



STATE POLICE
ACCOUNTABILITY COMMISSION
ASSAM



ANNUAL REPORT 2015

**Chairperson
State Police Accountability Commission,
Assam, Ulubari
Guwahati-781 007
94351-06319(M)
0361-2462408(O)**



**D.O. No. SPAC/2015
Dated, the _____, 2016.**

I take the privilege of presenting the Annual Report of the State Police Accountability Commission, Assam for the calendar year 2015. This report mainly contains the number and type of cases of “**Serious Misconduct**”, the Commission received against “Police Personnel” which have been enquired into and disposed of. The Complaints were mostly received from members of the Public. Few were received from the policemen. However, some cases were taken up *suo motu* by the Commission on the basis of Press reports. No case was referred by the Government or DGP to the Commission for enquiry under Section 78(2) of the Assam Police Act, 2007 (Police Act, in short).

The Commission, under Section 78(1) of the Police Act, is authorized to enquire into allegations of serious misconduct only. Explanation to Section 78(1) treats only 7 types of ‘**act or omission**’ of police officers as serious misconduct. Non-registration of FIR, arrest or detention without due process of law and causing grievous hurt, as defined under Section 320 IPC, are the common omissions committed by police which are treated as serious misconduct, whereas the negligence, deliberate delay, biasness in the matter of investigation usually committed by police, are not treated as serious misconduct in the scheme of the present Police Act. Strictly speaking, the Commission has no power to go into the alleged inaction or omission of police in the investigation of cases. It has also no power to recommend departmental or other action(s) against the defaulting officers. The Commission, however, in the interest of rendering justice, indulged itself in examining the complaints of defaults in the investigation of cases, and in given cases, issued directions to the DGP to ensure fair, proper, timely and expeditious investigation.

Needless to say that time has come to treat the default in investigation as a “**Serious Misconduct**” by effecting suitable amendment to the Police Act. Time is also ripe to implement the Supreme Court’s directions for separation of investigation from the law & order function. It is a matter of serious concern that the Government, for some undisclosed reasons, is yet to lay the Commission’s previous year (2014) Annual Report before the State Legislature, which is mandatory under Section 83(2) of the Police Act; far less to initiate action to implement the recommendations made therein. In addition to earlier recommendations, some more have been made in this Report.

The common complaint is that the police do not register crime fully; in other words, police do not register all the FIRs or the informations of crime received orally or through other sources; and the police often misuse their power and indulge in illegal arrest/detention

and harassment. The resultant mistrust thus created has widened the gap between Police and Public. There is a lack of informed and legally permitted appropriate moves from the people against alleged misdemeanour, inaction or illegal action and excess, committed by Police. The Police also lack proper training and information about the amendments to law and directions given by the Supreme Court, particularly regarding power of arrest/detention and the related procedures laid down to be followed. The need for removing the mistrust and narrowing the gap between Police and Public needs to be emphasized. To achieve this end, the Commission organised awareness programmes, at some District Headquarters. Much more intensive and extensive awareness programmes is intended but for lack of budgeted financial support, it could not be put through in a desired manner.

With the rise in the number of complicated crimes, alongside the cyber, corruption, economy and other modern day offences, a pressing demand has come that priority must be given to providing more manpower, improved infrastructure and adopting the latest expert scientific methods in the investigation of crimes. In fact, this has been provided and emphasised in Chapter-VI of the Police Act and the Commission, in its Annual Report of 2011, urged upon the Government to give effect to it.

It may not be irrelevant to point out that the Supreme Court, in its recent judgment rendered in the case of **D.K. Basu Vs State of West Bengal and others**; as reported in **(2015)8 SCC 744**, *inter alia*, directed the State Governments to consider installation of CCTV Cameras in Police Stations, in a phased manner, depending upon the incidents of human rights violations like custodial torture and deaths. In the same Judgment, direction has also been issued to the State Governments to consider appointment of non-official visitors to Police Stations, in terms of relevant provisions of Act and Rules. All these measures are designed to check or curb the custodial excess very often committed by Police. Efforts are expected from the Government to comply with the Apex Court's directions.

The State Government is expected to take urgent steps with strong '*political Will*' to implement the Commission's recommendations so as to achieve the cherished end of providing impartial and efficient Police Service in safeguarding the interests of the People simultaneously making the police force more professionally organised, service oriented and accountable to law.

Thanking you,

Yours sincerely,

(P. K. MUSAHARY)

Shri Tarun Gogoi,
Chief Minister, Assam,
Dispur,
GUWAHATI-781 006

Annual Report 2015

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The Statute and
the Practices

Assam Police Act, 2007 provides for the police accountability under Chapter-VIII with parameters as defined by Section 78, Sub-Section 78(1) -

- (a) death in police custody;
 - (b) grievous hurt;
 - (c) molestation, rape or attempt to commit rape; or
 - (d) arrest or detention without due process of law;
 - (e) forceful deprivation of a person of his rightful ownership or possession of property;
 - (f) blackmailing or extortion;
 - (g) non-registration of FIR
- and any other case referred to it by the Government or the DGP of the State subject to the nature of such cases meriting for independent enquiry.**

Section 83(1) of the Act, provides for submission of “**Annual Report**” dwelling upon –

- (i) the number and type of cases of serious misconduct enquired into it;
- (ii) the number and type of cases of misconduct referred to it by the complainant upon being dissatisfied on the departmental enquiry into his/her complaint;
- (iii) the number and type of cases including those referred to it in (b) above in which advice or direction was issued by it to the police for further action;
- (iv) the number of complaints received by the district accountability authorities and manner in which they were dealt with;
- (v) the identifiable pattern of misconduct on the part of the police personnel in the State; and

(vi) recommendations on measures to enhance police accountability.

ESTABLISHMENT

The present Commission :

Shri Pranay Kumar Musahary, Justice (Retd), Chairperson(w.e.f. 2nd June, 2014)

Smti Parul Debi Das, IAS(Retd), Member (w.e.f. 4th June, 2014)

Shri Sibabrata Kakati, IPS(Retd), Member (w.e.f. 1st July, 2014)

Smti Nellie Ahmed Tanweer, Member (w.e.f. 10th April, 2013)

The Commission's Secretariat is headed by Shri H. C. Dutta, ACS (Retd) (w.e.f. 03rd January, 2015) assisted by Ministerial Staff Senior Assistant - one, Junior Assistant – one, Stenographer – one, Computer Operator – one, 4th Grade employee – three.

Moreover, the Commission has inducted –

Shri Bhakta Bahadur Chetri, APS (Retd) as Chief Investigator w.e.f. 07th August, 2014 to 21.11.2015,

Shri Bhudev Goswami, APS(Retd) as Chief Investigator w.e.f. 23.11.2015,

Shri Tarun Kumar Dey, APS(Retd) as Investigator w.e.f. 05.01.2015 for manning the Investigation Agency of the Commission.

Accommodation:

The Office of the Commission is at present housed at a rented premises located at B.K. Kakati Road, House No. 95, ‘AMITABH’, Ulubari, Guwahati-7, Assam.

The Commission has been experiencing insufficiency of adequate space to accommodate the present man power and the records in the present office building.

The Commission has requested the Govt. of Assam to allot land at suitable location in Guwahati City in the name of SPAC, so as to construct its own building.

The Home (A) Deptt is reported to have taken up the matter with Revenue & Disaster Management Deptt for allotment of land for SPAC.

Finance:

Source : Deptt of Home(A)

Head of A/c – Major head 2070 – other administrative services (ii)
vigilance and other commissions of
enquiry” other State plan & non
plan scheme.

Minor head : 105- special commission of enquiry.

Sub head : 0434 - State Police Accountability
Commission

Detail head: 31 - Grants-in-Aid Salary

32 - Grants-in-Aid(Non Salary).

Fund position :- Financial Year 2015-2016

(A)	(B)
Budget proposed – Salary – Rs. 61,93,000.	<u>Supplementary Due</u>
<u>Non Salary - Rs. 39,24,000</u>	Salary – Rs. 1,80,000/-
Total - Rs.1,01,17,000/-	

Total of A + B = Rs. 1,02,97,000/-.

Fund received

(R)	(S)
Salary – Rs.61,93,000/-	Non Salary- Rs. 18,31,200/-

Total of R + S = Rs. 80,24,200/-

Table No. - 01

Districtwise distribution of complaints received during 2015, indicating the type of serious misconduct :

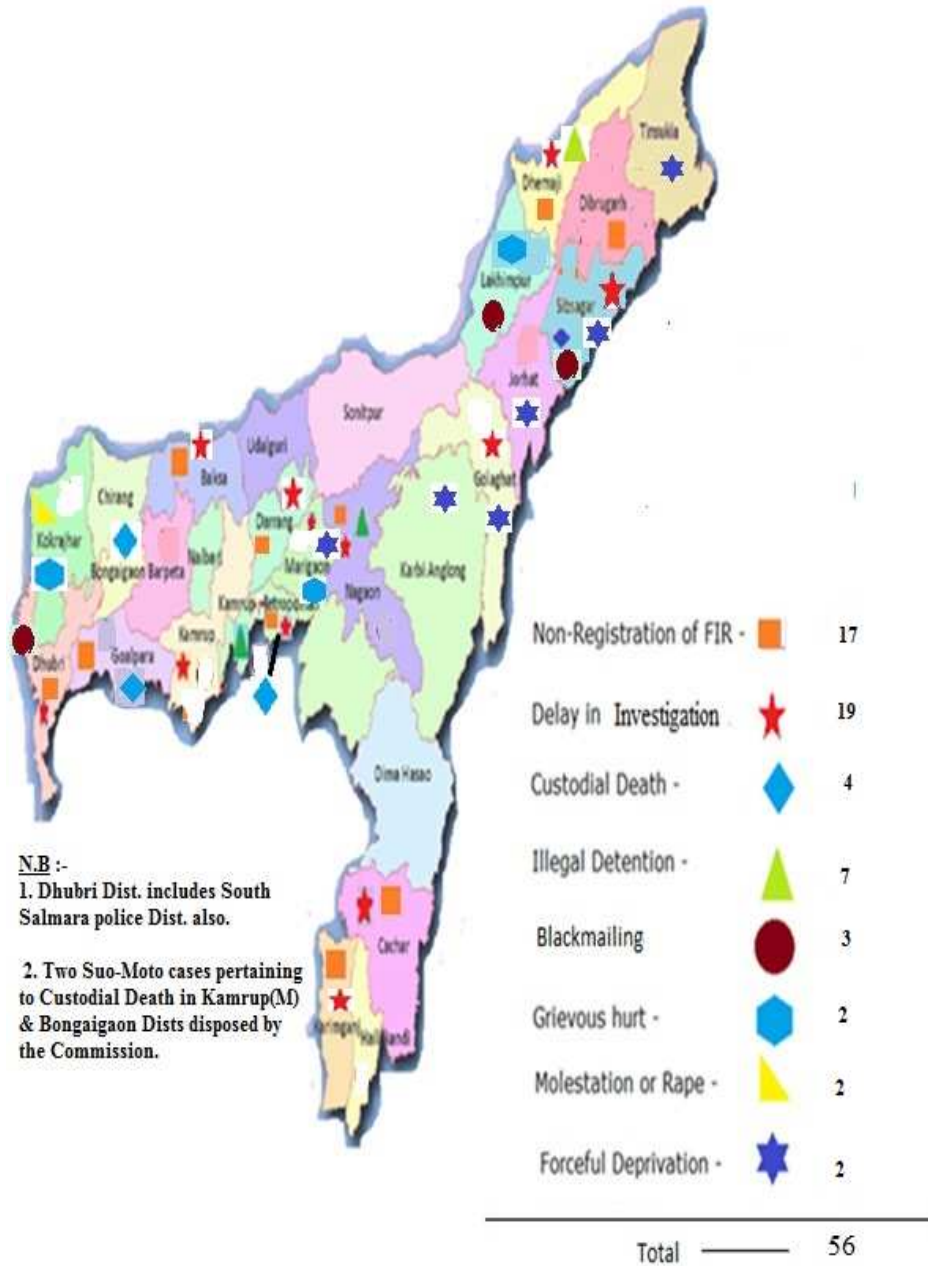
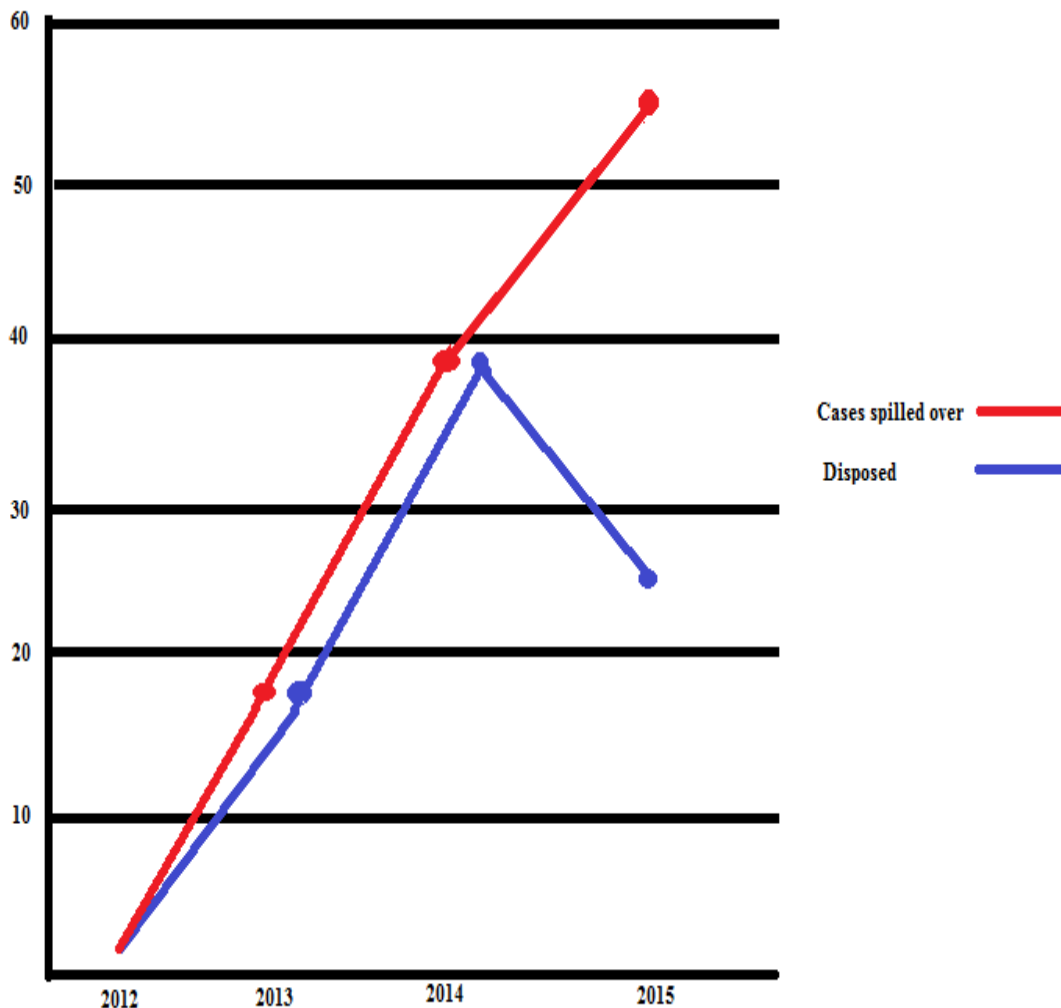


Table No. - 02Statement of pending cases & disposal upto 31/12/2015

		<u>DISPOSED DURING 2015</u>
Cases spilled over	2012 --- 1	1
	2013 --- 17	17
	2014 --- 39	39
Case registered	2015 --- 56 (including two Suo Motu cases)	25
<hr/>		
	Total ---113	82

N.B :- 221 complaints received during the year 2015 out of which 54 cases were converted to regular cases (as registered cases) and remaining 165 complaints are yet to be scrutinized by Full Commission Meeting (FCM) for inclusion of few of these cases as regular cases.

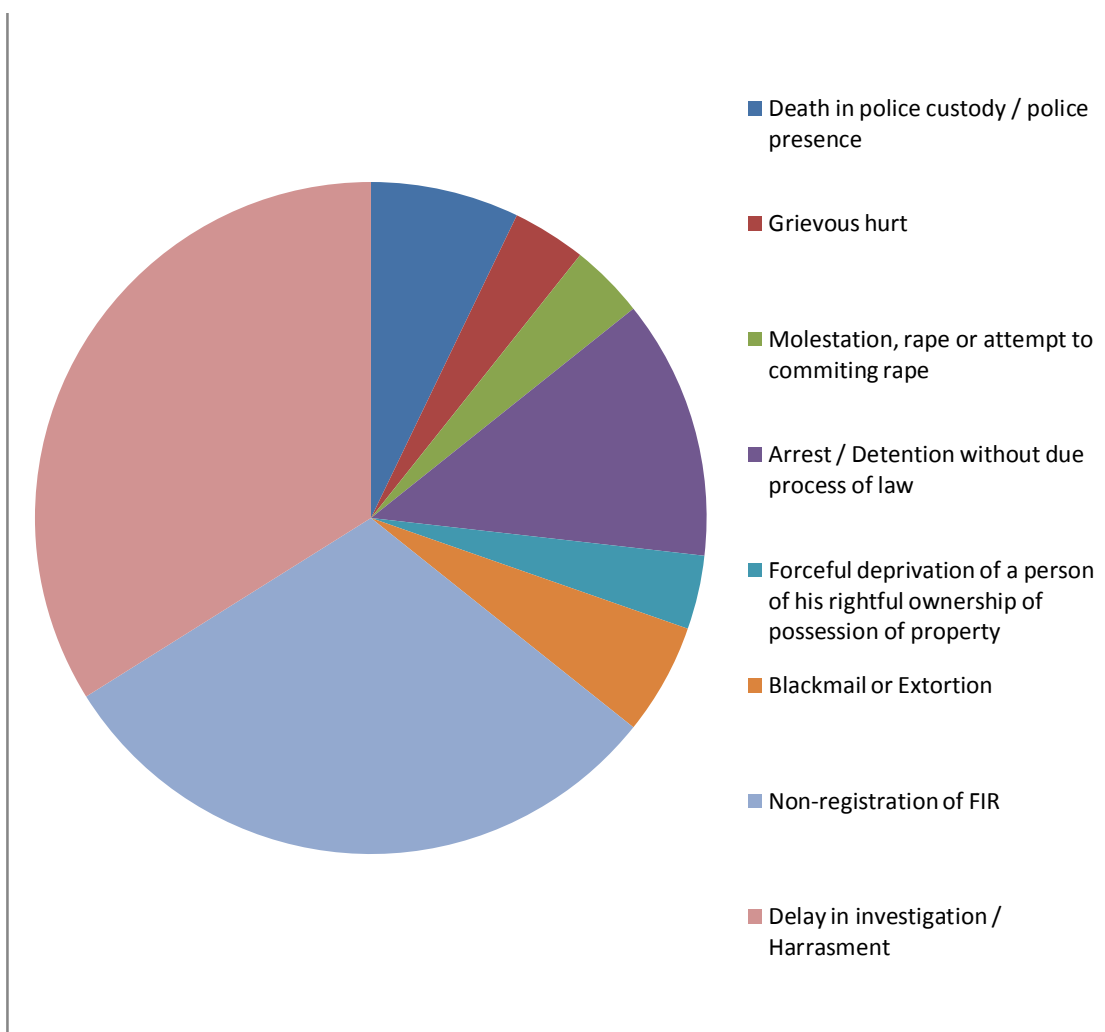


Table showing the type of cases registered during the year :

<u>Sl. No.</u>	<u>Type of cases of serious misconduct</u>	<u>Registered</u>
1.	Death in police custody / police presence	4
2.	Grievous hurt	2
3.	Molestation, rape or attempt to committing rape	2
4.	Arrest / detention without due process of law	7
5.	Forceful deprivation of a person of his rightful ownership of possession of property	2
6.	Blackmail or Extortion	3
7.	Non-Registration of FIR	17
8.	Delay in registration & inaction after registration of complaint	19

Brief Order : Passed on a few significant cases during 2015:

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.49/2013

Shri Pramesh Baidya

-Versus-

Supdt. of Police & other Police Officers, Dhemaji

The petitioner Shri Pramesh Baidya, along with two others, namely Arjun Paul and Swarup Das, on being summoned, appeared before this Commission on 19.09.2014. They have informed that they filed a Writ Petition, being WP(C) No. 3642/2013 in the Hon'ble Gauhati High Court on 26.06.2013 and the said Writ Petition is still pending for disposal. During pendency of the said Writ Petition, the petitioner has filed the present complaint on 17.07.2013 making the same prayer before this Commission. This fact has not been disclosed in the present complaint petition.

2. The Commission, as per proviso to Section 88(1) of the Assam Police Act, 2007, should not entertain a complaint if the subject-matter of the complaint is being examined by any other Commission or Court.

3. In view of the above statutory bar, the Commission declines to entertain and consider this complaint on merit. Accordingly, this complaint petition stands closed.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.01/2014*Md. Mozibar Rahman**-Versus-**OC, Mornoi Police Station, Dist. Goalpara*

Perused the complaint petition dated 06.01.2014. This complaint is broadly about refusal to register a case by the O/C, Mornoi PS.

2. In order to test the veracity of the allegations made in the complaint petition, the Commission called for and obtained a detailed report from the SP, Goalpara vide his letter under Memo No. GLP/CRIME/14/895 dated 06.02.2014 followed by a clarification report dated 20.12.2014.

3. The allegation of non-registration of case is INCORRECT. The O/C, Mornoi PS cannot be made accountable for committing serious misconduct or held liable to departmental action under Section 78 of the Assam Police Act, 2007.

4. The SP's report does not reflect as to whether the I/O has completed the investigation in Mornoi PS Case No. 170/2013 and filed the FF by this time. If the FF is not filed, the SP, Goalpara is directed to take necessary steps for completion of the investigation under his supervision or through the supervision of the Circle Inspector concerned at the earliest in accordance with the procedure laid down under the Criminal Procedure Code and Assam Police Manual. The SP is also directed to submit Action Taken Report within a period of 30(thirty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 06/2014*Sri Dulal Bora**-Versus-**Senior SP, City, Guwahati**Dist: Kamrup(M).*

The complainant, Sri Dulal Bora, a civil right activist, alleges that on 25.04.2013 at about 4.00 PM, while he was returning home, a group of about 6(six) young men who came in a white colour Fortuner vehicle bearing registration No. AS-01-AP-0003, accosted him near the office of the APSC at Khanapara, Guwahati at gun point and forced him to write on a piece of paper that during his press meet at Guwahati Press Club on 22.04.2013, he did not make any adverse comment on the educational qualification and age of Sri Akan Bora and the statements published in the media were nothing but the creation of the media. The said boys forcefully took his signatures on some blank papers and snatched away some important RTI files. The complainant met the Chief Minister, Assam on 26.04.2013 and made a written representation on the above facts and sought justice from him. The Joint Secretary to the Chief Minister's Office (CMO in short), forwarded the said representation to the SSP, City, Guwahati vide U.O. No. CMO.04/13/537 dated 16.05.2013 for taking appropriate action. The said UO letter was received at the SSP's office on 21.05.2013. The SSP, City, Guwahati endorsed it to the Addl. SP, Crime, vide a note dated 21.05.2013 written on the body of the UO letter. No action was taken by the police. The complainant, therefore, approached the Commission on 12.02.2014 by filing the present complaint petition demanding appropriate action in the matter.

2. It is regrettable that the SSP took a long time to furnish the information which was within his personal knowledge and caused delay in disposing the

complaint petition. **We do not read into this delay any *mala-fide* intention of the senior officer but we cannot treat his evasive replies as bona fide either to excuse his lapse. The SSP is responsible for misleading the Commission from time to time and not coming out with the truth inspite of being reminded several times.**

3. The undeniable facts that has emerged from the above discussion is that the CMO's UO letter was received and brought to the SSP's notice on 21.05.2013 and it was sent to the O/C Basistha PS on 24.07.2013. It means the UO letter was lying in the SSP's office for 2(two) months without any follow up action although it was endorsed by him to Addl. SP, Crime. There was something wrong in the District Police Administration under the leadership of the present incumbent SSP in respect of this case. The UO letter sent along with the representation of Sri Dulal Bora clearly discloses commission of a cognizable offence **but there was no clear direction from the SSP requiring the O/C Basistha PS to register a case.** It was incumbent upon the SSP to ask the O/C concerned to register a case forthwith and start investigation as required by law(Section 154(3) CrPC). **The shocking revelation is that the SSP attached no importance to the CMO's UO letter dated 16.05.2013 and remained complacent by endorsing it to the Addl. SP (Crime) on 21.05.2013 without giving necessary direction/instruction to the O/C concerned to register a case immediately.** He could ask the O/C Basistha PS to register a case only on 03.09.2014, after a lapse of 16(sixteen) months and that too on being persuaded by this Commission through several correspondences made with him as mentioned above. A long delay of 16 (sixteen) months in registering a case in a cognizable offence is attributable to dereliction of duties and insubordination on the part of the SSP. **In our considered view, the SSP is primarily responsible for the inordinate delay in registering the case and he is answerable to this serious lapse.**

4. The Insp. Rukma Buragohain, the then O/C of Basistha PS, is also answerable for not registering the case soon after he received the copy of the CMO's UO letter along with complainant's representation, from the SSP on 24.07.2013 vide Memo No. V/LC-2(17-12-SPAC)/2013/7386.

5. Both the SSP and the then O/C Basistha PS Insp. Rukma Buragohain are accountable for misconduct for their willful breach and neglect of law, rule and regulation applicable to the police which has adversely affected the right of a citizen viz the complainant within the meaning of Explanation to Section 78(3)

of the Assam Police Act, 2007. The commission accordingly, recommends departmental action against the SSP, City, Guwahati and Insp. Rukma Buragohain, the then O/C of Basistha PS. The Government in Home Department, Assam is directed to cause drawal of departmental proceeding against Sri A.P. Tiwari, IPS, SSP, City, Guwahati in accordance with the existing law in force. Similarly, the DGP, Assam is directed to cause departmental proceeding against Inspector Rukma Buragohain, the then O/C of Basistha PS providing them due opportunity to defend themselves in accordance with law. The Police Headquarters shall intimate the result of the departmental action to this Commission in due course.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.74/2014

Md. Safik Uddin Ahmed

-Versus-

Hemanta Bora, O/C Hojai PS

Dist: Nagaon.

Perused the complaint petition of Md. Safik Uddin Ahmed, filed on 01.12.2014. The petitioner alleges that the O/C of Hojai PS harassed him unnecessarily by way of summoning him to Thana and demanding huge amount to the tune of Rs. 1,00,000/- (One lakh).

2. From the records, we have found that one Musstt Jesmine Nehar, daughter of Lt. Lalmiya of village Fatehpur lodged an FIR on 24.11.2014 with the O/C Hojai PS against Md. Safik Uddin Ahmed (present petitioner), Govt. Gaonbura(headman) of village Borhola under PS Hojai. The said FIR was registered as Hojai PS Case No. 661/2014 U/S 448/294/323/506 IPC. As per SP's report, sufficient materials have been collected by the police against the

petitioner, Safik Uddin Ahmed and he was arrested on 26.11.2014 at 11.30 AM vide Hojai PS GD Entry No. 781 dated 26.11.2014. He was released on bail at 11.50 AM the same day vide Hojai PS GD Entry No. 782 dated 26.11.2014. It shows that the police detained the petitioner only for 20 minutes. There is no allegation of subjecting the petitioner to physical torture. There is no material on record supporting the allegation of threatening the petitioner by the O/C by showing his pistol. As regards the alleged illegal demand of money, no material is available on record. The petitioner's allegation in this respect is found to be baseless, and therefore, we are not prepared to accept this allegation as correct and true. In the aforesaid facts and circumstances, we do not want to proceed further. Accordingly, this petition stands disposed of without holding any policeman accountable for serious misconduct under the Assam Police Act, 2007.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.54/2013

Shri Biren Das

-Versus-

Incharge, Bhogdoi Police OP,

District Jorhat

This complaint was initially filed without being supported by an affidavit. Yet, the case was registered in view of the apprehension expressed by the complainant that the police would harass him at the instance of the opposite party. The Commission, vide letter dated 29.07.2013, called for a report from the SP, Jorhat with an interim direction to take care that the complainant and his family members were not harassed.

2. The Commission, by another letter dated 29.07.2013, asked the complainant Shri Biren Das to submit a duly sworn affidavit in support of his complaint petition, but till date, no affidavit has been filed.

3. To ascertain the relevant facts and particulars, the Commission wanted to hear the petitioner in person and issued notice upon him on two occasions. As per Commission's record, the notices were served upon the petitioner, but he did not appear for hearing. The petitioner has shown no interest in pursuing the case.

4. Under the above circumstances, the Commission deems it fit and proper to close this petition. Accordingly, this petition stands closed, without any order as to fixing of accountability and liability against any police officer.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.49/2011

Md. Nekibutddin Ahmed

-Versus-

OC, Sivasagar Police Station, Dist. Sivasagar

Perused the communication received from the Assam Police Headquarters vide their letter No. SPAC/APHQRS/49/2011/18 dated 06.01.2015.

The contents of the aforesaid communication are treated as additional views and facts of the department under the first proviso to Section 82 of the Assam Police Act, 2007.

Perused and considered the additional views and facts presented by the department.

The Police Headquarters have agreed that the SP, Sivasagar; instead of merely sending a letter dated 17.06.2014 through Fax, should have complied with the instruction of the Commission, by deputing the I/O with necessary records. The Police Headquarters have reported that the SP, Sivasagar has

Admitted his failure in appreciating the implication of Commission's instructions in regard to submission of relevant records.

It is observed that the Police Headquarters have requested the Commission to take a lenient view on the lapse committed without malafide intention by a comparatively inexperienced young and energetic officer. These grounds cannot be accepted as additional facts or views of the department as contemplated under Section 82 of the Assam Police Act, 2007. They do not merit revocation, modification or alteration of the Commission's speaking order.

In view of the above, the Commission stands by its findings and recommendation and declines to revoke or review its order dated 30.06.2014. Accordingly the order dated 30.06.2014 passed in SPAC Case No. 49/2011 is made absolute. It is, however, made clear that the Department is not bound to initiate departmental proceeding against the officer concerned. It is desirable that the Police Headquarters should take departmental action, by way of asking the officer concerned, to explain his conduct and on receipt of his reply, pass appropriate order as may be deemed fit and proper in accordance with the provisions under the Assam Police Act, 2007, Assam Police Manual and other government instructions/circulars.

The Assam Police Headquarters shall submit Action Taken Report accordingly within 40(forty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.50/2014

Md. Zamil Ahmed

-Versus-

SI Zakir Hussain, Dispur Police Station

Dist: Kamrup (M)

The complainant Md. Zamil Ahmed obtained a decree of divorce from the Court on 28.11.2013 against his wife Smt Dolly Ahmed. They had a minor son. After the divorce the wife took the minor son along with her and started living separately.

2. The complainant filed a complaint case in the court of CJM, Kamrup alleging that his divorced wife never allowed him to see his son Wasih Ahmed. He even suspected that his son was not alive or might have been sold to someone by his divorced wife. His complaint was sent to the Dispur PS whereupon a case, being Dispur PS Case No. 1018/14, was registered U/S 346 IPC.

3. The complainant's main grouse is that the I/O of the case took no step to trace out his son.

4. In our considered view, it is a dispute between the estranged couple over the custody and guardianship of their minor son and the police has been dragged unnecessarily into it. There is no case of serious misconduct/misconduct against the I/O or any police official of Dispur PS. The Commission, therefore, refrains from making the I/O accountable for serious misconduct or holding him liable to departmental action.

5. Before parting with the records, we have verified and found that the complainant's son Master Wasih Ahmed was born on 02.06.2003 and he was a minor boy of about 11(eleven) years on the date of filing the complaint case in the court of CJM, Kamrup. He is still a minor boy. The complainant, instead of pursuing the criminal case, is advised to approach the appropriate Civil Court/Forum for custody or guardianship of his son in accordance with law.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.64/2014*Md. Mansur Ali**-Versus-**Morigaon Police Station,**Dist. Morigaon*

Perused the complaint petition. Also perused the report dated 21.09.2014 along with copies of relevant records received from the SP, Morigaon.

2. The complainant's grievance is that the police took no action to arrest the accused persons although a case was registered on the basis of his FIR dated 16.02.2014.

3. The Commission has noticed considerable delay in completing the investigation. Some irregularities/lapses were also committed by the first I/O SI Utpal Kumar Nath. The investigation was, of course, completed at the initiative of the SP, Morigaon. As the charge-sheet has been submitted, the Commission would not like to proceed further or comment on the investigative details. Now it is for the Court to pass necessary orders and procure the presence of the absconding accused person/persons to proceed against them in accordance with the law.

4. The Commission finds no serious misconduct/misconduct against any police official of Morigaon PS in this case and hence recommends no departmental action.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.61/2013*Md. Abbas Ali**-Versus-*

*SI Nitul Ranghang, I/C Borbari Police OP,
Dist. Dibrugarh*

The complainant Abbas Ali, son of late Hamid Ali, a resident of Greenwood TE under PS Lahoal in the district of Dibrugarh lodged an FIR on 02.02.2013 with the I/C Borbari Police OP alleging that one Rehana Begum, daughter of late Sahidul Rahman and her two sons entered his shop by breaking open the backside wall and stole away construction materials/articles like cement, bricks, rods, belcha etc. His grievance is that the police took no step to recover the stolen articles and arrest the accused persons.

2. The delay of 4(four) days in registering the case, we do not find fault with the O/C, Dibrugarh Sadar PS inasmuch as he received the report from the Borbari OP only on 06.02.2013. It is the fault of the I/C Borbari OP, who instead of forwarding the FIR forthwith to the O/C concerned, ordered for an enquiry by SI Wazidur Rahman. The allegations made in the FIR prima facie disclosed commission of cognizable offence and as such it was incumbent upon the I/C Borbari OP to forward the FIR forthwith to the O/C for registration of a case. The I/C of Borbari OP, SI Nitul Ranghang committed serious lapse by not sending the FIR with promptitude and ordering an enquiry in the cognizable offence. The Assam Police Headquarters shall ask the I/C concerned to explain his conduct and, if his explanation is found unsatisfactory, take appropriate action in accordance with the existing rules. The Police Headquarters shall also cause counselling of the erring I/C through the SP concerned so that such illegality or lapse is not committed in future.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.56/2014

Shri Hemanta Deka

-Versus-

*SI Nilamoni Malakar & Others,
Noonmati PS, District Kamrup(M)*

We have perused the complaint petition. The gist of the complaint is thus. Two unemployed youths; Ajit Deka and Chandan Deka, happened to meet one Pulin Gogoi. The said Pulin Gogoi introduced himself as a CID officer. He also misrepresented that he had an 'excellent' tie with the Minister of Water Resources, Assam and he was capable to provide job to them. They paid a huge amount to the tune of Rs.5,90,000/- as demanded by Pulin Gogoi. He had handed down appointment letters to them but those were found to be fake ones. So, they asked him to return the money they paid. Pulin Gogoi called them to a particular place on 28.11.2013 at around 3.30 PM. On arrival, they parked their motorcycle outside a restaurant and went inside it along with Pulin Gogoi. Suddenly, a police team from Noonmati PS arrived there and took Ajit Deka and Chandan Deka into custody for having found/recovered *Gecko* lizard from their motorcycle parked outside the restaurant. The recovery of the *Gecko* lizard was a game plan and conspiracy of Pulin Gogoi hatched in connivance with SI Nilamoni Malakar of Noonmti PS for avoiding return of defrauded money.

The complainant Shri Hemanta Deka is the brother of Ajit Deka. He demands departmental enquiry against SI Nilamoni Malakar for causing illegal detention of the unemployed youths.

2. SI Nilamoni Malakar, I/O of the case and the arresting officer as well as the Inspector K.C. Rajbongshi, the then O/C of Noonmati PS are liable for causing illegal detention and for not following the procedures laid down in the Cr.PC. Accordingly, the Commission holds them accountable for serious misconduct under clause (d) of Explanation to Section 78(1) of the Assam Police Act, 2007 and recommends departmental proceeding against them. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Nilamoni Malakar, I/O of the case and the arresting officer and Inspector K.C. Rajbongshi, the then O/C of Noonmati PS providing them due opportunity to defend themselves in accordance with law. The Assam Police

Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.79/2013

Shri Hari Prasad Chouhan & another

-Versus-

SDPO Hojai and O/C, Kaki Police Station, Dist. Nagaon

Two farmers are before us. They claim that they are in possession of 24 Bighas of land out of which 10 Bighas are Touzibahi, over which they have been cultivating paddy corps. Their allegation is that when the corps were ready for harvesting, the SDPO, Hojai called them and ordered not to harvest the crops standing on the Touzibahi land as because he received a complaint from somebody. Their further allegation is that the O/C of Kaki PS demanded Rs.1,00,000/- from them over phone for harvesting the crops. The petitioners refused to pay the amount. Then the O/C instigated the opposite party to file a false theft case against them. In fact, as stated by the petitioners, a theft case was filed and the same is pending against them in the Court.

The petitioners met the SDPO, Hojai and apprised him the fact of filing of false case by the opposite party, namely Shri Jyotiranjana Nath, but the said SDPO, instead of extending help, threatened the petitioners not to enter the paddy field for harvesting the crops.

The basic allegation of the petitioners is that the police officers, by misusing their power, indulged in the act of extortion by way of demanding undue money from the innocent cultivators.

2. No case of serious misconduct is found against the police officials except the lapse in the investigation of the case. As the department has already initiated proceedings, the Commission would desire completion of the departmental proceeding in accordance with law and submission of report in due course.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.73/2014

Mustt. Bulbul Ara Begum

-Versus-

SI Kabir Singh Limbu, I/C, Nellie OP, Dist. Morigaon

The Complainant Mustt Bulbul Ara Begum of Nellie village under Morigaon District has brought allegation of committing serious misconduct by In-charge of Nellie OP. She complains that on 21.10.2014 at 09.30 AM, she was picked up by police personnel of Nellie OP from her residence in connection with theft of ATM Card of her sister Mustt Shakina Begum and withdrawal of an amount of Rs.1,20,000/- fraudulently without her knowledge. She further complains that the I/C of Nellie OP, Shri Kabir Singh Limbu demanded Rs.50,000/- from her to hush up the matter without registering a case. As she refused to pay the money, she was apprehended by police.

2. The I/C violated the provision under Section 160 CrPC by requiring the accused/petitioner Bulbul Ara Begum to appear at the police OP. He has also violated the provision under Sections 41 and 41A CrPC by way of detaining the accused/petitioner Bulbul Ara Begum in the OP. The record establishes that the accused/petitioner Bulbul Ara Begum was brought to OP through ASI S.R. Ingti and woman HG Binita Das at around 10.00 AM vide GDE No. 409 dated

21.10.2014 and allowed her to go at around 12.10 PM vide GDE No. 412 dated 21.10.2014. He asked the informant Shakina Begum and accused/petitioner Bulbul Ara Begum to compromise the matter. This is wholly unauthorized and illegal. Moreover, the calling of an accused to the OP without even commencing investigation is totally against the due process of law. The Commission, under the above facts and circumstances, unhesitatingly holds that SI Kabir Singh Limbu, I/C of Nellie OP committed serious misconduct within the meaning of Explanation (d) to Section 78(1) of the Assam Police Act, 2007. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Kabir Singh Limbu, I/C of Nellie OP providing him due opportunity to defend himself in accordance with law. The Assam Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 33/2013

Sri Hemen Prasad Dutta

-Versus-

SI Umakanta Bora, Dispur PS

Dist: Kamrup(M).

The complainant Sri Heman Prasad Dutta is aged about 55 years and an employee of PWD, Assam. His complaint is that on 29.05.2013 at about 9.00A.M, while he was cleaning his vehicle, one SI Umakanta Bora from Dispur PS along with 2(two) other Police personnel and a civilian Sri Nabajyoti Baruah of Jorhat, came to his house in a Gypsy vehicle and forcefully put him in the said vehicle without assigning any reason. He was allegedly handcuffed, slapped repeatedly and abused in filthy language by the said SI inside the vehicle. He was taken to Dispur State Dispensary for medical examination and

brought back to the PS where he was made to sit on a bench till 4.00 P.M. He has alleged that the SI Umakanta Bora and the civilian Sri Nabajyoti Baruah forced him to call his wife over phone demanding payment of Rs. 20,000/- (twenty thousand). His wife came to the PS and handed over the amount of Rs. 20,000/- (twenty thousand) to Sri Nabajyoti Baruah at around 3.30 PM and then only he was allowed to go home at around 4.00 PM. As stated in the complaint, the said SI, in addition to Rs. 20,000/- (twenty thousand) demanded payment of Rs. 30,000/- (thirty thousand) by 10.06.2013 failing which he warned the petitioner of serious consequences.

2. The SI Umakanta Bora, I/O of the case detained the petitioner from 12.15 PM to 3.25 PM of 29.05.2013 illegally and without due process of law. The Commission, therefore, holds that the SI Umakanta Bora committed serious misconduct within the meaning of Explanation (d) to Section 78(1) of the Assam Police Act, 2007. The Commission accordingly, recommends departmental action against the said SI Umakanta Bora, of Dispur PS. The DGP, Assam is directed to cause departmental proceeding against SI Umakanta Bora of Dispur PS providing him due opportunity to defend himself in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 80/2013

Musharraf Hussein Khandaker

-Versus-

Officer-in-charge, Dispur PS

Dist: Kamrup(M)

The brief of the complaint is that the petitioner, in order to deploy a heavy truck for boring a tube well, had closed the public drain, to ensure the movement of the vehicle into his compound. Sri Sita Nath Lahkar of the locality had instigated the neighbours to protest against the stoppage of flow of water in the drain, and demanded the work be stopped by physically assaulting the workers. On receiving a telephonic complaint, a police patrolling party arrived at the spot to quell the situation. They then brought the truck along with its driver to Dispur PS and kept both in detention till next morning, allegedly after payment of Rs. 5,000/-(five thousand) by the representative of the truck.

2. The petitioner has questioned why no action was taken against those persons responsible for inciting the neighbouring residents against him and physically assaulting of the truck workers. He also questioned as to whether he was entitled to police protection for carrying out the deep tube well boring.
3. We do not hold the O/C accountable for serious misconduct. However, the O/C had exceeded his brief and such action should be discouraged and restrained.
4. The Commission directs the Police Headquarters to issue necessary instruction(s) to the O/C concerned to behave and act in a fair and responsible manner in such situation in future.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.51/2013

Sri Ghanashyam Deka, Diphu Bar Association

-Versus-

ASI Ramesh Nath &

Sheikh Harun Bora, Hav-cum-Driver of Diphu PS

Dist: Karbi Anglong

We have perused the complaint petition filed by Sri Ghanashyam Deka for and on behalf of Diphu Bar Association espousing the cause of a fellow Advocate Sri Haren Ch. Saikia whose son, namely Jhankar Saikia laid victim in an attack by some unruly mob. The incident as narrated in the complaint took place on 25.06.2013 at around 5.30 PM while the advocate, Sri Haren Ch. Saikia accompanied by his son Jhankar Saikia, was travelling in an auto-rickshaw and a quarrel took place over the payment of fare. The auto driver allegedly attacked and assaulted the advocate and his son. The incident took place in presence of ASI Ramesh Nath and driver constable Harun Shiekh. The said police personnel, instead of giving protection, left the advocate and his son at the mercy of the attacking mob. As a result both of them sustained grievous injuries to their persons. They were taken to Diphu Civil Hospital from where Jhankar Saikia was shifted to Dispur Polyclinic at Guwahati where he succumbed to his injuries on 01.07.2013. The complainant, General Secretary of the Bar Association, alleged that there was inaction on the part of the police and the boy could have been saved had the police took timely action preventing the mob from assaulting the advocate and his son. The complainant has also alleged that inspite of an FIR being filed by the father of the deceased and a video footage being provided, the police took no action to arrest the culprits.

2. The Commission declines to accept the allegation that the police failed to take necessary steps in arresting the culprits. The case is now before the Court and the accused persons would be tried if any charge is framed against them. So, the Commission at this stage, does not want to make any comment on the merit of the case.

3. The Commission is expected to find out as to whether any police personnel is accountable for serious misconduct or misconduct as contemplated U/S 78 of the Assam Police Act, 2007. This aspect of the matter is under examination by the department and for this purpose the department has ordered departmental proceeding against 2(two) police officials as mentioned above. They have already been placed under suspension and the department has so far taken the appropriate step by way of initiating the departmental proceeding. The department has accepted the position that the said police officials have, *prima facie* committed misconduct. It, therefore, requires no further examination by this Commission, except monitoring of the departmental proceedings which are pending against 2(two) police officials. Hence, the Commission will monitor the

departmental proceedings. The Police Headquarters is directed to submit progress report on the DP from time to time till its conclusion.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

Suo Motu Case No.05/2015

OC, Noonmati Police Station & Others

This case has been registered suo moto by the Commission, based on a Newspaper report. The case relates to the alleged inhuman physical torture meted by police, resulting in death of an arrested accused, named Abu Taleb, in custody.

2. The Police Commissionerate overlooked the duties and responsibilities of the Officer-in-Charge of a Police Station as provided under Rule 33 of the Assam Police Manual (Part-V). Under the said rule, the O/C of a Police Station is responsible for the effective working and management of police subordinate to him, for the preservation of peace and for the prevention and detection of crime. In order to check crime, his first aim must be to obtain correct information about criminals, criminal classes, vagrant and wandering gangs residing in or passing through the police station, and either to have them watched effectively or to take such active measures against them as may become necessary and legal. At the relevant point of time, Inspector Himangshu Das was the O/C of Noonmati PS. As per GD entry No. 823 dated 25.01.2015, the arrested accused persons including Abu Taleb were sent for medical examination at 11.45 PM. The arrested persons who were sent for medical examination at MMCH were brought back to PS at 12.40 AM as recorded in the GD entry No. 825 dated 26.01.2015. On perusal of GD Entry No. 839 dated 26.01.2015, it is found that the accused Abu Taleb and Ismail Hussain were interrogated and having found them involved in the crime, arrested them at

11.05 AM. The medical report of the MMCH dated 26.01.2015 has not been furnished along with the DCP's report for perusal of this Commission. After producing the accused persons before the CJM, with the permission of the Court, they were brought to PS at 05.35 PM for further interrogation (vide GD entry No. 849 dated 26.01.2015). They were served meal at 08.30 PM (vide GD entry No. 855 dated 26.01.2015). The said GD entries were made by the Inspector Himangshu Das as the O/C of Noonmati PS. Thereafter, on 27.01.2015 (vide GD entry No. 864), at 12.15 AM (mid-night), the O/C Himangshu Das left the Police Station for his quarter giving the charge to SI N. Malakar. The arrested accused persons, including Abu Taleb were in the police lock-up. The O/C has not mentioned who conducted the further interrogation of Abu Taleb in the police custody. As an O/C, the Inspector Himangshu Das was to ensure that no physical torture was given to the arrested accused persons in the lock-up.

3. Although there is no material that the O/C himself interrogated the arrested accused, or no disclosure has been made as to who conducted the interrogation, it is obvious that as the O/C of the Police Station, he had the knowledge about the interrogation and the manner in which the interrogation was conducted. The O/C of the PS cannot be given a clean chit in a matter where an arrested person was admittedly interrogated and tortured in a dehumanizing manner causing death. The O/C cannot escape from his responsibility on ground of his absence at the scene of physical torture during interrogation. He is equally responsible and answerable like SI Nilamoni Malakar who was in the charge of phone duty, at the relevant point of time and placed under suspension. We fail to understand why the Police Commissionerate is distancing itself from roping Inspector Himangshu Das, O/C of Noonmati PS, who failed to protect the arrested person from being tortured to death. We also fail to understand how a free and fair enquiry could be conducted with Inspector Himangshu Das still serving as the O/C, who might in all possibility manipulate or destroy the relevant records or all incriminating materials against him and other police officials, involved in custodial torture. The said O/C, in our considered view, should be posted out forthwith. The Commission, therefore, directs the Police Headquarters to transfer the Inspector

Himangshu Das to a place outside the jurisdiction of Guwahati Commissionerate and take necessary steps to place him under suspension with immediate effect in the interest of smooth investigation.

4. The Commission also directs the Police Headquarters to hand over the investigation of the case to CID with relevant records with instruction that the investigation should be conducted by a senior Gazetted Officer of the CID and complete the investigation as expeditiously as possible within a period of 3(three) months.

5. The Police Headquarters shall submit the PR to this Commission within 15 (fifteen) days from the date of receipt of this order and also submit the ATR.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.76/2013

Shri Upendra Nath

-Versus-

OC, Jalukbari Police Station, Dist. Kamrup(M)

Perused the complaint petition dated 29.10.2013 filed by the petitioner Shri Upendra Nath. The petitioner has alleged that his son Shri Bhagya Nath was assaulted by his neighbours; Shri Tilak Haloi and Uttam Das, on 01.09.2013 at 2130 hours. The petitioner himself was also assaulted by Uttam Das's wife Smti. Alaka Das with a piece of bamboo. The injured Bhagya Nath was removed to Guwahati Medical College & Hospital (GMCH in short) in an Ambulance. The petitioner filed an FIR on 04.09.2013. His FIR was registered as Jalukbari PS Case No. 668/2013 under Sections 341/294/325/34 IPC. The case was endorsed to ASI Gajen Kumar Sinha of Maligaon OP Gosala who

commenced and completed the investigation. In the said FIR, Shri Tilak Haloi and Uttam Das were cited as named accused persons.

2. There is no basis to accept the allegation of the petitioner that the police took no step or failed to investigate the case registered on the basis of his FIR. The allegations made against ASI Prasanta Konwar having been found unsubstantiated by any material on record, the Commission has no reason to come to a conclusion that the said ASI committed any serious misconduct or misconduct within the meaning of Section 78 of the Assam Police Act, 2007. Hence, no order as to departmental action against him.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.18/2014

Smti Rakhee Das

-Versus-

OC, Fatasil Ambari Police Station, Dist. Kamrup(M)

The complainant is a housewife. Her grievance is that on 14.03.2014, she lodged a written complaint with the O/C, Fatasil Ambari PS informing that on 26.02.2014 at about 06.00 PM, while her husband was not at home, one Gautam Prasad Sahu (Shaw), introducing himself as a friend of her husband Shri Joydeb Das, tried to outrage her modesty while she was serving tea to him in the drawing room. She cried for help and her son who was present at home along with his friend came to the scene to save her. The complainant has alleged that the O/C of Fatasil Ambari PS refused to register a case on the basis of her said ejahar.

2. No case of serious misconduct as contemplated under Section 78 of the Assam Police Act, 2007 has been established. Hence, this complaint petition

stands disposed of without holding the O/C concerned or any police official accountable for serious misconduct and liable to departmental action.

3. It is, however, desired that the Assam Police Headquarters shall ensure that the investigation of the aforesaid PS Cases is conducted and completed as expeditiously as possible in accordance with law in a professional manner to gain the confidence of the people. The Commission desires that the Assam Police Headquarters would report the progress of the investigation and completion thereof.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.72/2014

Smti Hunmai Gogoi

-Versus-

OC, Tinsukia Police Station, Dist. Tinsukia

The petitioner states that her party engaged Faridul as a trainer in their handicraft centre. There was an agreement signed by the parties. In terms of the agreement, the petitioner party paid Rs.10,000/- each to Faridul as security deposit. Apart from the security deposit, they also paid Rs.97,000/- to Faridul as loan on his request and promise to return it by a certain date. The petitioner's allegation is that Faridul left the handicraft centre without returning the money he took from them. This led the petitioner to lodge a written FIR on 22.03.2014 with the O/C, Tinsukia PS. It was registered as Tinsukia PS Case No. 238/2014 under Sections 406/420 IPC against Faridul. The investigation of the case was entrusted to SI Umesh Bora.

2. In this complaint petition, the petitioner has alleged that the O/C took no step to expedite the investigation and arrest the accused Faridul. The O/C rather,

with mala fide intention, called the petitioner and her husband Mridul to the Thana and asked them to get the case compromised through him. They also alleged that the O/C demanded Rs.50,000/- from them. They refused to oblige the O/C and insisted on proper investigation and immediate arrest of the accused Faridul.

3. Ultimately, with the help of petitioner and her husband, the police arrested the accused Faridul on 10.10.2014 at 10.30 AM and brought to Tinsukia PS. On the same day, the O/C called the petitioner and her husband to the Thana and insisted upon them to compromise the case. On their refusal to compromise, the O/C released Faridul, although he was arrested in connection with a non-bailable offence, without any bail order from the Court. The O/C even instigated Faridul to lodge a false ejarah against the petitioner and her husband to serve his mala fide intention. The petitioner, therefore, demands necessary action against the O/C, Tinsukia PS for his alleged misconduct inasmuch as he, with mala fide intention, exerted pressure on the petitioner and her husband to compromise the case, released the accused Faridul in violation of the existing law and procedure and got an FIR lodged by Faridul against them.

4. The Commission does not hold the O/C and the I/O concerned accountable for any serious misconduct within the meaning of Section 78 of the Assam Police Act, 2007 and recommends no departmental action against them.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.31/2014

Shri Dilip Kumar Sengupta

-Versus-

*OC, Dibrugarh Police Station & others,
Dist. Dibrugarh*

Perused the complaint petition dated 09.05.2014. His allegation is that the FIR dated 06.04.2014 filed by him was not registered by the O/C, Dibrugarh PS. There was a total inaction on the part of the O/C, Dibrugarh PS, as well as the SP of Dibrugarh and the DIGP, Eastern Range, Jorhat.

2. Having considered the factual position and also the legal provisions under the CrPC, we are of the considered view that the O/C and for that matter the SP and the DIG, concerned committed no procedural mistake or serious misconduct in not registering a case. In this case, the O/C took action in accordance with law and no fault could be found in his action. No serious misconduct, as provided under Section 78 of the Assam Police Act, 2007, could be attributed to the O/C, Dibrugarh PS or the other higher police officials concerned. Accordingly, we do not recommend any departmental action against them.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.92/2013

Asian Human Rights Commission

-Versus-

Tingalibam Outpost, Sonari, District Sivasagar

The Commission has been informed by the SP,CID, Assam, Guwahati vide his letter dated 23.03.2015 under Memo No. CID/Cell-II(A)/14-2013/768 that “*the NHRC had also sought a report on the same case based on the same content of the complaint vide NHRC Case No. 389/3/15/2013/GRP-II, 3rd March, 2014 and accordingly a detail report was sent.*”

2. The Commission having come to know that a similar matter is being examined by the NHRC and in view of statutory bar as provided under Section 88(1) of the Assam Police Act, 2007, decides not to proceed further with this case. Accordingly, this petition stands closed.

The petitioner is advised to pursue the case with the NHRC.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.32/2014*Sri Apurba Saikia**-versus-**SI Chandan Milli, Tinsukia PS**Dist: Tinsukia.*

The complaint in brief is that on 13.04.2013 at about 7.00 PM, one Papu Hussain along with his associates forcibly entered the petitioner's business premises and caused "*substantial damage and destruction*" to his business belongings including 2(two) computer sets, one Canon Xerox machine and looted away cash of amount of Rs. 20,000/- from the cash box. On his resistance, the culprits attempted to kill the petitioner and gave him a threat to his life. He called one Saikia, SI of Police, Tinsukia PS on his mobile phone No. 73995-88439 and reported the incident. A "*rider party*" police men came to his shop and advised him to lodge an FIR. Accordingly, the petitioner lodged an FIR at around 9.00 PM. It was registered as Tinsukia PS Case No. 249/13 U/S 447/427/506/379 IPC. The O/C Juga Kanta Bora (Inspector) endorsed the case to SI Chandan Milli for investigation. The same day, at around 10.30 PM, the said SI Chandan Milli came to petitioner's residence and misbehaved with him. Thereafter, the SI Chandan Milli picked him up and brought to Tinsukia Thana. He was detained the whole night without recording any ground of arrest. The next day, he was forwarded to judicial custody. He came out on bail on 30.04.2013. It is alleged that SI Chandan Milli demanded Rs. 5,000/- from his wife. His wife, somehow, managed and paid Rs. 1,000/- to SI Chandan Milli.

2. The petitioner Sri Apurba Saikia was detained illegally in the Thana in violation of provision U/S 41 (1) (b) (ii) Cr.PC and Rule 199 (c) of Assam

Police Manual, (Pt.V) for which SI Chandan Milli is primarily responsible as he picked up the petitioner and brought to the PS leading to illegal detention. The action of the said SI falls under *serious misconduct* for which he is liable to departmental action.

3. The Inspector Juga Kanta Bora, O/C of Tinsukia PS is also responsible for illegal detention of the petitioner inasmuch as he failed to guide and instruct the I/O SI Chandan Milli. Being the O/C of the PS, under Rule 33 of the Assam Police Manual (Pt. V), he is responsible for the effective working and management of the police subordinate to him within the limits of his jurisdiction. In order to check crime, his first aim must be to obtain correct information about criminals, criminal classes, vagrants and wandering gangs residing in or passing through the PS, and either to have them watched effectively or to take such active measures against them as may become necessary and legal. The O/C concerned has failed in discharging his duties and responsibilities which led to illegal detention of the petitioner. Therefore, Inspector Juga Kanta Bora committed serious misconduct and he is liable to departmental action.

4. In view of the above discussion and finding, the Commission recommends departmental action/proceeding against the SI Chandan Milli and Inspector Juga Kanta Bora of Tinsukia PS for commission of serious misconduct within the meaning of Explanation (d) to Section 78 (1) of the Assam Police Act, 2007. The Commission directs the Director General of Police, Assam, to cause Departmental Proceeding against the O/C Inspector Juga Kanta Bora and SI Chandan Milli of Tinsukia PS providing them due opportunity of defend themselves in accordance with law.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.7/2015*Shri Jan Das**-Versus-**OC, Duliajan Police Station, Dist. Dibrugarh*

The short fact leading to filing of this complaint petition by Shri Jan Das, President of Arakshan Bachao Sanggharsh Samittee, Assam, is that one Smti Tripti Dhar, daughter of late L.K. Dutta of Tinsukia, got herself employed as Asstt Nursing Officer in the establishment of Oil India at Duliajan on the strength of a caste certificate obtained by her misrepresenting herself as a member of the scheduled caste community. In this regard, the petitioner lodged a complaint with the O/C of Duliajan PS on 17.11.2014. The petitioner's grievance is that his aforesaid FIR has not been registered and no action has been taken so far. He has alleged that when he called on the Second Officer Shri P.K. Das at Duliajan PS, he was told that the police had no time to investigate into the matter.

2. This complaint petition stands closed with direction to the Police Headquarters to submit progress report on the departmental proceeding already initiated against SI Prafulla Kumar Das from time to time till its logical conclusion. The DGP, Assam is also directed to draw or cause drawal of DP against Inspector Sanjib Kumar Baruah within a period of 3(three) months from today and submit ATR in respect of departmental proceeding to be drawn up against the said Inspector.

3. The petitioner is advised to file a fresh FIR as suggested by the SP, if it is not filed, with the O/C, Duliajan PS, immediately. He is also advised to file an application before the authority who issued the caste certificate in question, for making an effective enquiry and cancel the disputed caste certificate if it is found to be fake or issued due to misrepresentation of the receiver.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

period of time, cannot save his position. The mala fide intention of SI Jadav Sarma is apparent in his untenable explanation given for non-registration of case. No good reason has been shown by him for not recording the receipt of the CR Case from the Court and keeping the record of the CR Case with him without registering a case. It is apparent that he has attempted to save himself by offering a false explanation that the CR record was misfiled and remained untraced. With such irresponsible conduct of the SI Jadav Sarma, although no cogent proof has been produced, one can normally be tempted to believe that he indeed demanded and took Rs.1,000/- from the petitioner for registering a case.

5. We do not offer any firm opinion on this allegation. Yet we must say that the SP found sufficient material to proceed against the SI Jadav Sarma for his proven misconduct. **We, however, wonder, what prevented him from taking appropriate action against the said SI, as authorized under the Assam Police Manual. The Police Headquarters should call for an explanation and pull up the SP, South Salmara Police District for not taking any action against the said SI for his negligence and dereliction of duty until he received orders and direction from the higher authority.** In view of the above discussion and finding, the Commission holds the SI Jadav Sarma accountable for serious misconduct under explanation (g) to Section 78(1) of the Assam Police Act, 2007 and recommends initiation of departmental proceedings against him. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceedings against SI Jadav Sarma, now posted at Dhubri Sadar PS, providing him due opportunity to defend himself in accordance with law. The Police Headquarters shall intimate the result of the departmental proceedings to this Commission in due course of time

6. However, the DGP, Assam, Guwahati is provided an opportunity to represent and file additional fact/facts, which could not be brought to Commission's notice, within a period of 30(thirty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

Smti. Nellie Ahmed Tanweer - Member

SPAC Case No.87/2013

Md. Armanul Haque Bhuyan

-Versus-

SI Pranab Gogoi, North Lakhimpur PS

Dist: North Lakhimpur

The complainant Armanul Haque Bhuyan is a practising advocate of North Lakhimpur. We have perused his complaint petition dated 10.10.2013. His allegation is that the SI Pranab Gogoi who was in the drunken state, “severely” assaulted him inside the North Lakhimpur PS on 11.05.2013.

2. The women SI and I/O of the case, Basanti Hazarika and SI Pranab Gogoi cannot be held accountable for committing serious misconduct and made liable to departmental action/proceeding. No case of serious misconduct, as emphasized under Section 78 of the Assam Police Act, 2007, is made out. Accordingly, the present complaint petition stands closed without any order of accountability for committing serious misconduct and liability to departmental action against any Police officer.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.45/2014

Md. Abdul Rouf

-Versus-

OC, Juria Police Station, Dist. Nagaon

The material facts in this case, in short, are that the petitioner's son Harun Rashid was assaulted on 01.05.2014 at 06.30 AM by a group of 15(fifteen) persons. He sustained grievous injuries and succumbed to his injuries on 07.05.2014 at Dispur Hospital. A written FIR was filed in connection with the said incident, which was registered as Juria PS Case No. 128/2014 under Sections 120(B)/147/148/149/341/326/307/302 IPC. In the complaint petition, the petitioner has raised a grievance that although the names of the accused persons involved in the crime were furnished, the police did not arrest all the named accused and remained satisfied with the arrest of few of them. The police did not seize the crime weapons used by the offenders and took no step to record the dying declaration of the victim. Further grievance of the petitioner is that the I/O did not thoroughly interrogate the arrested accused persons and took no step to arrest the remaining FIR named accused persons.

2. We do not want to hold the O/C and the I/O concerned accountable for any misconduct or make them liable to departmental action/proceeding.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.25/2014

Smt Suraiya Begum

-Versus-

*SI Purnanda Gogoi, O/C of Dibrugarh Police Station,
Dist. Dibrugarh*

We have examined the petitioner's allegation of non-registration of her FIR lodged on 28.04.2014.

2. The Commission rejects the petitioner's allegation and holds that no serious misconduct has been committed by the O/C of Dibrugarh PS and the I/O of the case.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.70/2014*Shri Haren Bora**-Versus-**OC, Ghiladhari Police Station, Dist. Golaghat*

Facts in brief are that the petitioner, as Secretary of Athkhelia Chatra Mukti Sangram Samiti, lodged two FIRs on 22.09.2014 with the O/C of Golaghat PS. It is alleged that one of the said FIRs was not registered. The other one was registered under an inappropriate Section of the IPC. As stated in this petition, one Dilip Saikia, Executive Member of Borholla Anchalik Krishak Mukti Sangram Samiti, also filed two FIRs on 22.09.2014. The O/C of Golaghat PS allegedly repeated the same. The petitioner claims that he apprised the SP, Golaghat in writing, on 24.09.2014, but no action was taken. Hence, he approached the CJM, Golaghat under Section 156(3) CrPC, with a prayer for directing the O/C of Ghiladhari PS to register both cases and under appropriate sections of law. Entertaining the said applications, the learned Judicial Magistrate, First Class, Golaghat vide order dated 05.11.2014 passed in GR Case No. 1722/2014 and GR Case No. 1723/2014 directed the I/O to show cause as to why he did not register one FIR and also directed the O/C, Ghiladhari PS to register the cases based on the FIRs submitted by the informants. In compliance to Court's order, the O/C registered the Ghiladhari PS Case Nos. 93/2014 and 94/2014.

2. The Commission holds SI Prabin Saikia, who was holding the charge of O/C, Ghiladhari PS at the relevant point of time, accountable under Explanation (g) of Section 78(1) of the Assam Police Act, 2007 for committing serious misconduct due to his failure to register all cases based on the FIRs lodged by the present petitioner and the informant Shri Dilip Saikia. It is recommended that the **Police Headquarters shall initiate departmental**

proceeding against SI Prabin Saikia providing him due opportunity to defend himself in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

3. As regards allegation of failure of the O/C in inserting the offences under Sections 120(B)/409 IPC, **the Commission would like to state that the investigating agency takes steps for adding relevant Sections of law by application to the appropriate Court.**

4. As regards the alleged inaction on the part of the SP in connection with applications made by the informants under Section 156(3) CrPC, we have found on record that Shri P.P. Singh, IPS joined as SP of Golaghat only on 17.09.2014 (evening); just 7(seven) days before the petitions were filed and got embroiled in the serious law and order situation in Assam-Nagaland Border prevailing. In view of the above, the Commission does not want to attribute serious misconduct on the SP although he failed to comply with the statutory duty cast on him under the aforesaid Section of the CrPC. Considering the serious law and order situation prevailing at the relevant point of time in the Assam-Nagaland Border, the Commission takes a lenient view and recommends the Police Headquarters to issue “Written Warning” to Shri P.P. Singh, IPS, SP of Golaghat.

5. However, the DGP, Assam, Guwahati is provided an opportunity to represent and file additional fact/facts, which could not be brought to Commission’s notice, within a period of 30(thirty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

SPAC Case No.54/2014

Musstt Hasina Khatun

-Versus-

*Juria Police Station**Dist: Nagaon.*

The petitioner's grievance is that the police, though registered her FIR, did not visit the place of occurrence to record the statement of the witnesses. Nor did they take any appropriate action against the accused persons. The I/O, as alleged by the petitioner, pressurized her and held out threat to compromise the case with the accused persons.

2. The Commission comes to a conclusion that the petitioner failed to establish the case of serious misconduct against the O/C and the I/O concerned. The complaint petition accordingly, stands closed without any recommendation for departmental action against any police officer.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.48/2014*Md. Jalal Uddin**-Versus-**SI Lankeswar Sarmah, I/C, Goroimari OP, Kamrup(R)*

Complaint is dated 02.07.2014. The main allegation is that the complainant's FIR dated 20.01.2014 lodged with the I/C, Goroimari OP was not registered and no investigation was made. After registering a case, the Commission called for report from the SP, Kamrup(R). An enquiry was made by Sri Padmadhar Chetia, APS, Dy.SP(HQ), Kamrup, who submitted a report to the SP confirming the fact that no case was registered in connection with the alleged incident.

The SP, Kamrup, vide his letter dated 16.08.2014, intimated that on the basis of the Dy.SP's report, a departmental proceeding has already been initiated against SI Lankeswar Sarmah, I/C, Goroimari PS vide DP No.8 dated 20.07.2014 for not registering the case.

In view of the above position, this case stands closed. The SP, Kamrup, shall intimate the final result of the departmental proceeding to this Commission in due course.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.18/2015

Shri Jatin Hazarika

-Versus-

*ASI A.K. Dosad & HC Shiva Pd. Nath
of Mangaldai Police Station, Dist. Darrang*

We have perused and considered the complaint petition and the SP Darrang's report dated 29.04.2015 along with the records as made available to the Commission.

2. There is a dispute between the parties claiming right, title and possession over a plot of Sarkari land. The parties have been engaging themselves in legal battle in the Civil Courts at Mangldai. The rival party has filed a Second Appeal, being RSA No. 151/2013, in the Hon'ble High Court which is pending for disposal. It is purely a civil dispute. However, the police has registered the FIR and commenced investigation. There is no case of serious misconduct.

3. Since the matter is subjudiced in the Court of law and there exists a statutory bar under proviso to Section 88(1) of the Assam Police Act, 2007 on entertaining a complaint if the subject matter of the complaint is under examination by any other Commission or Court, we are disinclined to proceed

further with this case. In view of this legal bar, it is deemed proper to close the proceedings. It is accordingly closed. The complaint petitioner is advised to proceed with the court case.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.34/2013

Shri Dhananjay Das

-Versus-

OC, Patacharkuchi Police Station & Others, Dist. Barpeta

An widow allegedly fell victim of gang rape in presence of her two minor children on the night of 10.04.2013. The present petitioner, being the Headman of the village, claims that he verbally informed the police on the 3rd day of the said incident. The petitioner, *inter alia*, alleged that the SI Binod Barman, O/C of Patacharkuchi PS and SI Anil Sarma, I/C of Baghmara OP, despite being so informed about the incident, did not register a case until they received a formal written ejahar after about 20(twenty) days. The village Headman also alleged that the I/O of the case Shri Sarat Boro superficially investigated the case with *mala fide* intention to shield the culprits involved.

2. As directed by the Commission, the matter was inquired into by Shri Surendra Kumar, IPS, DIG of Police, WR, Assam, Bongaigaon, who submitted a detailed report on 05.07.2013. In the said report it has been stated that Shri Dhananjay Das, Gaonburah of Akaya village informed the Baghmara OP about the crime on 11.04.2013 and one ASI visited the place of occurrence and took necessary steps. Having found that the SI Anil Sarma, I/C of Baghmara OP and ASI Sarat Chandra Boro, I/O of the case committed misconduct, the department had, of their own, initiated departmental proceeding against them which had already culminated into awarding of punishment of stoppage of one annual

increment without cumulative effect and transfer from their present place of posting.

3. The Commission examined Shri David R. Neingaite, APS, SDPO, Bajali on 22.08.2014. In his signed statement, he has stated amongst other that the investigation of Patacharkuchi PS Case No. 151/2013 has been completed and a charge-sheet has already been submitted against all the FIR named accused persons under Sections 457/376/109/34 IPC. He also stated that the accused persons were arrested by the I/O ASI Sarat Boro on 22.05.2013 and enlarged on bail as per Court's order.

4. With the submission of charge-sheet, the matter is now pending in the court of law for trial and disposal.

5. As regards the misconduct committed by the police officers concerned, the department has already taken appropriate steps by way of initiating departmental proceeding which ended with awarding of major punishment as indicated above. In this regard, the Police Headquarters have submitted a status report vide their letter No. SPAC/APHQRs/34/2013/163 dated 22.04.2015. The Commission has accepted the said status report and conveyed the same to the DGP, Assam vide letter No. SPAC/C/34/2013/42 dated 12.05.2015.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.10/2015

Smt Tulumoni Boruah(Bordoloi)

-Versus-

OC, Dhemaji Police Station, Dist. Dhemaji

The petitioner, Smt Tulumoni Baruah (Bordoloi), a married woman with two sons (the elder one being aged 16 years) lodged an FIR on 29.12.2014 against her husband Krishna Kanta Baruah. She complained that she has been

subjected to physical and mental torture by her husband, ever since he had developed illicit relationship with a lady of the village for last 8/9 months. The police, as alleged by her, has not registered her FIR, nor taken any action till she filed the present petition before this Commission.

2. We are of the considered view that no useful purpose would be served if we proceed further with this case. Accordingly, we close this complaint petition without holding any police officer accountable for serious misconduct.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.55/2014

Abdur Rahman

-Versus-

OC, Juria Police Station, Dist. Nagaon

This case is about alleged misappropriation of public fund and non-payment of amount to a lady which she was entitled to at the time of delivery of a child in the hospital under a Govt. Scheme known as **Janani Suraksha Yojana**.

2. The complainant is stated to be an RTI activist and a social worker. He has taken up the case of one Runa Laila. He filed a written ejahar on 18.12.2013 against some medical officers and staff and Asha Karmi who are responsible for implementation of the above Govt. Scheme. The FIR was registered as Juria PS Case No. 367/2013 under Sections 406/409/420/34 IPC. The complainant has alleged that there is a total inaction inasmuch as the police did not visit the place of occurrence and did not arrest the accused persons.

3. Having found that the police investigated the case and submitted the charge-sheet, we are not prepared to accept the allegation of police inaction. We

find no truth in the petitioner's allegations and accordingly we close this petition.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 66/2014

Khoimuddin SK and another

-Versus-

OC, Dhubri Police Station, Dist. Dhubri

Facts in brief are that a married woman, aged about 25 years with two minor children, was allegedly killed by her husband and in-laws. Her dead body was allegedly hung inside the house. The incident took place on 27.07.2013 at 3/3.30 PM. A co-villager, by filing a written FIR, informed the I/C, Dharamsala Police Watch Post about the incident the same day at about 4.30 PM. The said I/C forwarded the FIR to the O/C, Dhubri PS. He also started making enquiry. The I/C also visited the place of occurrence. On receipt of the FIR, the O/C, Dhubri PS registered it as a UD Case the same day, i.e. 27.07.2013.

2. The mother of the deceased filed an ejahar with the O/C, Dhubri PS on the next day of the incident, i.e. 28.07.2013 alleging that her daughter was killed by her husband and in-laws for not being able to meet the dowry demand and her dead body was hung inside the house to make out a case of suicide. Her FIR was registered as Dhubri PS Case No. 929/14 under Sections 498(A)/302/34 IPC. We have perused the complaint petition. The complainants have demanded proper investigation treating it as a **“Dowry Death”** case under Section 304(B) IPC and not as a simple murder case under Sections 302/498(A) IPC.

3. We have also perused the detailed report as well as the relevant records as made available by the SP, Dhubri vide his communication dated 05.06.2015. The records reveal that the case was investigated by SI Ramayan Choudhury, I/C of the Police Watch Post, without delay and took all steps as required under the law. It is reported that during enquiry, the accused/husband of the deceased was arrested and on completion of investigation, the police submitted the charge-sheet vide CS No. 511/2014 dated 23.11.2014 under Sections 498(A)/302 IPC.

4. The case is now pending in the Court for disposal in accordance with law. Insertion of Section 304(B) IPC in the charge-sheet against the accused as demanded by the complainants, is not in the domain of this Commission. We, therefore, refrain from passing any order to that effect. The allegation of police inaction vis-a-vis misconduct is not established. So, we pass no order as to serious misconduct or misconduct against any police officer. Accordingly, this complaint petition stands rejected and closed. The complainants may take legal course in the Court, if so advised, for insertion of Section 304(B) IPC against the accused persons.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.76/2014

Smt. Babita Das

-Versus-

OC, Satgaon Police Station, Dist. Kamrup(M)

The petitioner has alleged that her biological father has been committing rape on her for last three years with the help of her step-mother. She could not

disclose it due to threat held out by her father to kill her brother and sister. Being disgusted, she got married to a man. Even after the marriage, her father has been disturbing her. She ultimately lodged a written FIR on 06.12.2014 with the O/C Satgaon PS. The petitioner has alleged that the police took no action on her FIR. Hence she filed the present petition seeking justice from this Commission.

2. We do not hold any police officer accountable for serious misconduct or make any one of them liable to departmental action. This petition accordingly stands closed.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.15/2015

Shri Pandit Sanjib Narayan Dass

-Versus-

I/C, Simultapu OP under Gosaigaon PS, Dist. Kokrajhar

The Complainant, a Journalist by profession, as stated in his petition; left Guwahati on 09.01.2015 accompanied by two young men and two PSOs, in a Tata Safari vehicle with a mission to visit and see the conditions of the inmates sheltering in the relief camps set up by Govt., in the fallout of a communal clash, that took place in Kokrajhar district. He visited the Srirampur Check Gate for collecting local news from the people sheltering in the camps. He alleged that Shri Pranjit Lahkar, I/C of Simultapu police OP assaulted him 'both physically and mentally' in presence of his PSOs and took away his Tata Safari vehicle bearing registration No. AS01 AX-4366 and looted all his belongings. He also alleged that the police kept him in the lock-up on 10.01.2015 and sent to jail hajot at Kokrajhar till 0500 PM of 13.02.2015. He was released on bail,

as per order of the Hon'ble Gauhati High Court. The grievance of the Complainant is that the police detained him on some false allegations and he should be suitably compensated by the State.

2. We decline to accept the complainant's allegation and have not found that the police officials concerned have committed any misconduct and the arrest of the complainant and the seizure of materials were done as per the law. This petition accordingly stands closed.

3. We decline to impose fine on the complainant for making vexatious and frivolous allegations against the police officials, as provided under Section 80 of the Assam Police Act, 2007, but we caution the Journalist complainant not to venture to file any false case in future and behave under the strict ethics of journalism and as a good citizen.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.52/2014

Jai Prakash Singh

-Versus-

Officer-in-Charge, Basistha PS, Dist. Kamrup(M)

The complainant has instituted a Title Suit being TS Case No. 241/2014 in the Court of Civil Judge No.2, Kamrup at Guwahati against his rival party. The aforesaid suit is still pending for disposal. The complainant's grievance is that the police is not helping him to evict the trespassers/land grabbers. He has disclosed this fact while the Commission was hearing him in person on 15.06.2015. The complainant further disclosed that he had approached the Assam Human Rights Commission also for the same matter. He even furnished a copy the order dated 23.12.2014 passed by the AHRC in case No. 1084/24/14-

15/80. On perusal of the said order we have found that the AHRC declined to proceed with the case as the matter was **“a civil dispute in nature.”**

2. This Commission is also of the view that the matter involves a civil dispute between the parties over a plot of land for which the Title Suit is pending in the civil Court. Besides, the Commission, under proviso to Section 88(1) of the Assam Police Act, 2007, is barred to examine a case, the subject matter of which is being examined by any other Commission or Court. In view of the above, the Commission deems it proper not to proceed further with this case and close it at this stage. Accordingly this case is closed.

Inform the parties concerned accordingly.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.41/2013

Inderpal Kaur

-Versus-

Officer-in-Charge, Basistha PS, Dist. Kamrup(M)

In the course of hearing, it is found that the present petitioner, before filing the instant complaint petition, approached the National Human Rights Commission, which was registered as Case No. 243/3/9/2013. The National Human Rights Commission vide its order dated 11.06.2015 closed the matter holding that the allegations levelled by the complainant could not be substantiated. Further, it is found that the complainant's case pertaining to custodial torture is still pending in the Court of SDJM(S), Kamrup, Guwahati. The accused police officer approached the Hon'ble Gauhati High Court by filing an application for quashing the said criminal proceeding which is pending in the Court of SDJM at Guwahati and the same has been dismissed by the

Hon'ble Gauhati High Court vide an elaborate Judgment & Order dated 05.06.2015 passed in Crl. Petition No. 516/2014.

2. Having found that the matter is under examination of a competent Court of law, the Commission declines to proceed further. Moreover, the Commission, under the proviso to Section 88(1) of the Assam Police Act, 2007, is barred to examine a case the subject matter of which is being examined by any other Commission or Court. In view of the above, this complaint petition stands closed. The complainant is advised to pursue the pending criminal case in the Court of SDJM(S), Kamrup, Guwahati.

Inform the parties accordingly.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.30/2015

Shri Arup Chauhan

-Versus-

OC, Bakalia Ghat Police Station, Dist. Karbi Anglong

The petitioner has a two-fold grievances. First, is that the police did not register his written FIR dated 06.03.2015, lodged with the O/C Bakalia Ghat PS. The second is that the police registered his second FIR, dated 08.03.2015, as Bakalia Ghat PS Case No. 10/2015 under Sections 147/148/149/326/379/427/506 IPC. They however failed to provide him protection against the criminal act of the accused persons.

2. We do not find any case of police inaction or serious misconduct in this case. Accordingly it is closed. There shall be no order of departmental action against any police officer.

3. The Police Headquarters are directed to see that the investigation of the Bakalia Ghat PS case No. 10/2015 is completed soon and returned in FF in accordance with the existing rules.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.24/2014

Shri Prasanta Gogoi

-Versus-

OC, Diliajan Police Station, Dist. Dibrugarh

The petitioner was implicated in Duliajan PS Case No. 46/2014 under Sections 365/394/34 IPC based on a written FIR dated 09.02.2014 filed by one Faqrul Islam. He claims that initially the First Informant did not name any person as an accused person in the said FIR. He further claims that the First Informant interpolated the FIR by inserting the last sentences therein and naming the present petitioner and two others as accused persons. It was, according to the petitioner, a “**spurious**” insertion and it was done with *mala fide* intention.

2. The petitioner, apprehending arrest and police harassment, filed a petition for pre-arrest bail and obtained an interim order from the Hon’ble Gauhati High Court on 07.04.2014. He alleges that the police, during pendency of bail petition, intimidated and demanded “**ransom**” from all the accused persons whose names were later inserted spuriously in the FIR.

3. No fault could be attributed if the I/O takes steps for arrest of the accused persons after collecting materials against him/them. In any case, we are not convinced that the First Informant interpolated the FIR as alleged by the petitioner.

4. We hold that there is no truth in the allegations made by the petitioner and accordingly we close this complaint petition without any order as to serious misconduct and departmental proceeding against any police officer.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.05/2014

Shri Jay Prakash Yadav

-Versus-

Shri Raunak Ali Hazarika, IPS

SP, Guwahati GRPS.

Dist: Kamrup(M).

Perused the additional facts and views of the Police Headquarters as furnished vide their letter No. SPAC/APHQRs/05/2014/163 dated 18.06.2015.

The Commission, while passing the order dated 27.03.2015 in SPAC Case No. 05/2014, did not recommend any departmental action or proceeding against the officers concerned. However, the Police Headquarters was given an opportunity to furnish additional facts and views as the Commission made certain remarks/observations borne on record against Sri Raunak Ali Hazarika, IPS, SP Guwahati, GRPS.

Perused and considered the representation dated 29.05.2015 submitted by Sri Raunak Ali Hazarika, IPS which was forwarded by Joint Commissioner of Police, Guwahati vide communication dated 09.06.2015 to the Police Headquarters. The officer, except giving the details of criminal antecedent/background of the complainant Sri Jay Prakash Yadav, has furnished no valid reason why the adverse remarks/observations made by the Commission against him should be expunged; nor has he denied that the said remarks/observations are not borne on record.

The additional facts and views as furnished by the Police Commissionerate through the Police Headquarters do not merit recalling of the Commission's order or expunging the remarks/observations made by the Commission in the aforesaid order against the officer concerned.

The Commission, accordingly, makes its above order dated 27.03.2015 absolute. The matter finally stands closed.

The Police Headquarters shall submit ATR within 30(thirty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.75/2014

Mustt. Rekhamoni Begum

-Versus-

O/C, Laharighat Police Station, Dist. Morigaon

This complaint is about alleged non-registration of FIR and inaction of police in investigating the cases.

2. The facts in brief are that an altercation took place on 18.12.2013, between Mustt Rekhamoni Begum and Mustt Asma Begum. Asma Begum allegedly assaulted the former. Sahidul Rahman, husband of Asma Begum, in turn assaulted Md. Ilyas Ali, husband of the complainant, with an iron rod causing him grievous injury. The persons involved in the altercation and physical clash are related to each other. In this regard, Rekhamoni Begum lodged an FIR, on 16.01.2014, with the O/C, Laharighat PS. She stated that she received no response from the O/C nor was her FIR registered. She, therefore, approached the Addl.SP(HQ), Morigaon on 27.02.2014 with a copy of her FIR, dated 16.01.2014. On the body of the FIR, the Addl.SP asked the O/C,

Laharighat PS to “**enquire into the matter and take appropriate lawful action immediately.**” It is alleged that the O/C, even after such order made by the Addl.SP, did not register any case. Due to inaction of the police, the accused persons were moving freely and threatening the petitioner. The petitioner was then compelled to file a complaint case on 26.05.2014, being CR No. 546/2014, in the Court of learned CJM, Morigaon. The learned CJM, with an endorsement dated 26.05.2014, forwarded the complainant’s petition to the O/C, Laharighat PS, for investigation after registering a case and with directions to submit a report. The O/C, Laharighat PS, on receipt of the complaint petition forwarded by the CJM, registered a case on 02.08.2014, being Laharighat PS case No. 250/2014 under Sections 447/326/307/502/34 IPC. He asked ASI Mozamil Hazarika to take preliminary steps and entrusted SI SP Kakati to investigate the case.

3. SI Roushan Islam, the then O/C of Laharighat PS failed to register the complaint dated 26.05.2014 received from the Court of CJM, Morigaon in promptitude. He registered the case after a delay of 66(sixty-six) days from the date of receipt of the complaint from the CJM’s Court. We, therefore, hold him accountable for committing serious misconduct under Section 78(1) of the Assam Police Act, 2007 and recommend initiation of departmental proceeding against him. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Roushan Islam (now Inspector), the then O/C of Laharighat PS providing him due opportunity to defend himself in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

4. It is crystal clear that the complainant lodged a CR Case with the learned CJM, Morigaon on 26.05.2014, and this was forwarded to O/C Laharighat PS the same day. The case was received on 27.05.2014 by the O/C as per PS records. The SP at the behest of the Commission made an enquiry prior to sending a report on the entire issue. It is not understood as to why the SP failed to get the PS records checked properly to establish whether any case was received by the PS from the Court or not and if it was received the date of such receipt.

5. The Commission, therefore, would like to place it on record that it could not appreciate the casual attitude of the SP and directs the DGP, Assam to issue a stern warning in writing to the officers concerned.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.20/2013

Smt Makani Baruah

-Versus-

OC, Mangaldai Police Station, Dist. Darrang

The petitioner filed two applications before this Commission on 03.05.2013. The subject-matter of both the applications being similar, we have tagged and proposed to dispose them of together by this common order.

2. We have perused the applications. The petitioner claims that she filed two FIRs in connection with alleged incidents of attack and assault on herself and her husband on two occasions by Shri Lakhi Kumar Saharia and six others. Her grievance is that the police took no action in connection with her FIRs. The police, as alleged by her, were shielding the culprits.

3. Mahammad Hussain, the then O/C of Mangaldai PS committed serious misconduct by misplacing the FIR. He left no instruction with the 2nd Officer about the said FIR. The 2nd Officer, however, found the FIR and got it registered after a delay of 11(eleven) days. For this delay, the 2nd Officer is not to blame, rather he should be praised. The O/C concerned is squarely responsible and blamable for the delay in registering the FIR. The conduct of the then O/C is not only unbecoming of a responsible police officer but also a serious dereliction of duty within the meaning of Section 98(a)(b) of the Assam Police Act, 2007 inasmuch as there is a willful breach and negligence on his part in following the legal provision, procedure, rules and regulations applicable to members of the police service and failure on his part to register the FIR as required under Section 154 of the CrPC. The Commission, therefore, holds the Inspector Mahammad Hussain, the then O/C of Mangaldai PS (now promoted to

Dy.SP) accountable for serious misconduct and makes him liable to departmental proceeding under Section 78(1) of the Assam Police Act, 2007. The Commissioner to the Govt. of Assam, Home Department is directed to cause drawal of departmental proceeding against Inspector Mahammad Hussain, the then O/C of Mangaldai PS (now Dy.SP) providing him due opportunity to defend himself in accordance with law. The Govt. shall intimate the result of the departmental proceeding to this Commission in due course of time.

4. We are also of the opinion that the conduct of the then O/C concerned amounted to disobeying the direction of law with intent to save person from punishment or property from forfeiture, within the meaning of Section 217 IPC. The said officer Mahammad Hussain, the then O/C is liable to be prosecuted under Section 217 IPC. The Commission, therefore, directs the DGP, Assam to cause lodging of FIR against the said officer to prosecute him under Section 217 IPC and Section 98 of the Assam Police Act, 2007.

5. Before parting with the record, we express our displeasure with the SP, Darrang inasmuch as, he, inspite of being apprised of the submission of FIR by the petitioner Smt Makani Baruah on 28.10.2011, made no serious effort to find out the facts. The status report dated 19.01.2015 submitted by the SP, Darrang, Shri Vivek Raj Singh, IPS did not tally with the statement given by the petitioner on 17.01.2015. He prepared the said status report without consulting the relevant records, particularly GD entry No. 1225 and 1230 dated 28.10.2011 wherein it is a recorded fact that Smt Makani Baruah's FIR was received by Inspector Mahammad Hussain, the then O/C Mangaldai PS vide GD entry No. 1225. Both the GD entries No. 1225 and 1230 were duly signed (initialed) by the O/C Mahammad Hussain. It is only after deeper prodding by the Commission, the facts could be brought to light. The Commission, therefore, directs the DGP, Assam, Guwahati to pull up the then SP, Darrang Shri Vivek Raj Singh, IPS and warn him not to commit such mistake in future.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.22/2014*Shri Dulal Bora**-Versus-**Shri Debaraj Upadhaya, IPS, Special SP, CID, Assam*

Perused the complaint petition. Perused also the photocopies of the FIRs as furnished by the petitioner.

2. The petitioner claims that the said FIRs were lodged on the basis of information collected by him through RTI. He alleges that the Special SP, CID, Assam, Shri Debaraj Upadhaya, IPS refused to register the FIRs. He also alleges that the Special SP, CID, except causing brief inquiry in a couple of cases through some Inspectors, took no steps towards investigation of the cases. The petitioner further alleges that in reply to his RTI applications, the Special SP, CID, casually informed him that the CID was exempted from the purview of the RTI Act.

3. We do not make the Special SP, CID accountable for commission of serious misconduct on this count also. In view of the above, the Complaint Petition accordingly stands closed.

4. Before parting with the records, we hope and trust that the petitioner would, before filing a complaint, for and on behalf of somebody, get himself properly instructed in the existing relevant laws of the land to avoid unnecessary wastage of time and effort. The petitioner is advised to file his complaints in the respective jurisdictional police station, if so advised.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.11/2015*Alomgir Shehaniar**-Versus-**SI Jadav Sharma, O/C, Fakirganj Police Station,
Dist. South Salmara Police District, Hatsingimari*

The complainant is the Secretary of Poravita Village Defence Party in the district of Dhubri. By filing the instant complaint petition, he has alleged that SI Jadav Sharma, O/C of Fakirganj PS picked up one Mohibul Khan on 22.09.2014 who was suspected to be involved in Bongaigaon PS Case No. 552/2014, but the said O/C gave an opportunity to the kidnapper Mohibul Khan to escape from police custody.

2. It appears that there is a negligence on the part of the police who let the apprehended accused person escape from custody. We are of the opinion that negligence leading to escape from custody does not constitute a “**serious misconduct**” within the meaning of Section 78(1) of the Assam Police Act, 2007. A case of serious misconduct not being made out, the complaint petition is sent to DGP, Assam for taking necessary action from his end. It is for the department to decide whether any departmental action should be taken against the police officer concerned for his negligence. The complaint petition accordingly stands closed.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.29/2015*Shri Pabitra Hazarika**-Versus-**OC, Hajo Police Station, Dist. Kamrup(R)*

A senior citizen, aged about 80 years, is before us. He states that he lodged an FIR with the SP, Kamrup(R) on 24.02.2015. The SP forwarded his FIR to the O/C, Hajo forthwith, but the O/C refused to register the FIR until the original FIR submitted to the SP was received. The O/C, thus registered the FIR only on 10.03.2015 as Hajo PS Case No. 101/2015 under Sections 452/447/307/464/471 IPC. The petitioner alleges that while he enquired about the steps taken by police in connection with the said PS case, the O/C Hajo and the I/O of the case misbehaved and threatened him.

2. The Commission is called upon to examine and decide whether the O/C of Hajo PS committed serious misconduct inasmuch as he did not register the FIR forthwith and waited till receipt of the original FIR from the SP.

3. We hold the SI Upen Kalita, O/C of Hajo PS accountable for commission of serious misconduct and make him liable to departmental proceeding under Section 78(1) of the Assam Police Act, 2007. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Upen Kalita, O/C of Hajo PS providing him due opportunity to defend himself in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

We have also found that the said SI, Shri Upen Kalita willfully committed dereliction of duty within the meaning of Section 98(a)(b) of the Assam Police Act, 2007 inasmuch as he had willfully neglected to follow the legal provision, procedure, rules, regulations applicable to members of the Police Service and also failed to register the FIR without lawful reason as required under Section 154 CrPC. We, therefore, apart from departmental proceeding, recommend for initiation of criminal proceeding against him under Section 98(a)(b) of the Assam Police Act, 2007. The DGP, Assam is directed to cause lodging of FIR against the SI Upen Kalita, O/C of Hajo PS.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 53/2014*Zamil Ahmed**-Versus-**Z.R. Khan, Paltan Bazar PS**Dist: Kamrup(M).*

The petitioner's grievance is that he lodged an FIR on 22.08.2009 and it was registered as Paltan Bazar PS Case No. 451/2009 U/S 147/148/149/341/325/379 IPC but the I/O of the case, SI Z.R. Khan did not take any interest in completing the investigation and allowed the accused persons to move freely.

2. We do not accept the petitioner's allegation as correct and true. This complaint petition stands disposed of without any recommendation for departmental action for committing serious misconduct against any Police officer.

3. The petitioner is advised to file a *Naraji* petition before the appropriate court, if so advised.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 04/2015*Sardar Shah Mohammad Khan@ Akram Khan**-Versus-**SI Umesh Ch. Das, Border-in-charge, Hatigaon PS**Dist: Kamrup (M).*

The petitioner is an Afghan National. He himself admits that he is a foreigner and taking shelter in India as a refugee. The Assam Border Police suspected his identity. An FIR was lodged by Sri Umesh Ch. Das, SI (B)

Hatigaon PS and his FIR was registered as Hatigaon PS Case No. 300/14 U/S 14 of the Foreigners Act, 1946. The investigation of the case was entrusted to SI Jahiruddin Mollah. The petitioner, as an accused was brought to Hatigaon PS on 26.09.2014 at 9.45 PM. He was thoroughly interrogated and then arrested at 11.00 AM on 27.09.2014 and sent to judicial custody. The Police after completion of investigation, submitted charge sheet on 17.10.2014. The case is now pending for disposal in the court and hence we do not want to make any comment on the merit of the case.

2. We have perused the complaint petition filed by the present petitioner, Sardar Shah Mohammad Khan alias Akram Khan S/O Abdul Baki Khan, a resident of House No. 23, Bishnujyoti Path, Hatigaon, Guwahati-38.

3. He has taken a grievance before this Commission against SI Umesh Ch. Das, Border-in-charge, Hatigaon PS for falsely submitting CS against him in Hatigaon PS Case No. 300/14 U/S 14 of the Foreigners Act. We decline to examine the petitioner's allegation inasmuch as the matter is pending in the Court and any enquiry made by this Commission would pre-judice the pending case.

4. In view of the above discussion, we hold that the SI (UB) Umesh Ch. Das committed serious misconduct for which he is liable to departmental proceeding U/S 78 (1) of the Assam Police Act, 2007. The DGP, Assam, Guwahati is directed to cause drawl of departmental proceeding against SI(UB) Umesh Ch. Das providing him due opportunity of defense in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to the Commission in due course of time.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.36/2014

*Asian Human Rights Commission
(on behalf of Smt Siddarth Kausik Dutta)*

-Versus-

OC, Jorhat Police Station, Dist. Jorhat

This petition dated 19.05.2014 filed by the **ASIAN HUMAN RIGHTS COMMISSION** is directed against the alleged custodial torture perpetrated by police in Jorhat PS on one Shri Siddarth Kausik Dutta, who was arrested on 16.04.2014 in connection with Pulibor PS case No. 109/2014 under Section 384 IPC read with Sections 10/13 of UA(P) Act.

2. We do not want to proceed with this case. This complaint petition accordingly stands closed, without any order as to serious misconduct and departmental proceeding/action, against any police officer.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.01/2015

Md. Habibur Rahman

-Versus-

OC, Dalgaon Police Station, Dist. Darrang

A school-going, 12-year old, minor girl was allegedly kidnapped twice. The first kidnapping took place on 17.05.2014, from the parental house of the victim, at village Duliapam under Dalgaon PS. The victim's father, Md. Habibur Rahman filed a complaint in the Court of CJM, Darrang on 02.06.2014, registered as CR Case No. 974/2014 against Md. Jaber Ali and five others. The

complaint/ejahaar was sent to the O/C, Dalgaon PS on 13.06.2014. The O/C, on receipt of the said complaint, registered it as Dalgaon PS Case No. 259/2014 under Sections 120(B)/366(A)/354(A)/420/468/496/511 IPC and entrusted ASI H. Bora to take preliminary step and SI N.J. Hazarika to complete the investigation. While the investigation was in progress, the girl was recovered by her mother with the help of some local persons. She was kept in the safe custody of one Md. Mohibur Rahman, nephew of the victim's father, a resident of village Raja Howli under Dhula PS.

2. The second kidnapping took place from the house of the said Mohibur Rahman on 06.06.2014 at about 10.00 PM. A written ejahaar was lodged by Mohibur Rahman on 07.06.2014 with the I/C, Panbari OP against Md. Jaber Ali and four others. On receipt of the said FIR, the O/C registered it as Dhula PS Case No. 263/2014 under Sections 366(A)/324 IPC. ASI Mridul Sarma was entrusted to take up the preliminary enquiry and SI P.K. Hazarika to complete the investigation.

3. We have perused the present complaint petition. The petitioner alleges police inaction. His grievance is that the accused persons, whose names and addresses were furnished in the ejahars, were not arrested by police thereby denied justice to him.

4. We do not find any case of inaction or serious misconduct on the part of the police officials concerned. The allegations against the police are found baseless and untrue. The complaint petition is liable to be rejected without any recommendation for departmental action. It is ordered accordingly. The complaint petition stands disposed of.

5. The SP, Darrang, Mangaldai is directed to take necessary steps to arrest the accused Mohibur Rahman and submit FF in connection with Dhula PS Case No. 263/2014 at the earliest in accordance with the existing law and procedure.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.40/2015*Shri Aswini Das**-Versus-**OC, Simla Police Station, Dist. Baksa*

Perused the complaint petition. Also perused and considered the records received from the SP, Baksa, Tamulpur.

2. It is found as an admitted position, that the petitioner filed a complaint on 19.01.2015 in the Court of SDJM, Bajali which was registered as CR Case No. 14/2015 on 20.01.2015. It was forwarded to O/C, Simla PS. On the body of the said complaint petition, the learned SDJM directed the O/C to register a case and submit a report. The complaint was received at Simla PS on 02.02.2015. The O/C, Simla PS endorsed it to SI S. Talukdar for enquiry and report.

3. The O/C, Simla PS, SI Paban Gayan is solely responsible for the delay in registering the FIR and therefore, he is accountable for serious misconduct within the meaning of Section 78 of the Assam Police Act, 2007. We accordingly hold him liable to departmental proceeding under the existing Assam Police Act, 2007. The DGP, Assam, Guwahati is directed to cause drawal of departmental proceeding against SI Paban Gayan, O/C, Simla PS providing him due opportunity to defend himself in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to this Commission in due course of time.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.77/2014*T. Jayasingh**-Versus-*

OC, North Lakhimpur Police Station, Dist. Lakhimpur

It is a story of a CRPF Head Constable. Sometime in October, 2013, one Md. Iman Ali contacted him over mobile phone and told him that he was in possession of a golden idol/statue of Lord Jesus Christ worth Rs.10,00,000/- which he would however like to sell at a low price of as Rs.5,50,000/-. The complainant had a plight of acquiring enough gold for making jewellery and presenting them as bridal gift to his daughters at the time of marriage as per the local custom. Being tempted and lured by repeated phone calls, he set out for a 6-day long journey from Tamil Nadu's Kanyakumari to Assam's North Lakhimpur. He was received by the person who offered him gold, at a low price, at North Lakhimpur on 26.05.2014. He paid Rs.5,50,000/-. On receiving the gold a doubt was raised whether it was stolen or of the purity of the gold. He then demanded the money paid, back. But the accused refused to return the money. The wife and other family members of the accused assaulted the complainant. He then left the place out of fear.

2. The petitioner lodged an FIR on 02.08.2014 with the SP, Lakhimpur District in connection with the said incident. He filed the present petition before this Commission on 03.12.2014, alleging that his FIR was not accepted and no action was taken by the police against the accused persons. He also alleges that the O/C of North Lakhimpur PS avoided to meet him when he visited the North Lakhimpur PS.

3. No case of serious misconduct is found. Accordingly, we decline to recommend departmental action against any Police Officer.

4. Before we conclude, we cannot help but point out that the complainant filed his first complaint on 06.12.2014 after a delay of 193 days, i.e. more than 6(six) months from the date of incident that allegedly took place on 26.05.2014. Even assuming, but not accepting that the complainant reported the incident to Police on 02.08.2014, there was a delay of 68 days, i.e. more than two months. There was an inordinate delay in lodging the complaint with the Police. The complainant did not bother to explain the delay. The law requires satisfactory explanation from the complainant for each day delay in filing the FIR/complaint. The unexplained delay not only affects the credibility of the complainant but also the chance of success in prosecuting the accused.

5. With the above findings and observations, this case stands disposed of with the direction to the Police Headquarters to expedite completion of investigation and submission of CS on the basis of available materials against the already arrested accused, as well as other co-accused, who are yet to be arrested shown as absconders in the charge-sheet, for taking necessary action by the appropriate Court in accordance with law and established procedure.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.75/2014

Mustt Rekhamoni Begum

-Versus-

OC, Laharighat Police Station, Dist.Morigaon

Perused and considered the additional facts and views as submitted by the SP, Morigaon vide his letter under Memo No. MRG/IV/2015/SPAC/6414 dated 20.08.2015 through the Police Headquarters in connection with SPAC Case No. 75/2014.

The additional facts fail to justify the inordinate delay of 66(sixty-six) days in registering the FIR in question for which the SI Roushan Islam, the then O/C of Laharighat PS was held accountable for committing serious misconduct and made liable to departmental action. The completion of investigation and filing of charge-sheet cannot be a valid ground for recalling the Commission's order dated 16.07.2015.

The Commission's aforesaid order, therefore, stands. It is accordingly made absolute. The matter stands finally closed. The Police Headquarters will submit Action Taken Report within 60(sixty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.47/2014

(1) *Md. Raafiuddin Ahmed*

(2) *Shri Haladhar Das*

-Versus-

OC, Bharalumukh Police Station, Dist. Kamrup(M)

Two petitioners are before us. As stated in this petition, they have been running a transport business under the name of M/S Achik Sapna Travels since 2002-03. The premises was taken on rent from one Smt Lakhi Das, located at KRB Road, Rly Gate No.8, Bharalumukh, Guwahati. The aged land lady died in 2008. Her grand daughter, Smt Mamoni Das, inherited the premises. The petitioners continued to be her tenants and carried on their business from the said tenanted premises. The new land lady allegedly started making absurd monetary demands from the petitioners since the latter part of the year 2013. As they refused to meet the demand, the land lady frequently abused and threatened to oust them. They have been facing annoyance and disturbance in running their business. They instituted a civil suit being TS No. 105/2014 in the Court of Civil Judge No. 1, Kamrup, Guwahati against the land lady. They also filed an injunction petition, number Misc(J) No. 122/2014. The Court passed an order on 26.03.2014 directing the parties to maintain status quo in respect of possession of the suit premises. It is alleged that inspite of Court's order, the land lady, on 03.06.2014, accompanied by some unidentified persons threatened the petitioners and asked them to vacate the premises. So, they lodged an FIR on 05.06.2014 with Bharalumukh PS. The police did not take action against the land lady. It is further alleged that the land lady on 08.06.2014, accompanied by a group of people, including some members of the local Mahila Samity entered

the tenanted premises and held a meeting. They called the petitioners to attend the meeting. Sensing some trouble, the petitioners drafted an FIR. As soon as the petitioners arrived at the place of meeting, they were assaulted. On the call of some members of the assembly, the police arrived at the spot and took the petitioners to Bharalumukh PS. The petitioners filed an FIR on 08.06.2014 and requested the O/C to take action against the land lady Mamoni Das and her associates. The O/C assured the petitioners that they would be allowed to go provided they withdrew the civil suit and FIR filed against Smt Mamoni Das. The petitioners refused to comply. They were then detained in the Bharalumukh PS whole night. The FIR lodged by the petitioners was not registered. The next day (09.06.2014), the petitioner No.1 was arrested and produced before the Court and released on bail on 21.06.2014. Again on 10.06.2014 at about 1-00 AM (mid-night), the land lady Mamoni Das and others armed with lathis, rods etc came to the tenanted premises. They forcefully removed the sign boards and snatched away a cash amount of Rs.7,300/- and assaulted the employees of the petitioners. One Atanu Barthakur, an employee of the petitioners lodged an FIR on 11.06.2014. He was also harassed in the Police Station and released only on the intervention of the Addl.SP.

2. The Commission has found nothing on record that there was any inaction on the part of the Bharalumukh police or they acted in a partial manner at any point of time in the matter of registration of FIR and investigation of the cases, or they have committed any serious misconduct within the meaning of Section 78 of the Assam Police Act, 2007. We, therefore, recommend no departmental action against any police officer of Bharalumukh PS. Accordingly this petition stands closed.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.68/2014

Sayed Safiqur Rahman

-Versus-

OC, Bharalumukh Police Station, Dist. Kamrup(M)

The backdrop of this case is that a Title Suit for ejection of tenants and recovery of arrear rent was instituted in 2006 by the landlord. One Banwarilal Bajoria and the present petitioner were made OPs/defendants as tenants in the said Title Suit. The Munsiff Court decreed the suit in favour of the plaintiff/landlord on 31.05.2014. The tenants preferred an appeal and it is pending for disposal in the Court of Civil Judge No.1, Kamrup(M), Guwahati. A third party, namely, Smti Dipanju Bora came into picture, who claims right, title and interest in the suit premises. The Courts are in seisin of the entire Civil case and therefore, we would like to confine our enquiry to alleged inaction of the police in the related criminal case.

2. Perused the complaint petition. The petitioner states that he has been doing business of waste paper scrap in the rented godown/premises in question for last more than 20(twenty) years. He complains that all of a sudden on 13.09.2014 at about 7.30 PM, a group of 20/25 unknown hooligans forcibly entered and ransacked his godown, looted valuable goods, materials and cash money; besides driving his employees out and lifting his Mini truck (DI vehicle) from the site. In connection with the said incident, he lodged an ejarah on 13.09.2014 with the O/C Bharalumukh PS. It was registered as Bharalumukh PS Case No. 329/2014 under Sections 147/149/447/392/427 IPC the same day. His grievance is that **“the police instead of investigating the offence is acting to protect some vested interest of the accused persons.”** By filing this complaint petition, the petitioner has called upon the Commission **“to initiate enquiry in the matter & pass appropriate order against the illegal activities of the police officers.”**

3. In this case, the police officers have shown laxity in taking appropriate timely action. However, we make it clear that such laxity or inaction or lack of speedy reaction and non-arrest of accused persons cannot be termed as “serious misconduct” under the existing Assam Police Act, 2007. We, therefore, do not hold the police officers concerned accountable for serious misconduct. It is, however, directed that the DGP, Assam shall ensure that the O/C Inspector

Ghana Kanta Bora and the I/O, ASI Saifuddin Ahmed are pulled up and reprimanded by the Commissioner of City Police, Guwahati within 30(thirty) days from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.78/2014

Mustt. Saleha Begum

-Versus-

OC, Hojai Police Station & Others, Dist. Hojai

The petitioner is a poor and illiterate rustic married woman. She was allegedly raped by a man, abetted by four men on the night of 10.12.2014, while she was sleeping with her sister-in-law Maimun Nessa. In the said night, her husband was not at home. She personally came to the PS and verbally reported the incident to police the next day i.e. 11.12.2014 at 10.00 AM. Thereafter, she also filed a written FIR the same day at 11.00 AM. Her FIR was immediately registered as Hojai PS Case No. 682/2014 under Sections 448/376(2)(g)/325/506/34 IPC.

2. We have perused the complaint petition dated 30.12.2014. The petitioner has brought the following allegations before the Commission:-

- (i) That the police, inspite of furnishing the names and address of the accused persons in the FIR, have arrested no one. This has enabled them to move freely, giving opportunity to hold out threats to her life;
- (ii) That the I/O demanded Rs.2,00,000/- for arresting the accused persons and pushed her out from the office room as she refused to pay the amount;
- (iii) That the SDPO took no action despite her requests made in 3(three) letters. As she met the SDPO on 27.11.2014, she was driven out from his residence and told not to come again without arranging Rs.2,00,000/- for him.

3. The Police Headquarters should direct the SP, Hojai to complete the investigation and submit FF as early as possible, preferably within a period of 3(three) weeks from the date of receipt of this order.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.27/2015

Akbar Hussain

-Versus-

OC, Hojai Police Station, Dist. Hojai

The complainant's minor daughter Miss Sajida Begum was allegedly kidnapped on 30.04.2015 at about 07.30 PM. He lodged a written FIR with the O/C, Hojai PS on 01.05.2015 against one Ataur Rahman, son of Mojibur Rahman of Muslimpatty Chariali, Hojai. His FIR was registered as Hojai PS Case No. 272/2015 under Section 366A IPC. The police could not find out the complainant's kidnapped daughter; nor arrest the accused person.

2. The complainant has filed the present petition alleging that the police has taken no step to recover his daughter; rather protecting the accused. He is, therefore, apprehending that the accused might sell his daughter.

3. There is no case of serious misconduct as alleged by the complainant. As such, the instant petition stands disposed without any recommendation for departmental action against any police officer. However, the SP, Hojai is advised to return the case in CS if sufficient material is collected against the named accused, after due supervision and in accordance with the provisions of the CrPC and existing rules.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.37/2015*Md. Sahab Uddin Ahmed**-Versus-**OC, Moirabari Police Station, Dist. Morigaon*

Perused the complaint petition. The petitioner states that his FIR dated 28.06.2015 was registered as Moirabari PS Case No. 149/2015 under Sections 448/365/342/379/506/325/34 IPC. But he alleges that the O/C took no action; rather conspired against him in league with the accused persons. As a part of conspiracy, the O/C called Mustt. Manowara Begum, wife of accused Abdul Rashid to the police station and got an FIR lodged against the petitioner. The O/C, after registering the said counter FIR as Moirabari PS Case No. 150/2015 under Sections 447/294/354A/325/323/34 IPC demanded Rs.10,000/- from the petitioner and threatened to arrest him if the demand was not met.

2. We have found no substance in the allegations brought by the petitioner against the police. We, therefore, close this case without holding any officer accountable for serious misconduct.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.61/2014*Jayashri Boruah**-Versus-**OC, Simaluguri Police Station, Dist. Sivasagar*

The petitioner lodged a written FIR on 23.07.2014 informing the SP, Sivasagar that the police arrested her husband Pranab Boruah on 22.07.2014 at about 01.00 AM. They killed him in custody on way to Simaluguri PS and tried to cover it up as an accidental death. Her FIR was registered as Simaluguri PS Case No. 102/2014 under Section 302 IPC on 23.07.2014 at 12.30 PM.

2. Prior to lodging of above FIR, one SI, Shri Bipul Chakraborty, lodged an FIR reporting to the O/C, Simaluguri PS that the said arrested person, on way to police station, jumped out from the Gypsy vehicle and succumbed to head injury he sustained. The said FIR was registered as Simaluguri PS Case No. 101/2014 under Sections 224/511 IPC. The O/C himself took the responsibility of investigation of both the cases.

3. No case of serious misconduct on the part of the police officers has been established. We do not recommend departmental action against the police officers. The complaint petition accordingly stands closed.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 03/2015*Sri Ajit Barkataky**-Versus-**Police Personnel of Noonmati PS**Dist: Kamrup(M).*

The backdrop of this case is that the present petitioner, a Company registered under the Companies Act, purchased the Choonsali Tea Estate along with entire infrastructure from its original owner by executing a registered sale-deed on 01.06.1991. The TE covers a huge area measuring about 3,993 bighas. Prior to execution of the sale-deed, the State Government initiated proceeding under the Land Ceiling Act for taking possession of the excess land. The petitioner's company challenged the land ceiling proceeding in the Civil Courts at Guwahati and obtained orders in its favour. Against the Civil Court's order, the State filed an appeal in the Hon'ble Gauhati High Court. The said appeal case is still pending for disposal.

2. The allegation of inaction and serious misconduct against the Police could not be established. The petition is, accordingly, disposed of without holding any Police officer accountable for serious misconduct.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 26/2014

Ranvijay Pratap Singh

-Versus-

SI Siddheswar Bora, O/C Barbaruah PS

Dist: Dibrugarah

The complainant's main allegation is that the O/C, Barbaruah PS refused to register his FIR dated 17.04.2014.

2. The FIR discloses that the petitioner is the proprietor of a local enterprise engaged in supply of Manpower (skilled workers). He was awarded a contract by M/S Jaihind Project Ltd. (BCPL Complex) at Lapatkata in Dibrugarah district. The management of M/S JHP Ltd. indulged in fraudulent act and refused to pay him certain amount he was legally entitled to.

3. There is no case of serious misconduct within the meaning of existing Assam Police Act, 2007. Accordingly, the complaint petition stands closed.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.62/2014

Abdul Rasid

-Versus-

OC, Bhuragaon Police Station, Dist. Morigaon

The fact, in brief, leading to filing of the present complaint petition is that the petitioner's daughter-in-law, Mustt. Roujia Khatoon with her 2-year old baby son, went missing from his house since 13.07.2011. The same day at 3.00 PM, he filed a missing report in Bhuragaon PS. The O/C recorded the information so received in the GD entry No. 191 dated 13.07.2011. The kidnapped persons could not be traced out/recovered by police. The petitioner then lodged a written FIR on 08.10.2011 against 8(eight) suspected persons. It was registered as Bhuragaon PS Case No. 40/2011 under Sections 363/387/344/34 IPC. The O/C SI Rudra Kanta Bora asked the SI Khairul Islam Bhuyan to investigate the case. The police, till filing of the instant petition, could not recover the kidnapped persons.

2. In this petition, it is complained that the police, due to secret understanding with the accused persons, took no interest in arresting the culprits and recovering the kidnapped persons; rather putting pressure on the petitioner to compromise the case; else they would return the case in FR.

3. We do not hold any view against the police officers concerned for not being able to arrest one of the eight named accused persons or for their failure to recover the victims. No case of serious misconduct is established against any police officer. This complaint petition accordingly stands disposed of.

4. The Commission expresses grave concern and anxiety over the failure of the police in recovering the victims for long over 4 years. The police is expected to examine the possibility the woman being prey of trafficking for flesh trade. It is desirable that the DGP, Assam would pay his personal attention to this case and direct the police officers concerned to make all out serious efforts to recover the kidnapped woman with her child.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.24/2015

Shri Ajit Regon

Vs

OC, Jonai Police Station & Others, Dist. Dhemaji

The petitioner's complaint is that on 11.05.2015, at about 7.30 PM, the O/C of Jonai PS, being directed by the SP, Dhemaji, brought him from his residence and illegally detained him the whole night in the Thana. He was released next day at around 10.30 AM. He claims the SP, Dhemaji, hatched a conspiracy, in collusion with some non-tribal miscreants, against him.

2. Shri Moinul Islam Mandal, SP of Dhemaji District is accountable for committing serious misconduct under Section 78(1)(d) of the Assam Police Act, 2007 inasmuch as he ordered and caused illegal detention of the petitioner in violation of Sections 41 and 41A CrPC and also directions of the Hon'ble Supreme Court, for which he is liable to departmental proceeding. We exempt the O/C, Inspector Sailen Bora being accountable for serious misconduct on this count as he simply carried out the order of his superior officer and picked up the petitioner.

3. We, however, find from records that Inspector Sailen Bora as O/C of the Thana, received the FIR in question on 11.05.2015 at 6.20 PM and without registering it, asked the SI Faruk Ahmed to make an enquiry although such enquiry was not warranted/permitted in a cognizable case. Even assuming that a preliminary enquiry was necessary, the O/C failed to register the FIR forthwith, despite the fact that he received the enquiry report the same day from SI Faruk Ahmed with the request to register a case. The FIR bears an endorsement of the O/C dated 11.05.2015 asking the SI Faruk Ahmed to enquire and submit a report early. It also bears the O/C's note dated 19.05.2015 to the effect that the FIR was received and registered on 19.05.015. As per record, the O/C registered the FIR on 19.05.2015, i.e. after a week. The O/C, Inspector Sailen Bora is, therefore, accountable for serious misconduct under Section 78(1)(g) of the Assam Police Act, 2007 and liable to departmental proceeding in accordance with law. The Commissioner of Govt of Assam, Home Department is directed to cause drawal of departmental proceeding against Shri Moinul Islam Mandal, SP of Dhemaji. Similarly, the DGP, Assam is directed to cause initiation of departmental proceeding against the Inspector Sailen Bora, the then O/C of Jonai PS. Both the officers be given opportunity to defend in accordance with law.

4. The Commission has been reported that Inspector Sailen Bora has already been transferred from Jonai PS. The action of the Police Headquarters is appreciable. The Commission expects similar action against Shri Moinul Islam Mandal as it is not desirable to allow him to function as Head of the District Police Administration any longer in the interest of public.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.31/2015

Shri Dulal Roy

-Versus-

OC, Samaguri Police Station, Dist. Nagaon

The petitioner received 5(five) cheques towards payment of the maturity value of the investment he made with M/S Basil International Ltd. at Amoni in Nagaon District. All the cheques bounced due to insufficient fund in the Company's account. The petitioner returned the bounced cheques and demanded fresh cheques for payment of the amount due from the Company. Having failed to receive a positive response, the petitioner lodged an FIR on 02.07.2014 with the O/C, Samaguri PS against the Company. He alleges that the O/C '**did not register his FIR and investigate the matter**'; rather put pressure on him to withdraw the FIR, else to face dire consequences.

2. We hold that the petitioner has failed to establish that he indeed lodged an FIR on 02.07.2014 and the O/C, Samaguri PS did not register the said FIR and thereby committed serious misconduct within the meaning of Section 78 of the Assam Police Act, 2007.

3. We are satisfied that the O/C registered the Ejahars received from the Courts and duly investigated the case and arrested one of the accused persons. In our considered view, there is no valid ground to accept the allegation leveled by the petitioner against the police officer. We, therefore, decline to hold that the then O/C, Samaguri PS accountable for committing serious misconduct. Accordingly, this petition stands disposed of without recommendation for departmental action against him.

4. It is desirable that the DGP, Assam would authorize the BI(EO) or the CID to take necessary steps against M/S Basil International Ltd to save the people from the misdeeds of the Company. The petitioner is advised to file case in the appropriate forum under the Negotiable Instruments Act, 1881 or other appropriate provision of law to meet the justice.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member

Smti. Nellie Ahmed Tanweer - Member

SPAC Case No.14/2015

Md. Khalek Ali

-Versus-

OC, Gobardhana Police Station, Dist. Baksa

The petitioner lodged an FIR on 15.01.2015 reporting that his daughter was murdered by some miscreants. The petitioner alleged that the police refused to register the FIR, until he filed the present complaint petition before this Commission on 13.02.2015. His further allegation is that the police made no efforts to book the actual culprits involved in the murder. They rather implicated some innocent persons.

2. In course of hearing, the petitioner, on being asked, stated that at present he has no more grievance against the police.

3. In view of the above, we dispose of this petition holding no police officer accountable for serious misconduct.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.59/2014

Moksed Ali & 3 Others

-Versus-

OC, Fakirganj Police Station & Others, Dist. Dhubri.

Five residents of Dhubri District individually lodged ejahars on different dates. The police, on the basis of their ejahars, registered the following cases :-

- (i) Fakirganj PS Case No. 48/2014 under Sections 447/143/341/326/354/506 IPC;
- (ii) Fakirganj PS Case No. 81/2014 under Sections 143/147/148/149/341/120B/324/326/294/506 IPC;
- (iii) Gauripur PS Case No. 219/2014 under Sections 294/323/384/506 IPC; and
- (iv) Dhubri PS Case No. 344/2014 under Sections 448/294/506 IPC.

2. The Complainants were not satisfied with the manner in which the investigation was being made. Being aggrieved, they have filed the present petition jointly before this Commission complaining improper investigation. They demanded investigation by a special investigation team and arrest of all the culprits.

3. The complainants are left with an opportunity to approach the concerned Criminal Court by filing objection (*Naraji*) petition for rejection of the FR and re-investigation, if so advised.

4. No case of serious misconduct is established against any police officer. The present petition accordingly stands closed without any recommendation for departmental action against any police officer.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.39/2015

Mustt. Rabijun Begum

-Versus-

OC, Silchar Police Station, Dist. Cachar

Perused the complaint petition. The petitioner's son Md. Sabir Hussain Laskar, a driver by profession, went missing since 14.02.2011. The Petitioner suspected that her son was murdered. The Petitioner claims that she filed an ejahar, but the O/C, Silchar PS refused to accept it. Then her husband Samsul Uddin Laskar filed a complaint before the CJM, Silchar, which was forwarded to the O/C, Silchar PS. The police, upon receipt of the said complaint, registered a case. It is alleged that the police is yet to commence investigation and arrest the accused persons. In the meantime, the petitioner's husband expired.

2. There is no material on records that the O/C, Silchar PS refused to accept the ejahar. The petitioner has not furnished the copy of the ejahar she claims to have lodged with the O/C. The ejahar copy having not been made available, it would be unfair on the part of the Commission to take a view against the O/C, Silchar PS.

3. No case of serious misconduct against the police officer is established. The Commission makes no recommendation for departmental action against any police officer. But what is striking the conscience of the Commission is that the investigation of the cases could not be completed during the last over 4(four) years. Such inordinate delay in completing the investigation is attributable to lack of sincerity and seriousness of the investigating agency. It cannot be taken lightly. The Commission, in the interest of dispensing justice, directs the DGP, Assam to cause an enquiry and fix the responsibility and ensure that the investigation of the cases is completed at the earliest. With the above observations and directions, this complaint petition stands closed. The Police Headquarters shall submit the ATR.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 13/2015*Kashna Khatun**-Versus-**O/C Gauripur PS & Others.**Dist: Dhubri*

The petitioner lodged an FIR on 31.01.2014 informing the Police that her husband Raja SK was murdered by 3(three) named accused persons. Her FIR was registered as Gauripur PS Case No. 70/2014 U/S 120B/302 IPC. All the named accused were arrested within 7(seven) days of lodging the FIR. Yet, the petitioner was not satisfied with the action so far taken by the Police. Her grievance is that the Police should have arrested one more culprit namely Shohelur Rahman, although his name was not mentioned as an accused in her FIR. The petitioner has alleged foul play of the Police to protect the said culprit.

2. The Commission does not find any truth in the complaint. Accordingly, it does not hold any Police officer accountable for serious misconduct U/S 78 of the Assam Police Act, 2007. The complaint petition stands closed.

3. The SP, Dhubri is directed to submit the CS as expeditiously as possible before the Court in accordance with law.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No. 04/2015*Sardar Shah Mohammad Khan@ Akram Khan**-Versus-**SI Umesh Ch. Das, Border-in-charge, Hatigaon PS**Dist: Kamrup (M).*

The petitioner is an Afghan National. He himself admits that he is a foreigner and taking shelter in India as a refugee. The Assam Border Police suspected his identity. An FIR was lodged by Sri Umesh Ch. Das, SI (B) Hatigaon PS and his FIR was registered as Hatigaon PS Case No. 300/14 U/S 14 of the Foreigners Act, 1946. The investigation of the case was entrusted to SI Jahiruddin Mollah. The petitioner, as an accused was brought to Hatigaon PS on 26.09.2014 at 9.45 PM. He was thoroughly interrogated and then arrested at 11.00 AM on 27.09.2014 and sent to judicial custody. The Police after completion of investigation, submitted charge sheet on 17.10.2014. The case is now pending for disposal in the court and hence we do not want to make any comment on the merit of the case.

2. We have perused the complaint petition filed by the present petitioner, Sardar Shah Mohammad Khan alias Akram Khan S/O Abdul Baki Khan, a resident of House No. 23, Bishnujyoti Path, Hatigaon, Guwahati-38.

3. He has taken a grievance before this Commission against SI Umesh Ch. Das, Border-in-charge, Hatigaon PS for falsely submitting CS against him in Hatigaon PS Case No. 300/14 U/S 14 of the Foreigners Act. We decline to examine the petitioner's allegation inasmuch as the matter is pending in the Court and any enquiry made by this Commission would pre-judice the pending case.

4. We hold that the SI (UB) Umesh Ch. Das committed serious misconduct for which he is liable to departmental proceeding U/S 78 (1) of the Assam Police Act, 2007. The DGP, Assam, Guwahati is directed to cause drawl of departmental proceeding against SI(UB) Umesh Ch. Das providing him due opportunity of defense in accordance with law. The Police Headquarters shall intimate the result of the departmental proceeding to the Commission in due course of time.

5. With the aforesaid observations and directions this complaint petition stands disposed of providing that the same would be made absolute on receipt of the Action Taken Report.

Present

Mr. Justice P. K. Musahary (Retd)	-	Chairman
Smti. Parul Debi Das, IAS (Retd)	-	Member

Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.17/2015

Miss Khudeja Begum

-Versus-

OC, Hojai Police Station, Dist. Nagaon

One Md. Sahjahan Ahmed Choudhury of Hojai town informed the police that his niece Miss Shelina Begum Choudhury, aged about 17 years was missing since 13.01.2015. The police registered a case, being Hojai PS Case No. 40/2015 under Section 366A IPC. The O/C entrusted ASI Dilip Kumar Das to investigate the case. The informant, during investigation, produced a photo copy of the school certificate, wherein the date of birth of Miss Shelina was recorded as 02.08.1998. It was seized. The police, on the basis of the said school certificate dated 20.09.2013 issued by the Headmistress of Abdul Hasib Girls' High School, proceeded against the parents, brother, sister and some relatives of accused Md. Zakir Hussain, who allegedly kidnapped Shelina.

2. The petitioner is the elder sister of accused Zakir Hussain. She complains that –

- (a) Shelina's uncle Md. Shahjahan Ahmed Choudhury (first informant), as a part of conspiracy, obtained a false school certificate for the purpose of showing his niece as a minor girl;
- (b) The Inspector Hemanta Bora, O/C of Hojai PS was involved in the conspiracy and got the said false certificate seized and arrested not only Zakir Hussain but also his parents and relatives;
- (c) The Inspector Hemanta Bora brought the petitioner's ailing father and mother to the Thana and tortured them in the custody causing serious injuries to their persons;
- (d) Petitioner's husband Mustafa Kamal Hussain and a relative Abdul Hekim were also arrested and tortured in custody causing serious injuries to their persons; and

(e) The O/C got the ASI Dilip Kumar Das, I/O of the case who was not involved in the conspiracy and investigating the case properly, transferred elsewhere.

3. We have found no material supporting the petitioner's allegations of involvement of the O/C in the alleged conspiracy in obtaining and producing false school certificate. The I/O of the case arrested 4 accused persons including the husband of the petitioner in connection with the Hojai PS Case No. 40/2015. The grounds of arrest were furnished which was accepted by the Court. All the accused persons were examined medically. As per the medical reports, no injury mark was found on the person of the arrested persons. We, therefore, do not find any basis to hold that the accused persons who were arrested in connection with the case were tortured in the custody.

4. However, we have taken cognizance of the matter relating to GDE No. 1069 dated 31.01.2015. As per the entry, one Musstt. Hazera Begum, (Mother of the accused Anowar Hussain) was brought to the PS on suspicion of being involved in the case. Further, as per GDE No. 1073 the said Hazera Begum was released from custody as no evidence could be found against her.

5. As per Rule 199(c) of Assam Police Manual (Pt. V), a Police officer has no legal power to summon before him any person/accused of an offence. Further, as per Section 160(1) of the Cr.PC, no female person can be summoned as a witness to the Police Station. The GD entry does not reflect that the Police team included a woman police at the time of picking up or bringing the said lady witness. In view of the above we hold that the detention of Musstt. Hazera Begum from 3.30 PM of 31.01.2015 to 05.00 PM of 31.01.2015 was illegal and the officers namely Inspector Hemanta Bora, O/C and ASI Dilip Kr. Das, I/O of the case are accountable for commission of serious misconduct within the meaning of Section 78 of the Assam Police Act, 2007 and liable for departmental action. The DGP, Assam is directed to cause drawal of departmental proceeding against the Inspector Hemanta Bora, O/C and ASI Dilip Kr. Das. Both the officers be given opportunity to defend themselves in accordance with law.

6. This petition stands disposed of with the above directions and observations.

Present

Mr. Justice P. K. Musahary (Retd) -

Chairman

Smti. Parul Debi Das, IAS (Retd)	-	Member
Sri Sibabrata Kakati, IPS(Retd)	-	Member
Smti. Nellie Ahmed Tanweer	-	Member

SPAC Case No.71/2014

Mustt. Aklima Begum

-Versus-

Officer-in-Charge, Kaki PS & Others, Dist. Hojai

The petitioner complains that her husband Md. Musabbir Ali, who was arrested on 27.08.2014 in connection with Kaki PS Case No. 109/2014 under Sections 302/201/120B IPC, died due to physical torture meted on him during custody in her presence.

2. In connection with the alleged custodial death, the police received an Ejahar from Mrs. Moimum Nessa, mother of the deceased. It was registered as Kaki PS Case No. 113/2014 under Sections 448/323/352/506/302 IPC. The police received another Ejahar from Aklima Begum (present petitioner), which was registered as Kaki PS Case No. 117/2014 under Sections 302/34 IPC.

3. One Hobibur Rahman, UB Constable, who was on sentry duty at Kaki PS at the relevant point of time, filed a counter FIR alleging that it was the present petitioner who killed Musabbir Ali by administering poison with the food she served to her husband in the police custody. The above noted PS Cases are still under investigation. The autopsy on the dead body was held at the BP Civil Hospital, Nagaon. The viscera was preserved and sent to FSL for expert opinion. The I/O collected the FSL report. It contains the “**positive test for Oregano Phosphorous Insecticide**”.

4. It appears from the FSL report that the death was due to poisoning and not due to physical torture. As to who administered the poison is a matter of investigation.

5. Moreover, it is found that the case has already been taken up by the National Human Rights Commission. Under the proviso to Section 88(1) of the Assam Police Act, 2007, the Commission should not entertain the subject-matter of the complaint which is being examined by any other Commission or Court. In view of the above, the Commission deems it proper not to proceed

further with this case. Accordingly, this complaint petition stands closed. Inform the petitioner accordingly.

Earlier Recommendations in brief:

Some of the important recommendations in brief made by the Commission since 2008 on measures to enhance Police Accountability are as follows:-

1. Formulate accountability parameters of various ranks including supervisory responsibility of senior ranks;
2. Steps for changing the image of the police force;
3. Transparency at all levels of police functioning;
4. Ensure professionalism;
5. Amend the relevant provisions of the Assam Police Act, 2007 in order to invest the Commission with greater regulatory and supervisory powers in regard to conduct of criminal cases by police in matters of registration, investigation and submission of Final Form;
6. Amend the Assam Police Act, 2007 empowering the investigating agency of the Commission to investigate the offences committed by police;
7. Accord top priority to crime investigation by availing the services of highly trained set of police officers;
8. Stress on submission of timely progress reports and supervision of investigation as prescribed in the Assam Police Manual;
9. Recruitment of better persons and imparting proper training;
10. Redefine the role of supervisory police officers;
11. Publish a state level crime and investigation audit annually;
12. Objective assessment of performance of officers in the investigation and supervision for posting them at police stations and circles;
13. Orientation course for SPs and Addl.SP's on Assam Police Act, 2007 with special emphasis on police accountability, transparency and human rights ;
14. Submission of quarterly reports for effective monitoring of departmental proceedings;
15. Empower the Commission to engage prosecutor for conducting prosecution of cases charge-sheeted against police officers in criminal proceeding;

16. Top priority be given to systematized training for the officers at the lower level to guide them in proper methods of investigation. The officers involved in the investigation be given proper instructions by way of requiring them to attend regular seminar/training at the district level so as to make them proactive and more efficient to help them cope with cyber and other high profile modern day crimes;
17. The senior level police officials be sent to North East Police Academy at Barapani, Meghalaya to undergo training in a regular manner or as and when called for. The trained officers be engaged as master trainer in the training programmes to be organised at the district levels;
18. There are some land mark judgments of the Supreme Court and amendments to the CrPC which have a direct bearing on the day-to-day functioning of the police. The Assam Police Manual has not yet been updated in line with the judgments of the Supreme Court and the amendments made to CrPC. The Government may direct the DGP, Assam to bring necessary amendments to the Police Manuals.

OBSERVATIONS AND RECOMMENDATIONS OF THE COMMISSION

1. It has been observed, by the Commission through the process of enquiry and periodical interaction with police officers that a large number of officers are totally unaware of the latest amendments of the Law and directives issued, from time to time, by the Supreme Court and the National Human Rights Commission, and also the important provisions of the **Assam Police Act, 2007** (hereinafter referred to Act only in short). The Commission is utterly surprised to see that some officers are not even aware of the existence of the Act, though it has been in force for the last eight years.

The disturbing fact is that the residues of “**Police Raj**” mindset still prevail in the minds of a large number of police officers. These officers still think that they have the power to arrest/detain, harass and torture any person at any time at their own will and refuse to register cases on the slightest pretext. There has been no significant change in the attitude and mindset of the Police, even after enactment of the Act. This position is attributable to lack of proper training of police officers at all levels.

Recommendation

It is, therefore, recommended that the Addl.DGP(Trg) be given the task of holding crash courses on the above mentioned issues for all police officers, especially for officers at the cutting edge level.

2. ***The Assam Police Manual*** (hereinafter referred to Manual only in short), which provides guidelines, for police officers of all ranks, in discharging their day to day duties and activities, ***has not been updated to keep abreast the changes in law of the land. Special mention may be made to the amendments made to the Code of Criminal Procedure in the year 2010. A near wholesome change in Chapter-V of the CrPC providing procedures for arrest without Warrant of the Magistrate, has been brought into force.***

Recommendation

For the benefit and convenience of all concerned, it is, therefore, recommended that Part-V of the Manual which contains the principal guidelines for police officers at the cutting edge level, be updated with utmost expedition and urgent steps be taken by the Government to set up a Special Committee to address the issue and bring about necessary changes in the Manual.

3. The responsibility of transforming the Police into an efficient, effective, responsible and accountable entity, lies equally with the Police Accountability Commission, the State Government and the Police Department. In practice, it is found that the Government and the Police Department have become mute spectators shifting the entire responsibility to the lap of the Commission. Of the 19 cases, the Commission recommended to the Government for taking up departmental action, 16 cases are in the limbo without any positive action for the past several years. Of the 138 cases, the Commission recommended to the Police Headquarters for departmental action, only 56 cases have been disposed of and the rest are in progress at snail's space. Again out of 56 cases, 27 cases have been disposed of by imposing minor punishment making the departmental action a total mockery. In 09 cases, the Director General of Police found the officers committing grave and Serious Misconduct, but still they let off the officers with minor punishments like "severe reprimand". ***This kind of kid***

glove attitude towards proven misconduct may encourage police officers to continue with their misconduct with impunity.

Recommendation

It is, therefore, recommended that the DGP, Assam be given the responsibility to see that proper/proportionate punishment is awarded on the delinquent found guilty at the end of the departmental proceeding so as to put up a fight against police excesses and bring about a wholesome transformation in the police mindset.

4. *It is the statutory duty* of the Director General of Police, under Section 78(3) of the Act, *to send the quarterly reports to the Commission on the departmental proceedings initiated* on the complaints of “misconduct” against the Gazetted Officers in and above the rank of Deputy/Asstt Superintendent of Police. No such report has so far been received either from the DGP or the Government ever since the Act came into force.

Recommendation

It is, therefore, recommended that the Commissioner & Secretary to Govt. of Assam, Home Deptt be entrusted with the responsibility of submission of quarterly report regularly on the departmental proceedings to the Commission.

5. The Commission under Section 78(2) of the Act, is further authorized to enquire into any other case referred to it by the Government or DGP of the State Police, if in the opinion of the Commission, the nature of the case merits an independent enquiry but not a single case has so far been referred to the Commission by the DGP. The breakup of all the cases received by the Commission since its inception is as follows :-

a) Death in police custody.....	10
b) Grievous hurt as defined in Section 302 IPC,1860.....	Nil
c) Molestation, rape or attempt by police.....	37
d) Arrest or detention without due process of law.....	38
e) Land grabbing/abetment by policemen.....	38
f) Blackmail or extortion.....	64
g) Non-registration of cases.....	70
h) Improper investigation/non-arrest of accused.....	193
i) Harassment.....	95

The misconducts (a) to (g) above are covered by Section 78(1) of the Act. The Commission has been given the power to enquire into them. But the

misconducts (h) and (i) are not covered by the above Section of the Act. That leaves vast majority of the misconducts out of the purview of the Commission. The Commission has found that improper investigations are mostly due to the ignorance of the police officers about the art of investigation and also due to vested interest that guides the investigating officers. Yet a large number of complaints is about harassment meted out to the complainants/witnesses/suspects involved in the case. Here also it is seen that harassments are either due to vested interest or ignorance of rules and procedures. One such case in point is summoning of children, women and aged persons to the police station on some pretext or the other, though it is expressly prohibited by law.

Recommendation

It is, therefore, recommended that necessary steps be taken by the Government to effect amendment to Section 78(1) of the Act bringing the complaints of improper investigation and harassment under the purview of aforesaid Section of the Act and empowering the Commission to enquire into the said complaints/allegations.

6. The Act leaves an option with the State Government to establish in each police District or a group of districts a District Police Accountability Authority to enquire into cases of complaint of serious misconduct as defined in Section 78(1). Considering the heavy burden on the State Commission and also difficulties of accessing the Commission by citizens of the far flung places, the Government is urged upon to open up at least three District Accountability Authorities in Jorhat, Silchar and Tezpur to cover the Upper Assam, Southern Assam and the Northern Assam districts.
