

# BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

**File Nos. BHRC/Comp. 5153/14**

**(Suo Motu Cognizance)**

**Case of a lady who eloped with her lover and her father-in-law kept under illegal detention for her alleged murder: (Compensation awarded by BHRC)**

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11.08.2016

Victim, Md. Monazir (father-in-law of the lady) present. DSP (Hqrs.), Sri Rakesh Kumar with SI, Sanjeev Kumar present.

This case was taken suo motu on a press report. Order dated 17.06.2015 is reproduced:-

“SP, Sitamarhi, Mr. Hari Prasath S. present.

It is an unfortunate case in which a person remained in custody for more than a month allegedly for having committed murder of his daughter-in-law. In fact the daughter-in-law is alive. SP submitted that petitioner was arrested on 6.12.2014 when an FIR u/s 302 was registered by the police station on complaint by the father of the daughter-in-law. The accused all over maintained that he has not committed any murder but prima facie without any evidence the victim was kept in custody and on 30<sup>th</sup> December, 2014 the police recovered the lady from Delhi.

In spite of having recovered the lady on 30<sup>th</sup> December 2014 the victim was not released from custody. A case was registered u/s 498A against him. Eventually he was bailed out by court on 9<sup>th</sup> January 2015. A charge sheet has been filed on 30<sup>th</sup> May, 2015. This case appears to be result of serious violation of human rights of the

victim but before any order is passed, let the Sub Inspector appear before the Commission to explain his conduct.

The Sub Inspector shall appear on Monday along with case diary, FIR and a copy of the charge sheet.

List on 22.6.2015.”

The facts revealed are that the father of the lady had filed a report suspecting the murder of his daughter by in-laws. Her father-in-law, Sri Md. Monazir was arrested u/s 302 and kept in custody for more than a month. By the efforts of some villagers the lady was recovered from Delhi. Once she was recovered from Delhi on 31.12.2014 she was produced before a magistrate and a statement u/s 164 was recorded. She levelled some charges of torture and cruelty against her in-laws. Although the person allegedly murdered was recovered alive, Sri Md. Monazir was not actually released.

Though he was released by police but again arrested under the charges of 498A. Ultimately a charge sheet was filed which is pending before the court. Since the charge sheet is filed before competent court, the Commission would not like to comment on that but the arrest at both stages appear to have been illegal. There was no evidence with police on 6.12.2014 connecting Md. Monazir with murder. In fact there was no evidence at all even about commission of an offence of murder. Merely, on the basis of suspicion of a person he could not have been arrested under a

serious charge u/s 302. Police has power to arrest but this power of arrest is not absolute and has to be exercised by the police after due diligence. The matter was decided as early as in 1994 in *Joginder Kumar vs. State of U.P.* (AIR 1994 S.C. 1349), the Supreme Court observed:

“Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen, and perhaps in his own interest, that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person’s complicity and even so as to the need to effect arrest.”

“Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the Station without permission would do.”

Since Sri Md. Monazir has been kept in illegal custody for more than a month and that too for an offence of imagined murder, the Commission feels he needs to be compensated.

Compensation of rupees fifty thousand (Rs. 50,000) be paid to him for being kept in illegal confinement and for spoiling his

reputation. The Government is at liberty to recover it from the person who may be found responsible for his arrest.

During the hearing of this matter one of the persons, Sri Md. Hanzala, came forward who submits that he was also roped in the matter and then he was made to pay a bribe of Rs. 70,000 to certain officers. He gave an affidavit to that effect. An Addl. SP submitted a report in which he says that the allegation levelled were false. The person who moved the application is at liberty to approach any other forum like vigilance organization since the Commission will not be in a position to hold the inquiry whether the bribe was paid or not.

Compliance report be submitted within two months.

Copy of this order be given to (i) petitioner, (ii) SP, Sitamarhi & (iii) Principal Secretary, Home for information and necessary action as the case may be.

List on 14.10.2016.

***(Justice Bilal Nazki)***  
***Chairperson***