

IN THE COURT OF Dr. KAMINI LAU: ACMM:

NEW DELHI

Mita Das Gupta Vs. Malini Sehgal Etc.

CC No. 47/1/2007

**ORDER:**

The present complaint has been filed by one Mita Das Gupta a single lady residing at East of Kailiash since 1991 and has been taking care of stray dogs in her residential neighbourhood out of her own personal means to support the ABC program of the Municipal Corporation of Delhi. As per allegations she has been subjected to threats, abuses, mental cruelty on account of the acts of the accused no.1 who is reported to be having a history of inflicting extreme cruelty to stray dogs and animals in the vicinity.

According to the complainant The accused no. 1 has been even in the past indulging in numerous occasion in perpetrating acts of physical cruelty by beating up the stray dogs in the neighbourhood with sticks and by throwing stones at the stray dogs. She was even called upon to stop her acts of cruelty and the complaints had been made to the local authorities and police despite which she is continuing with her acts. It has also been alleged that the accused no. 1 has on several occasions even tried to stage-manage acts to justify her behaviour.

I have gone through the pre summoning evidence wherein the complainant has examined herself has her own witnesses which statement has been duly corroborated by the testimony of Ms. Mou Sood who is the sister of the complainant. Both the complainant CW.1 and the CW2 in order to substantiate their allegations, have placed on record the numerous communication which they have been making to the local police and authorities with regard to the acts of extreme cruelty with the animals specifically the stray dogs of accused no.1. They have placed on record the letter dated 15.9.2002 showing that the issue had also been taken at the level of an NGO who had requested the accused no.1 to stop her acts of cruelty towards dogs wherein she was also informed that such acts of cruelty are punishable under the law. The said letter is Ex.CW1/A.

Again on 13.9,2006 the CW2 had informed the local police regarding the acts of cruelty of the accused specifically on the adopted dogs of neighbourhood who had been duly vaccinated. In the said information it was specifically mentioned that the accused no. 1 had inflicted on two dogs namely Badam and Daisy resulting into the limping pain on Daisy and tender back injury to Badam who had been hit by a stick on his back. Again in the evening she hit another adopted neighbourhood dog namely Kaju with stone.

Despite the said information no action was taken against the accused. Now again the last incident placed before this court is of 30.3.2007 when CW1 and CW2 were both had left the house for a morning walk, on seeing both the them the accused no. 1 started to scream and claimed that some stray dogs had torn her Kurta. On being asked as to whether there was any bite marks she denied the same started abusing the complainant. It has been alleged that the whole show has been stage-managed by the accused no. 1 who even refused to get herself medically examined since her allegations were apparently false. She is alleged to have thereafter given a false information to the police only with the aim of causing harm to the complainant. Again on 31.3.2007 while the complaint was feeding the dog Daisy the accused no.1, walked out of the lift and flung the stick hitting daisy and allegedly kicked the complainant on the thigh and thereafter kicked the feeding bowl. She threatened to get the complainant euthanised instead of street dogs and of getting the complainant arrested in a criminal case. Being scared with the threat the complainant reached her house on the 5<sup>th</sup> floor and before she could enter suddenly from the 7<sup>th</sup> floor accused no. 2 started abusing her as under:

*“...bloody bitch, I will have you put behind the bars, bitch,  
I will have you and all your bitches removed from this  
area. I will hang you myself...”*

Being threatened and petrified, the complainant even called the PCR and made a complaint after which the police official from Amar Colony Police Post reached and took her statement but no action has been taken. According to the complainant she was in pain and infirmity for almost two days and in view of the repeated threats of both the accused of killing the dogs and further on account of the repeated threats to the complainant by both the accused no.1 and 2 of being inflicting with the physical harm and injures, she has been compelled to put her three dogs in the boarding for which she is paying Rs.150/- per day for each dog. According to her she had taken this step only to save herself from threats and for further criminal threats of the accused. Even on 16.4.2007 i.e. in the day when the complainant came to the court to depose when she was feeding the local dogs she had been threatened by the accused no. 1 as under:

*“.....can't you stop feeding the dogs. You bitch, I need to  
get your legs broken so you can't step out of your*

According to the complainant she is living in a constant fear from the accused persons due to which reason she has approached this court. Ld. Counsel for the complainant has placed his reliance on the authority in the case of **Angne and Anr. Vs. Emperor** reported in **AIR (35) 1948 Oudh 113** in support of his averments for summoning the accused under Section 428 of the IPC.

I have gone through the provisions of Delhi Municipal Corporation Act and the rules framed therein. Further I have also gone through the Indian Penal Code and the provisions of Prevention of Cruelty to Animals Act and the rules and guidelines framed by the Animal Welfare Board of India a statutory body constituted under the Prevention of Cruelty to Animals Act, Chapter II.

The psychological interdependence of man on four legged animals particularly the dogs has been specifically recognized in *Shāstras*. Animals like human being are also sensitive and need lovable affections. Messing with nature only results into destruction. In so far as dogs are concerned it is one animal closest to mankind. It is a matter of knowledge that in diminishing canine population only results into an increased rodent population which is harmful to both agriculture and mankind. **Article 51A** of the **Constitution of India** which embodies and recognizes the principles of interdependence of animals and men on each other emphasizes the need for compassion towards them by providing that the duty of every citizen of India *to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.*

Four categories of dogs based upon the degrees of interdependence which have been recognized under the Animal Birth Control Rules for Dots whose details are 1) **Restricted or supervised dogs** generally known as **Pet Dogs** which are dependent totally on owners and their movements are restricted ; 2) **Family dogs** who are fully dependent on their owners but their movements are partially restricted; 3) **Neighbourhood or community dogs** which are partially dependent on humans and are unrestricted in their movement. These category of dogs are accepted by the residents of a community and obtain food and shelter for part of the year from a few households and 4) **Stray dogs** who are independent and are shy of human contact. These category of dogs may be feral, lost,

abandoned or even free roaming community animals. The said rules also provide that it is the 4<sup>th</sup> category of dogs which should require special attention and focus of the municipal authorities since it has been admitted that the first three categories are easily undergo birth control procedure and can be vaccinated.

In the present case the dogs of being care of by the complainant fall either into the 2<sup>nd</sup> or the 3<sup>rd</sup> category. They can be easily called family dogs or the neighbourers or community dogs. It is ironical that isolated incidents of attacks by dogs falling in the 4<sup>th</sup> category i.e. stray dogs in certain Southern states have resulted into a hype due to which it is the 3<sup>rd</sup> category of the friendly adopted neighbourhood dogs or community dogs who are facing brunt of human thoughtlessness and insanity.

The Animal Welfare Board of India and the municipal authorities have in the guidelines issued by them specified the problem often faced by the individuals and families who adopts stray animals and feed them and come to the assistance of such persons. It is necessary to bring on record that these individuals and families who adopt stray animals are doing a great service to the humanity as they are acting in the aid and assistance of municipal authorities by providing these animals with food and shelter and also by getting them vaccinated and sterilized. Without assistance of such persons no local municipal authority can successfully carry out its ABC programs. The local police and the municipal authorities are under an obligation not only to encourage such adoption but also to ensure that such persons who come forward to take care of these animals specifically the community or neighbourhood dogs so that they are not subjected to any kind of cruelty. Life is precious whether of man or animal and as per the provisions of the IPC and of the Prevention of Cruelty to Animals Act, this court is under a legal obligation to ensure that any attempt to inflict injury and cruelty to animals by maiming or killing or teasing do not go unpunished. Every individual has a right to live his life in the manner he wants and it is necessary that the society and community recognizes that right.

The complainant before this court is a single lady who has adopted certain dogs in the neighbourhood. She has not only given them names but also got them vaccinated and sterilized and the said dogs have been given tokens in accordance with the municipal rules. The repeated behaviour and conduct of cruelty of the accused since the year 2002 towards the animals particularly the neighbourhood and community dogs who are dependent upon the complainant is reflected from statement of CW1 and CW2 and also from the documents placed on record. The threats issued to the complainant are eminent

in view of the injuries caused to the animals on many occasions and also to the complainant on 31.03.2007 a result of which the complainant was in pain and incapacitated for almost 2 days. Also as a result of the threats issued by the accused the complainant being petrified and was compelled to put the dogs adopted by her in the boarding to save them from cruelty for which she is paying Rs.150/- per day. Further the manner in which the accused has addressed the complainant by equating her to a bitch is an insult to the modesty of the women.

It is unfortunate that the present complainant whose grievances could have been addressed by the Residents Welfare Associations with the assistance of local police and municipal authorities, has been compelled to approach already over burdened court. In view of the aforesaid I hereby summoned the accused no. 1 and 2 for the offence u/s. 323/428/504/506/509 IPC and section 11 of the Prevention of Cruelty to Animals Act.

The complainant has requested that an early date may be given in view of the fact that she has also put her dogs in a boarding which is costing her Rs.150/- per day per dog and she has already been deprived of their company causing her extreme mental trauma and stress. I have considered the submissions made before me. The SHO concerned shall take steps to ensure that the dogs of the complainant are adequately protected for which it would be desirable for the SHO to seek all necessary assistance of the Resident Welfare Associations of the area to prevent any future incident in future any complaint with regard to the cruelty to the dogs be appropriately attended to. Issue summons to both the accused for 1.6.2007 through the SHO concerned.

ACMM: 2.5.2007  
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