

**BIHAR HUMAN RIGHTS COMMISSION**  
**9, Bailey Road**

File No **BHRC/COMP.** 1435/2010

Case of **Lal Bahadur Manjhi**

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The proceeding was initiated by one of us (Justice Rajendra Prasad, Hon'ble Member) on 4.6.2010 on consideration of the complaint about illegal arrest and detentions of the applicant Lal Bahadur Manjhi for three months in a case in which he stood acquitted earlier. Report was called for and the officials concerned including Senior SP Patna were directed to appear on 15.6.2010. Senior SP appeared on the said date and filed report. He took the stand that the applicant was arrested in execution of permanent warrant of arrest issued by a Judicial Magistrate, Danapur. It was also submitted that had the applicant produced copy of the acquittal order he would not have been arrested. The applicant was served copy of the report and asked to file response. On 15.7.2010, the next date fixed in the proceeding, the applicant appeared and filed detailed response enclosing therewith photocopy of the entire order sheet of the case, namely, Bikram P.S. Case No. 113/98 corresponding to G.R. No. 635/98 in connection with which the impugned arrest was made and in which he had been acquitted earlier. The order sheet reveals a sad and shocking state of affairs reflecting on the justice delivery system.

From the order sheet the following facts emerge. Cognizance in the case was taken in May 1998 (date illegible) and summons was issued for appearance of the accused, applicant herein. As he did not appear despite service of processes, on 20.11.2003 he was declared absconder and permanent non-bailable warrant was issued directing Senior SP Patna to execute the same. In pursuance of the said order and warrant, the applicant was arrested and produced in court on 8.5.2005 and remanded to jail. On 21.2.2006 the parties filed compromise petition and a prosecution witness was examined on the point of compromise and the case was fixed for further evidence. On 5.4.2006 with the consent of advocates for both sides the court closed the evidence in the light of the compromise, and fixed the case for judgment on 10.4.2006. On 10/12.4.2006 judgment was delivered acquitting the applicant of the charges. Release order was issued and the applicant was relieved of the liabilities of the case. More than three years and eight months thereafter on 22.12.2009 the applicant was arrested and produced in court. The order dated 22.12.2009 states that he had been arrested "on the basis of

the permanent warrant". The court thereafter fixed six dates between 24.12.2009 and 26.2.2010 on none of which the applicant was produced in court. (In the response, dated 15.7.2010, it has been stated that he was taken from jail to court for production but not produced). On 6/8.3.2010 the Magistrate noted that from the perusal of the order sheet it appeared that the applicant had already been acquitted in the case on the basis of compromise on 10/12.4.2006 and directed his release from custody. The applicant, thus, remained in jail from 22.12.2009 to 8.3.2010.

The stand of Senior SP Patna to the effect that the applicant was arrested in execution of a permanent warrant, it would appeal, is clearly in the teeth of record. As noticed above, the permanent warrant issued by order dated 20.11.2003 was executed on 8.5.2005 when the applicant was arrested, and produced in court was remanded to custody. The order and warrant dated 20.11.2003 thus stood discharged. It did not exist –in fact or law – any more and therefore there was no question of his being arrested again in execution of the same very warrant.

What is shocking is the apathy or callousness of the police in making the arrest despite applicant's remonstrations that he had already been acquitted in the case. Even if it is accepted that the applicant did not have authentic proof of acquittal i.e. copy of the judgment, the police could have given him opportunity to obtain the same or could have verified the factual position from the concerned court.

What is more shocking is that when the applicant was produced before the Magistrate, he too did not pay any heed to his plea and mechanically remanded him to jail. The applicant has asserted in his response that when he was produced in the Danapur court on 22.12.2009 he told the Judicial Magistrate that he had already been acquitted in the case but the Magistrate refused to listen and remanded him to Phulwari Jail. It is beyond comprehension that a Judicial Magistrate should mechanically remand a person disregarding such a plea without making any effort to satisfy himself as to whether his version was true. He could have easily ascertained the factual position by calling for the case record. Instead, he chose to pass the order in an apparent haste in a supplementary case record. Clearly, he failed to appreciate the gravity of the applicant's plea. It is too obvious that having been acquitted in the case, there was no question of his being remanded later in the same very case.

It is unfortunate that in a rather minor case under sections 341, 323 and 324 IPC the applicant should have been made to suffer another round of

incarceration for 77 days when he had already remained in jail for about a year from 8.5.2005 to 12.4.2006. This clearly happened due to apathetic, callous and arbitrary action of not only the police officer who effected the arrest but also the Judicial Magistrate of Danapur Court who passed the remand order. In the facts and circumstances of the case, the Commission is of the view that stringent action should be taken against both of them by the concerned authorities.

Disciplinary action, however, may not be sufficient solace to the applicant. There has been serious breach of his human rights. Article 21 of the Constitution of India mandates that no person shall be deprived of his personal liberty – save according to procedure established by law. The applicant's incarceration was clearly without any authority of law and his fundamental rights also stood violated. It is a fit case, therefore in which he should be awarded monetary compensation. In the facts and circumstances, the Commission is of the view that compensation of Rs. two lakhs would serve the ends of justice. The amount shall be paid to the applicant by the State Government with liberty to recover the same from the guilty persons in accordance with law.

Copy of this decision may be sent to the Senior SP Patna, Registrar General, Patna High Court as also Secretary, Department of Home and DGP Bihar, besides the applicant for compliance.

Compliance/action taken report be submitted within eight months.

Justice S.N. Jha  
Chairperson

Justice Rajendra Prasad  
Member