



It is the allegations that not only the petitioners were abused, humiliated, but they were beaten up in the police custody. The case was manipulated.

The respondent no.20, the informant, had lodged FIR No.3 of 2023, under Sections 498-A, 504, 506 and Section 3/4 of the Dowry Prohibition Act, 1961, at Mahila Thana, Almora,, against the petitioner no.1. The respondent no.12 lodged another FIR No.7 of 2023, under sections 332, 353, 354 and 186 IPC, against the petitioner no.1 with the averments that with regard to FIR No.3 of 2023, lodged by the respondent no.20 against the petitioner no.1, when she visited the house of the petitioners on 17.04.2023, she was obstructed in discharge of her duties and the documents were damaged by the petitioner no.1.

It is the case of the petitioners that the entire incident has been videographed by him at their residence, in the bedroom, where in civil dress, without giving any introduction, the police intruded and misbehaved with the petitioners.

The petitioners, it appears, have knocked every door to get redressal of the alleged wrong doings by the police.

Not only this, it is further the case of the petitioners that when they were arrested by the police unlawfully, remand taken, they visited District Hospital, Almora, but the Medical Officer on duty, did not examine the petitioner no.1 and did not prepare any medical certificate.

Has it been done under the pressure of the police?

Learned counsel for the petitioners would submit that the petitioners have taken the CCTV footages under the Right to Information Act, 2005. They have requested the Senior Police Officers to preserve the CCTV footages.

The petitioners gave complaint to the Senior Superintendant of Police, Almora, Director General of Police, District Magistrate and on other Government Portals as well.

It is further the case of the petitioners that a complaint given on a grievance portal was enquired by the respondent no.11, who herself is a wrong doer and she had given clean chit

in the matter (Annexure No.45). The petitioners have also written to the Uttarakhand Human Rights Commission.

The Uttarakhand Human Rights Commission is represented before the Court. The Court wanted to know as to whether the CCTV footages have been preserved? He would submit that the matter is to be heard on 04.01.2024.

List this matter at 2:00 PM.

Learned State Counsel shall get instructions from the Director General of Police as to what action has been taken by the police in such a serious matter, and if no action has yet been taken, why? Why based on such gross material, in terms of CCTV footages of the Police Station, a fullfledged enquiry was not conducted? Why FIR was not lodged against the erring officers/officials, including the Senior Police Officers, who allegedly told that the petitioners should not be released, their hands and feet should not be untied?

The CCTV footages of Mahila Thana, NDP, Police Station Almora, of 17.04.2023, shall be preserved until further orders of this Court.

Let a copy of this order be immediately sent to the Director General of Police, Uttarakhand, at Dehradun, Deputy Inspector General of Police, Kumaon Range, Nainital through e-mail/fax. The Court also requests learned State Counsel to ensure compliance and at 2:00 PM assist the Court as to what course of action is to be adopted in the matter.”

2. Heard learned counsel for the parties and perused the record.

3. At 2:00 PM, when the matter was taken up, learned Government Advocate, would submit that some more time may be provided so as to get complete instructions. The Court's query was limited with regard to the any action that was taken by the Director General of

Police, Uttarakhand on a complaint that was sent by the petitioners. Therefore, the hearing was deferred till 3:30 PM.

4. The matter was again taken up at 3:30 PM.

5. Learned Government Advocate would submit that the petitioner had posted a complaint to the Director General of Police, Uttarakhand, Dehradun on 27.04.2023, which was received in his Office on 07.05.2023. The complaint was marked to DIG, Kumaon and now the inquiry is pending.

6. Learned counsel appearing for the respondent no.6/ the State Human Rights Commission (“the Commission”) would submit that in the matter the Commission has also taken cognizance and 04.01.2024 is date already fixed. He would submit that, in fact, the last hearing of the Commission was held on 29.08.2023.

7. The Court wanted to know from learned counsel for the respondent no.6 as to whether any directions were issued for securing the electronic records? He would submit that there is no such written order, but oral directions are given.

8. The Court refrains to make any comment on the functionaries of the State in such a serious matter where allegedly liberty of an individual was crushed beneath the

boot of the police force. The Commission took cognizance in the matter on 29.08.2023 and next date fixed is after more than four months. Perhaps this matter would require some more indulgence with promptitude.

9. As stated, it is a case of alleged atrocity, torture by police in police custody, manipulation of records, closing down of the CCTV installed at the police station so as to hide the misdeeds, lodging of false FIR, dereliction of duty, humiliation and related issues. The petitioners did also file an application under Section 156 (3) of the Code of Criminal Procedure, 1973, categorically which has been rejected on 10.11.2023 by the Chief Judicial Magistrate, Almora.

10. Having considered, this Court is of the view that this matter requires deliberation.

11. Admit.

12. Issue notice to all the respondents except the respondent no.2 and 3.

13. Respondents may file counter affidavit within three weeks. Two weeks thereafter, rejoinder affidavit, if any, may be filed.

14. List this matter on 13.02.2024 for final hearing.

15. Learned counsel for the petitioners seeks permission to implead CBI as party.

16. Let it be so impleaded within three days. It is only thereafter, notices shall be issued.

17. Learned Government Advocate has given a statement that DIG, Kumaon, Nainital has been marked with inquiry which is pending. It hopefully may be concluded within seven days.

18. The Police Department is free to take such disciplinary proceedings against the erring Police Officers as deemed necessary and befitting. The call records of all the police personnel involved with regard to arrest and detention of the petitioner no.1 on 17.04.2023 shall be sought from the respective service provider and preserved.

19. Directions have already been issued for preserving the CCTV footages of *Mahila Thana* NTD, Almora. It shall be ensured.

20. Annexure 29 of the writ petition is transcript of the CCTV footages of Mahila Thana, NTD, Almora. According to it, at 14:22:34, reference is made to a "Bhakuni Sir". Who is this "Bhakuni Sir"? Call details record of "Bhakuni" Sir may also be made part of the investigation. It shall be sought from the service provider.

21. Having considered the allegations and material on record, this Court further directs that no further steps shall be taken pursuant to FIR No. 7 of 2023, under Sections 332, 353, 354 ad 186 IPC, Police Station Mahila Thana Almora till further orders. If investigation is pending, the investigation shall stop. If charge sheet has been filed, the concerned Court shall not proceed further with the matter.

(Ravindra Maithani, J.)  
21.12.2023

Jitendra