

NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)
MANAV ADHIKAR BHAWAN, BLOCK-C, G.P.O. COMPLEX,
INA, NEW DELHI- 110023

Dated 20/02/2016

Case No. 580/6/14/2010-WC

To

SUHAS CHAKMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI, DELHI.

2 MAR 2016

Sir/Madam,

With reference to your complaint dated 07/07/2010, I am directed to say that the matter was considered by the Commission on 15/02/2016. The Commission has made the following directions.

These proceedings shall be read in continuation of the earlier proceedings of the Commission dated 8.6.2015.

On 8.6.2015, the Commission observed and ordered as under:-

"The Commission had recommended for a compensation of Rs. 4 lacs to the victim, but as the complainant has submitted an affidavit before the Court that no such incident had taken place, the Court of Addl. Session Judge has rejected the case of Smt. Heenaben. Therefore, it seems proper to reconsider the order for payment of compensation to the victim. But before proceeding further the comments of the complainant should be called.

Let a copy of the report dated 07.12.12 of under Secretary to Govt. of Gujarat, be transmitted to the latest address of the complainant for comments with the directions that in case of failure to submit the comments, the case shall be decided.

Response within four weeks."

Pursuant to the directions of the Commission, a letter was issued to the complainant Shri Suhas Chakma for submitting comments but the complainant has not submitted comments.

As has been observed earlier by the Commission in the rape case, the victim had turned hostile and has not supported the version of the prosecution.

Since the prosecutrix has not supported the version, the case ended in acquittal.

Under these circumstances, it will not be appropriate to recommend payment of compensation of Rs.4.00 lakhs to the victim.

The order passed by the Commission on 27.8.2012 is hereby recalled and the case is closed.



This is for your information.

Yours faithfully,


ASSISTANT REGISTRAR(LAW)

BY REGISTERED POST

Assistant Registrar(LAW)
Fax No : 011-2465 1332
Home Page : <http://nhrc.nic.in>

Case No. 580/6/14/2010-WC
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

MANAV ADHIKAR BHAWAN, BLOCK-C, G.P.O COMPLEX,
INA, NEW DELHI- 110023

Dated 13/06/2015

Case No.:- 580/6/14/2010-WC

To

• 1 JUL 2015

SUHAS CHAKMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI, DELHI 110058

Sir/Madam,

With reference to your complaint dated 07/07/2010, I am directed to inform you that the above mentioned complaint along with the report received from the concerned authorities were placed before the Commission on 08/06/2015. Upon perusing the same, the Commission has directed as follows :-

These proceedings are in continuation of the earlier proceedings of the Commission dated 16.04.14, wherein the Under Secretary to the Government of Gujarat was asked to submit English transcript of copy of judgment passed by 5th Addl. Session Judge, Gandhidahm along with copy of FIR, copy of charge sheet, copy of statement of prosecutrix Smt. Heenaben during investigation, copy of affidavit of prosecutrix dated 23.05.2011 and copy of medical examination report of Smt. Heenaben which should be received in the Commission within six weeks.

In compliance of the Orders of the Commission, the English transcript of all the papers have been submitted by the Secretary (Home) Govt. of Gujarat dt.10.06.14.

The Commission examined all the papers submitted by the Secretary (Home) Govt. of Gujarat.

The English transcript of the copy of FIR, charge sheet, statement of the victim Hinaben, Medical examination report, Affidavit and Judgment of Addl. Session Judge have been submitted.

In this case, the complainant woman has turned hostile in the Court. His sister in his affidavit has stated that she has not made complaint and no such incident has occurred. Perusal of the Judgment dt.14.06.12 shows that accused has been resolved innocent and freed from the offences punishable u/s 323, 504, 506, 376(2)(K)(I) IPC and Sec. 3(1)(12) 3(2)(5)(7) SC/ST Act. The statement of the prosecutrix recorded before the Court shows that she supported her case during exam-in-Chief, but turned hostile thereafter.

The Commission had recommended for a compensation of Rs. 4 lacs to the victim, but as the complainant has submitted an affidavit before the Court that no such

Encl: As stated above

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incident had taken place, the Court of Addl. Session Judge has rejected the case of Smt. Heenaben. Therefore, it seems proper to reconsider the order for payment of compensation to the victim. But before proceeding further the comments of the complainant should be called.

Let a copy of the report dated 07.12.12 of under Secretary to Govt. of Gujarat, be transmitted to the latest address of the complainant for comments with the directions that in case of failure to submit the comments, the case shall be decided.

Response within four weeks.

Pursuant to the above directions, I am enclosing herewith a copy of the report for furnishing your comments, if any, by 18/07/2015 for consideration of the Commission.

Your faithfully,

ASSISTANT REGISTRAR (LAW)

National Human Rights Commission

New Delhi, India

Case Details of File Number: 580/6/14/2010-WC

Diary Number	83100
Name of the Complainant	SUHAS CHAKMA, DIRECTOR
Address	NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE, C-3/441-C, JANAKPURI, WEST DELHI , DELHI
Name of the Victim	A WOMEN
Address	ADESAR, TALUKA- RAPAR, KUTCH-BHUJ , GUJARAT
Place of Incident	ADESAR KUTCH-BHUJ , GUJARAT
Date of Incident	7/2/2010
Direction issued by the Commission	<p>A scheduled caste woman became a victim of rape in District Kutch of Gujarat in July-2010. The perpetrator of the crime was a police Sub Inspector named R.L.Rathod. A criminal case was registered against the said police officer at P.S. Bhimasar and after completion of investigation a chargesheet against him was filed in the court. Since the police investigation revealed that S.I. R.L.Rathod had committed offence of rape, the Commission issued a show cause notice to the government of Gujarat u/s 18 of PHR Act. The District Magistrate was also asked to inform if the financial assistance prescribed under SC/ST (PAO) Rules had been given to the victim. In response to show cause notice, the State government has submitted that the chargesheet has been filed in the court and before conclusion of trial it would not be appropriate to award monetary relief u/s 18 of PHR Act. As regards the financial assistance under the provisions of SC/ST(PAO) Rules, the concerned District Magistrate has informed that an amount of Rs. 50,000/- has been sanctioned and an amount of Rs. 25,000/- has already been paid. The Commission finds no merit in the plea taken by the State government in response to the show cause notice u/s 18 of PHR Act. The standard of proof required by the Commission is not as rigorous as that required in a criminal trial for conviction of the accused. The Commission makes recommendation on the basis of broad probabilities. In this case S.I. R.L.Rathod has been involved in rape case as per police investigation. So a prima-facie case for recommending monetary relief is definitely made out. Considering that the victim is a schedule caste woman and the perpetrator of the crime is a police officer, it is recommended to the government of Gujarat to pay a sum of Rs. Four Lakh as monetary relief to victim Heenaben. Chief Secretary, Government of Gujarat is directed to send the compliance report with proof of payment within two months.</p>
Action Taken	Relief granted [Compensation, Disciplinary & Prosecution] (Dated 9/4/2012)
Status on 3/16/2013	Compliance of the Commission's recommendation by the concerned authority is awaited.

Note: For further details kindly contact **National Human Rights Commission, Copernicus Marg, New Delhi, PIN 110001 Tel.No. 23385368 Fax No. 23384863 E-Mail: cov dnhrcc@hub.nic.in**

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