

GOA HUMAN RIGHTS COMMISSION

PANAJI – GOA

Proceeding No. 47/2014

INQUIRY REPORT

Taking cognizance of the complaint filed by the Complainant, this Commission issued notices to 1) the Police Inspector (Shri Paresh Naik), Anjuna Police Station, Anjuna, Bardez – Goa 2) the Superintendent of Police (North), Porvorim, Bardez – Goa and 3) the Chief Secretary, Secretariat, Porvorim – Goa.

2. The Respondent No.1 filed his detailed reply. The Respondent No.2 and 3 adopted the reply filed by Respondent No.1.

3. In order to appreciate the controversy involved in this case, it would be convenient to narrate brief facts relevant for the purpose of the disposal of this case, which are as follows:

The Complainant and his wife Mrs. Vandana S. Naik are working in a school namely; Keerti Vidyalaya which is being managed by Swami Vivekanand Seva Sangh, Siolim. It is the case of the Complainant that on 11/01/2014 one Rajesh P. Vaigankar along with the police personnel and with five other persons illegally trespassed in the school premises and misbehaved with his wife and outraged her modesty. On the same day Shri Rajesh Vaigankar in connivance with Police Inspector, Paresh Naik filed a complaint against the wife of the Complainant which was treated as N/C complaint. It is further stated that the Police Inspector, Shri Paresh Naik took prompt action on the said N/C complaint filed by Shri Rajesh Vaigankar whereas the said P. I. Shri Paresh Naik did not take any action even after filing FIR in respect of the complaint filed by the wife of the Complainant.

4. The Respondent No.1/P. I. Shri Paresh Naik, has admitted that the Complainant and his wife had filed complaints against Shri Rajesh Vaigankar and likewise the said Shri Rajesh Vaigankar had also filed complaints against the Complainant and his wife. It is the case of the Respondent No.1 that there is a family dispute between the Complainant and his brother-in-law Shri Rajesh Vaigankar and others over the control of the Managing Committee of Keerti Vidyalaya and due to which unnecessarily the Police and other Government Departments are dragged into their fights.

5. We have heard both the Parties. We have also perused the records of this case.

6. The wife of the Complainant namely Smt. Vandana S. Naik is the sister of the said Shri Rajesh Vaigankar. The Complainant was working as Headmaster and his wife was working as Upper Division Clerk of Keerti Vidyalaya School, Siolim. The said School was managed by Swami Vivekananda Seva Sangh Society from the year 1969 and one late Shri Pandarinath H. Vaigankar was President of the said Society and Chairman of Keeti Vidyalaya School from the year 1969 till his death on 19/12/2010. Thereafter one Shri Narayan B. Narvekar was designated as President of the said Society. The said Shri Rajesh Vaigankar is the son of late Pandarinath Vaigankar. When late Shri Pandarinath H. Vaigankar was bed-ridden and could not look after the functioning of the said Society some internal dispute started between the family.

7. The records indicate that the wife of the Complainant filed a complaint on 11/01/2014 against her brothers Shri Rajesh P. Vaigankar, Deepak P. Vaigankar and four others. Although the complaint was filed on 11/01/2014, FIR was registered by the Police on 13/01/2014 i.e. after a delay of 2 days. The Respondent No.1 has not given any explanation for this delay of 2 days. Needless to say, that it is the duty of the Police to register FIR forthwith in case cognizable offences are revealed on the basis of the complaint filed before the Police. In the case reported in **(2014) 2 Supreme Court Cases 1 (Lalita Kumari, Petitioner v/s Government of Uttar Pradesh & Others)** the Hon'ble Supreme Court has held *that registration of FIR is mandatory u/s 154 of Cr.PC if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. This is general rule and must be strictly complied with.*

The above crime was investigated by Police Sub-Inspector Shri Ramchandra G. Shinde till his retirement on 31/05/2014. The investigation in this case was kept pending from 13/05/2014 for a period of about 11 months for which there is no justification on record. After the retirement of Shri Shinde, the case was being investigated by PSI Shri Vijaynath A. Kavlekar who kept the case pending for another about 6 months. This shows the lethargic attitude of the Police in the matter of investigation of the said crime.

8. It is the grievance of the Complainant that on 13/01/2014 telephonic call was received from Police Inspector, Anjuna Police Station on the mobile phone of his wife at about 8.30p.m. directing him arrogantly to send his wife Mrs. Vandana Suryakant Naik to sign FIR and also gave threats that he would register the case on the basis of the complaint of said Shri Rajesh Vaigankar and that the Complainant will fall in trouble and also gave threats of arresting him. It is an admitted fact that the wife of the Complainant was asked to report at the Police Station on 13/01/2014 at about 8.30 p.m.

9. On 13/01/2014, the said Shri Rajesh Vaigankar filed a complaint against the brother-in-law Shri Suryakant B. Naik i.e. the Complainant herein for having committed offences u/s 448, 504, 506(ii), 232 and 354A of IPC. This offence was registered by ASI Shri Pratap Dessai. In this FIR the Investigating Officer has mentioned that the Complainant Shri Rajesh P. Vaigankar was present in the house and was threatened by the accused/Shri Suryakant Naik. It is clear from the statement of the Complainant that he was not present in his house at Oxel, Siolim and he was at workplace at Altinho, Panaji. The Investigating Officer also did not verify from the Complainant whether he was present in the house or not. The investigation of this case was kept pending for about 11 months without any justification. In this case the Investigation Officer has admitted that he has kept the investigation pending only on the directions of P.I. Shri Paresh Naik.

10. Another offence was registered against the Complainant/Shri Suryakant B. Naik on the basis of complaint of Shri Ganesh H. Shirodkar, Peon of the School on 25/02/2014. This offence was registered and investigated by a Head Constable Shri Yeshwant P. Salgaonkar upon the directions of Police Inspector, Shri Paresh Naik. After the registering of FIR the Investigating Officer kept the case pending till his transfer on 02/06/2014. Thereafter, the investigation was handed over to Assistant Sub-Inspector Shri Pratap Y. Dessai who kept the investigation pending upon the directions of Police Inspector, Shri Paresh Naik. This investigation remained pending from 25/02/2014 i.e. for a period of about 10 months without any justification.

11. On the basis of the records of this case, it appears that the Police Inspector Shri Paresh Naik has delayed the registering of FIR against the said

Shri Rajesh Vaigankar in respect of the complaint dated 11/01/2014. Similarly, the investigation in respect of the cases filed by the Complainant and his wife were also kept pending for a long period without any proper justification. This conduct of the Police Inspector Shri Paresh Naik is unbecoming of a public servant and is a clear infringement of the fundamental right under Article 21 of the Constitution of India to a fair and speedy investigation into the complaint of the Complainant and also would amount to violation of his human rights by the said Police Inspector, Shri Paresh Naik.

In view of the above discussions, we make the following recommendations:

- (i) *The State of Goa through its Chief Secretary shall pay compensation of Rs.3,000/- (Rupees three thousand only) to the Complainant. It shall be open to the State Government to recover the said amount from Police Inspector Shri Paresh Naik and other erring police officials.*
- (ii) *Inspector General of Police, Panaji – Goa shall initiate departmental inquiry against the Police Inspector Shri Paresh Naik and other erring police officials.*
- (iii) *Police Inspector, Anjuna Police Station shall expedite the investigation in respect of the cognizable offences registered against Shri Rajesh Vaigankar and others and also in respect of the offences registered against the Complainant and his wife and take appropriate action in accordance with law.*

Date: 02/12/2015

Place: Panaji – Goa.

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

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

Sd/-
(J. A. Keny)
Member
Goa Human Rights Commission