

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

File No **BHRC/COMP.2585/2012**

Case of **Asraf Ali**

Md. Asraf Ali s/o Md. Shafiq vill. Hussiana, **Sitamarahi** had complained to the commission that his brother Rahamat Ali @ Sunil, a लेथ मशीन shop owner, was called at Mehasaul OP on 11th June, 2012 around 9:00 PM jointly by Sub-Inspector, Mihir Kumar of Mehasaul OP and S.I., Md. Alauddin of Dumra PS, Sitamarhi. After reaching OP he was taken to Dumra PS where he was falsely shown to have been arrested from the house of Dhannu Raut while planning to commit dacoity along with other five criminals. He was sent in custody to the court along with arrested five criminals in Sitamarhi Town PS case no. 405/12 dt. 12.06.2012 u/s 399/402/IPC and 25/26/35 Arms Act. Petitioner complained that his brother was **falsely implicated** because **he had failed to oblige both the police officers by refusing to give his Victa vehicle** a month prior to this incident. Both these officers had threatened him with dire consequences. His ordeal did not stop at that. His innocent brother Rahamat Ali @ Sunil was even Charge-Sheeted on 02.07.2012 in the case along with five arrested criminals. The petitioner asserted that both these officers had called him on his mobile and asked him to call his brother at the OP which he did. This was also witnessed by few Taxi owners present there.

2. **IG, Muzaffarpur Zone** was directed by the commission to enquire into the matter. **IG, Muzaffarpur Zone** submitted indepth inquiry report which established that:-

(a) While the case regarding preparation to commit dacoity was true against five arrested criminals, **the accusation against Rahmat Ali @ Sunil was false.**

(b) Call details of Rahmat Ali's mobile did not corroborate his contact with other arrested criminals.

(c) Rahmat Ali @ Sunil had no criminal antecedents.

(d) Call details of petitioner Asraf Ali's mobile corroborated that he was called by S.I Md. Alauddin/S.I. Mihir Kumar on 11.06.2012 at 8:40 PM. Few Taxi owners present there also testified it.

(e) Rahmat Ali @ Sunil was maliciously arrested by S.I Mihir Kumar and S.I. Md. Alauddin (direct Sub-Inspectors of 2009 batch) and forwarded in Sitamarhi Town PS case no. 405/12.

3. **IG, Muzaffarpur Zone** ordered following action in the matter:-

(a) Immediate suspension and initiation of departmental proceedings against Sub-Inspectors, Mihir Kumar, & Md. Alauddin.

(b) Court to be informed about re-opening of investigation of this case and **Final Report- Accusation false** to be submitted against Rahmat Ali @Sunil to meet the ends of justice.

(c) SP, Sitamarhi was directed to obtain explanation against proceeding from Sh. Alok Kumar, the then SDPO, Sitamarhi for failure to properly supervise the case.

4. Accepting the findings of IG, Muzaffarpur Zone, Commission vide order dt. 05.09.2013 directed following actions in the matter:-

(a) It proposed to award a **compensation** of **Rs. 50,000** (Fifty thousand) to Md. Rahmat Ali @ Sunil for his wrongful detention from 11.06.2012 to 30th June 2012 when he was released on bail by the court. Govt./PHQ to **recover the amount of compensation from both the Sub-Inspectors**. Govt. and PHQ were asked to respond to this by 10th October, 2013.

(b) Proceeding against both the **suspended** officers S.I, Mihir Kumar and Md. Alauddin to be concluded within four months.

(c) Both the above officers were directed to submit their defence against above proposed actions by 10th October, 2013.

(d) Sh. Alok Kumar, the then SDPO, Sitamarhi was directed to submit his defence why Deptt. proceedings be not recommended for the lapses indicated in the enquiry report of IG, Muzaffarpur.

5. I have gone through the explanation/defence submitted by S.I. Mihir Kumar and S.I. Md. Alauddin which has been forwarded to the Commission by S.P. Sitamarhi vide his letter no. 1092/G.S. dt. 21.10.2013. Both these officers have not said any thing about the basic allegation/findings of IG, Muzaffarpur that Rahmat Ali@ Sunil was not arrested from the house from where five other criminals were arrested but was called at the Police Station along with his brother and maliciously forwarded in the case. Their defence is, therefore, unacceptable.

6. I have also gone through the defence of Sh. Alok Kumar, the then SDPO, Sitamarhi and a/p SDPO, Areraj, Motihari submitted vide his memo no. 1885/Areraj dt. 02.10.2013. Sh. Kumar submits that he supervised the case on dt. 12.06.2013 (the date when they were arrested) and was transferred to Areraj on 13th July, 2013. He recalls that during this short period he was never apprised about innocence of Rahmat Ali@ Sunil through any petition on otherwise. IG, Muzaffarpur Zone, however, has not agreed with the explanation of Sh. Alok Kumar, the then SDPO, Sitamarhi and has recommended for initiation of deptt. proceeding against Sh. Alok Kumar. Since the points placed by Sh. Alok Kumar need to be considered/verified, I leave it to the **DGP, Bihar** to take a considered view in the matter after examining the concerned records. Explanation received from the then SDPO is **Sent** to the DGP.

7. Since Govt./PHQ have not sent any response, Commission, therefore, directs following action in the matter:-

(a) A compensation of RS 50,000/- (Fifty thousand only) be paid to Md. Rahmat Ali@ Sunil by the government within two months for his illegal detention.

(b) Govt./PHQ to recover the amount of compensation from both the Sub-Inspector Sh. Mihir kumar and Md. Alauddin of Sitamarhi in the manner deemed fit.

(c) The departmental proceeding against both the Sub-Inspector to be concluded within four months.

8. Copy of this order be sent to the **Principle Secretary, Home Department**, Govt. Of Bihar, the **Director General of Police**, Bihar, **IG**, Muzaffarpur Zone, **DIG**, Tirhut Range, **SP**, Sitamarhi for necessary action.

8.2 SP, Sitamarhi will make available a copy of this order to 1. Sh. Alok Kumar, the then SDPO Sitamarhi 2. S.I. Sh. Mihir Kumar and 3. S.I. Md. Alauddin for information.

Date: 29.10.2013

Secretary
J.S

(Neelmani)
Member, BHRC