

Case of Chhabila Singh

The applicant, Chhabila Singh, has approached the Commission for suitable action complaining of violation of his human rights.

The case of the applicant is that he is eighty years old and he had a heart attack three months prior to the incident. He is also a patient of gout and has difficulty in walking. In the night of 2nd February, 2009 at about 1:30 AM the police officials of Arwal P.S. came to his house and got the door forcibly opened. They stated that there was warrant in his name but the warrant was not shown. On demand it was stated that the warrant would be shown at the police station. Without caring for his old age and physical condition they forcibly took him to the police station in the night itself. At the time of the incident no male member was available. His old wife and daughter alone were present. His wife told the police party that he is a heart patient and undergoing treatment and he may therefore be taken to police station in the morning but it had no impact. At the police station he was informed that warrant had been issued because he did not depose in the case. The complainant told them that he had in fact appeared in the court for his deposition and he had sent copy of the attendance to the police station through the Chowkidar. After getting this information he was released in the morning at 8 A.M. The complainant alleged that the act of forcibly taking to the police station in the dead of night caused him mental anguish and also tarnished his social prestige and dignity.

Report was called from SP Arwal who vide his letter dated 23.5.2009 informed the Commission that on account of his failure to appear in court for giving evidence, nonailable warrant of arrest had been issued, and it was in execution of the said warrant that the complainant was brought to police station by ASI Birendra Singh of Arwal P.S. in the night of 2nd February, 2009 when the officer was on patrolling duty . However, on account of old age and poor health the complainant was released in the morning on execution of bond. It is also stated in the report that the action of the ASI Birendra Singh in bringing the complainant to police station despite knowledge of his old age and poor health was an act of negligence for which he has been awarded punishment of one censure in his service book.

The above report of SP Arwal was put up for consideration. The Commission found that the factual matrix of the complaint was not in dispute and it was the admitted position that the complainant was brought to the police station by

ASI Birendra Singh despite the old age and ailments of the complainant, released in the morning. The Commission observed as under:

“Notwithstanding the fact that a warrant of arrest had been issued against the complainant for his failure to appear in the court, it is difficult to appreciate that the person should be forcibly taken in the dead of night, brought to the police station and kept in confinement there for the whole night. The complainant was not an accused in the case; he was merely required to appear as a witness. The ASI should have shown better discretion, executed the warrant at a convenient time and then released him on execution of bond. More so when the person was an old man of 80 years of age suffering from various ailments. The trauma suffered by the complainant cannot be compensated by simply awarding the punishment of censure to the concerned official. It is a fit case for grant of compensation. The compensation money may be paid by the government and recovered from the concerned official. Accordingly, let notice issue to the Principal Secretary, Home, Government of Bihar as well as ASI Birendra Singh of Arwal P.S. as to why an order as indicated above be not passed. Copy of this order may be sent to along with the notice returnable on 13.7.2009.”

No response has been filed till date in the light of the above order either on behalf of the State Government or by ASI Birendra Singh.

It is absolutely clear that the officer, ASI Birendra Singh, acted in a most cavalier manner. If the complainant failed to appear in court for deposition in the case and warrant had been issued for non-appearance it is plain that the object was to secure his presence in court. The case of the complainant is that he had appeared and got sent copy of his attendance to the police station. Even if that part of the complainant's case is ignored the fact remains that he was forcibly taken to the police station and kept there for the whole night in complete disregard of his old age and ailments. It is to be kept in mind that the complainant was a witness and not an accused and the object of the warrant was to secure his attendance in court. The purpose could be served by serving the warrant at a convenient time and getting the bond executed by the complainant for his appearance/ attendance in court. If the officer in his wisdom (or lack of it) thought it worthwhile to serve the warrant in course of his patrolling during night, he could have obtained the bond. It was absolutely unnecessary to take complainant to the police station despite remonstrations by the complainant and his family members. The action of ASI Birendra Singh was a blatant act of police highhandedness, arbitrary action, harassment and violation of human rights of the complainant. The officer, it is clear, has no respect for old age and rule of law. The punishment of censure cannot be compensation for the trauma suffered by the complainant. We are satisfied that it is

a fit case in which he should be paid monetary compensation. We direct accordingly, and in the facts of the case, quantify the compensation at Rs. 40,000.

As indicated in our previous decision (*supra*), the amount shall be paid by the Government of Bihar in the Home Department with liberty to recover it from the officer, namely ASI Birendra Singh. Compensation money shall be paid to the complainant within six weeks and compliance report be filed accordingly.

Justice S.N. Jha
Chairperson

After we signed our decision, on 22.7.2009 response was received from Shri Birendra Singh stating that he had received the notice dated 19.6.2009 only on 17.7.2009. As per the said notice he was required to submit his response by 13.7.2009. Be that as it may, we have gone through his reply. Two points have been highlighted therein. That the applicant was brought to police station in the light of the court's order/warrant and secondly that on telephonic request of a Minister of the State Government and on the direction of the officer-in-charge, he was set free and allowed to go home on the condition that he would appear in court for his deposition.

We have already noticed and dealt with the first point which, in our opinion, as already indicated in our decision, hardly justifies the act of forcibly taking of the 80 year old applicant to the police station in the dead of night and keeping him in detention there for the whole night. As far as second part is concerned, it has no bearing on the complaint and hardly improves the noticee's case.

Having thus considered the reply of the noticee we find no reason to take a different view.

Let our decision dated 20.7.2009 be communicated to the Government of Bihar in the Home Department, as directed.

Justice S.N. Jha
Chairperson