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ANALYSIS OF ARRESTS AND RELEASE ON BAIL FROM POLICE STATIONS IN HURT CASES IN OOTAKAMUND DISTRICT AND IN MAHABALIPURAM SUB DIVISION IN KANCHEEPURAM DISTRICT IN TAMIL NADU

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I paid a visit to Ootakamund from May 28 to May 31 and Mahabalipuram from June 13th to 15th June, 2014 and gathered details of hurt cases to analyse the extent to which NHRC guidelines are being followed.

Knowledge on Arrest is inadequate to SHOs and even to District Officials:

'Arrest' is not defined in the Code of Criminal Procedure, 1973. If a person is called to a police station or taken to police station it is not an arrest. A person may be under unlawful detention but he is not under arrest unless he is formally arrested under the Code. Arrest means apprehension of a person by legal authority resulting in deprivation of his liberty. An arrest is the seizing of a person and detaining him in the custody of law (S.S. Babde Vs. Maharashtra, 1973; S.C).

1.1) Arrest under the English law is defined as "The restraining of the liberty of a man's person in order to compel obedience to the order of the court of justice, or to prevent the commission of crime or to ensure that a person charged or suspected of a crime may be forthcoming to answer it."

1.2) The U.S. Judge in Long Vs. Ansell, (293 U.S. 76; 55 S.Ct. 21; 79 L Ed. 208) says, "How many police officers know that the sole purpose of an arrest is to route the person arrested before a magistrate or Court so that proper legal proceedings can be undertaken for the determination of the guilt or innocence of the crime charged? The decision to arrest a person imposes a tremendous responsibility on the authority exercising it for the principle that "No man should

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be accused; arrested or held in confinement, except in cases determined by the law and according to the forms that it has prescribed”

1.3) Police officers at the cutting edge level are found wanting in knowledge on the recent pronouncements of the Apex court regarding arrest, search, seizure, investigation etc. The National Police Commission of India opined that 60% of arrests were unnecessary and that except in heinous offences like murder, rape, dacoity or other professional property offences arrests of the suspect needed to be made while in other cases unless the accused would abscond or would threaten witnesses or tamper evidence no arrest was required to be made.

1.4) The Supreme Court not only agreed with the recommendations of National Police Commission but also made it a mandatory requirement. The Supreme Court in Joginder Kumar v. State of U.P noticed that in a large number of cases human rights violation takes place because of indiscriminate arrests. In this connection, it is appropriate to present their observations (Joginder Singh V. State of Punjab, 1994 3 SCC 423). The Supreme Court in this case held that the existence of power to arrest was one thing and the justification for exercise of it was quite another and remarked that it would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest shall be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and a reasonable belief both as to person's complicity and even as to the need to effect arrest.

2) NHRC Guidelines Regarding Arrest:

Concerned with the large number of complaints about abuse of police powers, particularly in relation to arrest and detention, the NHRC has drawn up a set of guidelines. They are based on Constitutional provisions, existing laws, Supreme Court decisions and National Police Commission recommendations.

2.1) Procedure to be Followed Prior to Arrest: NHRC has asserted that arrests in bailable offences must be avoided unless there is a strong possibility that the person will run away. A police officer must be able to justify an arrest. An arrest without warrant can be justified only in the following circumstances:

- i. Where the case involves a grave offence such as murder, dacoity, robbery, rape, etc. and it is necessary to arrest the suspect to prevent her / him from escaping or evading the process of law; and / or
- ii. Where the suspect is given to violent behavior and likely to commit more offences; and / or
- iii. Where the suspect needs to be prevented from destroying evidence; interfering with witnesses; or warning other suspects who have not yet been arrested and / or
- iv. The suspect is a habitual offender, who unless arrested is likely to commit similar or further offences.

3) Keeping NHRC Guidelines regarding Arrest In mind, I analysed 689 hurt cases – 390 hurt cases registered in Ootakamund district for the year 2012 &

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2013 and 299 cases registered in the year 2012, 2013 and till May 2014 in all the nine Police Stations of Mahabalipuram Sub Division in Kancheepuram district to find out the extent to which the guidelines of National Human Rights Commission have been adhered to in Tamil Nadu.

3.1) Hurt Cases in Ootakamund District in Tamil Nadu:

In Ootakamund district in 2013 196 hurt cases including 3 rioting cum hurt cases were registered as against 194 cases in 2012 including 4 rioting cum hurt cases.

3.1.1) Number of Arrests made in Hurt Cases: 381 and 406 accused were involved respectively in 2012 and 2013 and of which 367 (96%) in 2012 and 379 (93%) in 2013 were arrested by the police.

3.1.2) While 12 grievous hurt cases (4 cases u/s 325 IPC and 8 u/s 326 voluntarily causing grievous hurt with dangerous weapons) were reported in 2013 as against 11 (5 cases u/s 325 IPC and 6 u/s 326 voluntarily causing grievous hurt with dangerous weapons) in 2012. It is noticed that IPC section 506 (ii), which is punishment for Criminal Intimidation has been frequently used along with hurt cases in as many as 113 (58%) cases in 2013 and 83 (43%) cases in 2012. Likewise, IPC Section 294 (b), which is for obscene acts or song has been invoked in 59% of the hurt cases (114) in 2012 while in 71% of the cases (143) in 2013.

3.2) Granting of Bail in Police Stations: Of the 367 accused arrested in 194 cases in 2012, only in 23 accused in ten cases were given bail in police station. Likewise, in 2013 bail was given to 24 accused in police stations in Ootakamund district in 10 cases only out of 196 cases.

Table 1: No. of Hurt Cases in 2012 with Arrests Effectuated

S.No.	Sub-Division	Total No. of cases	No. of Accused Involved	No. of Accused Arrested	No. of accused yet to be arrested
1.	Ooty Town	46	93	93	-
2.	Ooty Rural	28	53	53	-
3.	Conoor	61	133	122	11
4.	Gudalur	32	53	50	3
5.	Devala	27	49	49	-
Total		194	381	367	14

Table 2: No. of Hurt Cases in 2013 with Arrests Effectuated

S.No.	Sub-Division	Total No. of cases	No. of Accused Involved	No. of Accused Arrested	No. of accused yet to be arrested
1.	Ooty Town	52	106	103	3
2.	Ooty Rural	25	47	44	3
3.	Conoor	56	138	131	7
4.	Gudalur	37	65	51	14
5.	Devala	26	50	50	-
Total		196	406	379	27

4) Hurt Cases in Mahabalipuram Sub Division of Kancheepuram District in**Tamil Nadu:**

4.1) In Mahabalipuram Sub Division of Kancheepuram district in Tamil Nadu, 124 hurt cases were registered in 2012 as against 128 cases in 2013 and 47 cases till May in 2014.

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Table 3 – No. of Hurt Cases in Police Stations of Mahabalipuram Sub-division

Sl.No.	Police Station	2012	2013	Till May 2014	Total
1.	E1	17	19	8	44
2.	E2	46	55	14	115
3.	E3	10	10	5	25
4.	E4	5	5	1	11
5.	E5	6	8	9	23
6.	E6	10	9	3	22
7.	E7	5	5	2	12
8.	E8	8	11	5	24
9.	E9	17	6	-	23
		124	128	47	299

4.1.1) A discussion with Mr. Mohan, Deputy Superintendent of Police of Mahabalipuram sub-division reveals that not even a single accused in hurt case has been released on bail from any of the Police Stations though in almost all the cases the suspects were found to be first offenders neither with any history of violent behavior nor known to commit more offences nor there was apprehension that they would destroy evidence or intimidate and interfere with witnesses nor habitual offenders. DSP adds that the police would be blamed either if the accused released on bail from the Police Station assaults and causes hurt once again either on the same persons or someone else or would be blamed for receipt of illegal gratification from the complainant party for release on bail and therefore bail is refused in Police Station limits and DSP's apprehensions are nothing but lame excuses and it exposes his poor knowledge of Constitutional provisions and guidelines of NHRC.

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5) Recommendation: There is an urgent need to conduct a seminar on arrest and human rights to senior officers including Officers entrusted with training preferably by NHRC and the officers in charge of training should in turn go all out to train the entire force from Constables to senior officers in Tamil Nadu.

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