Final Order

No. PCA/DDD/Case-09/2011/101 Date: 12/12/2012

Applicant Name & Address	:	Shri Haresh Mohan Mahyawanshi Mahyavanshi Falia, Village- Kachigam, Moti Daman.
Complaint Registration Date	:	16th January 2012
Complaint About	:	Non registration of First Information Report by the Coastal Police Station
Complaint Against	:	1. Shri Chunilal B. Solanki, ASI, Coastal Police Station. 2. Shri Narendra M. Solanki, ASI, Coastal Police Station. 3. Shri Navneet V. Damania, Driver, Nani Daman Police Station.

Statements Recorded by the Authority :

1.	13th March 2012	Shri Haresh Mohan Mahyawanshi
2.	03rd April 2012	Shri Bharat Mohan Mahyawanshi
3.	03rd April 2012	Shri Lalit Mohan Mahyawanshi
4.	03rd April 2012	Shri Chunilal Babubhai Solanki
5.	10th April 2012	Shri Narendra Mohanbhai Tamboli
6.	10th April 2012	Shri Navneet Vishnu Damania

Summary of Statements recorded by the authority :

1. :
   i. The grievance of Shri Haresh M. Mahyawashi is for non registration of First Information Report by the officers of the Coastal Police Station.
   ii. On 02/02/2012 while returning from the marriage function, Shri Arvind C. Rathod obstructed their vehicle and scuffling with them. Shri Navneet Daman armed with silver color pistol and Shri Gaurang Damania armed with stick came their and started beating them. Shri Gaurang Damania broke the glasses of their vehicle and Shri Navneet Damania had fired two shots on Shri Haresh Mahyawashi.
   iii. When they went to the Coastal Police Station in night and as well as next day morning to lodge the complaint, Shri Chunilal Solanki and Shri Narendra Tamboli refused to register their complaint by stating that you are accused in that case hence, your complaint can not be registered.
   iv. Shri Mohan Mahyawanshi gave a written complaint on 03/02/2012 to the In-charge, Coastal Police Station, Moti Daman with a copy to Superintendent of

Police and DIGP.

2 & 3 : i. Both Shri Bharat Mahyawanshi and Shri Lalit Mahyawanshi stated the same thing as stated by Shri Haresh Mahyawanshi in his statement before the authority.

4. : i. Shri Chunilal Babubhai Solanki, Assistant Sub Inspector, Coastal Police Station, Moti Daman stated that on 02/02/2012 after finishing the duty at 20:00 hours, Shri Bhaydas Solanki, PSO had not reported on time for duty. At 20:10 hours Shri Chunilal had received a phone call from Shri Sebastian Devasia, regarding the disturbance of infighting at Jamphore side main road.

ii. Immediately after receiving the call from the superior Shri Chunilal along with PC No. 244 proceed towards the spot in PCR No. 3.

iii. At the spot Shri Chunilal found One White color Wagon R Car on the wrong side of the road and One Silver Color Fortuner Car lying on the same side with a distance of two feet. The side window glass of Wagon – R car and right side back view mirror of Fortunar car was broken.

iv. On inquiry with the owner of the Fortunar car, Shri Arvindbhai present at the spot informed him that some 5-6 peoples obstructed his vehicle and assaulted him and his wife. Shri Chunilal informed these facts to his superior Shri Dinesh Vaja on mobile.

v. Shri Dinesh Vaja directed Shri Chunilal to bring both the vehicles to the police station and if they want to lodge the complaint, same may be register the complaint.

vi. From the Wagon-R car Shri Chunilal found Rs. 21,000/- cash, Rado wrist watch, Golden mascot and spectacles and handed over to Shri Bhaydas Solanki, PSO at about 09:45 PM.

vii. Between 10:00 PM to 10:15 PM on 02/02/2012, Shri Shashikant M. Mahyawanshi came to the police station to lodge the complaint about the incident occurred at Village- Pariyari. Duty hours of Shri Chunilal had been over hence he told Shri Shashikant to meet Shri Bhaydas Solanki and Shri N. M. Tamboli.

viii. On 03/02/2012 at about 10:00 AM Shri Mohan Kachra, Shri Shahikant, Shri Bharat came to police station to lodge the complaint. Shri Chunilal wrote down the complaint of Shri Mohan Kachra through reserve Constable on plain paper.

ix. Shri Chunilal informed his superior Shri Dinesh Vaja that the complaint of Shri Mohan Karchra disclosed the Non-Cognizable offence and handed it over to Shri Bhaydas Solanki.

x. Shri Shashikant son of Shri Mohan Kachra told Shri Chunilal that Shri

Navneet Damania open fired with his pistol on his brother and he wants to lodge the complaint under Arms Act.

xi. Shri Chunilal informed this to his superior and he directed Shri Chunilal to inform Shri Shashikant to discuss with police writer Shri Jayendra Jadeja.

5 : i. Shri Narendra M. Tamboli, Assistant Sub Inspector, Coastal Police Station, Moti Daman stated that on 02/02/2012 he had relieved Shri Chunilal Solanki and take over the charge of the police station at 08:05 PM and Police Constable No. 244 was relieved by Police Constable No. 260.

ii. At about 08:10 PM Head Constable Shri Bhaydas Solanki received a telephonic message regarding scuffle at Jampore side main road.

iii. Immediately Police Constable No. 283 Shri Animesh Thakkar and Police Constable No. 260 Shri Vinod Vadhvana were directed to reach on the spot in PCR No. 3 by Shri Bhaydas Solanki.

iv. At about 09:25 PM on 02/02/2012 PC No. 283 & 260 returned to the police station with Shri Arvind C. Rathod, Smt Bhanuben A. Rahod and Shri Rohit Vishwakarma.

v. The statement of Shri Arvindbhai was recorded by Head Constable Shri B. V. Solanki. The Injured persons were sent to the PHC, Moti Daman in PCR for medical treatment with PC No. 283 & 260.

vi. He further stated that after 10:00 PM on 02/02/2012 Shri Shashikant had not come to the police station to lodge the complaint and met me.

vii. He specifically denied all the allegations of Shri Bharat and Shri Lalit that he had told that they are accused in the offence hence their complaint cannot be registered.

viii. He further stated that Shri Chunilal Solanki went to the spot in PCR No. 3 on 02/02/2012 and Shri Chunilal was present in the police station till 09:30 PM though his duty hours were over.

ix. He further stated that Shri Chunilal had not produced the articles found in Wagon-R car on the spot in police station.

x. He further stated that Shri Chunilal informed me that he had handed over the articles found in Wagon-R car to the relatives of Shri Shashikant.

xi. He denied the statement of Shri Chunilal that at about 10:00 PM to 10:15 PM on 02/02/2012 Shri Shashikant Mahyawanshi came to the police station and at that time he was sitting near the table to PSO Shri Bhaydas Solanki.

6 : i. Shri Navneet V. Damania, Driver in Daman Police station stated that on written instruction vide letter dated 07/02/2012 of Police Inspector Shri Dinesh Vaja, he deposited his pistol for weapon examination.

ii. Shri Navneet Damania stated that in a marriage function organized by him and his family members at Village Pariyari and at about 08:00 PM he heard a noise from the public that Shri Arvindbhai is assaulted. So he along with other rushed to the spot and he show that Shri Arvindbhai was assaulted by Shri Shashikant Mahyawanshi and Shri Bharat Mahyawashi with hockey stick and iron rods and Smt. Bhanuben had blooding injury on her hand.

iii. He further stated that he tried to separate them and immediately informed Shri Sebastian Devasia regarding the scuffle and requested him to send police force. He also informed Shri Dinesh Vaja regarding this.

iv. He further stated that Shri Shashikant Mahyawanshi and Shri Bharat Mahyawanshi escaped from the spot. Wagon-R Car of Shri Shashikant Mahyawanshi was standing in front of the Shri Arvindbhai's Fortunar Car.

v. ASI Shri Chunilal and Constable Manoj arrived at the spot in PCR Van. Shri Navneet Damania informed Shri Chunilal regarding the valuables like currency notes, golden bracelet, mobile and other things lying on dashboard of Wagon-R Car and requested him to take the secure custody of it.

vi. On 03/02/2012 Shri Dinesh Vaja inquired Shri Navneet regarding the incident and directed him to give the statement to the investigating officer. The investigating officer Shri Bhaydas Solanki informed Shri Navneet that he is preparing his statement and no signature of his was taken by the investigating officer till 10/04/2012.

vii. Shri Navneet Damania denied the allegation of Shri Haresh Mahyawanshi regarding open fired from his pistol to him and stated that Shri Bharat Mahyawanshi pressurizing him to bring compromise between both parties.

Facts immerging from the statements and documentary evidence :

a) From all the statements it appears that the incident of assault had occurred at Village Pariyari between the Mahyawanshi Family and Shri Arvindbhai C. Rathod.

b) Complainant Shri Haresh M. Mahyawanshi did not produced any cogent evidence or independent witness except his brothers regarding the gun shot made by Shri Navneet Damania on him.

c) Station diary entry no. 20 & 21 dated 02/02/2012 regarding charge hand over and took over of Shri Bhaydas Solanki and entry no. 22 dated 02/02/2012 for duty joining of Shri N. M. Tamboli is not correct as they are not present at police station as stated by Shri Chunilal Solanki.

d) Station dairy entry no. 24 regarding the phone call from unknown person regarding assaulting at Jampore main road side and visit of PC No. 283 in PCR No. III at Jampore main road side is incorrect as Shri Chunilal Solanki stated that he received the phone call and Shri Sebastian Devasia informed him regarding assaulting so he visited the place along with reserve PC No. 244 on 02/02/2012 in PCR No.III.

e) Both the parties did approach the Coastal Police Station on 02/02/2012.

f) Shri Navneet Damania holds Arm License No. 274 for .32 pistol and has admitted that he does not have any threat perception.

Final Order :

The allegation in the present complaint is about Non-Registration of FIR of cognizable offence and offence under the Arms Act against ASI Shri Chunilal B. Solanki and ASI Tamboli and against Navneet V. Damania. Statements of all concerned persons have been duly recorded. After perusing the contents of the statements and documentary evidence on record , I have come to the conclusion that the complaint does not inspire any confidence and deserves to be rejected for the following reasons:

a) It appears that there is animosity between Shri Arvind C. Patel and the complainants Shri Haresh Mohan Mahyavanshi on account of property dispute. Both the parties are distantly related to some extent. The incident alleged on 02/02/2012 at about 07:30 PM at Village Pariyari on public road connecting to Pariyari village and Moti Daman. It is alleged that when the complainant Shri Haresh Mahyavanshi alongwith two brothers where returning from the marriage function at Pariyari Village in their car, Shri Arvindbhai who was

travelling in his Fortuner Car, obstructed through fare, got down from his vehicle and started scuffling with them. It is further alleged that after some time Shri Nanveet Damania and his brother Shri Gaurang appeared on the spot armed with Silver color pistol and stick respectively. It is alleged that Shri Navneet Damania had fired two shots against Shri Hareshbhai which he managed to ditch and Shri Gaurang assaulted with stick and caused damaged to their Wagon-R vehicle bearing Reg. No. DD-03-E-2501. They alleged that they were scared of their life and they ran away to save their lives. It is alleged that they had visited Coastal Police Station between 10:00 PM to 10:30 PM on 02/02/2012, where they found Shri Arvindbhai and his wife Bhanuben with his supporter in the police station. It is allege that brother of Haresh Mahyavanshi, Shri Shashikant Mahyavanshi went in to the police station and met police officer on duty Shri Shri N. M. Tamboli and Shri C. B. Solanki to lodge the complaint. On careful analysis of the allegations, I found that the conduct of the complainant is very much doubtful in approaching the police after the gross delay of two and half hours after the occurrence of the allege incidence.

b) Further it is against the human nature and conduct that the person travelling with his family in his car would invite a problem by starting a scuffle with a three able body male travelling in another vehicle.

c) Shri Shashikant who had alleged to have entered the costal police station to lodge the complaint did not appeared before the authority to testify as to what transpired between him and on duty police officer at Coastal Police Station on 02/02/2012 at about 10:00 to 10:30. The say of the complainant is merely hearsay evidence on that count and cannot be relied up on.

d) During the enquiry, Shri N. M. Tamboli, ASI, Coastal Police Station, Moti Daman has denied the allegation that Shri Shashikant Mahyawanshi had came to the police station to lodge the complaint on 02/02/2012 at about 10:00 PM to 10:30 PM. On the contrary Shri C. B. Solanki, ASI, Coastal Police Station, Moti

Daman had produced a complaint of a Non Cognizable offence filed by an on behalf of Shri Haresh M. Mahyavanshi and his other two sons on 03/02/2012 which is duly signed by him. The content of the said complaint does not disclosed commission of any cognizable offence. He stated in his statement that the after knowing the contents of the complaint lodge by Shri Mohanbhai Kachra, Shri Shashikant Mahyawanshi informed him that he wants to lodge the complaints under the Arms Act. From the facts, it immerge that possibility of exaggeration by Shri Shashikant Mahyawanshi to convert the non-cognizable offence in to cognizable offence and offence under the Arms Act cannot be ruled out.

e) There appears to be contradiction between the statements of Shri N. M. Tamboli, ASI as against the statement of Shri C. B. Solanki, ASI both the Assistant Sub Inspector of Coastal Police Station with regards to the facts recorded to the station diary entries nos. 22 and 23 recorded on 02/02/2012 between 08:00 PM onwards and also about the custody of currency notes of Rs. 21,000/-, Rado Wrist Watch, Golden Mascot, one bundle of keys and spectacles. These contradictions are not relevant for the inquiry and the same are to be looked in to by concerned senior police officer, who monitors the case.

f) Though the facts alleged in the occurrence may not be relevant for the purpose of this inquiry. However police constable who has been appointed as the driver for the police department is holding a license .32 pistol under the Arm License No. 274 issued by the District Magistrate. The Superintendent of Police, UT of Daman & Diu may review the threat perception against the Shri Navneet Damania and make appropriate recommendation to the District Magistrate especially when Shri Navneet Damania had admitted before the authority that he does not have threat perception.

For the reasons recorded above there is no merit in the complaint and is accordingly

Rejected. However, considering the peculiar facts immerging in this case, I find it appropriate to passed the following direction in the public interest:

Direction:

The Superintendent of Police UT of Daman & Diu is directed to review the threat perception of Shri Navneet Vishnu Damania holding Arm License No. 274 and make appropriate recommendation to the District Magistrate, Daman with a copy to Police Complaint Authority within period of 15 days for the receipt of this direction.

Passed on this 11TH day of December 2012.

11/12/12

S. M. Parmar
Chairperson
Police Complaint Authority
DD & DNH
Silvassa