
(2006) 05 JH CK 0087

In the Jharkhand High Court

Case No : Writ Petition (Cr.) No. 300 of 2004

Shiv Chandra Prasad Singh

APPELLANT

Vs

The State of Jharkhand, The National Human Rights
Commission and Sri Anant Kumar

RESPONDENT

Date of Decision : 02-05-2006

Acts Referred:

National Human Rights Commission Act, 1993 — Section 14(5), 16
Penal Code, 1860 (IPC) — Section 161, 323, 34, 341, 379
Protection of Human Rights Act, 1993 — Section 14, 16

Citation : (2006) CriLJ 4192 : (2006) 3 EastCriC 296 : (2006) 46 AllIndCaS
208 : (2006) 2 AIRJharR 46 : (2007) 5 RCR(Criminal) 340

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Delip Jerath, for the Appellant; R.R. Mishra, G.P.-II, for the
Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties.

2. In the instant writ petition the petitioner has prayed for quashing of the order dated 21/06/2002, contained in Annexure-3 to the writ petition, wherein the National Human Rights Commission through its Joint Registrar (Law) requested the Director General of Police, Jharkhand, Ranchi by his letter dated 12/07/2002 to institute an F.I.R. against the petitioner in view of the resolution taken by the National Human Rights Commission on 21/06/2002. The following resolutions were taken by the National Human Rights Commission:

It is indeed painful to see that the then SHO, Sukhdev Nagar Shri Shivchandra Prasad Singh had perpetrated inhuman treatment and torture to the complainant with the sole aim of extortion. A strong action is called for against the delinquent SHO. DGP, Jharkhand is directed to register a case under the appropriate section of IPC against Sh. Shivchandra Prasad Singh and get the same investigated by

an officer not below the rank of DSP, CBCID.

Further prayer of the petitioner in this writ petition is to quash the First Information Report, which was lodged against him and registered under Sections 341, 323, 504, 379, 161/34 IPC pursuant to the above resolution of the National Human Rights Commission.

3. It appears that one Anant Kumar, Managing Director of Barway Granite and Stone Company Pvt. Ltd., Ranchi submitted an application before the National Human Rights Commission, New Delhi alleging therein that on 14/09/1996 at about 4.00 P.M. the petitioner, who was the officer-in-Charge of Sukhdeo Nagar Police Station alongwith one another Constable came to his factory and, thereafter, started assaulting Kamakhya Singh, an employee of the factory. Thereafter, he abused and man-handled the complainant and one other Director of the factory and he warned and threatened the complainant that if he wants to run the factory then he has to pay Rs. 25,000/- per month to him and he has also to give him a new Maruti Car otherwise he would not allow him to run the factory. When the complainant expressed his inability to meet the demand, he was badly assaulted by the Officer-in-Charge and, thereafter, Rs. 26,000/- was also snatched away from his pocket. Accordingly, the complainant requested the National Human Rights Commission to take stern action against the Officer-in-Charge.

4. From Annexure-3, it appears that in view of the allegations made in the complaint as well as in view of the letter of the Senior Superintendent of Police, Ranchi dated 25/04/1998, the Commission passed the above-mentioned resolution, which has already been quoted hereinabove.

5. Mr. Jerath, learned Counsel appearing for the petitioner has submitted that the said order/resolution of the National Human Rights Commission is liable to be quashed on the ground that the same had been passed against the provisions of Section 14(5) and Section 16 of the National Human Rights Commission Act, 1993. He further submitted that it was incumbent upon the National Human rights Commission to issue notice to the petitioner before any action was taken against him and since no notice was issued to him prior to issuance of Annexure-3 and prior to the decisions for instituting F.I.R. against the petitioner and, therefore, the action taken by the National Human Rights Commission is absolutely illegal and consequently the lodging of the F.I.R. against the petitioner, as contained in Annexure-2 to the writ petition, was bad in law and, therefore, the resolution of the National Human Rights Commission, as contained in Annexure-3, as well as the F.I.R., as contained in Annexure-2, are liable to be quashed.

6. On behalf of Respondent No. 2 the National Human Rights Commission a counter affidavit has been filed. In the aforesaid counter affidavit, it has been stated that after the complaint of Anant Kumar was placed before the Commission on 22/11/1996, the same was forwarded to the Sr. Superintendent

of Police, Ranchi for disposal, calling for action taken report within two months. In response, the Senior Superintendent of Police, Ranchi after making an enquiry in the matter, conducted by a Dy. S.P. (South) Ranchi, forwarded the report to the Commission. In the report, the allegations against the petitioner were found to be true. Thereafter, on the basis of the finding of the Enquiring Officer, the resolution was taken by the NHRC and consequently, the direction was given for instituting First Information Report against the petitioner Shivchandra Prasad Singh with a direction that the investigation be made by an officer not below the rank of Dy. S.P. CB CID. It is further stated in the counter affidavit that the Commission did not held any enquiry at its own rather, in fact the resolution was taken and order was passed on the report received from the State Government and the State Government had already given an appropriate opportunity to the petitioner in course of enquiry therefore, there was no necessity to give an another opportunity of hearing to the petitioner by the National Human Rights Commission.

7. The respondent State of Jharkhand has filed separate counter affidavit wherein it has been stated that after the receipt of a letter from the National Human Rights Commission calling for a report from the Senior Superintendent of Police, Ranchi, an enquiry was made by the Dy. S.P. (City). It is further stated in the said counter affidavit that the petitioner, in the meantime, was transferred from Ranchi District and a Departmental proceeding was initiated against him. In the said Departmental proceeding the petitioner filed his reply/explanation stating that the complaint made by the complainant was motivated, frivolous and concocted one and further that when he took over the charge of the Officer-in-Charge of the Sukhdeo Nagar Police Station he was directed by the then Senior Superintendent of Police, Ranchi and Superintendent of Police (City) Ranchi, to keep an eye to the said factory of the complainant because there were some information about the activities of few notorious criminal in the said factory premises and, accordingly, he submitted a report stating therein that a senior police officer is giving protection to the factory owner and also to the criminals.

In the Departmental proceeding the charges were proved against the petitioner and then consequently the petitioner was dismissed from the service. The Departmental Appeal, filed by the petitioner, was also dismissed.

8. The learned Counsel for the petitioner has not pointed out any specific provisions under the Protection of National Human Rights Act, 1993 or under the National Human Rights Commission (Procedure) Regulation, 1994, which speaks that it was essential for the Commission to give a notice to the petitioner or a chance of being heard before passing of resolution/order for instituting a First Information Report against the petitioner.

After going through Section 14 and 16 of the Protection of Human Rights Act, 1993 I find that these two provisions apply only when the Commission decides to investigate or enquire into the allegations made by the complainant but in the present case, as noticed earlier that the Commission had not investigated or

enquired into the allegations made by the complainant against the petitioner rather it acted on the enquiry report submitted by the State authorities, which had already afforded reasonable opportunity to the petitioner during the enquiry and, therefore, no notice of any kind or a chance of being heard was required to be given to the petitioner prior to the issuance of letter contained in Annexure-3 and, therefore, institution of the FIR (Annexure-2) cannot be said to illegal in any manner.

9. In view of the above discussions and findings, I hold that the petitioner is not entitled to any relief whatsoever as prayed for in this writ petition.

Accordingly, having found no merit in this application, the same is dismissed.