



Banglar

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12.01.2022

To

The Chairman

National Human Rights Commission

Manav Adhikar Bhawan

Block – C, G.P.O. Complex, INA

New Delhi – 110023

Respected Sir,

This is to bring your attention over an incident of partial police action and nexus with the perpetrators the investigating police officer tried to eye wash the people by doing false and ineffective investigation in one serious case of attempt to rape upon Ms. Amon Khatun (name changed); aged about 26 years; residing at Bangaloni under Swarupnagar Police Station in the district of North 24 Pargana.

The fact of the case is Ms. Amon Khatun (name changed) is belonging to a very poor family. His father is working as agricultural labour. The family lives in hand to mouth condition. Ms. Amon Khatun (name changed) read Class IX of Tetulia High School and dropped out from the school for financial problem. At the age of 17 she married with one man residing at Bithari Pabankati village. Her marriage ended in divorce when she became pregnant. He gave birth one girl child namely Sabikun Nahar. She has been at her father's house for last eight years. She earns their livelihood by running sewing machine and goat rearing.

Mr. Hassan Mallick, son of Haybat Mallick and Mr. Saiful Mallick, son of Saiyad Ali Mallick; both are residing at Tetulia under Swarupnagar Police Station in the district of North 24 Pargana gave the victim bad offers but the victim did not agree to their proposal. On 15.09.2021 Ms. Amon Khatun (name changed) went to the banana orchard at a near distance from their house to graze her cattle. At that time Mr. Hassan Mallick and Mr. Saiful Mallick grabbed the victim and by force led her into the deeper part of the banana orchard. They tried to rape her. Hassan Mallick tore the cloths of the victim and took off her inner garments. Hassan Mallick opened his lungi and tried to enter his pennies into her vagina. Saiful Mallick made the victim full naked and hold victim's hands and mouth so she could not scream. In the scuffle when the hands of Mr. Saiful moved away from the victim's face, Ms. Amon (name changed) bit Mr. Hassan on his chest who tried to penetrate his pennies into her vagina. She shouted for help. Perpetrators became frightened and they ran from the spot. During the time of leaving the spot, they threatened of acid attack to the victim. She became frightened and did not expose the incident to anyone. But the perpetrators repeatedly threatened the victim and her family members and as for the reason on 22.09.2021 the victim lodged written complaint to the Superintendent of Police, Basirhat Police District but no action had been taken by the concerned police in this respect.

As the concerned police departments did not take any action on the complaint of the victim, on 29.09.2021 one petition had been filed before the Additional Chief Judicial Magistrate, Basirhat, North 24 Pargana. The case was acknowledged by the Magistrate vide MP case number 598/2021. On 29.09.2021 Additional Chief Judicial Magistrate, Basirhat, North 24 Pargana ordered the Swarupnagar Police Station to treat the complaint of the victim as FIR and investigate the case. After 19 days Swarupnagar Police registered the complaint of the victim vide Swarupnagar Police Station case number 892/21 dated 18.10.2021 under sections 341/354B/511/506/34 of Indian Penal Code against Mr. Hassan Mallick and Mr. Saiful Mallick. We do not understand why the police took 19 days time after pronouncing the order of the Magistrate to register an important and serious case.

In this regard it is to be mentioned that on 12.10.2021 at about 11 am some police personnel came to the house of the victim and asked the victim to appear at the Swarupnagar Police Station. The police personnel did not provide any written notice to the victim or her family members for appearing in the police station. Here the police officials of Swarupnagar Police Station intentionally violated the provision of section 160 of the Code of Criminal Procedure where it is laid down that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides. That means the police have no power to call a woman victim in the police station. It is unfortunate that the executor of the law is the main violator of that. The victim and her family members went to the Swarupnagar police station following the verbal direction of the police personnel right just at 3 pm. The victim Ms. Amon Khatun (name changed) and her family members kept sitting in the Swarupnagar Police Station from 3 pm to 8 pm without any reason. Then the police personnel told them to leave without asking any questions to the victim and her family members regarding the incident. The police personnel of the Swarupnagar Police Station with the joint nexus of the perpetrators intentionally harassed the victim and her family members by unreasonably kept them sitting or specifically detain them for more than 5 hours in the police station without any cause.

The apex court or High Courts in different states issued various guidelines to circumvent the situation of the harassment which can take place while the police call a victim or accused. It is mandatory where any person is summoned by the reason of being named in the complaint or any witness to the incident complained of, the duty of the police officer is to summon such person through a written summon under section 160 of the Code of Criminal Procedure, specifying a particular date and time for appearing before them for certain reason. Here the police personnel of the Swarupnagar Police Station did not provide such notice to the victim and her family members and thus violated the guidelines of the higher courts. Secondly there should be a recording in the Daily diary/Station diary/General diary of the police station about the minutes of the detailed process from entry to exit of the person who was summoned to the police station. Was the Swarupnagar Police personnel maintained the record of that? Thirdly, the police should not indulge in any kind of harassment done to the people while summoning any person to the police station. But kept sitting the victim and her family members for more than five hours in the police station without any reason is purely a intentional harassment of the victim and her family members by the police personnel.

I want to mention in this regard that if a person being the victim of the misconduct because of the omission of a duty of a police personnel, which can be any violation of duty or willful breach or neglect of any rule or regulation, shall be liable to be punished under section 29 of the Indian Police Act, 1861 with a penalty up to 3 months' pay or imprisonment up to 3 months or both penalty and imprisonment. Here the concerned police personnel of Swarupnagar Police Station with joint nexus of the

perpetrators intentionally harassed the victim and her family members and omitted their respective duties and therefore it is a willful breach or neglect of the provisions of the Cr.P.C which assigned their prescribed duties.

On 18.10.2021 Swarupnagar Police registered the complaint of the victim vide Swarupnagar Police Station case number 892/21 dated 18.10.2021 under sections 341/354B/511/506/34 of Indian Penal Code against Mr. Hassan Mallick and Mr. Saiful Mallick. Here in the FIR police intentionally omitted the section 376 IPC which is very fit for this case.

The act of the perpetrators was deliberately done with manifest intention to commit the offence of rape and was reasonably proximate to the consummation of the offence. Here in this case the perpetrator with their deliberate intention forced the victim and tore up her dress, took off her inner garments and made her fully naked and ultimately rubbing the genitals on victim's body and tried to penetrate into her vagina. These acts linked with the provisions of section 375 read with section 511 of the Indian Penal Code. Attempt is punishable because even an unsuccessful commission of offence is preceded by mens rea, moral guilt and its depraving impact on the social values is no less than the actual commission.

Even in the petition filed before the Court of Additional Chief Judicial Magistrate, Basirhat Court the victim mentioned that the perpetrators tried to rape her. Magistrate ordered the police to register an FIR and investigate the case but to save the perpetrators police omitted section 376 IPC from the FIR. Even the perpetrators were not arrested by the police officials. They are enjoying complete impunity and police did no action.

The perpetrators came to the house of the victim and threatened the parents of Ms. Amon Khatun (name changed) by saying, "police personnel of Swarupnagar Police Station are in their hands and with the help of police they made the light charges in this case. The police can't do anything to them" They also threatened the victim by saying that if the victim go to testify in the Court, that time they will rape her in front of the people. They tried to attack upon the parents of the victim with 'Bhojali' (a sharp edged weapon).

The victim went to the Swarupnagar Police Station to inform this incident to the investigating officer of her case Mr. Himadri Roy, Sub Inspector of Police but he did not take any action. Several times the victim and her family members wanted to meet with the Officer-in-Charge of the Swarupnagar Police Station but they were not allowed to enter into the chamber of the Officer-in-Charge of Swarupnagar Police Station.

The perpetrators went to the victim's house total three times after committing the crime and every time they threatened the victim if she will go to testify in the court or inform the incident to any others.

The perpetrators are roaming in the locality with pride and every time they are threaten the victim and her parents. Although the police have been informed this incident, but the police are silent and not taking any action against the perpetrators.

Sir, this is very important case where the police become partial and the powerful perpetrators buy them. The victim who has no sufficient economical power, political connections, suffers continuously. Even proper investigation was not done by the police. Lessen the charges against the perpetrators from the FIR. Harass the victim unnecessarily. The perpetrators put continuous threat openly to rape

the victim and her family but police did not take any steps. The perpetrators roaming freely but police did not arrest them.

There are several intentional negligence and breach of their prescribed duties in connection with this case on the part of the Swarupnagar police personnel which I mentioned in the following points –

- After informing the incident of the crime by the victim in written letter to the Superintendent of Police, Basirhat Police District dated 22.09.2021, the concerned police department did not take any action to register the case and start investigation and thereby violated section 154 of the Code of Criminal Procedure and apex court judgment in Lalita Kumari vs. State of U.P. & others.
- After pronouncing order by the Additional Chief Judicial Magistrate, Basirhat Court, the police register the case after more than 19 days. Why?
- Before registering the case why the victim was asked to present on 12.10.2021 to the Swarupnagar Police Station?
- Why no written notice was issued to the victim or her family members for their appearance in the Swarupnagar police station on 12.10.2021?
- Why the victim and her family members were kept sitting actually detaining at the Swarupnagar Police Station without any reason for more than 5 hours on 12.10.2021?
- Why the case was registered after one week from 12.10.2021? What is the reason of delay to register a serious attempt to rape case upon the victim?
- In the copy of the FIR why the police official did not fill up the portion reason for delay?
- From the copy of FIR it is clearly viewed that the court complaint of the victim was treated as FIR then why it took 19 days long time to register one serious matter?
- In the court complaint the victim lodged complaint before the court of the Additional Chief Judicial Magistrate, Basirhat under section 376/511/506/34 but why the police personnel of Swarupnagar Police Station register the case under 341/354B/511/506/34? Why the important section 376 was missing in the FIR?
- Additional Chief Judicial Magistrate, Basirhat ordered to register the case and investigate the case and filed the report but police intentionally tried to divert the judiciary by registering one case which not actual and fit with the victim's complaint.
- Why till time the police did not record the statement of the victim and the witnesses mentioned in the complaint of the victim?
- Were the cloths and inner garments of the victim which she wore during the time of the incident collected by the police and sent for the forensic test?
- Why the police or investigating police officer till time did not visit the place of occurrence of the crime for collecting evidences of crime?
- Why no medical test was happened of the victim?
- It is the intentional act of the Swarupnagar Police personnel to register the case with so much delay thereby all evidences against the perpetrators were deleted or washed off.
- Why the investigating officer of this case Mr. Himadri Roy, Sub inspector of Police did not arrest the perpetrators Mr. Hassan Mallick and Saiful Mallick?
- When the victim informed the IO about continuous threat of the perpetrators to rape her openly and also perpetrators attacked her family members with sharp edged weapon, why the IO did not register another case of criminal intimidation and attack with dangerous weapon against the perpetrators?

- The victim lodged another written complaint to the Superintendent of Police, Basirhat Police District on 03.11.2021 by informing the continuous threat they received from the perpetrators; but till date no action has been taken by the concerned police officials
- It is a case where the perpetrators are the main accused and the concerned police personnel of the Swarupnagar Police Station and the Investigation Officer of this case Mr. Himadri Roy, SI of police are same accused who tried to save the powerful perpetrators.

Sir, this is the very serious matter which needs your urgent action. The concerned police officials and investigating police officer made a tricky way of false investigation to eye wash the people and judiciary in connection with this case just to save the skin of the perpetrators Mr. Hassan Mallick and Mr. Saiful Mallick. The victim has no other option but I on behalf of the victim apply to your forum as the last resort to provide the specific justice to the victim and strict action against the perpetrators and the police personnel who are work together by curtailing the procedural laws.

Hence, I demand for

- An impartial investigation must be required for assessing police investigation process in respect of the above referred case by the independent impartial investigation department by your Commission.
- The above case should be taken from the hand of the Swarupnagar Police Station and handed over to an impartial investigation agency for proper investigation in this respect.
- Mr. Himadri Roy, Sub Inspector of police, Swarupnagar Police Station and the investigating officer of this case must be accountable and a departmental action must be started against him for omission in his duty.
- The concerned police officials of Swarupnagar Police Station and investigating officer of this case must be punished under section 29 of the Indian Police Act, 1861 for continuous breaches in their prescribed duty and harassed the victim.
- Immediately arrested the perpetrators Mr. Hassan Mallick and Mr. Saiful Mallick and start investigation of this case properly.
- On the basis of complaint of the victim dated 03.11.2021 to the Superintendent of Police, Basirhat Police District another FIR must be registered against the perpetrators Mr. Hassan Mallick and Mr. Saiful Mallick for continuous threat upon the victim to rape her and attacked upon the victim's family members with dangerous weapon.
- Victim's statement must be immediately recorded by the concerned judicial magistrate under section 164 of the Code of Criminal Procedure.
- Safety and security of the victim and her family members must be ensured.

Thanking you,
Yours truly

Dipyaman Adhikary
Assistant Secretary
Banglar Manabadhikar Suraksha Mancha (MASUM)

Attached Documents

Picture of victim



Copy of complaint sent to Superintendent of Police of Basirhat Police District

To
The Superintendent of Police
Basirhat Police District
North 24 Parganas.

মাকীয়া মহাপত্র,

আমি ... গড়ন, পিতা- কবিরুল সরকার, গ্রাম- ও পোস্ট- বালাগাতি, থানা- স্বরূপনগর,
জেলা- উত্তর ২৪ পরগণার স্থায়ী বাসিন্দা হইতেছি।

আমার বিনীত শিবেদন এই যে, হাসান মল্লিক, পিতা- হাইবাত মল্লিক, গ্রাম ও পোস্ট-
ভেঁতুলিয়া, থানা- স্বরূপনগর, জেলা- উত্তর ২৪ পরগণা এই ব্যক্তি দীর্ঘ ছয় মাস ধরে আমাকে
উদ্ভক্ত করিত ও আমাকে ক্র-প্রকৃত নিত। আমি এই ব্যক্তিকে পালিশালোক করিলে পরের দিন
বিগত ইংরেজী ১৫/০৯/২০২১ তারিখে সন্ধ্যা ৬.০০ নাগাদ আতি মার্টে হাঙ্গাম আনতে গেলে তখন
১) হাসান মল্লিক ২) সাইফুল মল্লিক, পিতা- সৈয়দ আলি মল্লিক, গ্রাম ও পোস্ট- ভেঁতুলিয়া
মল্লিকপাড়া, থানা- স্বরূপনগর, জেলা- উত্তর ২৪ পরগণা আমাকে এই দুইজন জাপতে ধরে মুখ
জেপে ধরে পালিশের কলা বাগানের ভিতরে টেনে নিয়ে যায়। সাইফুল মল্লিক আমার হাত মুখ
জেপে ধরে, হাসান মল্লিক আমার পরনের নাইটি ও আমার প্যান্টি জোর পূর্বক ছিঁড়ে হাসান মল্লিক
ডাছার পুঁজি খুলে তাছার পুঁজ অঙ্গ জোর পূর্বক আমার বোনীর ভিতরে ঢুকিয়ে দেওয়ার চেষ্টা
করে। আমি গোঁজাইতে থাকি। তখন হাসান মল্লিক আমার নয় দেহের উপর তাকে শড়লে সাইফুল
মল্লিকের হাত ধরে আমায় মুখ থেকে সরে যায় তখন আমি হাসান মল্লিকের বুককে কামড়ে
ধরি। হাসান মল্লিক যখন হস্তপায় আমাকে ছেড়ে দিলে আমি বাঁচাও ধাঁচাও বলে চিকিৎকার করলে
আমার মা মানুষা বিবি ও ভাই জামিমুদ্দিন সরকার ছুটে যায় তখন এই দুই ব্যক্তি মুখে অ্যান্টি
বেরে পুড়িয়ে দেবে বলে অস্ত্রকারের ভিতরে উঠাও হয়ে যায়। আমি লোক লজ্জার ভয়ে ও মুখে
অ্যান্টি মেরে পুড়িয়ে দেওয়ার ভয়ে অভিযোগ করিবার সাহস পায় নাই। বর্তমানে আমি খুবই
নিরাপত্তার অভাববোধ করিতেছি, সুস্থ স্বাভাবিক জীবন যাপন করিতে পারিতেছি না। ইতি
তারিখ

বিনীত=

ধাওতা
গড়ন

Copy Forwarded to-
The O.C. Swarupnagar P.S.
24 Pgs(N).

Received but Content not verified
22/09/2021
Office of the Superintendent of Police
Basirhat Police District
North 24 Parganas

W. O. Form No. 27

FIRST INFORMATION REPORT

9643

1. Information of a cognizable offence reported under section 154 Cr. P. C. at P.S. Sub-Cover Khatola, P.S. Sanganur on 18.10.2023 at 18.10.2023 Date 18.10.2023

2. (a) Act Sections IPC (b) Act Sections 241/354B/50/506/24

3. (a) General Diary Reference: If any No. 853 Other Acts & Sections _____

4. Occurrence of Offence: Day Wednesday Time at 11.35 AM

5. Information Received Date 18.10.2023 Time at 11.35 AM

6. Q.I. No. 853

7. Type of Information: Written/Oral Typed Court complaint at the Police Station:

8. Place of Occurrence: (a) Division and District from PS Address of the complainant

(b) Address At the rear part of house at willage - Banglani, PO - Sanganur, Dist - Davangere

(c) In case outside limit of the Police Station, then the name of P.S. _____

9. District _____

10. Complainant / Informant:

(a) Name Khatola

(b) Father's / Husband's Name Kabirul Soudar

(c) Date / Year of Birth _____

(d) Nationality Indian

(e) Address at willage - Banglani, PO - Sanganur, Dist - Davangere

11. Details of Known / Suspected / Unknown / Accused with full particulars At Hassan Mallick @ Sai Baba Mathra, btl s/o - Sanganur, Dist - Davangere, PO - Sanganur, Dist - Davangere

12. Reason for delay in reporting by the Complainant / Informant Not in 24 hours

13. Particulars of Properties stolen / involved: (Attach separate sheet, if required)

14. Total Value of Properties stolen / involved _____

15. Inquest report / Q.I. - Copy No., if any _____

16. FIR Contents: (Attach separate sheet, if required) The original typed court complaint of the Complainant which is treated as FIR is attached below.

17. Author Note: Since the above report reveals commission of offence (a) u/s 241/354B/50/506/24 IPC

Registered the case and took up the investigation / directed SI Himadri Roy to take up the investigation

Forwarded to P.S. _____ on point of jurisdiction. FIR sent over to the complainant / informant admitted to be correctly recorded and a copy given to the complainant / informant free of cost.

Signature of the Officer-in-Charge, Police Station
 Name Sub. Sanganur
 Rank SI of Police
 Number of copy 1/1 Sanganur

*Completed by me
 P. S. Sanganur
 18.10.2023*

