

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

File Nos. **BHRC/COMP. 1620/12**

**Case of Manoranjan Kumar**

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The complaint of applicant Manoranjan Kumar – a resident of village Chharrapatti Shivkund, P.S. Dharhara, district Munger – is about an incident of 30.3.2012 in which his maternal uncle Shankar Yadav and the latter's wife Shyama Devi were assaulted by co-villagers and articles including jewellery, cash etc. were taken away by them at about 7:00 A.M. The incident was reported to the police at Ghoswari Police Station but the complaint was not registered. On the contrary he (Shankar Yadav) was arrested in Ghoswari P.S. Case no.24/12 and sent to jail.

Report was called from Sr.S.P. Patna and he brought on record the enquiry report of SDPO Barh dated 15.9.2012. In the said report the SDPO held SHO Ghoswari P.S. guilty of not registering the case. Notice was accordingly issued to SHO Ghoswari P.S. – S.I. Amerika Ram – since transferred and posted at Gandhi Maidan P.S. – under section 16 of the Protection of Human Rights Act. He filed his written defence and the matter was finally heard in his and applicant's presence on 30.8.2013. Smt. Sunita Kumari, SDPO Fatuha (Incharge SDPO Barh) appeared on behalf of Sr.S.P. Patna.

In his written defence S.I. Amerika Ram stated that the two FIRs with respect to an incident of assault on 29.3.2012 (Ghoswari P.S. Case nos. 22/12 & 23/12) were registered by Heto Yadav and Shankar Yadav against each other. Angered by the incident Shankar Yadav and others attacked Heto Yadav with intention to kill him in the morning of 30.3.2012. On receipt of information he (S.I. Amerika Ram) reached the place of occurrence and found Sanjit Yadav son of Heto Yadav injured. In the circumstances, he took Shankar Yadav and one Ram Jatan Yadav in custody. In view of grievous nature of injury, injured

Sanjit Yadav was sent to Primary Health Centre Mokama from where he was referred to Patna for treatment. Later he learnt from the officials of the police station that Shankar Yadav while trying to flee away sustained injuries and was sent for primary check-up at the Primary Health Centre, Ghoswari vide station diary entry no.585 dated 30.3.2012 at 10:25 A.M. Shankar Yadav remained in the police lock-up on 30.3.2012. On 31.3.2012 he was produced before the magistrate and sent to jail.

It is relevant to mention here that injuries on the person of Shankar Yadav were examined by Dr. Mukesh Kumar, Medical Officer, Ghoswari Primary Health Centre on the request of Ghoswari P.S. On examination – at 10:35 A.M – the doctor found the following injuries:–

- (i) lacerated wound on parietal part of skull of size 3'x1½'xskin deep,
- (ii) bruise over left shoulder of size 1½'x1'
- (iii) bruise over left back of chest of sizes 4x1' in the upper part, 6'x1' in the middle part and 3'x1' in the lower part,
- (iv) bruise over waist (posterior minolus) of size 8'x1'
- (v) bruise over left arm (anterior ...) of size 2'x1' and
- (vi) bruise over back of right chest of size 6'x1'

Opinion as regards injury nos.1 & 5 was reserved for want of C.T. Scan of head and X-ray of other parts of the body. Other injuries were described as simple caused by hard and blunt object.

From the injury report – issued on the requisition of none other than Ghoswari police station it is established that Shankar Yadav sustained as many as six injuries. As a matter of fact, in the requisition memo of Ghoswari P.S. itself, among other injuries, a “bleeding injury on left part of head” was noted.

Whether Shankar Yadav went to the police station of his own to register his complaint or he was taken there by the police after arrest may be in dispute (significantly, the factum of his arrest is not mentioned in the case diary) but there cannot be any dispute that Shankar Yadav was at the police station – at least

prior to 10.25 AM when station diary entry no.585 was made and he was sent to Ghoswari PHC with a note about bleeding injury. The entry (SDE no.585) that he came to sustain the injury while trying to flee away from the police station is a cock & bull story which is clear from the nature of injuries found by the doctor or mentioned in the requisition memo itself. It may be mentioned that para 21 of the case diary of Ghoswari P.S. Case no.24/12 refers to the injury report of Medical Officer Ghoswari Primary Health Centre.

While there may also be dispute about genesis and manner of occurrence which led to institution of Ghoswari P.S. Case no.24/12, there can be little dispute that in view of the injuries on the person of Shankar Yadav, a substantive case should have been registered on his complaint. S.I. Amerika Ram failed to give any satisfactory explanation for not registering the FIR.

As seen above, SDPO Barh held him guilty of not registering the case but tried to make light of his misconduct by saying that as Shankar Yadav had filed a court complaint, no action was warranted. The Commission would observe that in the complaint case filed by Shankar Yadav, the accused persons may be found guilty or they may be acquitted. In either situation, the outcome of the case will not have any effect on S.I. Amerika Ram so far as his misconduct is concerned.

On behalf of Amerika Ram it was stated that the injuries on the body of Sanjit Yadav were more serious and he was rushed to Primary Health Centre Mokama from where he was referred to Patna for treatment. It is however interesting to find that Sanjit Yadav was taken to a private hospital, namely, Anupama Hospital at Khazanchi Road, Patna. PMCH is situate close to Khazanchi Road and in the normal course one would expect that the injured will be taken to PMCH rather than a private hospital. From the injury report of the said hospital it appears that Sanjit Kumar was admitted in the hospital at 1 PM. It was there that his statement

was recorded by an official of the Pirbahore P.S. and sent to Ghoswari P.S. for registration of the case.

The case of the applicant/Shankar Yadav is that both he and Sanjit Kumar were sent to Ghoswari P.H.C. at the same time but while injuries on his body were examined there, Sanjit Kumar was taken to private hospital, namely, Anupama Hospital.

The defence of S.I. Amerika Ram also is that Shankar Yadav was an accused in Ghoswari P.S. Case no.22/12. It may be recalled that the said case was registered a day earlier under sections 341, 323 and 379/34 IPC. If Shankar Yadav was an accused in case no.22/12, Sanjit Kumar also figured as accused in Ghoswari P.S. Case no.23/12 under sections 341, 323, 504 and 379/34 IPC lodged by Shankar Yadav, and if that was so, a question arises as to why Sanjit Kumar was not arrested and Shankar Yadav alone was arrested. From the case diary it appears that a remand order in case no.22/12 was sought and obtained later which demolishes S.I. Amerika Ram's defence about Shankar Yadav's arrest in case no.22/12. In the facts and circumstances of the case, the Commission is inclined to believe that S.I. Amerika Ram was biased and he acted throughout in collusion with the other side represented by Heto Yadav/Sanjit Kumar

Be that as it may, the bottom line of the case is that S.I. Amerika Ram did not register the case on the complaint of Shankar Yadav which would have provided the counter version of the occurrence and disclosed the whole truth – of course, subject to the result of investigation, and for his acts of omission and misconduct he is liable to disciplinary action.

To conclude, the Commission holds that for his acts of omission and commission/misconduct, departmental proceeding should be initiated against S.I. Amerika Ram and he should be suitably punished for the same.

The Commission accordingly directs Sr.S.P. Patna to initiate departmental proceeding against S.I. Amerika Ram – the

then SHO Ghoswari P.S, now posted at Gandhi Maidan P.S. – and take the matter to its logical end.

Compliance report should be submitted within eight weeks.

Copy of this order may be sent to (i) the applicant, (ii) Sr.S.P. Patna and (iii) S.I. Amerika Ram, Gandhi Maidan P.S, Patna.

Case diary of Ghoswari P.S. Case nos.20/12, 22/12 produced by SDPO Barh be returned.

Date: 10.09.2013

Justice S.N. Jha  
Chairperson