

**BIHAR HUMAN RIGHTS COMMISSION**  
**9, Bailey Road, Patna – 15**

File No **BHRC/COMP.** 3409/10

Case of **GITA DEVI**

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This proceeding has been initiated on the complaint of Gita Devi wife of Lal Mohan Yadav – resident of village Rohiyar within Mansi P.S. of Khagaria district – addressed to SP Khagaria, copy whereof was sent to this Commission – to the effect that she was taken into custody by SHO Mansi P.S at the instance of her agnate Vidyanand Yadav, handcuffed and detained in the Hazat. The SHO after sometime started misbehaving with her and committed acts which she cannot describe in writing. She was finally sent to jail as the applicant refused to agree to his demands.

Report was called from SP Khagaria who vide his report dated 30.6.2011 informed the Commission that the applicant was taken into custody in connection with Mansi P.S. Case No.145/10 under section 341, 323, 504, 379/34 IPC lodged by one Chandan Devi wife of Vidyanand Yadav against the applicant and her husband. The report, however, corroborated the applicant's claim that she was kept at the police station albeit under the supervision of a woman constable as there was no women's hazat at the police station. On the next day she was produced before the court and remanded to judicial custody.

Copy of the fardbeyan/FIR of Mansi P.S. Case No.145/10 is available in the file from perusal of which it appears that it was a case of simple assault by fists and slaps. As per the allegations, informant Chandan Devi was assaulted (by fists and slaps) by applicant's husband Lal Mohan Yadav and when the applicant came, she also assaulted her by fists and slaps. The additional allegation was that she took a nose pin and ear tops. On consideration of the SP's report the Commission vide order dated 27.7.2011 observed that there was no justification to detain the applicant at the police station notwithstanding the fact she figured as an accused in a case registered under bailable sections except section 379 IPC on stereotyped allegations.

It is relevant to mention here that the allegation of theft was not found to be true by the Inspector of Police, Sadar Anchal, Khagaria in course of supervision and as a result of the supervision, charge sheet was submitted under section 341, 323, 504,/34 IPC – and not under section 379 IPC. One can take judicial view of the fact that, more often than not, allegation as to removal of valuables is made in the FIR/ complaint to make out case of theft so that the case becomes non-bailable – sometimes this is so done at the instance of the police

officer. Be that as it may – whether there was allegation of theft of the present nature or not, this was a case of simple assault in the course of quarrel amongst the agnates which could not justify arrest of a women; and even if she was to be arrested, she should have been released on bail. There was justification to detain the applicant in the night. It is important to mention that there was no separate hazat for women. Detention of the applicant clearly amounted to, and resulted in, lowering her prestige and reputation in society.

Being thus satisfied that human rights of the applicant stood violated the case was fixed for oral hearing. Notice was also issued to the then SHO Mansi P.S. in view of the provision of section 16 of the Protection of Human Rights Act. The matter was finally heard on 30.8.2011 in presence of the applicant, SP Khagaria Shri Mithoo Prasad and the then SHO Mansi P.S. Shri Ajay Kumar.

In course of hearing the applicant filed fresh application to the effect that on 26.8.2011 at about 2:30 P.M. Shri Ajay Yadav (Kumar) confronted her and asked her to withdraw the case in this Commission lest she may suffer the consequences. He also allegedly passed disparaging comments on the applicant. He also allegedly tried to mock the authority of this Commission.

Of course, the officer i.e. Shri Ajay Kumar denied the allegations made in the application filed today. He, however, did not deny that the applicant was kept in the hazat at the police station. He stated that she had been brought to the police station by another police officer.

The Commission does not wish to go into the disputed questions of fact. Proceeding on the admitted facts, it is admitted position that the applicant was arrested in a case of simple assault (by fists and slaps) in the course of private altercation between the agnates, and all said and done, there was no justification at all to detain her at the police station in the night. Considering the nature of the case and the kind of allegations, the applicant should have been released on bail but that was not to be – apparently with latent motives. By reason of being detained in the thana hazat and kept there for whole of the night the applicant's reputation and prestige in public estimate stood violated impinging on her dignity. The applicant's human rights thus got violated for which she is entitled to be monetarily compensated.

In the facts and circumstances, the Commission would award compensation of rupees forty thousand to the applicant. The Commission would direct that the amount be paid to the applicant at the first instance by state through Secretary, Department of Home, Government of Bihar within six weeks, and recovered from the salary of the officer namely, Shri Ajay Kumar, the then SHO Mansi P.S. In the facts and circumstances the Commission is also of the view

that departmental proceeding be initiated against Shri Ajay Kumar for his acts of omissions and commissions. Let, SP Khagaria initiate the proceeding and take the matter to its logical end.

Copy of this order may be sent to the applicant for information, Secretary, Department of Home, Government of Bihar and SP Khagaria for compliance.

Copy may also be sent to DGP Bihar for information and appropriate intervention at his end.

Matter may be taken up in the second week of November 2011 awaiting compliance/progress report.

Justice S.N. Jha  
Chairperson