

ANNEXURE 19

**Response of the Commission in case of the
police search on People's Watch premises**



National Human Rights Commission, New Delhi, India

Case Details of File Number: 802/22/2003-2004

Diary Number	9127
Name of the Complainant	SH. HENRI TIPHAGNE
Address	PEOPLES WATCH - TAMIL NADU NO. 6, VALLABAI CHAKKIKULAM MADURAI , TAMIL NADU
Name of the Victim	SH. HENRI TIPHAGNE
Address	PEOPLES WATCH - TAMIL NADU NO. 6, VALLABAI CHAKKIKULAM MADURAI , TAMIL NADU
Place of Incident	NO. VALLABAI CHAKKIKULAM MADURAI , TAMIL NADU
Date of Incident	11/5/2003

Direction issued by the Commission

Shri Henri Tiphagne, Executive Director, People's Watch, Tamil Nadu in his complaint has alleged that on 5 November, 2003, at about 7.30 hours the police carried out a search in the office premises of his NGO looking for Muthukumar and Ms. Rajalakshmi, allegedly, wanted in Cr.No.129/2003 of M.Pudupatti P.S. U/s 397 IPC under a search warrant issued by Judicial Magistrate, Sivakasi. It is alleged that the Tamil Nadu police did not adhere to the statutory procedures for search and in the process committed excesses with ulterior motive. He has also alleged that the police nurtured animosity against the complainant since he was instrumental in exposing some gruesome cases of police excesses, including custodial rape, oral sex and kidnapping of children etc. during the public hearing conducted under the aegis of National Commission for Women and State Commission for Women. He has alleged the following omissions and commissions on the part of police officials: (a) The police conducting search was not having their name-tags on their uniform and they did not disclose their identity; (b) The police did not produce the copy of the order purportedly issued by the Judicial Magistrate, Sivakasi to search the premises of the complainant; (c) The police videographers were more interest in capturing everything in his office; (d) Mr. Mohan, Tehsildar, Madurai South Taluk, who was present throughout the proceedings, also informed him that he was not disclosed about the search of premises of People's Watch; and, (e) The police refused to give him an attested copy of search memo. The complainant has expressed his suspicion over the authenticity of warrant which bears the signature dated 5 November, 2003 on the ground that it is not practically possible for a Court to issue search warrant in the early morning before 7.30 A.M. The Commission by its proceedings dated 17 November, 2003 directed to transmit a copy of the petition to the Director General of Police, Tamil Nadu for a factual report and comments. Accordingly, a communication was sent to DGP, Tamil Nadu. Pursuant to the above directions, S.P. Virudhunagar submitted a report dated 24.11.2003 denying the allegations made by the complainant. According to the report, a Case Cr.No.129/03 was registered against five persons, namely, Muthukumar, Rajalakshmi, Krishnamoorthi, Tamil Selvam and Anantharaj, on the basis of a complaint of dacoity made by one Esther Rani in M. Puthupatti Police Station, Virudhunagar District. On 4.11.2003, accused Krishnamoorthy and Tamil Selvam were arrested by the Investigating Officer and a visiting card of Mr. Pandian, People's Watch was seized from their possession. The said Mr. Pandian of People's Watch also visited the police station to enquire about the arrested accused persons. The accused persons also confessed that the accused Muthukumar and Rajalakshmi had informed that they were proceeding to the Office of People's Watch at Chokkikulam, Madurai for taking shelter and persuaded others to come over there in the event of any apprehension of arrest by police. The police party went in disguise to the premises of People's Watch and ascertained the presence of above two accused persons in the said premises. Since it was night and raining, the

104

police did not enter the premises in search of accused. Next day, i.e. on 5.11.2003, a search warrant was obtained from the Judicial Magistrate Court of Sivakasi and the police team, after showing the search warrant to Mr. Henri Tiphagne, searched his office looking for the robbers from 0.830 hrs. to 09.10 hrs. The search was videographed and the search memo was properly prepared on the spot and handed over to the complainant. All the formalities of search were strictly adopted. However, those two accused persons could not be arrested during the search as they probably managed to escape in the preceding night. The report further stated that all the police personnel were having proper identity. It is further stated that the search was conducted between 08.30 to 09.10 and not from 07.30 as stated by the complainant. The police also made serious allegations against the complainant by terming him "an anti-national element", "blackmailer" and allegedly "indulging in forceful religious conversions". The Commission, on consideration of the aforesaid report vide its proceedings dated 20 October, 2004 called upon DGP, Tamil Nadu to inform the Commission about Cr.Case No.129/2003 of M.Pudupathi P.S. and also asked the DGP to forward a copy of charge-sheet, if it had been filed, to the Commission. Pursuant to the proceedings of the Commission dated 20 October, 2004, the DGP, Tamil Nadu, has vide his letter dated 10.1.2005, informed the Commission that Cr.No.129/2003 was filed before the Judicial Magistrate, Sivakasi on 14.6.2004 against the accused named therein for offences u/s 392 IPC r/w 120 (b) 34 IPC and the same is pending in the court where trial has commenced. The DGP has also forwarded a copy of the charge-sheet framed against the accused persons. On perusal of the report of S.P. Virudhunagar dated 24.11.2003 and the charge-sheet already pending trial in the court, we are of the view that no further action by the Commission in this case is called for. The report is taken on record. File.

Action Taken**Status on 10/20/2005****Concluded and No Further Action Required (Dated 3/21/2005)**

The Case is Closed.

Note: For further details kindly contact **National Human Rights Commission, Copernicus Marg, New Delhi, PIN 110001 Tel.No. 23382742 Fax No. 23384863 E-Mail: covdnhrc@hub.nic.in**

Disclaimer: Neither NHRC nor NIC is responsible for any inadvertent error that may have crept in the Complaint Information being published on NET. The Complaint Information on net is for immediate information to the Complainants/ Victims.