

MEA India Representation

(1996)

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December 26, 1996.

To
The Chairman,
National Human Rights Commission,
Kasthurba Gandhi Marg,
New Delhi.

Hon'ble Minister,
Ministry of External Affairs,
South Block,
New Delhi-110 011.

The Counsellor,
United Arab Emirates,
12, Chander Gupta Marg,
Chanakyapuri,
New Delhi.

Sir,

I am an Indian national. During the early part of my life, I migrated to United Arab Emirates for the purpose of business. I had been living and doing business for the last 18 years in Abu Dhabi, the capital of United Arab Emirates.

After much struggle over the years, was able to establish my two companies in my own name. The business of the companies established by me was that of Contracting and trading establishment. With my hard work, I was able to establish my business in U.A.E. where I had been living for over 17 years and I had spent prime of my life in building the economy of that country as well as earning foreign exchange for my own country.



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I had obtained two trade licenses for my expertise and specialization in the work from (a) Ramla Electro Mechanical Establishment and (b) Premier General Contracting & Maintenance Establishment. Copies of trade licenses along with true English translations are annexed as “A” and “B” for your reference. Under the trade licenses which were approved by Municipal Corporation of Abu Dhabi, I was maintaining and doing general contracts, land and marine services for petrol and gas fields. I had employed over 40 people for my various projects being taken care of by my companies under my supervision and supervision of my brother and my business was flourishing for which I was paying all the statutory taxes to the Government of United Arab Emirates.

I, on behalf of my principals, Premier General Contracting Establishment, entered into contract with one Mr. Hassan Saeed for leasing his 24 flats belonging to him. An amount of 10,000 Dirhams as cash and an amount of 74,000 Dirhams as cheque was paid as advance to Mr. Hassan Saeed against the total consideration of 504,000 Dirham. Mr. Hassan Saeed wanted to wriggle out of the contract and was not performing his obligations under the terms and conditions of the contracts for which certain disputes arose between me and Mr. Hassan Saeed. As I had paid a cheque for 74,000 Dirhams towards the advance under the contract and Mr. Hassan Saeed was wriggling out of his obligations, I was advised to institute a civil suit against Mr. Hassan Saeed.

The Hon’ble judge injuncted the payment of Rs.74,000 Dirhams and Mr. Hassan Saeed was unable to realize the said amount. On coming to know of this, Mr. Hassan Saeed threatened me or serious consequences if I failed to withdraw the civil suit and also get the order injuncting the encashment of the cheque vacated. I refused to withdraw the civil suit. On my refusal Mr. Hassan Saeed, in collusion with the local police assaulted me in my office, ransacked my office. My request for help to the local public was ignored and was not made available to me.

On 26th October 1995, around noon, Mr. Hassan Saeed along with one of his accomplice came to my office. I was alone in my office. Mr. Hassan Saeed and his accomplice (whom I later came to know was a police official in civil dress) questioned me and enquired about my withdrawing the civil suit. They also enquired as to why I had deposited 74,000 Dirhams in the court instead of making payment to Mr. Hassan Saeed. They assaulted me, caught hold of my collar, necktie and even broke the telephone. I yelled for help, however, no one came to my rescue. Mr. Hassan Saeed also enquired as to the original documents of the contract which I refused to



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disclose. On this my entire office was ransacked, drawers opened, files thrown, some of my cash lying in the locker in the office was also taken away by them.

In the meantime, my younger brother arrived at the office along with lunch. On this I asked him to close the door and call the police. The accomplice accompanying Mr. Hassan Saeed managed to move out of the office. However, Mr. Hassan Saeed was unable to leave. I noticed that the accomplice of Mr. Hassan Saeed was shouting and striking on the door with an iron rod and a crowd had gathered around my office. In the meantime, local police also arrived at the spot. The police immediately hit me and my brother and handcuffed us behind our backs pushed us around, kicked us and took us in their car.

We were brutally assaulted by the local police and I fell unconscious. Several X-Rays were also taken when I was unconscious. I and my brother spent nearly 21 days in the police lockup. Thereafter, I was taken to the central prison. I was lodged in the central prison for nearly a week. From there, I was taken to the police Head Quarters. I was released the next day. With I enquired about my brother who was taken in to custody along with me, I was informed that my brother would be released in a few days after the completion of certain formalities. I was enquiring about my brother and I visited the police headquarters along with my sponsor who had stood surety for my bail. We met the Section in-charge and enquired about my brother. After reading the file, he was surprised as to how I was released and I was re-arrested and sent back to the central prison.

Several times our people tried to arrange for a special visit to see me and apprise me about the details of the business and the pending contracts. However, all such requests were rejected by the Public Prosecutor without assigning any reasons. I was not given in the basic necessities in the prison by the authorities and I was condemned by the authorities. I was unable to take care of my business, sign documents, issue cheques for which several projects which were midway were abandoned. I suffered loss for the non-cooperation and not allowing me to have meetings with my staff by prison authorities. I was informed by the jail authorities that I had been charged with “using force against Government employee and assault”. The court acquitted me and my brother of the said charge. Despite our acquittal, we were not released from the prison and my right to liberty as envisaged and enshrined in the laws governing UAE and the international laws were abridged without any reason. The final decree of the court acquitting me and my brother of the aforesaid charge is annexed as Annexure ‘C’ to the petition.



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The atrocities committed did not come to an end and the office of the Public Prosecutor, Abu Dhabi filed an appeal of Abu Dhabi against the decree/order of the legal court of the first instance. On 19-5-1996, the appeal was set for hearing. We were granted bail on the filing of the appeal. However, despite the bail and sureties we were not released from the prison.

The court of appeal after deliberations came to the conclusion that the complaint against the Respondents i.e., I and my brother was false. Evidence deducted by the appellate court found that we had not committed any offence as envisaged under Section 21 of the Penal Procedure Code of UAE. We were acquitted of the charge. The operative part of the judgment which clearly revealed the malafides and the arbitrary way in which Mr. Hassan saeed and the police department were acting are given herein as below.

“There is not any evidence which can prove the first accusation but in contrary it is proved from the saying of the policeman that the first accused has received him hospitably when invited him for a cup of tea, and all the accused has done was that he ordered his brother, "the second accused" to close the door and to call the police, which is logical conduct and free from any resistance or prevention to the policeman from performing his duties. All the evidences indicate to the properness of his behavior, some of these evidences are:-

1. The accused was confident being innocence as he has informed in advance that he has deposited the amount of the cheque Which is subject of accusation at the treasury of the legal Court and the plaintiff has confirmed the same in the investigation. (Note: the papers include a receipt of deposit of the amount vide printed No. 19608 dated 25/20/1995 i.e. before the said incident.)
2. The policeman and the plaintiff came in civil dress on 26/3/1995, which means that the plaintiff by this time was aware that the amount is deposited in the Court. Moreover, the policeman was holding shackles, in spite of all that, the first accused has only ordered his brother to close the door and asked him to contact the police, which is a logical matter that can be adopted by any man in such a situation.
4. The policeman declared that he has taken the key, opened the door and went out. This means that there was no resistance from both the accused and if they had prevented Hasan from going out, it was because they understood that he came to attack them, after they had informed him.
5. They had deposited the due amount of cheque in the Court.
6. The escape of the policeman from the shop proves that he was wrong and has no legal authority to arrest the accused. And what the both accused have done was that they only asked to



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inform the Police about the matter. In fact the policeman should do this and he has to welcome this action, and he should not run away and stand at the door holding an iron bar in hand threatening anyone who come near the place.

7. It is confirmed that the policeman moved with the plaintiff upon oral instruction to summon the first appellee. On the reading the arrest warrant, a copy of which was presented before the Court of appeal, it seems that the warrant encompassed that the first appellee was to appear before the police of the capital, and no where it is mentioned to arrest the appellee and it was duty of policeman to act according to the contents of the warrant, i.e., to ask the accused to come with him to the police station and if he refuses then the policeman had to contact the headquarter which will there after take suitable decision regarding the accused as the accused is not red handed according to the provisions of article 42 of Penal Procedures and the following.

8. Verily the Islamic Law and the entire Positive Laws have honoured Man and protected his freedom, his honour, his property and his soul. Hence, if a man was killed, while protecting these, he is considered to be a martyr. And limitation of his freedom without any rights is an unforgiving crime and the same is mentioned in the provisions of articles 2 and 3 of the Penal Procedures Code. And it is proved in this case that the policeman along with the plaintiff went to arrest the accused and to limitate his freedom. Therefore, it is right of the accused to verify the reason behind which he going to be arrested, and to take help of the security men and to defend his freedom. The accused had exactly done the same when he asked to inform the police to inquire into the matter and to conduct the necessary investigation in respect of this assault.

9. It is strange to find a declaration enclosed with the papers executed by the policeman, attested by the Notary Public under number 2314/96 dated 17/3/1996 concluding his disclaims from his rights in this legal case which is a clear cut evidence showing that he felt his mistake and so he wanted to relinquish! The Court is wondering, from what he wants to relinquish? Does he want to abandon the security of the country? Then this is a solid evidence that both the accused did not resist the policeman.

A copy of the order of the court of appeal is enclosed as Annexure 'D'. Court of appeal had clearly held that we were innocent and were free from all accusations. Despite this, we were languishing in the jail.

It is very unfortunate that all my rights were blatantly violated, abridged as enshrined in the Universal Declaration of Human Rights and Freedoms, the Covenant on civil and Political Rights 1996 and the Covenant on Economic, Social and Cultural Rights 1996. The glaring abuse and incidents are herein below:-

- (a) without giving me any hearing,
- (b) despite my being released on bail I was languishing in jail with my brother for over a year,
- (c) I was not allowed to meet any of my associates or sponsor,
- (d) I was deprived of all the basic necessities,



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- (e) I was brutally beaten,
- (f) Suffered physical and mental torture for no reason whatsoever,
- (g) we were made to live in inhuman conditions without the basic necessities of water, light and fresh air,
- (h) the food given to the prisoners was unhygienic,
- (i) all my assets and properties lying in that country were lost.

I have been unable to repatriate all the money and my wealth lying in that country.

On 28-9-1996, an order was passed by Capt. Hamid Ahmad, the Head of the security affairs Department, Ministry of Interior, U.A.E. that by virtue of an administrative decision No.227 for the year 1996, I and my brother be deported back, I had been acquitted by the court of first instance and by the court of appeal. Despite my acquittal, this deportation order was passed without assigning any reasons. The reason of deportation was the same as was the charge leveled against me. The courts had acquitted me. The copy of the deportation letter is annexed as Annexure 'E'.

For the aforesaid reasons, all my Human Rights as enshrined under law and the Charter for Human Rights have been abridged and I am entitled to compensation which the court of appeal had held for my illegal confinement to prison for over a year despite my bail and acquittal I request you to use your good offices to pursue and to see that the rights of the other individuals in the country are neither abridged or taken away at the whims and fancies without assigning reasons or any opportunity of being heard and the orders of the court are complied.

I may also request you to institute proceedings against the erring officer who have not only violated my Rights but also direct them to pay exemplary damages.

Yours faithfully,

(Panikkaveetil K. Jair).