The Police and its Mighty Power of Arrest

HE word 'arrest', when used in its ordinary and natural sense, means the apprehension or restraint or the deprivation of one's personal liberty. The question whether the person is under arrest or not, depends not on · the legality of the arrest, but on whether he has been deprived of his personal liberty

to go where he pleases. When used in the legal sense in the procedure connected with criminal offences, an arrest consists in the taking into custody of another person under authority empowered by law, for the purpose of holding or detaining him to answer a criminal charge or of preventing the commission of a criminal offence. The essential elements to constitute an arrest in the above sense are that there must be an intent to arrest under the authority, accompanied by a seizure or detention of the person in the manner known to law, which is so understood by the person arrested.

Several provisions of the code of criminal procedure regulate the manner whether by a police officer or by a private person (sections 46, 48, 54, 55, 56, 57, 59 and 64 of the Cr P. C.). In the words of Correlius CJ:

"By section 54 of the code, it is provided that a police officer may without warrant arrest any person against whom a reasonable suspicion exists of his having been concerned in a cognisable offence. The offence may be a bailable offence in this case of arrest by a private person it must necessarily be in a non-bailable offence. But the principal distinction lies in this that by virtu of his office, a police officer may act on reasonable suspicion, but a private person must act on the basis of some thing which has happened in his view the right of a private person to make the arrest at all is confined by section 59 to the arrest of persons whom he actually sees committing a non bailable and cognisable offence (State V Mohd Akbar, PLD 1966 SC 432)

Laws on arrest provide ample scope for the misuse of police power and lack adequate remedies to protect the right to personal liberty, sometimes arrest and detention though made in accordance with the law. can violate one's personal liberty when the law itself provides scope for unjustified or arbitrary use of power by the authorities. In this regard section 54 of the code of criminal Procedure 1898 can be mentioned, according to which the police can arrest a person without any warrant under nine circumstances specified there-in. This section, though innocent in appearance, has given the police much power to detain who they like Though it is argued that this provision is very essential for the detention of the offender. the reality testilies that indis-

by Abul Hasnat Monjurul Kabir criminate use of power of arrest conferred by this section

causes innumerable incidents where the police have used this (Sec. 54) to harass one person at the behest of an-Article 33 of the constitution of Bangladesh provides for specific procedural safeguards against arbitrary arrest and detention and together with arts 32 and 35 makes a total code in respect of arrest, detention

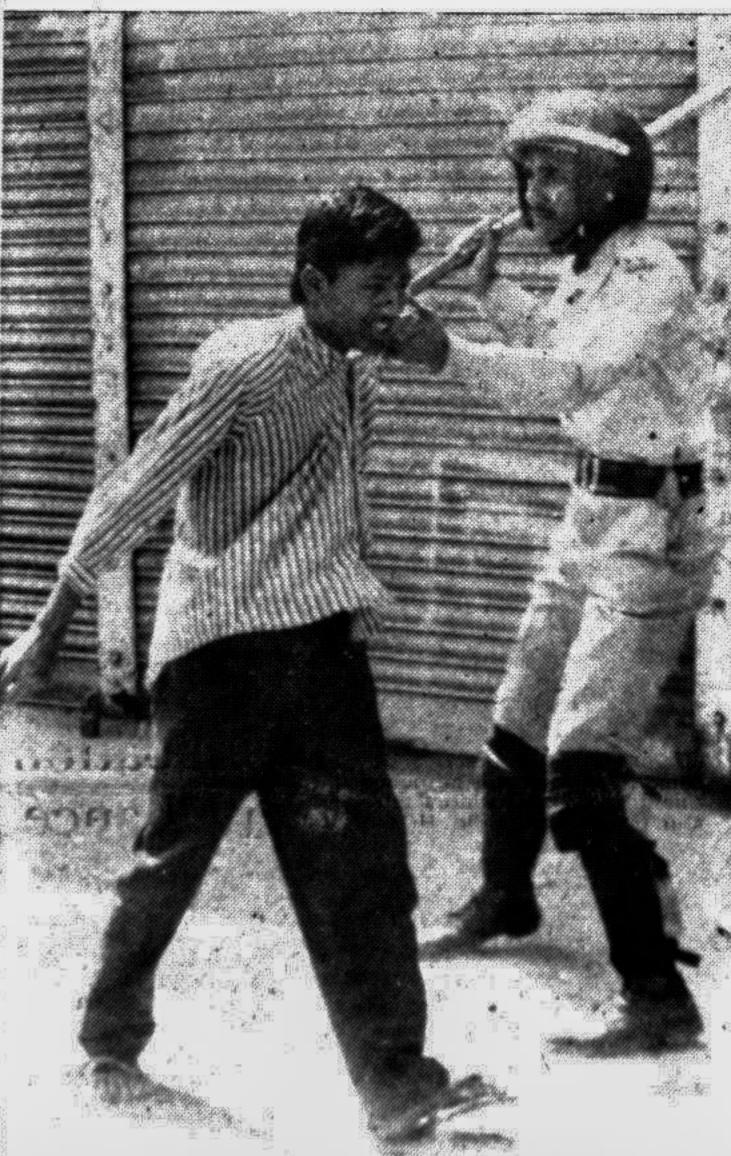
and trial. Article 33(1) requires that a person must, on his arrest, be told why he is arrested. "A warrant of a court and an order of any authority must show on their face the reason for arrest where there is no such warrant order, the person making the arrest must inform the reason for his arrest "(State of Madhya Pradesh V Shobharam, AIR 1966 SC 1910). Art 33(1) and (2) provide

that (I) a person arrested must be informed as soon as possible of the grounds of arrest. (II) he must be allowed to consult and be defended by a lawyer of his choice (III) he must be produced before a magistrate within twenty-four

hours of arrest, excluding the time necessary for the journey from the place of arrest to the court of the magistrate and (iv) he must not be detained for a period longer than twenty-four hours plus the time of journey without the authority of the magistrate. It may be mentioned here that these four rights are not available to an enemy alien and to a person arrested under a law providing for preventive detention which is not the subject matter of this discussion.

So an arrested person has to be produced before the nearest magistrate within twenty-four hours and it is only with the permission of the magistrate that police can bring the alleged criminal back to the police station for further interrogation and investigation. Usually such permission for interrogation in a police station is limited to 3 to 10 days. After a charge sheet is framed for a non-bailable offence, the accused is usually sent to a prison to await trial. If the case is not settled in 360 days, the accused can be released on

After an arrest, when the



accused is brought before the magistrate, he usually engages a lawyer to obtain bail, but the authority of the police to arrest him is never questioned. The power to arrest without warrant and only on suspicion is surely an arbitrary power and more so in the absence of any interpretation of this power by thed highest court.

Though torture is constitutionally prohibited, it is worthwhile to note that in many of the cases, the arrested persons face miserable torture inside the police station. There must, therefore, be positive checks so as to deter law enforcing agencies from making unjustified arrests. One notable point under section 54 of the Cr PC is that although it does not require any warrant of arrest, the police must have reasonable grounds for making the arrest. Therefore, when the police unreasonably any person under Sec. 54 legal action can be certainly taken against such member of the law enforcing agency under Section 28 of the Bangladesh police Act 1861.

The Police Act 1861,

Bangladesh Police Regulation 1943, the Dhaka Metropolitan Police Ordinance 1976 and other relevant laws contain numerous provisions against different abuse of police power. For example, Section 52 of the Dhaka Metropolitan Police Ordinance 1976 provides for imprisonment of upto one year for illegal arrest. However there are no known cases of conviction and punishment of police personnel on these or similar other charges of abuse of their power. Legal proceedings against the police hare become very rare. Moreover it is difficult to prove the unreasonable action of the police. All these lead to make the law enforcing agencies of this country specially, the police the least accountable organs of the executive.

Under Section 8 of the Special Security Force Ordinance, the force can arrest without warrant any person when there is reason to believe that the presence or movement of such person at the vicinity of the Prime Minister or the VIP is prejudicial to their physical security.

The situation has become aggravated in metropolitan cities e.g. Dhaka. Chittagong and Khulna. Intact the - application of the Police Act 1861 was superseded by the Dhaka Metropolitan Police Ordinance. Chittagong Metropolitan Police Ordinance, and the Khulna Metropolitan Police Ordinance respectively. By Section 54 of the Cr PC police con arrest without warrant any person on specified nine grounds where as through Secion 100 of the DMP, ordi nance (similar section is also provided on other metropoli-(at) city police ordinances) any police officer may arrest with out warrant any person committing in his presence or

Consumer Access to Justice in Bangladesh B ANGLADESH is a country of nearly 120 mills

On the top of it we are frequently visited by unwanted guests like floods, cyclones, epidemics and other catastrophes. We live with abysmal poverty that pervades every facet of our lives. Half of our population does not get any

health facilities whatsoever.

of 1,44,000 sq. km. The popu-

lation is mostly rural. Bangla-

desh is vastly over-populated.

Ninety million do not have any access to sanitation. Safe drinking water is available to only fifty per cent of the population. Two-thirds of the population are illiterate. According to the researcher David Abecasis, the social situation in Bangladesh hinders rather than facilities the poor seeking redress. Corruption creeps into the social fabric very easily. It is against such a dismal backdrop that the whole gamut of consumer access to justice in Bangladesh has to be viewed. There are,

within his views any offence punishable order' this 'ordinance or under any other law for the time being in force. In other words, the arresting power is much wider irrespective of the degree of the offence. The ordinance defines many petty matters as offences and for these the police can arrest a person without a warrant according to Section, 100. Wrong parking, obstructing a footway, letting loose a animal, indecent behaviour in public. exhibiting mimetic, musical or other performance begging etc enumerated in Section 46 to 98 are considered as the grounds of arrest.

Remedy against alleged police misconduct will also become uncertain due to some procedural fairness towards police. Although Section 46 to .55 deal with the offences committed by the police force. Section 99 of the Metropolitan Cities' Police Ordinance (e.g. DMP Ordinance) make their application futile as Section 99 goes on saying: No court shall take cognizance of any offence punishable under the ordinance except upon a report in writing made by a police officer. People have to rely on the report of a police officer against the misconduct or misuse of power of police! Can it be an effective remedy against the arbitrariness and wrongdoing the police? The bitter post experiences can not make us optimistic regard-

ing getting justice. In 1995, the Women and Children Repression (Special Provision) Act was passed which further increases the power of police without affording any remedial measures against the probable police misconduct and misuse of power. Such trend of incomplete and improper legislation carries the risk of abuse of power with itself which in noway help the people getting justice, rather, aggravates the prevailing undesired situation.

Abul Hasnat Monjurul Kabir Joint Secretary, Law Review

by SKM Maz-nu-nul Huq

Less successful in practice

is the Breast-Milk Substitutes

(Regulation of Marketing) Or-

dinance 1984. Under this Or-

dinance, no person is allowed:

tribute, circulate, display or

publish any advertisement to

promote the use of any breast-

breast-milk substitute feeding

is equivalent or superior to

ples, gifts, discounts, sponsor-

consumer can seek redress di-

rectly or even go to court.

These functions can only be

handled by an officer autho-

rized by the government. In

November 1991, the CAB con-

ducted a market study and

vey did not mention superior-

ity of breast-milk, 47.73 per

cent used language for encour-

54.55 per cent did not state

medical advice on breast-

Another area of concern re-

products, which require tests

by the Bangladesh Standard

and Testing Institute (BSTI).

control of the quality of these

products. However, many

companies to not even bother

to obtain BSTI reports, and

food products distributed in

the market often do not com-

ply with the required stan-

dards. One market study car-

ried out by CAB in April 1990

showed that out of 82 brands

of 19 food items, only 32 were

Fighting Injustice

Parliament decided to enlarge

the scope of the Parliamentary

Petition Committee, empower-

ing any citizen to bring com-

plaints of public interest be-

fore this committee. The Peti-

tion Committee started opera-

tions by looking into the death

of several hundred children. It

was a sensational case. Profes-

sor Hanif of the Children's

Hospital proved in a pioneer

study that Paracetamol syrup

using poisonous diethylene

glycol as solvent had caused

kidney damage and led to the

death of more than 300 chil-

dren. With, the introduction of

the Parliamentary Petition

Committee, for the first time

in the history of Bangladesh,

consumers are authorized to

lodge complaints directly with

the Speaker of Parliament,

who is also the Chairman of

this Committee. At present,

the Committee is studying 17

petitions from members of the

stances where individuals have

fought against the injustice

caused by powerful companies

There have been rare in-

public.

In 1992, the Bangladesh

found to bear the BSTI seal.

feeding.

ship to health personnel.

(b) To create the belief that

(c) To give any free sam-

Here again, no ordinary

milk substitute:

breast-feeding; and

(a) To make, exhibit, dis-

victory for the consumer. however, some success stories.

Status of Laws

I shall not go into the scope and content of the current law for consumer protection in Bangladesh because that is not my subject of discussion. I shall limit myself to describing salient features of some laws or ordinances that have been introduced to safeguard consumer interests.

We inherited two laws from pre-liberation days that deal with the consumer interest the Control of Essential Commodities Act and the Pure Food Ordinance. The objectives of the Essential Commodities Act are to see to the increase in the supply of any essential commodity, to secure its equitable distribution and availability at fair price, to regulate the production, storage, distribution consumption thereof, and commerce therein. The aims of the Pure Food Ordinance are to check adulteration of food, to prohibit the sale of diseased animals, unwholesome food and the use of false advertisements. It also prohibits per sons suffering from certain diseases from manufacturing. selling or handling food.

Although these laws help secure the interests of consumers, the consumer himself cannot lodge a compliant with the court. Only an inspector or a government official is authorized to lodge complaints, and these officials can easily be manipulated by unscrupulous businessmen. Even the implementation of minimum standards is not available. A 1992 report by the Consumers Association of Bangladesh (CAB)

The Dhaka City Corporation Authorities raided different hotels and restaurants during the last one year (1991) and detected adulteration in foodstuffs and improper environment of food preparation in a considerable number of hotels and restaurants in the capital city and more than 60 owners were put under penal action. Another test report indicated an alarming picture of quality control measures. Out of nine popular ice-creams sold in the market, only one was found of safe quality for consumption.

After liberation, a real step was taken to safeguard consumer interest. This was done with the introduction of the Drugs (Control) Ordinance 1982. It was a unique, bold step. There was much opposition, both from national and international profiteers. The objectives of the Drug Policy are to increase availability and accessibility of good quality essential drugs, to ban nonessential hazardous drugs from the market, to encourage local companies to produce drugs and raw materials, and to lower drug prices. Many of the objectives have been achieved despite treacherous opposition from groups with vested interests. It is a story of war with

and shocking fact situations. The costs of victory were high and any long range or general

benefit was undiscernible. At the outset, I told you that the vast majority of our people are very poor and illiterate. To quote Dr Syed Rashedul Hasan of Dhaka University, "To them the slogan of internationally recognized consumer rights is meaningless and carries no value". They have been exploited for centuries. Even the educated are not fully informed about legal provisions to safeguard consumer interests. Apart from the prohibitive cost of litigation, there is the additional possibility of being harassed or threatened by those with vested interests.

In any case, present laws for consumer protection are inadequate and the penalties are not sufficiently deterrent.

Upgrading Protection

found that 50 per cent of 44 brands of baby food under sur-There should be a comprehensive piece of legislation for consumer protection. This should include a provision for a quasi-judicial machinery so aging use of the baby food, and that the consumer can himself obtain justice without incurring the expense of engaging lawyers or going through the formalities of a court hearing. lates to the standards and Consumer organizations should also be allowed to lodge comquality of agricultural and food plaints on their own. Under this Consumer Protection Law, regional councils could be set The BSTI is responsible for up at different places to facilistandardisation, testing and

tate hearings. Non-governmental organizations should extend help by providing legal aid to complainants. Consumer education must be intensified so that ordinary people are aware of their rights and responsibilities. They should know where to go and whom to contact for redress. The mass media, like radio, television and newspapers, should be involved in this process. Consumer rights and relevant laws should, as far as possible, be included at all levels of the school curriculum and in universities.

The present odds might seem discouraging. But we should start somewhere, remembering Edmund Burke who said: "Nobody made a greater mistake than he who did nothing because he could only do a little." So with a little, we can make a start.

The government should take the lead in dealing with serious violations of the law. ensuring that penalties deter potential violators. Consumer organizations need to work together and coordinate their activities on behalf of consumers, instead of fighting separately, they should pool their knowledge, experience and courage, and work under some sort of federation to strengthen their bargaining power. By linking with international consumer organizations like the IOCU, the federation will find the courage and power to sustain its fight to improve the lot of ordinary consumers, who are easy prey to national and international greed.

However, a noted by the Amer-Let us hope we shall win. ican publication. Law for the S K M Maz-nu-nul Huq

Director, Department of Consumer victories frequently depended on sympathy Women's Affairs

The Daily Star Entertainment Guide

Sunday 18th August

(All programmes are in local programmes printed in bold. There may be changes in the progra-mmes).

BTV

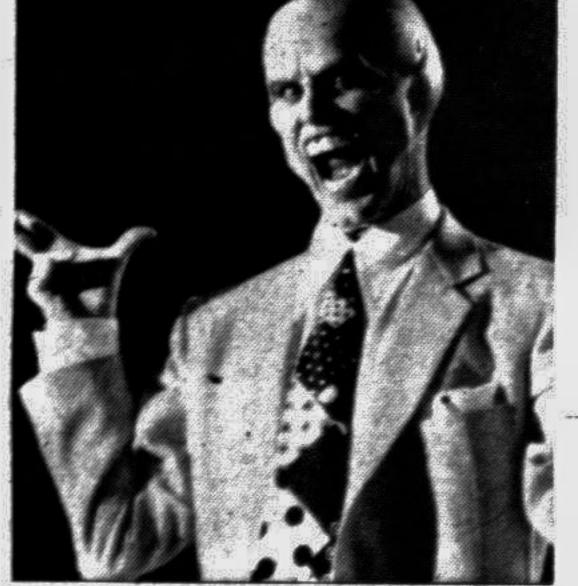
3:00 Opening 4- went Ai Quran Programme Summary 3:10 Recitation from the Bible 3:15 Cartoon: Woody Woodpecker 3:45 Retelecast of Weekly Drama 4:08 News in Bangla 4:45 Anu Paramount: 5:00 News in Bangla 5:25 Sports Programme 6:00 News in Bangla 6:30 Apnar Daktar 7:00 News in English 7:05 Open University 7:25 Tagore Songs 8:00 News in Bangla 8:25 Janmabhumi 8:30 Shipla-Banijia Artho 9:00 Film Series: Akbar The 10:00 News in English 10:30 Shasthatatha 10:35 Sur Lahori : 11:30 News in Bangla 11:35 Monday's programme 14:40 Close down

BBC

6:00am BBC World News 6:30 India Business Report 7:00 BBC World News 7:25 This Week 8:00 BBC World News 8:30 India Business Report 9:00 BBC World Headlines 9:30 Horizon 10:00 BBC World News 10:20 Britain In

View 11:00 BBC World News 11:25 India Business Report 12:00noon BBC World News 12.20 This Week 1:08 BBC World Headlines 1:05 Assignment 2:00 BBC World News 2:30 Time Out: **Building Sights 3:80 BBC World** News 3:30 Time Out:Airport 4:00 BBC World Headlines 4:05 Everyman 5:00 BBC World News 5:20 Whicker's World : A Taste Of 6:00pm BBC World Headlines 6:05 White Heat 7:00 BBC World Headines 7:05 Breakfast With Frost 8:00 BBC World News 8:30 Time Out Clarson's Motorworld 9:00 BBC World Headlines 9:05 Horizon 10:00 BBC World News 10:20 Earth Report 10:30 Time Out: Raymond's Blanc Mange 11:00 BBC World News 11:20 Britain In View 12:00mn BBC World News 12:26 Window On Europe 1:00 BBC World Headlines 1:05 Madness 2:00 BBC World News 2:30 Time Out: The Sky At Night 3:00 BBC World Report inc. World Business Report/24 Hours 5:00 BBC World News 5:10 The Mony Programme

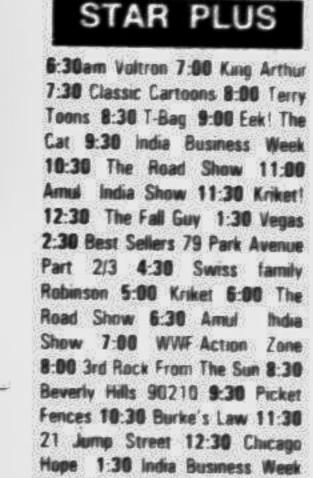
10:30 Soul Curry 11:00 BPL DYE! 12:00 Sansur Mangtahar 12:30 First Day First Show 1:08 Big Bang VJ Alessandra 2:00



The Mask on Star Movies, Tonight at 9:30

CHANNEL V

9:30am Rewind VJ Sophiya



2:36 Amul India Show 3:00 The

Oprah Winfrey Show 4:00 Hooperman 4:30 Home and Away

5:00 The Sullivans 5:30 Gabrielle

Easy 2:30 Tideocon

Flashback 3:00 Asian Top 20 VJ

None 5:00 The Vibé Weekend VJ

Luke 6:30 Everday Reda Lert 6:45

The Vabe Weekend 7:00 Palmolive

Extra Time Pass 7.30 Everday

Reda Lert 7.45 The Pass

continued 8:00 The Indian Top 10

9 00 Launch Pad VJ Sophiya

10:00 House of Noise VJ Luke

10:33 House of Noise cont 11:00

Rewind VJ Sophiya 12:00 Big

Bang VJ Alessandra 1:00 The

Ride VJ Trey 2:00 By Demand VJ

Trey 3:00 Big Bang VJ Alessandra

4:30 Launchpad VJ Sophiya 5:30

W VJ A P sandra

STAR Sports

700am Cinket Week 730 ::

M Cycle Champs Czech Preview 8:00 World Windsurfing H/L 8:30 World Wrestling Federation Mania 9:30 Futbol Mundial 10:00 Asia Sports Show 10:30 Bud Pro Surf Tour 11:30 Inside PGA Tour 12 00noon The 1996 Etchell World Champs 12:38 ATP Tennis Infiniti Open Final 2:38 Sports india 3:38 Live Metorcycle Champoinship Czech Republic Grand Prix From Brno 7:00 Live Cricket '96 Sunday League Teams TBC 12:30mm Thai Kickboxing Highlights 1:30 . World Rally Champs Argentina 2:00 Australian Football League Highlights 3:00 Bud Pre Surf Tour 4:06 Cricket Week 4:30 Inline Skating Highlight 5:00 Indian Football Kalyani Black Label Cup 3rdi4th Place Playoff

STAR MOVIES

30am Classic The Egypt a" (Mindi Subtitles) 9:30 Comedy Harry and Son 15 Subtitles: 11:30 Family Care Bears G (Hindi Subtitles) 1:30 Sunday Classic Western ... White Feather 12 (Hindi Subtitles) 3:30 Sunday Sflowtime: Flash Gordon Ep 9+10+11+12 (Hind Subtitles 4:30 Sunday Show Time: All Aboute The Movies Ep. 9 + 10 (English Subtitles) 5:30 Sunday Matinee Family Double Feature: Falsely Accused? (Hindi

Special and featuring Air Supply on Channel V, Today at 2:00 pm Subtitles 7:30 Sunday Matinee

The Wind PG? (Hindi Subtitles) 9:15 20:30 Film 96 Special 9:38 Golf The Mask 18 (No Subtitles 11:30 Based on A True Story The Nomen of Windsor (pt 1) 12 (Arabian Subtitles) 1:30 Based on A True Story The Women of (pt .2) 12 (Arabic Subtitles) 3:30 Thriller Lethal Error 157 (Arabic Subtitles) 5:30 Thrifler The Vanishing 18 (Arabic ZEE TV

5:30 Surtal 6:00 The News 6:30 Jagran 7:00 Bhajans 7:30 Maa 8:00 Mythologocial Film 10:30 Aap Ki Adalat 11:00 Galaxzee 11 30 Lakme Khoobsurat 12:00 Been Ke PG 12:30 Bournvita Que Contest 1:00 Namaste India 1:30 Asian Sky Shop 2:30 HFF 5:00 Dhak Ghar/Apna Ghar 5:30 Insight 6:00 Colgate Gel Yoodle Ae-Oo 6:30 Rasna Kye Scene Har 7:00 Gaane Anjane 7:30 Ad Mad Show 8:00 Tumhare Live 8:30 Shune Shuno Tring Tring 9:00 Nirma Aahaa 9:30 9 Malbar Hill 10:00 The Zee Horror Show 10:30 The News 11:00 Index 11:30 Philips Top Ten 12:30 Gopaljee 1:00 Mr Mintu 1:30 Umeed 2:00 Zaike Ka Safar 2:30 TMM 4:00 Dastaan 4:30 Ghoomta Aana 5:00 Jagran

EL TV 12:30am Best of the Best 1:30

Dharitiendra Special 2 30 Mein Nashe Mein Hoon 3:30 Love Love Love 4:30 Kishore Kumar Special 5:30 Best of The Best 6:30 Dharmendra Special 7:30 Mein Nashe Mein Hoon 8:30pm Frooti It's My Choice 9:00 Atco Rubaru 9:30 Fat or Fit 10:00 Faun 10:30 Song Yatra 11:00 Sorry Meri Lorry 11:30 Liberty Public Demand 12 30 Chehre 1:00 Number 11:30 Moov Usha Uthup Showl : 2:00 Wonder Wings Amar Prem 2:30 Money Game 3:00 Instinct Purush

5 00 People's Club 5:30 Ajeeb Dataa 6:30 Hit Pairs 7:30 Brigadier Balwanth Bhawan 8:00 Kamaal Combination 8:28 Haseen

Kshetra 4:00 Zandu Balm Dance

Mania 4:30 Ortem Hit Thi Hit Hai

Pal 8:30 The Music Show 9:00 V3 - 10:30 Shatrani 11:00 Atco Rubaru 12:30 Stand By 12:40 Abhinetri 1:00 Ainabi 1:30 Meri

PTV

Tilawat Aur Tariuma/Hamd/Naat 8:20 Cartoon 8:30 Khabrain 8:45 Fun Jime 9:05 TV Encyclopedia 9:25 Khat Farmaish 9:40 Sports Clinic 10:05 PTV Gold 10:30 English Film: Darkwing Duck 10:55 Mast Mast Sanyo 11:00 Khabrain 11:10 Sports Hour 12:05pm Biscop 95/Qasmi Hahani 12:55 Quran e Hakeem 1 02 Bismillah 1:15 Aai Di Kahani 1:40 Aai Di Shaam 2:00 Kmara 'Ep-43'

5:25 Riazi for 9th 5:55 Zameen Per Zindegi (Drama Serial) 6:25 Aiou Courses 7:00 English News 7:30 English Film : Star Trek Deep Space Nine 8:20 Hawwa Ki Naam 9:00 Break for Headlines News 9:20 Sur Tasver (Pakistani Film 1947 95) 10:00 Khabarnama & Commercial News 11:00 Pezwaan 11:35 Home Victime (New Serial) 12:35 Music Masters Raag Rang 1:00 Khas Khas Khabrain

(Drama Serial) 2:55 Ghost Writer

3:55 Karabar 4:15 Education

DD 7

9:00 Janmadin 9:05 Geetmalay 9:30 Movie Club Film 12:30 Surer Asar 1:00 Ohitang Dhitang Bole 1:30 Movie Ciuli Film 3:30 Geet

Sangeet 4:30 Bengali Feature Film 5:30 News 7:20 Binddon 7:30 Bangla Sambad 8:00 Marzada 8:25 Ek Tuku Basa 9:30 Drama 10:00 Dance Prog 10:30 News/Bengali Sambad 11:00

SONY ET

8:30am Jai Bir Hanuman 9:08

Yaadon Ki Baarat 9:30 Gaane Jaane Maane 10:00 Hindi Hits Songs 10:30 Buddha 11:00 10 Civil Lines 11:30 Sunday K Sunday 12:00 Hamse Barker Koun 12:30pm Pehli Mulakat 1:00 Good Shet 1:30 Pehchan 2:00 Hum Se Barker Gong 2:30 Mere Massage Men Geet 3:00 Nave Taranee 3:30 Gaane Jaane Maane 4:00

Dekh 6:30 Aahat 7:00 - me Classics Hindi Feature Film 10:00 10:30 Audio Video Premier Show 11:00 Good Shoot 11:30 Cine Prime-Hindi Feature

Dekh Tamasa Dekh 4:30 0 Maria

5:00 Jane Kaha Mera Jigar Sava

Jr. 5:30 Ghaav 6:00 Dekh Tam.

ZEE CINEMA

Ustaad 10:45 Break Ke Baad 11:15 Aautela Bhai 2:00 Filmi Chakkar 2:30 Pyar Pyar 5:15 Songs 6:00 Dara Dil 8:45 Ikke Pe Ikka 9:30 Rairaag 12:15 Trailers 12:30 Integaam 3:15 Ikke Pe Ikkea 3:45 Qaid

by Jim Davis

Garfield ®







