

Case of Kedar Ravidas

Facts of this matter are that applicant Kedar Ravidas was hit by a motorcycle coming from the opposite direction. However, as the driver of the motorcycle and his men agreed to bear the cost of the treatment and the treatment actually commenced, the applicant did not lodge any case. While the treatment was underway, ASI Madaneshwar Rai (Lathi Singh) of Bhagwan Bigha OP reached there and tried to pressurise the applicant to lodge the case. The applicant refused saying that he was already being treated for the injuries at the instance of the motorcycle driver. However, ASI Madneshwar Rai abused the applicant, called him by his caste name (chamar) and spat on his face. Madneshwar Rai forced the public to disperse from the place which led to unrest. The applicant was taken to Bhagan Bigha OP where his signatures on blank papers was obtained, and thereafter brought to Sadar Hospital Biharsharif but proper treatment was not provided there. In the circumstances he returned home for being treated by the local doctor.

Report of SP Nalanda was called for. He has forwarded copy of report of Dy.SP (Law & Order) Nalanda, and has also made certain concurring observations. From perusal of the report it is clear that ASI Madneshwar Rai put pressure on the applicant for lodging the case even though he was not inclined to do so. The report seeks to justify the conduct of the officer on the ground that the incident involved commission of cognizable offence. It appears that case was indeed instituted on the statement of the ASI Madneshwar Rai being Rahui P.S. Case No. 182/2009 under sections 341, 323, 353, 379, 511 and 504/ 34 IPC in which charge sheet has been submitted against Triprit Prasad @ Munshi Prasad and 20-25 others. It is pertinent to point out that the said case relates to alleged obstruction to the police force in the discharge of official duties. The motor accident is not subject matter of that case. It may also be mentioned that the applicant has also filed Rahui P.S. Case No. 181/2009 under sections 279 and 337 IPC in which also charge sheet has been submitted against accused Chandan Sharma. That relates to the accident part of the incident.

It is thus clear from the report that ASI Madneshawar Rai forced the applicant to lodge the case against motorcycle driver, Chandan Sharma even though he was not inclined to lodge any case as the matter stood amicably settled. Where any offence of cognizable nature is committed the police is competent to lodge the case on its own but they cannot force the victim to lodge the case if he does not want to do so. More often than not, cases are got

instituted by the local police for some ulterior motive. In the present case the police officer appears to become desperate. It is evident that his persistence to obtain the fardbeyan led to an unruly situation for which another case Rohui P.S. Case No. 182/2009 was instituted by ASI Madneshwar Rai. He certainly should have acted wisely and shown restraint. Though there is an attempt in the SP's report to defend the ASI's act of forcing the applicant to lodge the case, it is clear that his conduct was found amiss and that is why he was transferred from the concerned police station. However, transfer is no punishment. It is an incident of service. In the facts of the case he cannot get away by his simply getting transferred to another police station. I am of the view that it is a fit case in which a departmental proceeding should be initiated against ASI Madneshwar Rai for his acts of omission and commission.

As a matter of fact, as per the allegation in the complaint the applicant was abused, he was called by his caste name and spat on his face. The Officer also obtained his signature on blank paper. These allegations also merit enquiry. Unfortunately, the SP's report is still on this point. It does not appear whether statements of the applicant was taken by the Dy.SP before submitting his report.

Let a copy of this order be served on ASI Madneshwar Rai through SP Nalanda to enable him to file his response as to why departmental proceeding be not initiated against him. Response be submitted within four weeks.

Justice S.N. Jha
Chairperson

The applicant Kedar Ravidas was hit by a motorcycle. However, the matter was settled amicably. The driver/ owner of the motorcycle, among other things, agreed to bear the cost of treatment and in the circumstances the applicant was not inclined to lodge any case. At this stage, ASI Madneshwar Rai (Lathi Singh) of Bhagan Bigha OP (Rahui P.S.) reached there and, as per the allegation, pressurised the applicant to lodge the case. The applicant refused to do so saying that the matter stood settled and he was already being treated at the instance of the motorcycle driver. The allegation is that ASI Madneshwar Rai abused the applicant, called him by his caste name (chamar) and spat on his face. ASI Madneshwar Rai asked the public which had gathered in the meantime to disperse. This led to law and order problem. The applicant, it is said, was taken to Bhagan Bigha OP where his signatures on blank papers were allegedly taken, and he was thereafter brought to Sadar Hospital Biharsharif but as proper treatment was not forthcoming, he returned home for being treated by the local doctor.

Report was called from SP Nalanda. He forwarded copy of the report of Dy.SP, Law and Order, Nalanda and also made some concurring observations. The report sought to justify the conduct of the officer on the ground that the incident involved commission of cognizable offence. The report referred to another case being Rahui P.S. Case No. 182/2009 under sections 341, 323, 353, 379, 511 and 504/34 IPC instituted on the statement of ASI, Madneshwar Rai in which charge sheet has been submitted against Tirpit Prasad @ Munshi Prasad and 20-25 others. On consideration of the said report, the Commission observed vide its order dated 4.11.2009 that from perusal of the report it was clear that ASI Madneshwar Rai put pressure on the applicant for lodging the case even though he was not inclined to do so. While referring to Case No. 182/09 the Commission observed that it related to alleged obstruction to the police force in discharge of official duties. The motor accident was not the subject matter of this case. As regards the accident part, the ASI had already registered Rahui P.S. Case No. 181/09 under section 279 and 337 IPC in the name of the applicant apparently using the signature obtained from the applicant. The Commission concluded as under:-

"It is thus clear from the report that ASI Madneshwar Rai forced the applicant to lodge the case against motorcycle driver, Chandan Sharma even though he was not inclined to lodge any case as the matter stood amicably settled. Where any offence of cognizable nature is committed the police is competent to lodge the case on its own but they cannot force the victim to lodge the case if he does not want to do so. More often than not, cases are got instituted by the local police for some ulterior motive. In the present case the police officer appears to become desperate. It is evident that his persistence

to obtain the fardbeyan led to an unruly situation for which another case Rahui P.S. Case No. 182/2009 was instituted by ASI Madneshwar Rai. He certainly should have acted wisely and shown restraint. Though there is an attempt in the SP's report to defend the ASI's act of forcing the applicant to lodge the case, it is clear that his conduct was found amiss and that is why he was transferred from the concerned police station. However, transfer is no punishment. It is an incident of service. In the facts of the case he cannot get away by his simply getting transferred to another police station. I am of the view that it is a fit case in which a departmental proceeding should be initiated against ASI Madneshwar Rai for his acts of omission and commission."

The Commission also noted the allegation that the applicant had been abused, called by his caste name and spat on his face, had not been dealt with in the report. These allegations, the Commission observed, also merit enquiry. In the circumstances response was sought from ASI Madneshwar Singh – giving him copy of the order dated 4.11.2009 – as to why departmental enquiry be not initiated against him.

The Officer filed his response and also appeared for oral submissions. He took the stand that the applicant had suffered four injuries as detailed in the injury report and his life was saved by the applicant by shifting him to Sadar Hospital, Biharsharif for better treatment. The anti-social elements wanted to set the vehicle on fire. They also intended to demand rangadari from the driver but when they did not succeed in their design, they resorted to protest. The Officer denied that he put any pressure in the matter of lodging of Rahui (Bhagan Bigha) P.S. Case No. 181/09. The case was supervised by senior officers who found the allegations to be true and accordingly charge sheet was submitted against the driver of the motorcycle Chandan Sharma dated 11.8.2009. Charge sheet was also submitted in Rahui P.S. Case No. 182/09 and in course of supervision the senior officer did not find any fault with him.

As observed in the order dated 4.11.2009 (supra), cases are often got instituted by the local police by some for gain. In the present case the applicant was the victim of the accident and if he did not want to lodge any case, insistence on the part of the Officer, ASI Madneshwar Rai for lodging of the case was apparently with some ulterior motive. As per the complaint version, when the applicant refused to oblige, the Officer became so desperate that he variously abused him. Indeed, the officer did not get a clean chit. He was transferred from the police station. However, it is well settled that transfer is no punishment. It is only an incident of service. His response contains clear indications that the matter got amicably settled on the intervention of the staff and proprietor of Ashok Cold Storage in which both the applicant and driver of the motorcycle were employed.

Response, thus, corroborates the applicant's version about amicable settlement. That being so, any attempt on the part of the Officer to further meddle in the matter was clearly uncalled for and abuse of authority. As far as the behaviour of the mob which had gathered in the aftermath of the accident, the officer had already lodged the case on his own statement and there was no necessity to insist on lodging of another case by the applicant. It is a fit case in which departmental proceeding should be initiated against the officer, ASI Madneshwar Rai, for his acts of omissions and commissions.

Let accordingly departmental proceeding be initiated against ASI Madneshwar Rai, then posted at Bhagan Bigha OP Rahui P.S., by SP Nalanda and the matters be taken to its logical end. Compliance report be submitted within eight weeks.

Copy of this order maybe sent to all concerned.

Justice S.N. Jha
Chairperson