

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

File No **BHRC/COMP.** 2909/12

Case of **BADRI SAH**

Complaint of applicant Badri Sah, son of Rajendra Sah – a resident of village Bhalui, P.S. Jamo Bazaar, district Siwan is that on 31.7.2012 SHO of Jamo Bazaar P.S, S.I. Abhijit Kumar, in collusion with his opponents, forcibly took him to police station, assaulted him and kept him in detention for two days. He was released after two days but again brought to police station on 3.8.2012 and detained for the whole night. Applicant stated that there was land dispute with his pattidars and under their influence and for monetary considerations S.I. Abhijit Kumar subjected him to physical assault and harassment.

Report was called from DIG Saran Range and he has brought on record the enquiry report of SDPO Maharajganj dated 25.10.2012. The report denied the applicant's case of harassment etc. On consideration of the applicant's response notice was issued to S.I. Abhijit Kumar in terms of section 16 of the Protection of Human Rights Act. He submitted his written defence to S.P. Siwan who forwarded it to the Commission for consideration. The matter was taken up for hearing in presence of S.I. Abhijit Kumar and the applicant on 2.4.2013. Dy.S.P. (Hqrs.) Siwan Sri Ashok Kumar was present on behalf of S.P. Siwan.

It transpired in course of hearing that the applicant was not pulling on well with his father Rajendra Sah and brother Gulab Chand Sah and there is a dispute with respect to agricultural lands held by the family.

Although in his written defence S.I. Abhijit Kumar denied the applicant's case of arrest/detention and harassment, it is admitted that the applicant was brought to police station on 31.7.2012 at 2:30 PM for 'interrogation'. The so-called interrogation took place in presence of Rajendra Sah and Parwati Devi (wife of Gulab Chand Sah) and they agreed to amicably settle the matter. In the circumstances, the applicant was allowed to leave police station at 5 P.M. after executing P.R. bond. Notwithstanding his undertaking to amicably settle the matter the applicant again started harassing his old father and brother's wife for which report under section 107 Cr.P.C. was submitted to SDM Maharajganj. It is claimed that as the SHO recommended initiation of proceeding under section 107 Cr.P.C, the applicant filed this complaint before the Commission.

In course of hearing S.I. Abhijit Kumar stated that Rajendra Sah had come to depose and the Commission could talk to him to find out the truth. The Commission sent for Rajendra Sah and he was asked to make a statement. The applicant, S.I. Abhijit Kumar and Dy.S.P. Ashok Kumar were asked to recuse

themselves for some time and wait outside so that the Commission could interact with Rajendra Sah alone. In response to the query from the Commission, he stated that he had come to Patna by bus; that the bus fare had been paid by S.I. Abhijit Kumar and it is he who had made arrangements for his food etc. He no doubt complained of maltreatment by the applicant.

At the resumed hearing S.I. Abhijit Kumar did not deny paying for the transport and food etc. of Rajendra Sah. He in fact stated that he had to come to Patna a day earlier in connection with some official work and a chowkidar had made the arrangements. Apparently, whatever the chowkidar did was at the behest of S.I. Abhijit Kumar. It is clear that Rajendra Sah has been set up by S.I. Abhijit Kumar as part of his defence.

The statement of Rajendra Sah nails lie in the defence of S.I. Abhijit Kumar. At the first instance the Commission is not able to appreciate as to why he should at all meddle in a private dispute between the father and the son. Intervention in private dispute – more often than not – is for extraneous considerations and therefore the possibility of S.I. Abhijit Kumar detaining the applicant and subjecting him to alleged harassment cannot be ruled out. It is clear that he was siding with Rajendra Sah or his other son Gulab Chand Sah. There was no justification to take P.R. bond from him. In any view, the intention and audacity of the official becomes apparent from the fact that after submitting his written defence to S.P. Siwan on 13.3.2013, he arrested the applicant in Jamo Bazaar P.S. Case no.30/13 on 22.3.2013. The case apparently was got instituted as a retaliatory act because the applicant had dared to expose his deeds before the Commission. The manner in which S.I. Abhijit Kumar conducted himself not only exposes chinks in his defence; it also shows the kind of person and police officer he is.

The Commission is of the view that for his acts of omissions and commissions, departmental proceeding should be initiated against him and he should, also, pay compensation to the applicant. In the facts and circumstances, compensation is quantified at Rs. twenty-five thousand.

The Commission accordingly directs S.P. Siwan to deduct sum of Rs. twenty-five thousand from the salary of S.I. Abhijit Kumar, SHO Jamo Bazaar P.S, and pay the amount to the applicant within six weeks.

The Commission further directs that a department proceeding be initiated against S.I. Abhijit Kumar for his acts of omissions and commissions.

Put up in the last week of May 2013 awaiting compliance report.

Copy of the order may be sent to the applicant and S.P. Siwan for information and necessary action.

Date: 05.04.2013

Justice S.N. Jha
Chairperson