

### **File No.628/13**

The matter was heard at length in presence of applicant Smt. Rekha Singh and Dy.S.P. Town Patna Sri Manoj Kumar Tiwari who appeared on behalf of the Sr.S.P.

The complaint is about the alleged excesses by Gandhi Maidan Police. It is said that while the applicant had gone to Delhi for treatment of her husband Shri Prakash Singh (Shree Babu), the Gandhi Maidan Police headed by the SHO of the police station broke open the doors of her house known as 'Rekha House' on New Dak Bungalow Road Patna, and took away valuables including cash. It is also said that police action was purportedly taken in execution of process for attachment etc. against Shekhar Singh (applicant's son) and the police had no authority to enter the house - which belongs to the applicant and not to Shekhar Singh - much less break open the doors and take away the valuables which also belonged to the applicant.

The date of the incident is not mentioned in the complaint but it is the admitted position that the incident took place on 17.2.2013.

The police do not deny to have entered the house and attached/removed as many as 66 items of house effects. The stand of the police is that the impugned action was taken in execution of the court's process on the direction of the Jharkhand High Court. It is also said that the attachment was effected in presence of magistrate and independent witnesses.

Execution of processes under sections 82/83 Cr.P.C. often gives rise to controversies and, as the Commission observed in course of hearing, such controversies are better left to the court concerned to resolve. Thus, whether the police committed excesses in the matter of execution of the processes may be agitated in the Jharkhand High Court.

As regards the core issue as to whether the police was justified in entering the house and effecting attachment of properties it may be mentioned that the proceeding in the Jharkhand High Court vide WP(Cr.) No.230/11 was initiated at the instance of none else than the applicant's husband Shri Prakash Singh @ Shree Babu himself. A magistrate's court at Bokaro on 1.8.2011 had passed order for production of the three children of the applicant's son Shekhar Singh in Misc. Case No.7/11 filed by their mother i.e. wife of Shekhar Singh, namely, Smt. Nidhi Singh. Applicant's husband Shri Prakash Singh @ Shree Babu filed the writ petition challenging the said order. In the said writ petition, on 31.10.2012 the High Court directed both Shekhar Singh and Shri Prakash Singh @ Shree Babu to produce the children in the Court on 7.11.2012 and when this did not happen, initiated suo motu contempt proceeding vide Contempt Case (Civil) no.11/2013 and issued search warrant on 8.11.2012. The description of the premises where search was to be made was mentioned as 'Rekha House' in

the search warrant. When the children were not found in the house, and the search warrant was thus returned, the High Court issued non-bailable warrant of arrest against Shekhar Singh and vide warrant/notice dated 21.12.2012. Sr.S.P. Patna was directed to produce him in court. On 8.1.2013 a proclamation was issued with respect to Shekhar Singh and NB warrant of arrest was issued against Sri Prakash Singh@ Shree Babu. Later, 'proclamation' was also issued with respect to Shri Prakash Singh @ Shree Babu as well on 4.2.2013.

There being a separate proclamation against the applicant's husband, her plea that the police had no authority to enter the house and attach/remove the house effects - in execution of processes against Shekhar Singh - since the house does not belong to him - prima facie does not appear to be tenable. The applicant's husband, as mentioned above, is not only party to the proceeding in the Jharkhand High Court; indeed it was in connection with his case i.e. WP(Cr.) No.230/11 - that the entire action has been taken.

Nonetheless, the possibility of the police committing excesses in course of execution of the processes under section 87/88 Cr.P.C, generally speaking, cannot be ruled out but whether in the present case the police did commit any excess is a matter which the Commission would not like to go into. It is open to the applicant/her husband to agitate the matter in the Jharkhand High Court or bring the facts to the notice of the Supreme Court in SLP Nos.8997-9000/13, which the applicant's husband has preferred against the orders of the Jharkhand High Court. In the event of the Court(s) recording any favourable finding, it is open to the applicant to approach this Commission again.

With this observation, the complaint is disposed of and the file is closed.

Copy of this order may be sent to the applicant and Sr.S.P. Patna.

Date: 01.08.2013

Justice S.N. Jha  
Chairperson