

Investigation Report No. 33/2019

Subject: Rights in the judicial process relating to the right to liberty and security of a person in the case of a man alleging to have been assaulted by police during searching, wrongfully arrested and prosecuted without committing any offense

Complaint Issues

The National Human Rights Commission of Thailand (NHRCT) has received a complaint in which the complainant claims that while he was riding a motorcycle back from his friend's house, a police team forced the complainant to stop. The complainant allowed the police to search without resistance. The complainant felt unsafe and therefore took out the phone to film the incident as evidence. But the police officers seized the complainant's phone and attacked him. The police search did not produce anything illegal. Afterwards, the police brought a candy wrapper containing 3 methamphetamine tablets. They asked the complainant if it belonged to him because it was found on the ground about 3-4 meters away from where he was searched, despite the fact that during searching the police did not notify the complainant of any illegal items found. Later, the police brought the complainant to a police station and pressed charges for possession of category 1 narcotics without permission. The complainant denied the charges and considered that what the police did were wrongful acts, especially the physical attack during searching and wrongful arrest and prosecution despite the fact that the complainant did not commit the alleged offense.

Actions Taken

NHRCT considers that the search and arrest by the police were conducted inappropriately, resulting in injuries to the complainant. This is a violation of the rights to bodily integrity of the complainant which is a violation of human rights. As for the claim that the police wrongfully prosecuted the complainant for possession of category 1 narcotics (methamphetamine) without permission and the complainant did not commit the offense, the provincial prosecutor filed a lawsuit against the complainant for an offense of possession of category 1 narcotics (methamphetamine) without permission. The provincial court has the case as Black Case number xxxx/2018 on 11 June 2018. So this is pertinent to Section 39 (1) in conjunction with Section 39 Paragraph Two of the Organic Act on the National Human Rights Commission B.E. 2017. The complainant has also

filed a complaint with the police at the police station where the arresting team affiliates, asking to prosecute the arresting police team. The inquiry official received the complaint and interviewed the complainant, and forwarded the case to the Office of Public Sector Anti-Corruption Commission (PACC) Region 6 (Phitsanulok Province) to consider and proceed according to its duties and authority. Therefore, NHRCT has decided to recommend the following appropriate measures or guidelines to prevent or address human rights violations to the Royal Thai Police according to Section 247 (1) of the Constitution of the Kingdom of Thailand B.E. 2017, and Section 26 (1) in conjunction with Section 36 of the Organic Act on the National Human Rights Commission B.E. 2017, which shall be carried out within 60 days:

Recommended Appropriate Measures or Guidelines to Prevent or Address Human Rights Violations

The Royal Thai Police should take actions in accordance with its duties and authorities regarding the arresting police officers who violated human rights in the search and arrest of the accused using inappropriate means. It should also instruct police officers that when searching and making arrests, they must take into account human rights principles, using caution and appropriate methods as much as necessary to search and arrest, in order to ensure a violation of human rights of a similar kind to this complaint does not happen again. This must be done within a period of 60 days from the date of receiving this report.

Achievement/Progress in Human Rights Protection

The Criminal Affairs Division of the Royal Thai Police has informed that it had written to the Provincial Police Region 6 to instruct police officers that when performing the duty of searching and making arrests they must take into account human rights principles, using caution and appropriate methods as much as necessary to search and arrest. Later, the Provincial Police reported that it had appointed a committee to investigate the case of the police officers under its command on performing the duty of searching and arresting using inappropriate methods. It has also instructed police officers under its command to take into account the principle of human rights when performing the duty of searching and making arrests and to use caution and appropriate methods as much as necessary to search and arrest within the authority according to relevant laws and regulations.