed by the wife of Jagadish in Cr. No: 256/2018 at Kamakshipalya Police Station, Bengaluru alleging that Jagadish went missing after attending the court in Hassan on 29-05-2018. He has also requested to collect the tower dump details of his phone numbers 7760153610 and 8799004159 and that of the police constables who were guarding him. He has also stated that medical examination done on him on 21-08-2018 was incomplete.

In the letter dated 26-09-2019, he has submitted that he has lost sight of both the eyes and a copy of the discharge summary of Shri Chamarajendra Hospital, Hassan is enclosed to the letter. It is further stated that he and his family have 'life threat' from 13 police stations and requested for self-protection.

In the letter dated 30-01-2020, it is alleged that on 25-01-2020, a group of 5 persons kidnapped Jagadish and took him to unknown place, tortured and detained him for 31 hours. Thereafter, he was released at Mandi police station, Mysuru after obtaining his 3 signatures. It is also alleged that the aforesaid persons have threatened him not to produce documents or appear before the Commission or give evidence against the police in the present case. On the basis of this letter, Jagadish has filed another complaint before the Commission in H.R.C No: 427/10/15/2020 and the matter is clubbed with the present complaint for common orders.

Copies of complaint dated 05-06-2018 and FIR No: 256/18; death certificate of Late Channegowda, father of Jagadish; M.L.C report dated 10-03-2019 and several other documents are enclosed to the letter dated 31-07-2020 and submitted by Shri Jagadish. But the complainant has not placed on record, any material evidence about the alleged assault, detention and harassment caused to him by the Holenarasipura police except a copy of complaint and F.I.R in Cr. No. 256/2018 registered upon the missing complaint filed by his wife, Smt. Bharathi.

- 11.** It appears from the material placed on record that Smt. Bharathi, W/o Jagadish and Jagadish himself have previously filed complaints in H.R.C Nos. 5635/14, 4357/10/15/2016, 7069/10/15/2017, 544/10/15/2017, 1364/10/15/2017,

1415/10/15/2018 and 1573/10/15/2018 before the Commission alleging harassment by police and they have been disposed of by appropriate order.

12.It transpires from the material placed on record that the aggrieved person herein, namely Shri Jagadish who had made the first complaint at the time of inspection of jail on 10-07-2018 had the marks of many injuries on his body, even as he was admittedly arrested and taken into custody about a month ago on 12-06-2018. Upon his complaint being recorded, registered and investigated by the Dy.S.P attached to this Commission, it has transpired that the police has formally arrested Shri Jagadish on 12-06-2018 in connection with C.R. No – 81/2017 u/s 457 & 380 of I.P.C, in which the complaint was filed on 25-04-2017. Later on, the police have come forward with the version that on 12-06-2018, Shri Jagadish was arrested while checking the vehicles when he failed to produce documents of the two wheeler No – KA 55 S 2998. As against that, the version of the victim, Shri Jagadish is that he was illegally taken into police custody on 31-05-2018 and during the period of his illegal custody, he was kept at private places and severely beaten and tortured. Even after formal arrest on 12-06-2018, he is stated to have not made any complaint about police torture when he was produced before the court. However, on 02-07-2018, Jagadish made a complaint during the hearing before court that he was

physically harassed by the police and by order of the court, medical examination was conducted on 03-07-2018 and 08-07-2018. Ultimately, wound certificate dated 21-08-2018 has been issued by Dr. Santhosh kumar, Specialist in General Medicine, District Hospital, Hassan which bears testimony to 8 serious injuries which were still healing or healed. It is opined that those injuries were more than 2 weeks old and caused by hard blunt force as if the person is hit by stick, whip, iron rod etc.

13. In the above facts, at the full-fledged inquiry conducted before full bench of the Commission, the parties concerned have been given reasonable opportunity of being heard. However, C.P.I Shri Vasanth S.H. has only submitted his affidavit dated 13-11-2019 and then abstained from remaining present for replying to the queries of the Commission. Shri Jagadish has made his statement on oath before the Commission and submitted five letters and affidavit dated 20-11-2019 to support the allegation made by him. He has further alleged that the during pendency of the proceeding of Commission on 25-01-2020, he was kidnapped by 5 persons and taken to unknown place where he was tortured and detained for 31 hours. According to him, he was threatened not to produce documents, or appear before the Commission and that is subject matter of his complaint registered as H.R.C No – 427/10/15/2020. It is revealed during an internal inquiry that Shri Jagadish

has earlier filed no less than 7 complaints before the Commission alleging harassment by police.

14. Under the circumstances, summarized herein above, it has emerged as relevant fact that regardless of the exact date of Shri Jagadish having been taken into custody, he has been severely beaten and tortured before being taken into judicial custody and the tell-tale signs of wounds and injuries have been evident and medically certified even after two months of being taken into judicial custody. There is no doubt or dispute about the fact that he was in custody of Shri Vasanth H.S., C.P.I, Sakleshpura Circle and other police officers under him. The version related before the Commission by the police officers concerned does not inspire confidence and does not explain the injury inflicted upon the victim. C.P.I Shri Vasanth S.H. has abstained from attending hearing before the Commission in spite of service of notices twice. That leads to an inescapable conclusion that victim, Shri Jagadish has been subjected to torture and serious injuries in custody and care of the police officer led by Shri Vasanth S.H., C.P.I. For the purpose of present proceeding, it is immaterial and irrelevant as to how many criminal cases were registered against Shri Jagadish or in how many he has been even named or not named as an accused person. It is not the case of the police that in any particular case, a chargesheet has been filed against Shri Jagadish even during pendency or the hearing of the proceeding for 2 years. Therefore, the number of pending cases or registered against Shri

Jagadish do not and in any case cannot justify his confinement or detention, except when authorized by the court and the torture, harassment and injuries caused during police custody cannot be legally defended or justified. Therefore, it is concluded and held that there is serious, conscious and illegal violation of human rights of Shri Jagadish and it is caused by and under the leadership and responsibility of C.P.I, Shri Vasanth S.H.

15. Accordingly, after careful consideration of all the material coming on record and in the peculiar circumstance of the case, without prejudice to the rights and contentions of the parties in the criminal case pending against Shri Jagadish, it is recommended that:

(a) The State Government through the Additional Chief Secretary, Home Department shall pay to Shri Jagadish, the sum of Rs. 25,000/- by way of compensation for the pain and suffering and blatant violation of human rights by the police officer in uniform; and

(b) The Superintendent of Police, Hassan District should take such disciplinary and punitive action against Shri Vasanth S.H, the Circle Police Inspector Sakleshpura circle as may be deemed proper in accordance with law including necessary legal action to recover from him the amount which the Government may be required to pay by way of compensation as aforesaid. With these recommendations, both the cases are disposed.

16. 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.

17. A copy of this Opinion, Report and Recommendations shall be sent to the respondents and Shri Jagadish forthwith.

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

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

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