

JUDGMENT & ORDER

08.01-2024

1. Sri Sanjay Kumar Chaudhary, Deputy Inspector General, Prisons & Correctional Services, Bihar, Patna along with Sri Rajnesh Kumar Singh, Joint Secretary-cum-Director (Admin), Home (Prisons) Department, Bihar, Patna, present today before the Commission with record. They are heard.
2. Perused the complaint of Shri Ashutosh Kumar Civil Judge-cum- Judicial Magistrate First Class submitted to the Commission on 07-11-2023.
3. It is alleged in the complaint that on 12.02.2021 complainant Shri Ashutosh Kumar and his wife Aditi Medha along with co-prisoner Rakesh Rai were transferred from Central Jail, Muzaffarpur to the Central Jail, Gaya and that he was forcefully handcuffed by the Jailer . Information of this happening was given by co-prisoner Rakesh Rai in writing to the Jailer at Gaya. Next contention is that there is violation of Rule, 360 of the Bihar Manual, 2012 inasmuch as their relatives were not informed about this transfer. The complaint alleged violation of Rule, 358 of the Manual by contending that the transfer was without medical certificate of the doctor certifying fitness to travel. It is contended that on 06-04-2021, Neelam Singh, mother- in -law of the complainant requested for C. C.T.V footage of the day on which he and



his wife were transferred to the Central Jail, Gaya but to hide the matter of handcuffing , the C.C.T.V footage was not provided. With this, the complainant prayed that necessary action be taken against the State Authorities for violation of their Human Rights. The Complaint has attached few documents with the complainant.

4. As serious complaint of violation of Human Rights of Judge and his wife was before the Commission, in the light of provisions of Sections 16,17,18 of the Protection of Human Rights Act, 1993, notices were issued to the Chief Secretary Bihar, Additional Chief Secretary, Home Department, Govt. of Bihar under whom the prisons in the State are operated as well as to the Inspector General of Police, Prisons & Correctional Services , Bihar, Patna to put up there stand before the Commission.

5. Accordingly on 08-01-2024 Sri Sanjay Kumar Chaudhary, Deputy Inspector General, Prisons & Correctional Services, Bihar, Patna along with Sri Rajnesh Kumar, Joint Secretary, Home Department attended the Commission and submitted their report alongwith report of the Superintendent, Central Prisons, Muzaffarpur apart from the documentary evidence in the matter. I have perused the complaint as well as the report and documents annexed thereto.

6. At the outset it needs to reproduced provisions of Section 36 of the Human Rights Act, 1993 which reads as thus:-



"36. Matters not subject to jurisdiction of the Commission-(1)

The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed."

7. It is thus clear that the limitation for entertaining the complaint relating to violation of human rights is one year. Perusal of the instant complaint makes it clear that alleged violation of human rights took place on 12-12-2021. However, the complaint thereof is dated 23-08-2023 under signature of the complainant. It is tender to the Commission on or about 07-11-2023. Even if the date of signing of the complaint i.e. 23-08-2023 by the complaint is taken into consideration then also the complaint barred limitation. This Commission as such cannot inquire it in view of provisions of Section 36 of the Protection of Human Rights Act, 1993.

8. Be that as it may, even if the complaint is considered on merit then it becomes clear that no explicit reliance can be made on statement of co-prisoner Rakesh Rai, because along with the complainant he was also transferred from the Central Jail, Muzaffarpur to the Central Jail, Gaya. This co-prisoner is an interested witness. The complainant waited

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for more than two years to make such allegations. Moreover as reported by the State Authorities , the capacity of storage of C.C.T.V footage was only 15 days. The delay in lodging the complaint as such makes it difficult for the State to refute such belated allegations. The report is specifically denying the allegations regarding handcuffing. It is categorically mentioned therein that the complainant who happens to be the Judge was possessing mobile phone in the prisons on 09-02-2021 resulting in lodging of the F.I.R after seizure of that phone. The documents to that effect are produced on record. The order of transfer to Gaya issued by the Inspector General, Prisons makes it clear that the prisoners including the complainant were indulged unlawful activities at Muzaffarpur Prisons. The allegations of handcuffing as such appears to be the counter blast to the administrative action of the Prisons Authorities. Hence, no substances can be found in such allegations.

9. The report of the State Authorities makes it clear that the allegations about non-intimation of transfer to Gaya Prisons to the relatives of the prisoner are totally misconceived. The documentary evidence produced with the report makes it clear that the complaint was transferred to Gaya on 12-02-2021. His daughter met the complainant and his wife in the prison at Muzaffarpur Prisons on 09-02-2021 and thereafter, she met them at Gaya, Prisons on several dates from 30-03-2021 onwards. Frequent visit of daughter of the complainant to him as well as his wife at Gaya Prison right from 13-03-2021 onwards makes it



improbable to rely on the allegations of breach of Rule, 360 of Bihar Prison Manual, 2021.

10. Similarly I found no merit in allegations regarding violation of Rule 358 of the manual. The State Authorities have produced on record the certificate dated 12-02-2021 of the Medical Officer, Central Prisons, Muzaffarpur certifying that the complainant and his wife are medically fit for travel from Muzaffarpur Prisons to Gaya Prisons and that they are not suffering from ailments like Corona. Application for C.C.T.V footage, own admission of the complainant was made on 06-04-2021 regarding C.C.T.V footage of 12-12-2021. The server was having capacity to store the footage only up to 15 days. Therefore, it can not be said that the C.C.T.V footage was suppress for hiding the matter of violation of human rights of the prisons.

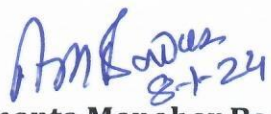
11. In the light of this discussion and appreciation of material on record no case of commission of violation of Human Rights of the complainant or his wife and co-prisoner is made out by the complainant. I am of the opinion that the matter deserves no further inquiry. Hence, the following orders:-

1. The complaint is dismissed.

2. The copy of this order be sent to the complainant as well as the respondent authorities viz the Chief Secretary, Govt. of Bihar, Additional Chief Secretary, Home Department, Govt. of Bihar and Inspector General of Police, Prisons & Correctional Services, Bihar, Patna for information.



12. In the light of forgoing discussion and finding, now there is no need to conduct further preliminary fact finding inquiry by the Learned Registrar, BHRC. He be informed accordingly.


(Ananta Manohar Badar)
Chairperson