

Action taken Details :

Action Details

File Number	1763/19/1/2012	Action Date	16/05/2018
Action taken	CLD	Due Date	16/05/2018
Commission	JUSTICE SHRI D. MURUGESAN	Comp.Date	18/05/2018
Order	This case relates to the complaint dated 06.11.2012 received from complainant alleging that on 06.08.2012, 03 named and 01 unknown accused persons on knife-point she was kidnapped and raped. Despite of her and her parent's complaint, police did not register the FIR. After intervention of the Court, a case FIR No. 200/2012 was registered on 27.09.2012 but her statement u/s 164 Cr.PC was not recorded by the police. After 10 days of registration of the FIR No. 200/2012 police filed cancellation report in the concerned Court. She further alleged that these boys acted to take revenge of complaint lodged with police regarding molestation with her on 31.07.2012 at 8.00 p.m. in which a case FIR No. 154/2012 dated 02.08.2012, PS Sadar Amritsar was registered. Complaints were made to police, including of Commissioner of Police, Amritsar, but no action was taken. The allegations leveled in the complaint are as under:		

- i) Delay in lodging FIR No. 154/2012
- ii) Non-registration of FIR in the rape incident. Case FIR No. 200/2012 was registered only after direction of the Court u/s 156(3) Cr.PC.
- iii) The Commissioner of Police, Amritsar has not taken any action on the petitions/applications submitted to him.
- iv) Inaction on the part of IO in the investigation of FIR No.154/2012 (molestation case) and FIR No. 200/2012 (rape case) registered on the direction of the Court u/s 156 (3).
- v) Threatening to compromise or face the consequences from the police and accused.

Pursuant to the direction of Hon'ble Commission, a spot enquiry into the allegations was conducted by the Investigation Branch of NHRC from 28.05.2013 to 31.05.2013. During enquiry following facts came to light:

A) Case FIR No. 154 u/s 354, 341,323,506,148,149 and 307 (added later on) dated 02.08.2012, PS Sadar, Amritsar.

- i) The incident of molestation followed by physical assault happened on 31.07.2012 at about 8 PM with complainant. Her parents reported the matter to ASI Subeg Singh, I/C Police Post, Fatehgarh, Churiyan Bypass on the same night and again on 01.08.2012 but police did not lodge FIR on their complaint.
- ii) However, a FIR No. 154/2012 PS: Sadar was registered on 02.08.2012 on the complaint of mother of the complainant.
- iii) There is a delay in registration of FIR No. 154/2012 but reason for delay could not be explained satisfactorily by the concerned police personnel.
- iv) The I/C, Police Post, Fatehgarh Churiyan Bypass did not record any entry of the incident in daily diary of the police or police station despite the fact that he himself attended scene of crime and sent three injured persons for medical.
- v) No arrest was made in the case by the local police.

B) Case FIR No. 200/2012 u/s 376,363,341,342,120-B,148,149 IPC dated 27.09.2012 PS Sadar, Amritsar, Punjab.

- i. The missing report of complainant, a minor (DOB 17.02.1997) was given to ASI Subeg Singh, I/C Police Post, Fatehgarh Churiyan Bypass by mother of the victim on 06.08.2012 at about 3 PM but no FIR was lodged by the police in this regard contrary to the decision of Hon'ble Supreme Court in *Hori Lal Vs Commissioner of Police, Delhi* and others regarding the missing child. Even, no missing report of the victim was recorded in Daily Diary by the police.
- ii. The victim was sent for medical examination when she returned to her house at about 8 PM on 06.08.2012. Though MLC of Government Hospital, Amritsar did not rule out sexual intercourse and mentioned bodily injury on the victim but no DD entry or FIR was lodged by the police.
- iii. Also neither the details of incident of abduction as told by the victim nor the departure/arrival of medical examination and report of medical examination as per MLC was recorded in the Daily Diary by the ASI Subeg Singh (IO of Case FIR No. 200/2012). The IO did not take the opinion of the doctor as to whether the prosecutrix was fit to give the statement.
- iv. The victim and her parents submitted their petitions/applications to the Commissioner of Police, Amritsar for registration of FIR in rape case which was received in the COP Office on 16.08.2012, 11.09.2012 and 05.10.2012.
- v. The victim moved an application dated 27.09.2012 to the Ilaqa Magistrate u/s 156 (3) for issuing directions to the police for registration of FIR.
- vi. A case FIR No. 200/2012 was registered by the police on the directions of ACJM, Amritsar on 27.09.2012 (after 53 days from the date of incident).
- vii. After registration of Case FIR No. 200/2012, statement of the victim Ms. Daljit Kaur was not

vii. After registration of Case FIR No. 200/2012, statement of the victim MS Bajit Kaur was not recorded u/s 167A Cr.PC by the police. IO of the case FIR No. 200/2012 (ASI Subeg Singh) did not contact or record the statement of the victim from 06.08.2012 to 09.09.2012.

viii. No lady police official was assigned as IO of the case or associated with Case FIR No. 200/2012.

ix. No material evidence was collected by the IO of case No. 200/2012.

x. No spot visit was carried out by the IO of case No. 200/2012.

xi. Forensic examination report of vaginal swab of the victim girl established presence of Spermatozoa.

xii. The location details of mobile phones of four alleged rape accused at the time of rape incident were obtained. However, IO failed to establish whether these mobile phones were actually carried by these alleged accused or not. The IO has also failed to explain that whether number of these mobile phone were registered in the name of alleged accused or otherwise.

xiii. The closure report in case FIR No. 200/2012 was submitted in the Court on 07.10.2012 whereas the FIR was registered on 27.09.2012 i.e. within 10 days after registration of FIR. The closure report was submitted in the Court without receiving the forensic examination report or vaginal swab from Forensic Laboratory, Kharar on 17.08.2012 and report was received on 17.11.2012 whereas the closure report was filed much before the receipt of result of forensic report.

C) It was found that no detailed the SOP to investigate rape cases by the Punjab has been prepared. Only certain guidelines have been issued.

D) Petitions submitted to the Commissioner of Police, Amritsar by the victim or her parents were marked to the subordinate officers for necessary action. However, compliance on these petitions was sent to COP, Amritsar after registration of FIR No. 200/2012. No prompt actions were taken on these complaints despite disclosure of incident of grievous nature.

E) the victim girl and her parents denied the allegations of being threatened and compelled to compromise in the case by the police.

F) Allegations of delayed and non-registration of FIR are substantiated. Further, the allegations of non recording of victim's statement u/s 164 Cr.PC and poor investigation are also substantiated.

G) Since, the closure report has been filed before the Court in respect of Case FIR No. 200/2012, the matter is sub judice. However, SIT of Punjab Police has requested the concerned Court to allow them to investigate the case afresh. The decision of the Court is awaited.

H) The case FIR No. 154/2012 is under investigation by the SIT, Punjab Police, Chandigarh.

The Commission considered the detailed enquiry report and recommendations of the enquiry team. Vide proceeding dated 9 June, 2014, the Commission directed the Director General of Police, Govt. of Punjab, as follows:

i. To intimate the present status of the investigation of FIR No. 154/2012 and FIR No. 200/12 of PS Sadar, Amritsar

ii. To conduct appropriate action against the concerned police personnel responsible for delay in registration of FIR No. 154/12 and also non registration of the rape case.

iii. To take appropriate action against the concerned police officials (IO and Supervisory Officers) who were responsible for FIR No. 154/12 and 200/12 of PS Sadar, Amritsar.

iv. To prepare a standing operating procedure (SOP) containing the guidelines issued by the Supreme Court and High Courts regarding investigation of rape cases and to sensitize the police force in this respect.

Pursuant to the directions of the Hon'ble Commission, Bureau of Investigation, Punjab, Chandigarh, vide his communication dated 09.02.2016 submitted his report. Perusal of the same reveals that in the alleged gang-rape incident Case FIR No. 200/12 dated 27.09.2012 u/s 376/342/120B/148/149 IPC PS: Sadar Amritsar was registered on Court's Order. The mother of victim girl moved an application on 06.08.2012 to ASI Subeg Singh I/C PP: Fatehgarh Churiyan Bypass, that victim girl was missing. After some time the girl returned home and she was got medically examined at Civil Hospital, Amritsar. Doctor handed over the vaginal swabs which had to be sent to Chemical Examiner at Kharar. The earlier case FIR No. 154 dated 02.08.2012 u/s 354/323/341/506/148/149/IPC was under investigation. Inspector Vavinder Kumar, SHO, PS: Sadar, investigated the alleged incident and registered DD Report No. 14 dated 16.08.2012 in General Diary. Though the medical examination discovered the presence of semen in vagina of the victim but the SHO did not prepare DNA Profile or kept the same secured for analysis/match with suspects. The facts had established the sexual relationship of the victim girl but it did not prove that the same was done by named accused. As the girl was minor on the date of alleged occurrence, the conduct of sexual relationship, therefore, established rape. Suspects were interrogated and every possible effort was made to trace the main accused. The SHO recommended cancellation of report against the facts of the case in hurried manner, without going through the medical and chemical examiner report. It establishes the carelessness of SHO. Thus, he is responsible for conducting an improper investigation. During investigation of the case, the complainant with her parents had deposed on affidavit that the names of the accused were mentioned in the complaint due to ill-will. For now, in the matter, untraceable report has been made out. If any evidence of testimony comes to light, then further investigation would be done.

The Commission considered the report and issued show cause notice to the Chief Secretary,

Govt. of Punjab, Chandigarh and the Commissioner of Police, Amritsar (Punjab) vide letter dated 05.07.2016 vide which he was directed to show cause as to why interim relief of monetary compensation of Rs. 50,000/- shall not be granted to the victim as per Section 18 of the protection of Human Rights Act, 1993. In the letter, Director General of Police was also directed to get a fresh case registered under Section 166A of IPC and other applicable provisions of law against the delinquent police officers, including Inspector Vavinder Kumar, erstwhile SHO, PS Sadar Amritsar and entrust the investigation thereof to CB/CID at headquarter. Appropriate departmental action shall also be taken against delinquent police officers including their supervisory officials. An action report to be submitted within four weeks without fail.

Pursuant to the directions of the Commission, Commissioner of Police, Amritsar City, Punjab has submitted a report dated 27.07.2016. It is stated that the case FIR No. 154/2012 PS: Sadar was quashed by the Order of Hon'ble Punjab and Haryana High Court and arrested accused were ordered to be discharged from the case. In case FIR No. 200/2012 PS: Sadar, investigation has been carried out but the culprits could not be traced out. After discussion with senior officers it has been recommended to file untraced report in the case.

Commissioner of Police, Amritsar City, Punjab, submitted further report dated 12.08.2016. The report reveals that the Commission's directions regarding payment of interim compensation to the victim is under process before the concerned authorities and the same would be paid to the victim as soon as possible. During enquiry the complainant has stated before the Enquiry Officer that she is satisfied by the investigation carried out so far and she does not want to proceed any further in the above mentioned subject. She further confirmed in her statement that named accused persons were mistakenly identified by her at the time of lodging the FIR. It is further submitted that the complete report could not be submitted to the Commission due to preoccupation of the police with the large scale law and order problems and bandobust duties which has been regretted by the police.

Commissioner of Police, Amritsar City, Punjab has submitted his further report dated 26.09.2016. It is stated that the matter pertaining to payment of interim compensation to the victim is pending process with the District Legal Services Authority, Amritsar and that case is likely to be settled soon. The untraced report has been submitted in the Court of Additional Chief Judicial Magistrate, Amritsar. During enquiry, the complainant and her parents have shown satisfaction to the investigation carried out by the police and they do not want any further action in the case. It is prayed that the direction regarding the registration of case under section 166A and other applicable provisions of law against the police officials may kindly be reviewed sympathetically and direction be issued to proceed further in the matter.

Vide proceedings dated 06.03.2017, the Commission directed the Director General, Investigation, NHRC to get the police reports received and get examined by the Investigating Officers of Enquiry team.

As per recommendation of the enquiry report letter was sent to the Commissioner of Police. In response the Commissioner of Police, Amritsar has submitted status report/reply. The report received from the Commissioner of Police, Amritsar reveals that the compensation to the victim as recommended by the Hon'ble Commission is pending and is likely to be settled soon. The report further reveals that FIR No. 154/2012 PS: Sadar has been quashed by the Hon'ble Punjab and Haryana High Court and arrested accused were ordered to be discharged from the case. In case FIR No. 200/2012 PS: Sadar, investigation has been carried out but the culprits could not be traced out and it has been recommended to file untraced report in case. However, it is not clarified whether the untraced report in case No. 200/12 has been accepted by the Court and whether SOP containing the guidelines issued by the Hon'ble Courts in various judgments as how to investigate rape cases, and sensitize the police force in this regard has been prepared.

Pursuant to further directions of the Commission, the Commissioner of Police, Amritsar, vide communication dated 23.06.2017 has submitted reports under:

i) Regarding monetary compensation of Rs. 50,000/-, it is submitted that as per Section 357A Cr.PC a case for grant of monetary relief to the above said rape victim was forwarded to the CJM cum Secretary, District Legal Services Authority, Amritsar. CJM cum Secretary District Legal Services Authority, Amritsar issued some points vide office letter No. 9028 dated 03.12.2016 to advise the victim accordingly. As per the letter of legal authority it is made clear that if the offender is not traced or identified, but the victim is identified and where no trial takes place, the victim or her dependents may make an application to the State or the District Legal Authority for award of compensation. As per the letter of District Legal Services Authority, Amritsar, the Station House Officer, Police Station Sadar, has got recorded the statement of victim girl. She has stated that she already got recorded the statement in the trial court on 26.09.2016 and she further stated that she does not want to take any type of compensation from District Legal services Authority, Amritsar/State Legal Services Authority. The Statement of the victim girl and copy of letter of District Legal Services Authority is also attached along with the report.

ii) Regarding the untraced report No. 200/12 u/s 376/363/366/341/342/120B/148/149 IPC PS Sadar, Amritsar was filed on 26.09.2016 in the learned Court at ACJM, Amritsar. The untraced report in the case is still to be accepted by the Learned Court and is pending.

iii) The O/o DGP, Punjab has issued guidelines regarding for prevention and investigation of cases of crime against women vide memo No. 16181-232/R-I(CAW) dated 20.05.2014 to different heads of Punjab Police. These guidelines include detailed instructions regarding investigation of rape cases as well, and are available on the website of Punjab Police i.e. "punjabpolice.gov.in". A copy of these guidelines is also enclosed.

In view of the above the complainant was asked to submit comments whether she required monetary compensation at her own will or not.

A letter dated 21.08.2017 was sent to the victim for her comments. However, no reply was received. A reminder dated 14.09.2017 was sent to the complainant, the same has been received back undelivered. However, the complainant was contacted on her mobile on 15.09.2017. The victim and her mother stated over telephone that they are not interested in the compensation and requested to close the case.

A letter dated 17.07.2017 of the DGP, Punjab has been received intimating that requisite report has been sent vide report dated 25.06.2017.

Considering the above facts & circumstances and also that the complainant and her mother are not interested to receive compensation and have prayed to close the case, this case is closed.

Auth.Name

Address AMRITSAR,PUNJAB  
AMRITSAR , PUNJAB

Secondary Action