

Case No. 10 of 2010.

Rape and money for freedom.

In this case the allegation in the FIR was that a TSR jawan committed rape in Gouranga Tilla under Kalyanpur Police Station .Though Kalyanpur P.S.Case No.51 of 2010 u/s 376/406 IPC was registered, Dilip Guha, O/C of the police station refused to proceed with the investigation. Instead he created pressure on the victim girl and her parents for compromise. The case was later investigated by Sri Ranjit Debbarma of the same police station but the accused was not arrested for a considerable period. He was allowed to remain free in his residence and marry a girl from Bishalgarh. He paid bribe to the O/C, Sri Dilip Guha to buy his freedom. Not only that, a compromise was forced on her and her parents most illegally. A copy of the compromise paper was enclosed by Ranjit Debbarma, I.O. with report submitted to the court.

The commission recommended criminal case against Sri Dilip Guha and disciplinary proceeding against both Sri Dilip Guha and Sri Ranjit Debbarma. But the commission has not been informed about the action taken on the recommendations.

Case No.11of 2010

Police inaction.

A Suomotu Inquiry was taken up by the commission on the basis of a news paper report in Ajjal Tripura dated 22.08.2010. According to the report on 5th July ,2010 five neighbours by breaking open the door entered the house of Smt. Pranati Paul, widow of Lt. Ranjit Paul, tied her by rope

with the post and assaulted her. They also took away of Rs.10,000/- and golden ornaments. She lodged a complaint with the local police station against the accused persons but with no response. As the police did not act at all, the accused persons after knowing about her complaint threatened her to leave the village. After the occurrence she sent her daughter to her parents at Kumarghat. Due to police in action she was compelled to file a case against the accused persons in the Court of Sub-Divisional Judicial Magistrate, Kamalpur.

After registering of the complaint the commission requested the local editor of the news paper to provide some material about the genuineness of the news. But no such material was provided even after personal contact by Sri D. Gautam, learned Member of this Commission with the representative of the news paper. The Commission did not proceed further and closed the matter accordingly.

Case No. 14 of 2010.

Refusal to register rape case.

One minor girl was raped on 02.09.2010. Oral information reached at Khowai police station through TSR camp at Sarat Choudhury Para. The O/C of the police station received the information but did not register the case for more than 8/9 days only because a written complaint was not filed. The O/C of the Police Station Sri Rangadulal Debbarma admitted before the commission that he was under the impression that a written complaint was necessary for registering a case. This shows ignorance of the police personnel about the basic laws of investigation.

Case No. 19 of 2010.

Dropping of the name of murderer from FIR for money.

On 03.09.2010 one minor girl was reported missing. Her father Arsad Miah made a missing diary with Jatanbari Police Out Post. On 5th September, 2010 the dead body of the girl was found in a jungle. One Safia Bibi witnessed the accused Wab Miah coming out from the jungle after commission of the offence. The father of the girl lodged FIR but he was not allowed to mention the name of Wab Miah as accused by Gautam Jamatia, O/C of Jatanbari Police Out Post and Sri Pranab Das, O/C of Nutanbazar Police station. The allegation against them was that they had taken bribe of Rs.20,000/- (Rupees Twenty thousand) from the family of Wab Miah. After thorough inquiry the Commission found both Gautam Jamatia and Sri Pranab Das guilty of taking bribe and releasing Wab Miah on the same day after arrest. They also prevented the father of the victim girl from recording the name of Wab Miah as accused. The Commission recommended institution of criminal case under the Prevention of Corruption Act against Sri Pranab Das, O/C of Jatanbari Police Station and departmental action against both the police personnel. But no report has been sent to the Commission by the police authority about compliance of the same.

Case No. 21 of 2010.

Death in police custody.

One Hanif Miah was arrested by Bishalgarh Police in connection with a case of theft. But he died in police custody on 24th October, 2010. The Bishalgarh police claimed that he committed suicide. The commission after examining the witnesses came to the conclusion that there was negligence on the part of Bishalgarh Police Station as it was their duty to take care of the

person so that the detainee could not commit suicide. However, the wife of Hanif Miah approached the High Court by filing a writ petition seeking proper relief and therefore the commission closed the matter after giving interim report without any recommendation.

Case No. 22 of 2010.

Custodial torture.

This is a case of custodial torture. In connection with a criminal case Md. Prabir Hossain was arrested and was produced before the Amarpur Court. Md. Prabir Hossain alleged that he was severely tortured in police custody by Sri Gautam Jamatia, Sub-Inspector of Police. During inquiry by the commission it was established that Sri Jamatia was guilty of violation of human rights by subjecting Md. Hossain to severe physical torture. The Director General of Police and the State Government were intimated about the finding of the commission to take suitable action against the police officer. But commission received no feed back about the action taken.

The PHQ has taken a stand that if an investigation in respect of any offence is pending, then the commission shall not entertain any complaint even if there is allegation of serious misconduct on the part of police personnel, to wit, torture in police custody. This is wrong interpretation of the proviso to section 72(1) of the Police Act. In majority of cases the serious police misconduct such as death, grievous hurt, rape and violation of human rights as defined in section-66 of the Police Act occur when the accused persons are arrested or detained in connection with investigation of criminal cases. The views of the PHQ are that the investigation shuts the doors for police commission is thus wrong.

Case No. 23 of 2010

Kidnapping and rape of a minor girl.

Sri Dilip Guha, O/C of Kamalpur Police Station was alleged to have kidnapped a minor girl and raped her in his government quarter within the Kamalpur Police Station complex. It was further alleged that he had a illicit relation with a domestic help who was engaged to procure girl for him. After inquiry the commission recommended to the State Government and the Director General of Police to initiate departmental proceeding against him for major penalty. Criminal case against him was registered on the complaint lodged by the father of the minor girl. About departmental proceeding commission received no feedback.

Case No.24 of 2010.

Sexual misconduct.

The news paper report published on 8th November, 2010 in Syandhan Patrika is the basis of this Suomotu case by the Commission. According to that report Sri Prabir Majumder, Addl. Superintendent of Police, S.S.F. was having illicit relation with some female constables. The other allegation in the report was that by such illicit act the police officer was making money .It was also reported that the news item was published on the basis of a complaint lodged in the office of the news paper by one Smt. Putul Chakma.

During the course of inquiry the commission obtained a copy of the complaint from the office of the news paper and examined her. She was A.S.I attached to S.S.F. new Secretariat Building. She flatly denied to have made any such complaint against the police officer. She also denied to have

signed the complaint. According to her she was recently posted in the Secretariat Security Forces. She was not even introduced with the accused police officer. After her statement the commission came to take the view that the newspaper report was not based on any authentic information. Accordingly the matter was closed with a copy to the Director General of Police.

Case No. 26 of 2010.

Non registration of case.

This is again allegation about non-registration of a case by Belonia Police station. The complainant alleged that her husband and in-laws tortured her physically and mentally. A report from the Superintendent of Police, South Tripura has been perused. Admittedly the alleged mental and physical torture occurred in Assam. So, Belonia Police Station had no jurisdiction to register a case for investigation. However, considering the allegation that her husband once visited her and tried to torture her in her parent's house at Belonia, a proceeding U/S 107 Cr.P.C. was initiated for security purpose. In view of this position, the Commission is of the view that no further action is needed.

Case No. 01 of 2011.

Non registration of case.

This is regarding an allegation that the police was protecting accused persons who had severely assaulted Jamila Begam causing head injury. It came to light during inquiry that 2(two) brothers Harmuj Miah and Yunoch

Miah had a dispute resulting in quarrel and physical assault between family members of two brothers. Members of both parties including Jamila Begam sustained injuries leading to two criminal counter cases over the same incident. Initially the accused persons who assaulted Jamila Begam lodged the FIR which was registered without delay. But the allegation against police is that the second FIR lodged by husband and son of Jamila Begam was not received and registered though Jamila Begam sustained head injury and had to be admitted in hospital. However, at a later stage the second FIR was also accepted and registered. As both the case and counter case were under investigation, the commission closed the matter with the observations that as per provision contained in the Tripura Police Act every complaint about commission of cognizable offence has to be received and registered by police without delay. This being the mandate of law should not be infringed.

Case No. 02 of 2011.

Police inaction.

One Sutapa Choudhury committed suicide and left a suicidal note. But her father lodged a complaint with the Dharmanagar Police Station that his daughter was done to death by her husband Sri Jishnupriya Kashyap and his sister Smt. Gayatri Kashyap . He also claimed that the suicidal note was not

written by his daughter. The allegation of lack-lustre attitude against the Police was enquired into by the commission. The commission found that both Jishnupriya Kashyap and Smt. Gayatri Kashyap were arrested and the investigation was on the right track. As apparently the allegation was found to have no prima-facie merit the Commission closed the matter.

Case No.03 of 2011.

Torture by police.

Sri Dubraj Dharkar was working as D.R.W. in Irani Police Out Post. Sri Manik Barua, Sub-Inspector of Police was the officer-in-charge of the out post. It was alleged that Sri Dharkar did not get his wages for the month of January, 2011. He wanted to know from Sri Barua why his salary was not drwan. Following altercation between them Dharkar was subjected to physical torture by the Sub-Inspector of Police. He had to be admitted in the hospital. This fact was reported in local news papers. The conduct of Sri Barua as has been stated in the allegation being a serious misconduct the commission obtained a report from the Superintendent of Police, North Tripura. The report from Superintendent of Police however blamed Sri Dharkar for getting agitated during the encounter. The injuries sustained by him were stated to be due to his fight with other staff who tried to take him out of the office room. The Commission accepted the report of the Superintendent of Police and closed the matter.

Case No. 04 of 2011

Pressure to compromise a non-compoundable case .

This matter was taken up on the basis of a news paper report that the O/C of Bishramganj P.S. Sri Manindra Debnath in connivance with Khokan Sarkar, the Gaopradhan of South Charilam was putting in pressure on the parents of their minor school girl who was kidnapped by one Raju Nama for

compromise by withdrawing the case against Raju and marrying the girl with the kidnapper.

After detailed discussion the Commission was of the view that the allegation against the police officer did not fall within the category of serious misconduct as defined in the Police Act. The matter was, therefore, dropped.

Case No. 05 of 2011.

Human trafficking – report of the Commission.

In Ajkal Tripura (9th February, 2010) it was reported that “one Archana Sabdakar was sold in flesh market in Hariyana by the accused persons who were indulged in human trafficking. She returned from Hariyana and exposed the racket. Two more minor girls were also recovered by the villagers from the hide-out of the transporters. **But Police Commission after investigation reported that the report was false”.**

As the name of the Police Commission was mentioned in the news item which might have given a wrong impression to the people, the matter was put up and after careful perusal of the papers it was found that no such inquiry was ever done by the Commission. Accordingly to deny the report a protest letter was sent to the editor of the news paper for publication. The matter was closed accordingly.

Case No. 06 of 2011.

Registration of graver offence under lesser offence.

The allegations against the police by Smt. Joya Dey were that though the victim received grievous hurt the offenders were booked under bailable offences. On examination it was found that the alleged offence was

registered u/s 325 IPC. The offence of grievous hurt if not caused by shooting, cutting of stabbing weapon is to be registered u/s 325 IPC which is, however, bailable. Therefore, there was nothing wrong on the part of the police.

The second allegation was that the accused persons after release on bail were threatening her to withdraw the case. The Commission advised her to approach the court for cancellation of bail. She was also advised to approach the investigating police officer.

Case No.07 of 2011.

Police arrogance .

This is another instance of police handling matter in arrogant and high handed manner. One Sri Sourav Debbarma, Section Officer, G.A.(S.A) department, Government of Tripura was riding a scooter on 23.04.2011. At a place near Bridhyanagar Panchayet Office police had given signal. His version is that he stopped the scooter and tried to park it on one side of the road. But Sri Amar Krishna Sur, Sub-Inspector of Police was very much angry and began to assault Sri Debbarma. His shirt was also torn. He was physically tortured in presence of his old father who retired from Government service as Deputy Secretary. Other persons also saw the occurrence. Feeling humiliated and neglected he lodged the complaint before the commission but he was pressurized by one Tarun Dutta, a member of Jirania Panchayeet Samittee to withdraw the case at the instance of Sri Sur. The version of the police officer was that the incident of physical assault could not be avoided as she Shri Debbarma was trying to escape after ignoring the traffic signal. After taking evidence the commission came to hold that the Sub-Inspector of Police was guilty of misconduct by assaulting

Sri Debbarma. If the story of violating of traffic signal was at all true, Sri Debbarma could be prosecuted under the M.V.Act. As that was not done the justification shown by police to assault is devoid of any merit. What has finally emerged is that the humiliation and assault was the result of police arrogance and high handed activities. The Commission recommended to initiate a departmental action against Sri Amar Krishna Sur but no information has been given about compliance of that recommendation.

Case No. 08 of 2011.

Sexual harassment.

The Commission received an application (complaint) from a Woman Police Ministerial staff against R.O., (Nayeb Subedar) Shri Sahaji Bebi . It was alleged that he made sexual approaches to the complainant. The complaint was addressed to the Hon'ble Chief Minister with copy to this Commission. Instead of making any inquiry the commission sent a copy of the complaint to the D.G.P., Tripura for necessary action.

Case No.09 of 2011.

Corruption

Certain police personnel lodged complaint against Sri T. B. Roy, D.I.G. of Police for indulging in corruption like using services of Home Guard in his residence and using for himself and his family members household articles taken from the T.S.R. store. A copy of the complaint was sent to the Police Commission. Instead of making any formal inquiry the complaint was sent to the D.G.P., Tripura.

Case No.10 of 2011.

Sexual harassment.

The complaint against Sri Ankush Debbarma, Co., BWHG Bn was that he committed sexual harassment to women employees under him.

We have received a report on this allegation from Shri S. Kanungoe, Asstt. Insp. Genl. of Police (Ops). It appears from the report that the allegation of sexual harassment against Sri Ankush Debbarma has been established, as found by the Sexual Harassment Committee. The report of the committee has been sent to the State Government and Sri Ankush Debbarma, Commandant, BWHG Bn has been placed under suspension. In view of the above no further action is called for.

Case No.11 of 2011.

Non registration of FIR

The complaint was non-registration of F.I.R. After inquiry it appears that O/C of P.R.Bari Police Station on receiving a complaint from Sangita Tripura on 05.06.2011 made a G.D.entry as the alleged offences disclosed in the complaint petition were non-cognizable. However, after receiving instruction from the higher police authority another complaint in writing was received from her on the same occurrence and F.I.R. was registered on 20.07.2011.

It seems O/C of P.R.Bari Police Station acted correctly in accordance with law. No person should have any grievance if a complaint is recorded in

G.D. or registered as F.I.R. as this is to be decided by the police officer depending on the offences disclosed in the complaint. A G.D. entry can also be treated as FIR if it appears subsequently that the alleged offence is cognizable.

Case No. 12 of 2011.

Torture-Protection of errant police.

This case shows serious police misconduct and attempt of the higher police officers to protect the guilty police man.

The allegation against Sri Pradip Saha, ASI of Ramnagar Police Out Post was that the victim Jener Debbarma of Lefunga came to Durgachowmohani market on 03.12.2010. On certain business dispute he had altercation with one Suman Sarkar of Ramnagar. One police constable was on duty in the market. He brought both of them to the police out post where Pradip Saha, ASI, had beaten Jener Debbarma mercilessly. His collar bone was broken. His father Himadri Debbarma, also a police constable posted in another place, came to know about the occurrence, sent his elder son to the out post and obtained release of his younger son. There was no criminal case against Jenar Debbarma. Police record does not show even any G.D.entry against him. **The question is why a young man was taken into custody in the absence of any criminal case against him and why he was mercilessly beaten.**

The allegation of Smt. Rina Debbarma, victim's wife, is that her husband had to undergo long medical treatment. But he had become partially disabled. The father of the victim, Shri Himadri Debbarma, lodged a complaint against Sri Pradip Saha with the Director General of Police and the Superintendent of Police, West Tripura. He and his family members

visited the office of the Superintendent of Police several times during eight months but with no favourable response. No criminal case was however, filed against Sri Pradip Saha. After more than eight months Smt. Rina Debbarma lodged the complaint with the Police Commission. The Police Commission wanted to know from the Director General of Police and the Superintendent of Police what action was taken against Sri Pradip Saha for alleged custodial torture. Reply came from AIGP (Pers) that a departmental proceeding was initiated against Sri Pradip Saha and he was censured. But neither the victim nor the relatives of the victim were examined during the proceeding. Even no information about the proceeding or its outcome was given to them. Sec. 72 of the Tripura Police Act has given right to the complainant to know the progress of the inquiry and the result thereof after completion of the inquiry. The complainant has also the right to attend all hearings during inquiry concerning the complaint. No such information was given to the complainant which amounts to violation of Sec. 72 of the Police Act. When the commission wanted to see the records of inquiry a stunning reply came from AIGP (Pers) that the D.P. record was not public document and, therefore, they would not send it to the Police Commission. But it is settled law that a departmental proceeding is a quasi-judicial proceeding and, therefore the records of such proceeding are definitely public document. If anybody claims privilege of such document U/S 123 or 124 of the Evidence Act then also the record has to be shown to the Court/Commission. The question whether such document is privileged or not shall be decided by the commission or court only. The legal position was explained to the police authority. Even thereafter the AIGP (Pers) refused to send the record to the commission expressing his disagreement with the view of the Police Commission. It was observed in that reply that only the higher police officers could see such record, nobody else. This is an unfortunate

confrontation between the Commission and the police authority. After Shri S. Sinha took over as D.G. of Police the matter was explained to him and he agreed that the stand of the PHQ was legally un-sustainable. Thereafter summon was issued to AIGP (Pers) to appear before the commission along with the said record. The new AIGP (Pers) Sri Krishendu Chakraborty came with the record and stated that he had instruction from IGP (administration) only to allow the commission to peruse, not to leave the record with the commission. This is again unacceptable gesture. The practice followed in the court is to hand over the record to the court for examination. Although the commission has all the powers of a Civil Court, the PHQ refused to go by the court procedure. It may also be mentioned here that PHQ did not claim any privilege on the said document.

However, after perusal it was found that virtually no disciplinary proceeding was at all conducted. Sri Pradip Saha was summoned to the orderly room and censured by S.P. It was then clear that in order to hide the latches and loopholes the PHQ was reluctant to hand over the record to the commission. This attitude does not help to bring about a congenial atmosphere. The police authority seems to be reluctant to give any space to the police commission to work as an independent oversight body.

Case No. 13 of 2011.

Non registration of case.

In this case one Mr. Thaitak Reang made a prayer to the commission to direct O/C of Ambassa Police Station to register a case against Mr. Balbir

Singh and Mr. R. P. Tangwan. His grievance was that though certain lands were allotted by the State Government in his favour the aforesaid two officers objected to it on the ground that it was forest land. They approached the proper authority to institute a proceeding for cancellation of the allotment. When the matter was pending before the Revenue Court this complaint was filed seeking intervention of the commission by directing Ambassa Police Station to register a case against the forest officers. The Commission did not find the merit in the complaint as the matter was being looked into by the appropriate revenue authority.. Accordingly the matter was closed.

Case No. 14 of 2011.

Death by police firing.

On the basis of a news paper report that one Papai Saha was killed by police firing, two members of the Police Commission visited the house of the deceased and submitted a report. From that report it prima-facie appears that Papai Saha sustained bullet injury on the upper part of his body from gun shot allegedly by a member of police force. The Commission wanted to know the version of the police as regards the death of Papai Saha, but surprisingly instead of letting us know the factual position PHQ challenged the jurisdiction and authority of the Commission to ask for such information. The PHQ advanced an argument that once an investigation is launched the Commission can not do any inquiry into any serious police misconduct. But most of the serious misconduct normally occur during criminal investigation only. The Supreme Court has given a verdict on police firing with direction

to maintain certain human rights-norms while opening fire. The commission simply wanted to know from the police authority whether prima-facie evidence are there to take a view that Papai Saha was killed by police firing. If there was existence of such evidence then only the commission would have gone into the question of violation of human right norms while opening fire and award compensation. If there was no such evidence the commission could not have gone into those questions. The PHQ unnecessarily over reacted. The Commission, however, explained the law to establish that even when there is police investigation into certain offences it is possible for the commission to conduct inquiry into serious misconduct not being subject matter of the investigation which occurred before or after the investigation.

The commission thereafter did not proceed further and decided to wait for completion of investigation. The investigation was completed, as reported by media. But in spite of repeated request from the commission PHQ did not send any report after completion of investigation. It is a clear case of non co-operation and defiance. It seems the PHQ wants the commission to confine itself only to those complaints which may be referred to it by the D.G.P. But during last five years not a single case was referred to the commission by the D.G.P. In the existing jurisdiction the commission can only inquire and recommend to the State Government and D.G.P. to initiate criminal or departmental proceeding. It has no power to initiate a proceeding or punish a guilty police person even for serious misconduct. It is obvious that the limited powers of the commission only to recommend initiation of criminal or disciplinary proceeding has no appeal to the victims in-as-much-as such relief can be speedily obtained by approaching the court or the higher police authority. The commission, therefore, should be vested with the powers to register case or initiate disciplinary proceeding in appropriate cases. It should have powers to investigate and prosecute police

persons accused of committing serious offences and to initiate departmental inquiry for misconduct against erring police men.

Case No. 15 of 2011.

Connivance with offender

In this case Smt. Kanan Bala Debnath lodged a specific complaint in Melaghar Police Station that the accused Adhir Debnath forcibly and illegally trespassed into her house and assaulted her, but the police made only a G.D. entry and after inquiry filed P.R. to initiate a proceeding u/s 107 Cr.P.C. In the opinion of the commission a proceeding u/s 107 Cr.P.C. is a preventive measure for keeping peace and good behaviour. But when specific allegation about commission of offences was filed a regular investigation into the alleged offence was the normal course which was not done. With the above observation the matter was closed

Case No.16 of 2011.

Threat and humiliation of journalist

In this case the allegation against Shri Ramkrishna Das, Sub-Inspector of Police of Kalamcharra Police Station was that he threatened, harassed and humiliated a news paper reporter Joydul Hossain only because he reported a rape case in a local daily indicting the police officer for his negative and hostile behaviour. It was alleged that during investigation the police officer made the victim girl naked to see marks of injury in her private parts which is normally the function of medical officer. The other allegation was he had taken Rs.5000/- as bribe to secure release of the accused. The reporter being threatened by Ramkrishna Das went to the police station to file F.I.R. But

O/C did not receive it. Instead, he made a G.D. entry and after inquiry submitted Prosecution Report. The O/C did not investigate even after receiving a direction u/s 156(3) of Cr.P.C. from the court to investigate. The trends in the aforesaid behavior are (i) to retaliate if there is adverse report, (ii) to refuse investigation even after courts order and (iii) to accept bribe for securing release of the accused.

Case No. 18 of 2011.

Attempt to commit rape.

In this case the complaint was against Md. Matin Miah, O/C of Khedacherra Police Station that he attempted to commit rape on a tribal woman at mid night. The Reang woman was living with her two kids, widow mother and minor brother after estrangement from her husband. On the fateful night the mother was away in her jhumghar and she was sleeping with her two kids and minor brother. Abdul Matin with two constables forced into her house on the plea of search for certain extremists. Then the constables compelled the minor brother to accompany them outside the hut. Abdul Matin then tried to undress the young lady. She resisted struggled and raised alarm. Her kids started crying. The neighbours came to her rescue and saw the police officer sitting on her naked. He at once managed to escape. On the following morning the widow mother returned home and came to know about the occurrence. She and her daughter decided to lodge complaint in the court at Kanchanpur. On way to court they were stopped by the O/C and threatened them of serious consequences if any complaint was lodged against him. They had to return home. On the following day they

managed to reach the court and lodged the complaint through an Advocate who was later prevailed over by the O/C to withdraw the same. After some days knowing about the fate of the complaint the tribal lady lodged another complaint through a tribal lawyer. This time the complaint was registered and the court directed the Superintendent of Police, North Tripura to investigate into the alleged offence U/S 156(3) of Cr.P.C. But instead of initiating investigation as per order of the Magistrate, S.P. sat over the complaint for considerable period and then sent the complaint to S.D.P.O.

who allegedly tried to force a compromise by putting pressure on her though the offence was non-compoundable.

After a considerable period when no investigation was taken up even after the direction of the court, the tribal lawyer came to the Police Commission and lodged the complaint. The Commission wanted to know from S.P., North Tripura, why the order of the court was disobeyed and why no investigation was taken up. Then the Commission was informed that investigation into the alleged offence had been assigned to one Inspector of Police. Simultaneously S.P. directed S.D.P.O. to inquire into the allegation made in the F.I.R. against the O/C. This is highly arbitrary and contrary to law. The S.D.P.O. hurriedly submitted report stating that the allegation made in the F.I.R. was false. Thus the investigation pending before the inspector of police was virtually fore-closed. This legal position was pointed out to S.P., North as well as Director General of Police. But the strange reply was that such preliminary inquiry was permissible before taking up a disciplinary proceeding. The Commission again explained that when a criminal investigation is pending no such inquiry is legally permissible for any purpose, even for a disciplinary proceeding. The settled law is that the disciplinary authority should wait for results of investigation and trial. It

seems the police authority is not satisfied with the legal position explained by the commission. In spite of specific direction to inform about the result of investigation no information has been given to the commission regarding the fate of the case.

Case No.19 of 2011.
Refusal to register a rape case.

It was reported in Tripura Times that a four years old girl was raped by an unknown miscreant. She was taken unconscious to Khowai hospital. But the doctor on duty there refused to attend her for treatment on the plea that police should register a case first. The Khowai Police Station was informed accordingly but none came to register on the ground that the occurrence had taken place in the territorial jurisdiction of Kalyanpur Police Station. The settled legal position of which the medical officer and the police officer are ignorant is that the doctor should not refuse to attend a patient on such a plea. Registration of a case has nothing to do with the treatment of a patient. Similarly a police station can not refuse to register a case on the plea of territorial jurisdiction. The settled law is that every FIR about commission of a cognizable offence must be received and registered by any police station and then transfer it to the concerned police station having jurisdiction. The medical officer and police officer, Khowai have violated their legal duty and infringed human rights of the victim. The Commission advised the Chief Secretary to issue a circular on the above guide lines. The commission has not been informed about the action taken.

Case No.20 Of 2011.

Police inaction.

The complaint of Smt. Punam Acherjee to the commission was that the accused persons, after obtaining bail, have been threatening her to withdraw the case lodged by her. Her allegation against the Officer-in-charge of Sabroom Police Station was that he did not take any action against them. But in her later statement she expressed her ignorance about the contents of her allegation. According to her, one day in the morning her father obtained her signature on certain papers which were give to him by her lawyer. Her father Nepal Acherjee without her knowledge about the nature of the complaint obtained her signature. According to them they had no grievance against the Officer-in charge of the Sabroom Police Station.

In view of the above position, this matter was closed.

Case No. 21 of 2011.

Illegal arrest.

In this case the allegation of the complainant Pintu Saha was that he was illegally arrested by Sri Jayanta Kr. Dey, O/C of M.G.Bazar Out Post only because he along with others objected to and resisted construction of a boundary wall on khas land by Shri Panna Lal Pal of the locality. During inquiry the commission found that the arrest was made after Shri Panna Lal Pal lodged F.I.R. alleging commission of cognizable offences by Pintu Saha and others.

On perusal of the materials on record we were of the considered view that all legal formalities had been observed while making the arrest. The

matter, therefore, was without merit for further proceeding. Accordingly it was closed.

Case No.22 of 2011.

Refusal to take preventive action.

In this case one Smt. Anita Nath lodged a complaint that in spite of repeated intimation to the O/C of Laljuri Police Out Post about threat on the life of her husband Adhir Nath by miscreants, no preventative action was taken. Subsequently Sri Nath was found dead.

Her grievance is that if the police after receiving complaint of her husband had taken preventive measures her husband would not have lost his life. The matter was examined after receiving report from police. It is stated by police that they received no prior information about the danger on the life of the deceased. The complainant did not give her address or contact number. The commission could not contact her for further action. She provided nothing as proof to substantiate her grievance. In view of this position the complaint had to be closed.

Case No. 23 of 2011.

Custodial torture.

In this case Sukanta Banik stated in his complaint that when he was serving as L.D.C. in the Police Head Quarters at Agartala he went to his native place at Manu, South Tripura during puja in October, 2011. On 07.10.2011 he was present in the Manu market. He witnessed the police of Manu P.S. to physically torture a poor person. He protested that the action was violation of the law. Only because of this protest he was arrested and taken to the police station and mercilessly beaten there. A case was

registered against him stating that he had attacked the police station. He was forwarded to the court where his bail was rejected. Consequently he had to suffer in jail custody entailing suspension from service.

Case No. 24 of 2011.

Refusal to register complaint.

The allegation against O/C of Kailashahar Police Station was that he refused to register a complaint of forgery committed in a sale deed. Being refused he had to send copy of the F.I.R. to the S.P (North). However, after receiving a communication from the commission O/C tried to contact the informant to obtain his signature on the F.I.R. But he refused as the matter was amicably settled meanwhile. Matter was accordingly closed.

Case No.25 of 2011

False criminal case.

The complaint received from Sri Binode Behari Bhowmik and Shri Haripada Sharma is that they were entangled in a false criminal case on the basis of false statements by some witnesses. After three years of trial they have been acquitted.

It appears from the complaint that the matter in-question does not relate to any police person. The Police Commission takes cognizance of complaints against police only, not against private individual. So the complaint could not be entertained.

Case No. 26 of 2011.

Discrimination.

Smt. Ashima Debbarma of Gurkhabasti, Agartala, lodged a complaint that her only son, a police officer, was discriminated in the service by his non-inclusion in the Tripura Police Service. The matter does not fall within the jurisdiction of the Police Commission. Hence it was closed.

Case No.27 of 2011.

Refusal to arrest.

The only grievance of Smt. Kulti Debnath (Choudhury) was that in connection with the case lodged by her against her husband which was under investigation, the police did not arrest the accused in spite of her repeated requests.

The arrest being a matter within the discretion of the investigating police officer nobody should in normal circumstances direct the police to arrest. The matter was accordingly closed.

Case No. 28 of 2011.

Corrupt practice in recruitment .

One Babul Roy lodged this complaint alleging that in the matter of recruitment of motor mechanics for G.R.P, Tripura certain irregularities, discrimination and corrupt practices had been done by some official staff. Considering the nature of the allegation the commission sent the matter to the D.G.P. for necessary action.

Case No.29 of 2011.

Illegal pressure to hand over charge.

The complaint against Sri Shibdas Choudhury, Inspector of Police was that as President of Ageya Chalo Sangha, a club at Agartala, he was pressing the complainant, who was the secretary of the club but resigned later to hand over the charge to another. Whatever the police did can not be linked with his official position. This is a civil dispute which does not fall within the jurisdiction of the Commission.

Case No.30 of 2011.

Registratation of false case.

The grievance of the complainant was that on the basis of an FIR lodged by Sri Subal Bhowmik MLA, the officer-in-charge of the police station registered a case against the complainant U/S 384/500 IPC. The allegation of extortion and defamation having been made in the FIR, the registration of a police case by itself does not constitute any serious misconduct. It is also within the power of the investigating police officer to summon any person in connection with the investigation.

In view of this legal position the commission did not feel it necessary to proceed further.

Case No. 32 of 2011.

Non registration of cognizable offence.

In Case No.32 of 2011 Sri Ramaprasad Roy alleged that when he was traveling from Madhupur market to Champamura by a three wheeler on 09.04.2011, an accident occurred. He sustained injuries and lost two fingers.

Though the offence is cognizable his FIR was not accepted by the Bishalgarh Police Station. Thereafter he sent a copy of the FIR to the Superintendent of Police, West Tripura on 22.10.2011. But no positive action was taken by S.P. The police merely made an entry into G.D. and inquired u/s 184 of the M.V.Act. But the alleged offences are covered by Sec. 338 and 279 IPC which are cognizable offences calling for registration of FIR and regular investigation.

Case No. 33 of 2011.

Transfer of police case.

Smt. Priyanka Debbarma (Chakma) alleged that O/C of Women Police Station, Agartala received her complaint but then sent it to Chailengta Police Station on the ground of local jurisdiction. Apparently we did find no illegality. However, as the question was to be decided on the basis of the facts given in the FIR, we directed that the complaint may be sent to the Superintendent of Police, West Tripura to see whether the O/C, Women Police Station, Agartala correctly decided on local jurisdiction of the matter.

Case No.34 of 2011.

Partiality in investigation

The grievance of the complainant was that the investigating agency was acting in a manner with a view to help the accused. The commission did not feel it appropriate to interfere with the investigation. The Superintendent of Police, West Tripura was requested to look into the matter.

Case No. 35 of 2011.

Police inaction to help land mafia.

This is a complaint of police inaction by Smt. Mery Raha Paul in face of a series of criminal activities by certain land mafias who have been allegedly trying to take over forcibly the possession of her rubber plantation. She alleged that the hooligans named in the FIR tried to extort huge protection money from her husband. Being unsuccessful she had severely beaten her husband causing grievous injuries. She lodged FIR in Bishalgarh Police Station on 26.10.2011. But the accused persons were not arrested. They remained at large due to police inaction or connivance. Again they tried to take over possession of the rubber plantation on 01.12.2011 and another complaint was lodged on 02.12.2011 with copy to Superintendent of Police, West Tripura. But there was no police action this time also. On 27.11.2011 the culprits illegally trespassed into the plantation compelling the complainant to lodge another complaint on the same day. Her further allegation is that on 07.12.2011 the accused persons outraged her modesty but her complaint was not even entered into the diary. Under such a situation she and her husband are living in constant fear and threat with no police action against the offenders.

Case No.36 of 2011.

Allegation of wife against her husband regarding maintenance.

This complaint relates to matrimonial dispute now pending in the Family Court, Agartala.

Her allegation is that her estranged husband has been paying maintenance allowance very irregularly and now she has been asked to personally collect the money from the office of her husband which is inconvenient to her. Such allegation does not fall within the ambit of our inquiry. She has been advised to approach the Family Court for remedies.

Case No. 02 of 2012.

Non registration of FIR.

This is a case where the complainant met a motor accident and sustained grievous injuries. He received treatment in G.B.Hospital. The allegation against Sri Susanta Senchoudhury, officer-in-charge of Bishalgarh P.S. is that when he went to the police station to lodge FIR it was not received on the ground that a G.D. entry was already made on 15.01.2012. When he wanted a copy of the same the police officer refused to give. On the contrary he put pressure on him for compromise with the owner and driver of the offending vehicle.

**The number and types of cases of serious mis-conduct
inquired into by the Commission.**

[Sec 71(1)(a)]

The Commission has inquired into 30 cases of serious mis-conduct by police during the year 2011. The types of mis-conduct are as follows:-

- (1) Death in police custody due to negligence on the part of police on duty (Case No. 21 of 2010).
- (2) Corruption. Bribe for release of accused after arrest (Case No.19 of 2010).

- (3) Kidnapping and rape of a minor girl by O/C of the Police Station (Case No. 23 of 2010).
- (4) Custodial torture (Case No. 22 of 2010).
- (5) Refusal by police to investigate cognizable offence and pressure on victim for compromise after taking bribe from the offender (Case No.10 of 2010).
- (6) Refusal by O/C to register a case of cognizable offence only because no written FIR was given (Case No.14 of 2010).
- (7) Suicide in police custody due to absence of precautionary measure by police (Case No. 21 of 2010).
- (8) Assault and humiliation on the street for alleged non-compliance of Traffic Signal (Case No. 07 of 2011).
- (9) Non-compliance or inordinate delay in compliance of court's order to investigate into the offence of rape committed by officer- in-charge of Police Station (case No. 18 of 2011).
- (10) Refusal to register a case of rape of a minor girl only because the offence did not occur within the territorial limits of the Police Station. This shows ignorance of law (Case No. 19 of 2011).
- (11) Police inaction to prevent a crime even after repeated requests that the victim was receiving threat on his life. He was murdered later (Case No.22 of 2011).
- (12) Threat and intimidation to a Journalist for reporting misconduct of a police Sub-Inspector while conducting investigation of a cognizable offence (Case No.16 of 2011).

- (13) Attempt by higher police authority to protect police person guilty of custodial torture without arrest (Case No.12 of 2011)
- (14) Cognizable offences registered as non-cognizable for the benefit of the accused persons.

The number and type of cases of “misconduct” referred to it by the complainants upon being dissatisfied by the departmental inquiry into the complaints.

[Sec. 71(1)(b)]

Only in one case complaint was lodged with the D.G.P. and S.P.(W) against one A.S.I. of police for custodial torture. But complainant was not informed for long eight months whether any departmental proceeding was initiated against the A.S.I. Only thereafter the complainant approached the Police Commission. During inquiry by the commission it came to light that no inquiry was not at all done. Initially the police authority claimed that departmental inquiry was done, the accused police man was found guilty and punished. But when commission wanted to see the record the police authority refused. Finally it was shown. The record showed that a proceeding was drawn and closed without inquiry after summoning the police man in orderly room and censuring him. No intimation was given to the complainant about the proceeding or its outcome.

The number and type of cases in which advice or direction was issued by the commission to the police for further action.

[Sec.71(1)(c)]

Tripura Police Act 2007 seeks to bring about police reforms by way of wide ranging changes in the State Police System. The centre to the changes is the attitude and motivation to serve the people as impartial law enforcement agency.

In the following cases, the commission after inquiry issued advice or directions under section 71(1)(e) of the Act. But in not a single case the concerned police authority sent to the commission compliance report.

Case No.10 of 2010. The allegation was corruption against a police officer who had taken bribe to release the accused forthwith after arrest. After inquiry the commission found substance in the allegation and recommended institution of criminal case and departmental proceeding against the police officer. But no report about compliance has been received by the Commission.

Case No. 19 of 2010. In this case the allegation was that in spite of specifically naming offender by the informant the police officer omitted the name of the culprit from the FIR to save him for money. The commission after inquiry recommended institution of criminal case under the Prevention of Corruption Act and departmental action against the police personnel. But no compliance report has been received by the commission.

Case No. 22 of 2010. This is a case of custodial torture. The commission recommended to the Director General of Police for suitable

action against the guilty police officer. No compliance report has been received.

Case No. 23 of 2010. In this case rape of a minor girl by a police officer was alleged. The commission after inquiry recommended to the Director General of Police to initiate a departmental proceeding for major penalty and criminal proceeding. But no report about compliance has been received by the commission.

Case No. 07 of 2011. The allegation was humiliation and torture of a person on road by traffic police for alleged disobedience of traffic signal. The commission recommended to initiate a departmental action against the police officer. No compliance report has been received.

**IDENTIFIABLE PATTERNS OF MISCONDUCT ON THE PART OF
POLICE PERSONNEL**

71(1)(d)

It appears from the above that very few cases are coming to the commission about misconduct of the State police. The obvious reason is that the people know very little about the commission, its powers, functions and procedure to approach for remedy. No specific outreach programme or publicity initiatives for sensitising police and educating people has been taken. From the analysis of the cases made above the pattern of misconduct on the part of the State police has been identified as follows:-

- (1) Complaints are not received or registered as FIR though alleged offences are cognizable.

- (1) Verbal complaints about cognizable offences are not received. Police officers insist for written complaint.
- (2) Custodial torture and death.
- (3) Connivance with land mafia and assist them to grab others' land.
- (4) Arrest and detention of persons even when there is no specific case.
- (5) Arrogance and rude behavior to persons who seek remedies against criminals.

Compliance of law and decisions of the Commission.

- (1) Inadequacy of legal knowledge essential for investigation and crime control has been noticed almost at all levels.
- (2) Tendency to protect the errant police personnel is very strong.
- (3) Non co-operation with the commission by refusing to show records or submit reports defying commission's orders is prevalent.
- (4) Not a single case of misconduct has been referred to the commission by the D.G.P. during last five years though it is the mandate of Sec.66 (3) of the Police Act.
- (5) No quarterly report about disciplinary proceedings against gazetted police officers has been sent to the commission during last five years in violation of Sec.66(4) of the Police Act.

Recommendations on measures to enhance police accountability.

[Sec.71(1)(e)]

The commission is an oversight body with virtually no effective power to enforce implementation of its decisions. It is, therefore, possible to ignore its recommendations. The commission in appropriate cases can give direction to register first information report / or to initiate departmental action. Such directions after long inquiry have little effect. The reason is that instead of approaching the commission a person can approach a judicial magistrate for similar direction to a police station to register a first information report. A judicial magistrate has power to do so u/s 156(3) of the Cr.P.C. without any inquiry. Even S.P. of the district can be approached for such relief and he can direct without inquiry to register a case. But under section 70 of the Act the Police Commission has to make inquiry before giving any direction to register a criminal case. It would thus appear that speedy relief regarding registration of a case is available from court or higher police officer, not from the commission. Why then aggrieved person should come to the commission?

Secondly, under the said provision Police commission after inquiry can give direction to the police authority to initiate departmental action against the accused police officer. The law is well settled that when a criminal case is in motion departmental action is to be kept in abeyance. Even in specific cases of serious offences against police, the commission itself can neither investigate nor initiate a departmental inquiry. Experiences have shown that a section of the higher police authority is reluctant or slow in taking action against the errant police personnel who are accused of gross misconduct.

The Commission, therefore, recommends:

- (1) The Police Act may be suitably amended by giving powers to the commission to investigate into specific allegation of

offences committed by police and to inquire into other misconducts against police personnel. The State Government has created six posts of police officers headed by Deputy Superintendent of Police. Only recently two police sub-inspectors have been attached to the commission and other posts are vacant. The police team is required to be given powers by the State Government to investigate offences committed by police personnel under supervision of the Commission. The police commission may be allowed to fill up the posts from retired police officers.

- (2) After investigation if charge sheet is submitted to the court by the investigating officer, the commission should have power to conduct prosecution by engaging prosecutors.
- (3) Though Sec. 73 provides that all police officers and authorities shall refer all allegations of serious misconduct against police personnel to the commission, not a single such allegation during last 5(five) years has been referred to the commission. Necessary direction from the government to the police authority in this regard is necessary.
- (4) Section 66(4) of the Police Act provides that the Director General of Police shall send to the commission quarterly report about inquiries or departmental action against gazetted police officers. The commission may monitor the status of departmental inquires or departmental action on the complaint of misconduct and issue appropriate advice to the police department. But during last five years not a single such report

has been sent to the commission. Instruction from the government for compliance of this provision is necessary.

- (5) District complaint authority in each district may be constituted in terms of the recommendations of the Supreme Court in Prakash Sing's case.
- (6) Specific overreach awareness programmes and publicity initiative about the new State Police Act, Police Guidelines , Police Board, Police Commission, Community Policing and human rights are required to be carried out.

CONCLUSION

What has finally emerged from the above analysis of 36 (thirty six) complaints against police is that individual misconduct substantiated in a very few cases, though deplorable, may not be the entire face of the State police organisation . But whatever may be number of such misconduct it is very important now to stem the rot. Towards the aim message of reform need to be taken down vigorously and meaningfully by sensitization and awareness programme . At the same time oversight body like the Police Commission and the apex body like Police Board have to play more effective role and be more vigilant. Institutional tendency to defend policemen accused of serious misconduct, unwillingness to co-operate with or give space to the commission, lacklustre attitude towards police reforms and legal illiteracy are no mean problems to overcome. Though the police commission in its present avatar can play a very limited role, its very presence watching over police functions may provide good deterrent effect and creates desirable tension in the police system.

The annual report is a public document and is required to be laid in the Legislative Assembly.

(Justice A. B. Pal)
Chairperson, PAC.

(Smt. Champa Dasgupta)
Member, PAC.

(Dr. D.K.Chaudhury)
Member, PAC.

(Sri D. Gautam)
Member, PAC.

(Sri S. K. Choudhury)
Member, PAC.