

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

File Nos. **BHRC/COMP. 3619/12**

Case of Balchand Singh

The complaint of applicant Balchand Singh is about his arrest and detention in connection with Case no.226/11 (Manoj Kumar vs. Dineshwar Mahto and others) of the Court of Sri Sharad Chandra Shrivastava, Judicial Magistrate Chapra.

The case of the applicant is that his sister-in-law had lodged FIR (Gandhi Maidan P.S. Case no.447/07) against one Upendra Kumar Singh, an Advocate of Danapur Court, for cheating and misappropriation of sum of Rs.2.25 lakh out of Rs.4 lakh awarded as compensation to her by the Railway Claims Accidents Tribunal. Said Upendra Kumar Singh represented her as counsel in the compensation case and, as per the case of the applicant's sister-in-law, misappropriated the amount. It may be mentioned that charge sheet has been submitted in the case against Upendra Kumar Singh.

It is the case of the applicant that the police did not make a proper investigation and on the basis of an incomplete investigation, submitted a weak and incomplete charge sheet in the case. He seeks intervention of the Commission for further/re-investigation of the case.

It is also the case of the applicant that in retaliation Upendra Kumar Singh filed the case (Case no.226/11) at Chapra in connection with which he was arrested.

As regards the complaint about the quality of investigation in Gandhi Maidan P.S. Case no.447/07, charge sheet having been submitted, the matter has become sub judice and the informant, i.e, his sister-in-law may seek legal remedy by way in re-investigation or otherwise in the court concerned.

As regards the applicant's arrest and detention, the impugned action having been taken in execution of court

processes the Commission would not have pursued the matter further. However, the alleged offences which are the subject matter of the case (complaint case no.226/11) viz. sections 323, 341, 504/34 IPC being bailable, the Commission is not able to appreciate as to how the applicant could be detained at the police station and produced in the court concerned on the next day. It is pertinent to mention that on his production in court he was set free forthwith – the offences being bailable.

On notice Sri Manoj Kumar Tiwari, Dy.S.P. Town Patna appeared on behalf of the Sr.S.P. and the matter was heard in his as well as applicant's presence on 13.9.2013.

In response to the pointed observation and query of the Commission Sri Tiwari was not able to give any justification for the applicant's detention. Law mandates that in a case for bailable offences the person is entitled to bail as a matter of right, and if he seeks such bail and is ready to furnish bail bonds, the police has no option but to release him on bail/bond and it has no jurisdiction to detain and keep him in custody. The Commission is conscious of the fact that the applicant was apprehended in pursuance of court processes but even in such a case the police could have taken appropriate bond from the applicant for his appearance in court. The Commission is satisfied that the applicant suffered human right violation and he is entitled to monetary compensation which, in the facts and circumstances, is quantified at rupees twenty thousand.

The Commission directs Secretary, Home Department, Government of Bihar to pay compensation of rupees twenty thousand to the applicant within a period of six weeks and submit compliance report to this Commission.

Copy of this order may be sent to (i) applicant (ii) Secretary, Home Department, Government of Bihar and (iii) Sr.S.P. Patna.

Date: 16.09.2013

Justice S.N. Jha
Chairperson