

GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

Proceeding No. 06/2013

INQUIRY REPORT

The Complainant is an human rights activist. In his complaint dated 08/01/2013 before this Commission, he has alleged that on 01/01/2013 at about 11.30 a.m. he was assaulted by Police Inspector Shri V. Karpe when he had gone to complain about the loud amplified music that was going on in a Bar called Hill Top at Vagator/Anjuna situated in a silence zone next to St. Michael's Convent School. He has further alleged that Shri Karpe warned that the Party organisers and some anti-social elements wanted to attack and beat him and told him that he will support those people. He had further stated that his friend Shri Raju Shirodkar had come to the Police Station looking for him as he was detained by Police Inspector Karpe for more than three hours and the said Mr. Raju was present at the time when he was threatened by Police Inspector Shri Karpe.

2. Taking cognizance of the complaint, this Commission issued notices to 1) Shri V. Karpe, Police Inspector, Anjuna Police Station, Anjuna – Goa, 2) The Superintendent of Police, North Goa, Porvorim, 3) The State of Goa through its Chief Secretary, Secretariat, Porvorim – Goa and 4) the Secretary (Home), Home Department, Secretariat, Porvorim – Goa. In pursuance to the notices, the Respondent No.1 filed a reply dated 08/03/2013. The Respondent No.2 filed a Memo dated 08/03/2013 stating therein that the Respondent No.2 is adopting the reply filed by the Respondent No.1. Similarly, the Respondent No. 3 and 4 have also filed a Memo dated 10/04/2013 stating therein that these Respondents also adopt the reply filed by the Respondent No.1.

3. In support of his case the Complainant has examined himself as CW1 and also examined one Shri Rajendra R. Shirodkar as CW2 and Dr. Jawaharlal Henriques as CW3. The Respondent No.1 examined himself as RW1 and examined three more witnesses namely, Shri Anant Pawar as RW2, Shri Mahesh Kerkar as RW3 and Shri Krishna Shetye as RW4.

4. We have heard both the Parties. We have also gone through the records of this case.

5. On going through the records of this case, we find that there is substantial merit in the present complaint filed by the Complainant (CW1). The

Complainant (CW1) in his Affidavit-in-Evidence has stated that on 01/01/2013 he had gone to Anjuna Police Station to complain about the loud amplified techno music that was being played in a Bar called "Hill Top" which is located next to St. Michael's Convent School. He has further stated that the Duty Officer Shri Krishna Shetye told him that "Hill Top had a valid permission to play music" and asked him to come to the Police Station and verify the same. On verification the Complainant (CW1) found that the permission was subject to the volume of the music not exceeding 55 decibels. He has stated that the music that was playing on at that time was about 150 decibels. He questioned the Police Inspector Shri V. Karpe about the level of sound of the music played. He has further stated that instead of trying to redress his grievance, P. I. Shri V. Karpe started abusing him and manhandled him besides slapping him on his face 7-8 times and punching him on his stomach. This incident according to the Complainant (CW1) took place between 11.30 a.m. till 12.00 noon on 01/01/2013. He has further stated that as per the Orders of P. I. Shri Karpe, he was illegally confined in the Lock-Up for about half an hour to one hour. As per the version of the Complainant (CW1) his friend Shri Raju Shirodkar was aware that he was going to the Police Station as he had left his son at his shop that morning and had informed the said Raju Shirodkar that the Complainant (CW1) would go to the Police Station to check the permission given to the "Hill Top" and to make a complaint with regard to the loud music. The Complainant (CW1) had also stated that P.I. Shri V. Karpe had threatened and warned him in presence of his friend Shri Raju Shirodkar. This witness was cross-examined by the Adv. for the Respondents. However, cross-examination of this witness has not revealed any results in favour of the Respondents. It is no doubt true that several omissions have been brought on record through the cross-examination of this witness. However, the said omissions are not significant in nature and are not sufficient to discredit the evidence of the CW1. We do not find any material infirmity in the evidence of this witness (CW1).

6. The evidence of the Complainant (CW1) has been corroborated by the evidence of Shri Rajendra Shirodkar (CW2) as far as the illegal detention of the Complainant is concerned. CW2 has stated that on 01/01/2013 he was at his Supermarket when his friend Mr. Cirilo D'Souza left his elder son in his care at about 11.30 a.m. and told him that he (Complainant) was going to the Anjuna Police Station to check the permission given to "Hill Top" and to make a complain with regard to loud music being played and he would come back soon to collect his son. He (CW2) has further stated that as Mr. Cirilo D'Souza had not returned back till 12.45 p.m. on that day, he called the mobile number of

Mr. Cirilo D'Souza but no one answered the call. He has also stated that thereafter he went to the Police Station along with son of Mr. Cirilo D'Souza at about 1.20 p.m. and saw Mr. Cirilo D'Souza in the Lock-Up and thereafter Mr. Cirilo D'Souza was released from Lock-Up within five minutes after he reached the Police Station. He has also stated that he heard Police Inspector Shri Karpe threatening Mr. Cirilo D'Souza telling him that there were many Party Organisers and others who wanted to attack him and other villagers protesting against loud music and beat them up and that Police Inspectors would support those people. The evidence of this witness also appears to our mind to be trustworthy. The mere fact that he is a friend of the Complainant cannot be a ground to disbelieve his evidence which otherwise appears to be natural and believable.

7. The Complainant also examined Dr. Jawaharlal Henriques (CW3) to establish that the Complainant had sustained injuries on account of assault by Police Inspector Shri Karpe. Dr. Jawaharlal Henriques (CW3) had examined the said Mr. Cirilo D'Souza on 01/01/2013 and found three minor injuries which are described in the Medical Certificate at Exhibit-CW3/A. There are no grounds to disbelieve the evidence of Dr. Jawaharlal Henriques (CW3).

8. The fact that the Complainant had lodged a written complaint in the Police Station on the same day soon after the incident complaining of assault and illegal detention by Respondent No.1 also corroborates the allegations made by the Complainant.

9. The Respondent No.1 (Shri Vishwesh Karpe) in his examination-in-chief has stated that on the relevant date and time he had left for investigation in Anjuna Crime Case and the same is duly recorded in Station Diary maintained by the Anjuna Police Station. The extract of Station Diary dated 01/01/2013 at Sr. No.40 shows that P. I. Karpe had left for patrolling at 13.50 hrs. The entry at Sr. No.52 indicates that he returned at 17.15 hrs. It may be noted that the present incident is alleged to have taken place between 11.30 a.m. to 12.00 noon on 01/01/2013 when admittedly P. I. Shri Karpe was at the Police Station. In his cross-examination Shri Karpe (RW1) has generally denied all the allegations made against him by the Complainant. He (RW1) has denied that he had assaulted the Complainant. He has also denied that he had detained the Complainant at the Police Station and that the Complainant was put in the Lock-Up for about 30 minutes.

10. The other witnesses examined on behalf of the Respondent No.1 (RW1) namely Shri Anant Pawar (RW2), Shri Mahesh Kerkar (RW3) and Shri Krishna Shetye (RW4) are police personnel and are working under the control of Police Inspector Shri Karpe (RW1). Shri Anant Pawar (RW2) was working as Police Constable at the relevant time at Anjuna Police Station. Shri Mahesh Kerkar (RW3) was attached to Anjuna Police Station as Police Sub-Inspector on the relevant day and Shri Krishna Shetye (RW4) was working as Head Constable at the Anjuna Police Station on the day of the incident. All these witnesses have stated that the allegations made against P. I. Shri V. P. Karpe by Mr. Cirilo D'Souza are not correct. The evidence led on behalf of the Respondents is not sufficient to discard the positive evidence led by the Complainant. We are therefore satisfied that the Complainant was assaulted and was illegally detained at the Police Station by the Respondent No.1/ Police Inspector, Shri V. Karpe. This conduct on the part of Shri Karpe is highly objectionable and is against the mandate of law and deserves severe condemnation.

11. It is unfortunate that the Higher Officers of the Respondent No.1 including the Secretary (Home) have taken a very casual approach to this case and have acted in a very mechanical manner in dealing with this serious matter involving personal liberty of an individual. It is pertinent to note that the allegations made by the Complainant against the Respondent No.1 (Shri V. P. Karpe) are serious in nature in as much as the Complainant who had gone to the Police Station for a public cause was manhandled and was illegally detained at the Police Station which amounts to infringement of fundamental rights of the Complainant as guaranteed under Article-21 of the Constitution of India. It also amounts to violation of human rights of the Complainant. These allegations ought to have been properly investigated by Higher Officers of the Respondent No.1. It is unfortunate to note that the Respondent No.2 who is immediate Controlling and Supervising Officer of the Respondent No.1 did not choose to inquire into these serious allegations. The Respondents No.2, 3 and 4 have mechanically adopted the reply filed by the Respondent No.1 when admittedly, the allegations are directed against the Respondent No.1 himself. In the fitness of the things it was incumbent upon the Higher Officers to look into the allegations seriously which has not been done. We express our displeasure about the manner in which the Higher Officers have dealt with this matter.

12. In the case of D. K. Basu v/s State of Bengal reported in AIR 1997 Supreme Court 610, the Apex Court has observed as follows:

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“Fundamental rights occupy a place of pride in the Indian Constitution. Article-21 provides “No person shall be deprived of his life or personal liberty except according to procedure established by law” Personal liberty, thus, is a secret and cherished right under the Constitution. The expression “life or personal liberty” has been held to include the right to live with human dignity and thus it would also include within itself a guarantee against torture and assault by the State or its functionaries.

It is further observed as follows:

“it is well accepted proposition in most of the jurisdiction, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by a public servant and the State is vicariously liable for their acts.”

13. Needless to say that the Complainant had to suffer mental torture as well as physical discomfort without any fault on his part on account of high-handedness of the police who have apparently misused their powers by curtailing the personal liberty of the Complainant. We are therefore satisfied that this is a fit case to award appropriate monetary compensation to the Complainant by the State Government.

14. In the facts and the circumstances of this case, we make the following recommendation:

The State of Goa through its Chief Secretary shall pay an amount of Rs. 5,000/- (Rupees five thousand only) to the Complainant as compensation within a period of thirty days. It shall be open to the State Government to recover the amount of compensation from the Respondent No.1/P. I. Shri Karpe in accordance with law.

Date: 24/09/2015

Place: Panaji – Goa

Sd/-
(Justice P. K. Misra)
Chairperson
Goa Human Rights Commission

Sd/-
(A. D. Salkar)
Member
Goa Human Rights Commission

