

POLICE & YOU: KNOW YOUR RIGHTS

Police Interrogation



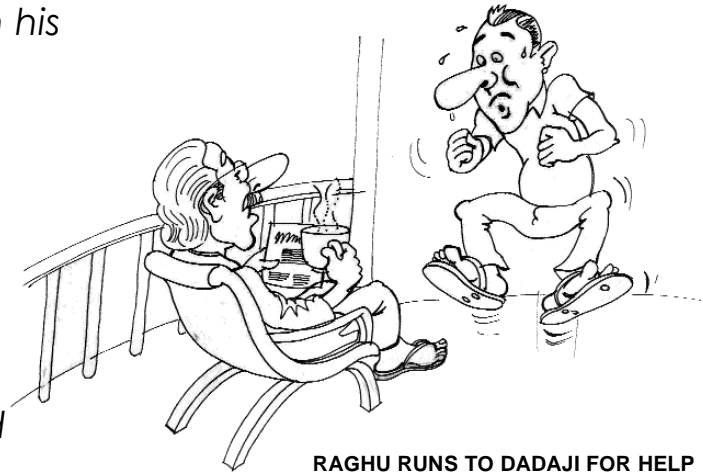
**Police reforms too important to neglect,
too urgent to delay...**

This booklet has been developed by the **Commonwealth Human Rights Initiative (CHRI)** for the **Ministry of Home Affairs** as a part of a series called Police & You: Know Your Rights.

CHRI is an international, independent, non-profit, non-governmental organization headquartered in New Delhi. Its objectives are to promote the practical realization of human rights in the countries of the Commonwealth. CHRI educates on human rights issues and advocates for greater adherence to human rights standards. For more details please visit <http://www.humanrightsinitiative.org>.

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Dadaji was sitting in his balcony, sipping a hot cup of coffee, when all of a sudden, Raghu came running towards him, looking extremely disturbed. "Raghu, are you all right? Why are you in such a hurry?" enquired Dadaji. "I need your help, Havildar Bhan has come to take me to the station. They are going to interrogate me in connection with the robbery for which Ramu kaka has also been taken in. This happened a few days ago. I don't know what all they would ask. I've heard these policemen are extremely rough during interrogations." Said Raghu, still running short of breath. "Raghu, relax. Sit down and have a glass of water. There is nothing to be worried about, I will tell you about all the rights you have during questioning." Said Dadaji , trying to calm him down.



"Remember, Raghu - you shouldn't make any statement or answer any question which could prove that you are guilty of the offence." Dadaji said.

"I understand that, but I have heard the police often force people into saying things." said Raghu.

"The police can't force you to make any statement that can be used against you as evidence. Like they can't make you say that you hated someone and wanted to kill him." explained Dadaji, continuing, **"They can't force you to say that you committed the offence that you have been charged with."**



**A POLICE OFFICER CAN
BE PUNISHED FOR USING
FORCE DURING
INTERROGATION**

"But the police have many ways of making people say what they want. Don't you remember how Vineet was beaten up for no fault of his and he was interrogated by the SHO, Inspector Khan?" said a worried Raghu.

"Yes, but you must remember that every person has the right not be ill-treated or abused or tortured while they are being interrogated. If a policemen beats or seriously injures a person during interrogation, then he can be punished under the law." explained Dadaji.

"Alright, I understand." said Raghu, appearing a little calmer, "Is there anything else I should remember?"

"Yes, there's one more thing. Remember - **it isn't necessary to sign any statement which you may have given during your interrogation.**" Dadaji said, "Any statement made to the police can't be held against you unless it was made in the presence of a magistrate."

"What about making a confession?" asked Raghu.

"If you want to confess about committing an offence, then you can only do so in the presence of a Magistrate." replied Dadaji, "It is the duty of the Magistrate to tell the accused that he/she shouldn't confess to an offence under pressure."

"I didn't know that!" said Raghu, "Are there more things to remember about making confessions?"

"If the person accused of the crime makes a confession on his/her own, then it can be used as evidence." Dadaji said.

"But who decides if a person has confessed on his/her own or has been forced?" asked Raghu.



"Well, a confession may be rejected if the Magistrate feels that it was made under pressure." replied Dadaji.

"Alright, I understand." said Raghu, "What about speaking to a lawyer? Is

that allowed during interrogation? And if I may request you in that case will you be my lawyer?"

Dadaji said, "Bhai, don't worry I will be there right next to you if there is any problem, after all it is the problem of the mohalla that the police are visiting so often." "And yes, another important thing you must remember **the accused may speak to a lawyer during the interrogation, but not throughout the interrogation.** Infact, **you should take a friend or a relative along with you to the station.** If you want I can come with you." Dadaji said. "Now I think you should be ready to go to the Station."

"I'm ready." said Raghu. "Lets go."

The week after this incident, the police jeep again entered Kamla Nagar and this time it was to Imran's house. Havildar Bhan arrested him, as according to the police, Imran was one of the suspects in the case of theft where Ramu Kaka was the main accused. At the police station, the police interrogated Imran for several hours, often threatening him with their guns and slapping him, in order to make him confess that Vineet was also involved in the theft with Ramu Kaka. To make them stop, Imran admitted to the charges. He was then let go by the police.



**THE POLICE CANNOT USE FORCE
DURING INTERROGATION - IT IS
AGAINST THE LAW**

Imran knew that the police had mistreated him and so he went to meet Dadaji. After explaining the situation to him he said, "I know what the police did was wrong. But I have no idea what to do about it now that it is over."

"Imran, **there are three things you can do if you have a complaint about police interrogation.**" Dadaji nodded and said, "First of all, **you can meet the Superintendent of Police or**

other higher officers like the Deputy Inspector General of Police or the Inspector General of Police. You could even complain to the Superintendent of Police by sending a letter by registered post."



MALTREATMENT BY POLICE PERSONNEL MAY BE REPORTED TO SENIOR OFFICERS

"What will happen if I do this?" asked Imran.
"Well, if the Superintendent of Police is satisfied with your complaint, then he/she will either order an investigation or begin one him/herself," answered Dadaji.

"I don't know if I want to take this step. After all, the SP, DIG and the IG are all police officers as well. I don't want anything to do with them after my experience at the police station." Said Imran, shivering as he recalled the way he was treated.

"Alright, I understand that," said Dadaji, "The other option would be to go to court. You could file a complaint by writing

a letter with all the details to the Magistrate in the court that has jurisdiction over this area. You could also file a writ petition under Article 226 of the Constitution in the High Court or under Article 32 of the Constitution in the Supreme Court." He added.

"What is a writ petition and what happens after the writ petition is filed?" Imran asked.

"A writ petition is filed when a person feels that his fundamental rights have been violated. On filing this petition, if the court thinks that there has been a violation of your fundamental right, then it will direct the concerned authority to register the complaint or make other orders." answered Dadaji.

"But I don't even know how to write a writ petition." said Imran.

"That doesn't matter - you can even write a letter to the High Court or Supreme Court. If they feel that your complaint deserves attention then they will treat it as a writ petition." explained Dadaji.

"What is the third thing that I could do to make a complaint about the police?" Imran asked.

"Your final option would be to complain to either the State Human Rights Commission, if the state has one or to the

National Human Rights Commission and tell them how the police do not enforce the law or enforce it improperly, in a corrupt or biased way." Dadaji replied.

"Thank you so much for helping me." said Imran, getting up to leave. "You're welcome, Imran. Feel free to ask me again if you need help with writing the letter or filing the complaint." Dadaji said, showing Imran out of his room.

Neeta, Dadaji's eldest granddaughter was reading a novel in her garden, when she saw Vineet, the STD booth owner passing by. She waved to him, and decided to go and talk to him, as he was looking a little disturbed. On asking what the matter was, Vineet answered, "Neeta didi, the police have asked me to again come down to the police station this evening, to answer some questions about the theft case. I'm quite nervous as you know about all that happened to me the last time, I don't know what to say or do."

"There's no need to get too worried about the interrogation, Vineet." she said, "Just remember that **during the interrogation, you must stay calm and answer the questions in a composed manner. And while answering, try to be as clear and precise as possible - don't make vague statements, if you can help it.**"

"But the Police put so much pressure. It would be so easy for me to make a mistake." Vineet stated.

"A common mistake people make during interrogation is that they exaggerate, because they feel that lots of information will make the police happy and ensure that they can go home quickly. But remember that you must stick to the true facts of the incident and never exaggerate." Neeta answered.



NEVER EXAGGERATE
DURING INTERROGATION

"Thank you Neeta didi, that's helped me calm down a bit." said Vineet.

"That's alright Vineet. Listen, if you're still nervous, remember - **you can take a relative or friend with you when you go to the police station.**" Neeta said.

"I think I'll do that. Thank you once again." said Vineet as he got on his cycle and drove away.

The following week one afternoon in the Mohalla, Neeta and her 12 -year-old brother Arjun were watching a movie. Suddenly, they heard shouting in the galli behind their house. They went to the back window and looked out. Two men they hadn't seen before were fighting. Suddenly one of the men stabbed the other and then ran away.

The police arrived. After speaking to a number of people, Havildar Bhan came up to Neeta and Arjun. He told them that they were the main witnesses to what had happened and that they would have to go to the police station for interrogation.

Despite the policeman's insistence, Neeta refused to go. She knew her rights well and made it clear that the he could not take her or her brother to the police station. She boldly told the officer,

"A woman can't be made to go to the police station for interrogation. She can be interrogated only at her residence in



A WOMAN AND A CHILD MUST BE INTERROGATED AT THEIR HOME IN THE PRESENCE OF RELATIVES

the presence of her relatives and as for my brother, he is only 12 years old and **a child under the age of 15 can't be made to go to the police station for interrogation. He too can be interrogated only at his residence in the presence of his relatives.**" Hearing this, Inspector Khan came and tried to calm her down. He agreed to her demands.

Neeta and Arjun were then interrogated at their house in the presence of Dadaji. Dadaji said "as Kamla Nagar is facing so many problems we must ensure that every one knows their rights and this can only save the people here."

The Series “**Police & You: Know Your Rights**” includes:

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- Bail
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