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The Dilemma of Section 54

by Abul Hasnat Monjurul Kabir

What is a reasonable complaint or suspicion must depend on the circumstances of each particular case, but it must be at least founded on some definite fact tending to throw suspicion on the person arrested and not a mere vague surmise or information.

under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in Bangladesh.

Eighty, any released convict committing a breach of any rule under section 565, sub-section [3].

Ninety, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specified the person to be arrested and the offence for which the arrest is to be made and it appears there from that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

Power of Arrest
The words "may arrest" show that the power of arrest is discretionary. A police-officer is not always bound to arrest for cognizable offences (offences for which a police officer may arrest without warrant). If an information of such an offence is brought to him he ought, if there be circumstances in the case which lead him to suspect the information, to refrain from arresting persons of respectable position and to leave the complaint to go to a Magistrate and convince him that the information justifies the serious step of the issue of a warrant of arrest.

The powers under this section must be cautiously used. This section gives wide powers to a police officer to make an arrest without an order from



Arrest on Suspicion : Section 54 in Action

the Magistrate and without warrant only in certain circumstances limited by the provisions contained in this section, and it is necessary in exercising such large powers to be cautious and circumspect.

Not Unqualified!

The section does not give an unqualified power in all cases to any police-officer to arrest, without, an authorization in writing, a person concerned in a cognizable offence. The provisions of this section are limited

by those of section 56 (procedure when police officer deputes subordinate to arrest without warrant). But where a subordinate police officer is not acting independently, but is merely deputed by a superior officer to arrest some one concerned in a cognizable offence, a further formality is prescribed in section 56, presumably, to prevent abuse of the powers of the police or to allow the person arrested to know the reason for his arrest and the office of the person arresting him. (Md Ismail, AIR 1936)

The Test of Reasonableness

The first clause of the section 54 which empowers a police officer to arrest any one on the basis of reasonable suspicion exists in his mind or credible information received by him does not apply to a case of non-cognizable offence and the accused is consequently not exceeding his legal right in insisting upon the release of the arrested persons.

A general definition of what constitutes reasonableness in a complaint or suspicion and credibility of information can not be given. Both must depend upon the existence of tangible legal evidence within the cognizance of police officer, and he must judge whether the evidence is sufficient to establish the reasonableness and credibility of the charge, information or suspicion. A police officer may without a warrant arrest on reasonable suspicion, "reasonable" being understood to mean a bona fide belief that an offence had been committed or is about to be committed ne-

What is a reasonable complaint or suspicion must depend on the circumstances of each particular case, but it must be at least founded on some definite fact tending to throw suspicion on the person arrested and not a mere vague surmise or information. Still less have the police any power to arrest persons as they sometimes appear to do on the chance of something being there after proved against them.

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The gulf between laws in theory and practice in Bangladesh must be rapidly narrowed. Minimum standards must be set for decency to be observed when arresting and searching anyone, especially women and adolescent girls. Following an arrest, the police should inform the nearest Legal Aid Community or any other recognized services, without delay.

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Therefore unless a police officer considers that he can not complete the investigation within a period of 24 hours it is incumbent upon him to forthwith produce the accused before a magistrate.

AD-HOCISM in Media Policy has till now been the most preferred way for governments in South Asia. However with the onslaught of new communication technology like Internet services and Direct to Home (DTH) telecast, on everyday lives, governments world over are being forced to rethink their media policies. It was this emergent situation which coerced US senators to pass the Computer Decency Act, 1996 and introduce measures for the installation of V-chips in television sets. Broadcasting, especially television, has become a very competitive business. Rapid developments in satellite technology and the ease with which signals from

satellites are able to transcend national boundaries, coupled with the attraction of an array of programmes available, the world has been converted into a single television market.

In third world countries with high levels of illiteracy the electronic media because of its audiovisual impact and extensive reach covering sections of society where print media does not reach, is certainly the most powerful media. It is this reason, which compels governments of most countries to establish a monopoly over broadcasting. Broadcasting, necessarily involves the use of airwaves. Airwaves are public property and their use has to be governed by the utilitarian

principle of 'Maximum good for the largest number'. At the same time airwaves in the form of frequencies are limited and any interference caused by misuse, will render them useless. It is this factor which has necessitated the establishment, maintenance and control of broadcasting services, within the purview of governmental regulation.

Monopoly in broadcasting is also claimed by the government so as to prevent concentration of frequencies in the hands of few who can then monopolise

the dissemination of views and consequently manipulate public opinion. It was precisely in this context that the US Supreme Court in *Red Lion Broadcasting Co v Federal Communication Commission* (1969) 395 US 367 evolved the Fairness Doctrine in which it was laid down that it is the right of the viewers and listeners, not the right of the broadcasters which is paramount.

Broadcasting is a means of communication and therefore a medium of speech and expression. It must be remembered that the fundamental right to speech and expression includes the right to acquire and disseminate information, which involves the use of any media-print, audiovisual and electronic.

The right like Freedom of Press, has two facets, the right to inform and the right to be informed. The former is the broadcaster's right while the latter is the viewers right. Viewers rights can be enumerated as (i) right to imposition of programme codes (ii) right to multiplicity of opinion and right to

balanced broadcast which includes two affirmative responsibilities as laid down by the 'fairness doctrine', (a) coverage of issues of public importance (b) presentation of the opposing view. The broadcasters rights are essentially dual — (i) right to frame own programme schedules (ii) right to inform and educate.

Constitutionally the position of media freedom is varying. In Britain, there is no specific written constitution or law setting out fundamental freedoms, nor are there any specific press laws. Even so, freedom of press is widely respected in Britain. Media freedoms and restrictions are based on conventions as well as general legislation. (To be continued)

Dhaka Day by Day

No Room for Bachelors

By Ekram Kabir

HOW DO I KNOW THIS
CERTIFICATE IS
NOT FAKE?



unqualified until the owner saw their marriage certificate. "Though furious, we agreed to show everything which would convince the suspicious head of the house, because we were tired of being refused by quite a couple of them," says the wife, an executive in a Motijheel company.

The experience of a physician, who works in an American NGO and requested anonymity, was pretty interesting: and he seemed to have enjoyed the hassle he went through while getting a house rented in Kalabagan. Says he, "I knew beforehand what the landlord could have said, and for that reason, I took my mother and sister along who live in Khulna. I told them that my sister was going to live with me, and asked my mother to inform the owner that her son was going to be married very soon. Interestingly, his mother's version of the story was highly convincing and acceptable to them; and I have been living here for more than two years in peace."

Now, what could be the possible reasons, on house-owners' part, for resenting to rent out their houses to single people? Well, firstly they consider whether these people would be able to pay the rent regularly. And then, the landlords/ladies fear that bachelors usually are prone to lead a cavalier lifestyle which could make the owners unpopular in the neighbourhood. It's not yet clear since when the working bachelors earned this bad name. At least, the bachelors of the '90s — unlike those of '60s and '70s — are more straightforward and want to live a decent life in this city.

Towards a Broadcasting Policy

by M S Ahmed and Shuba Mandal

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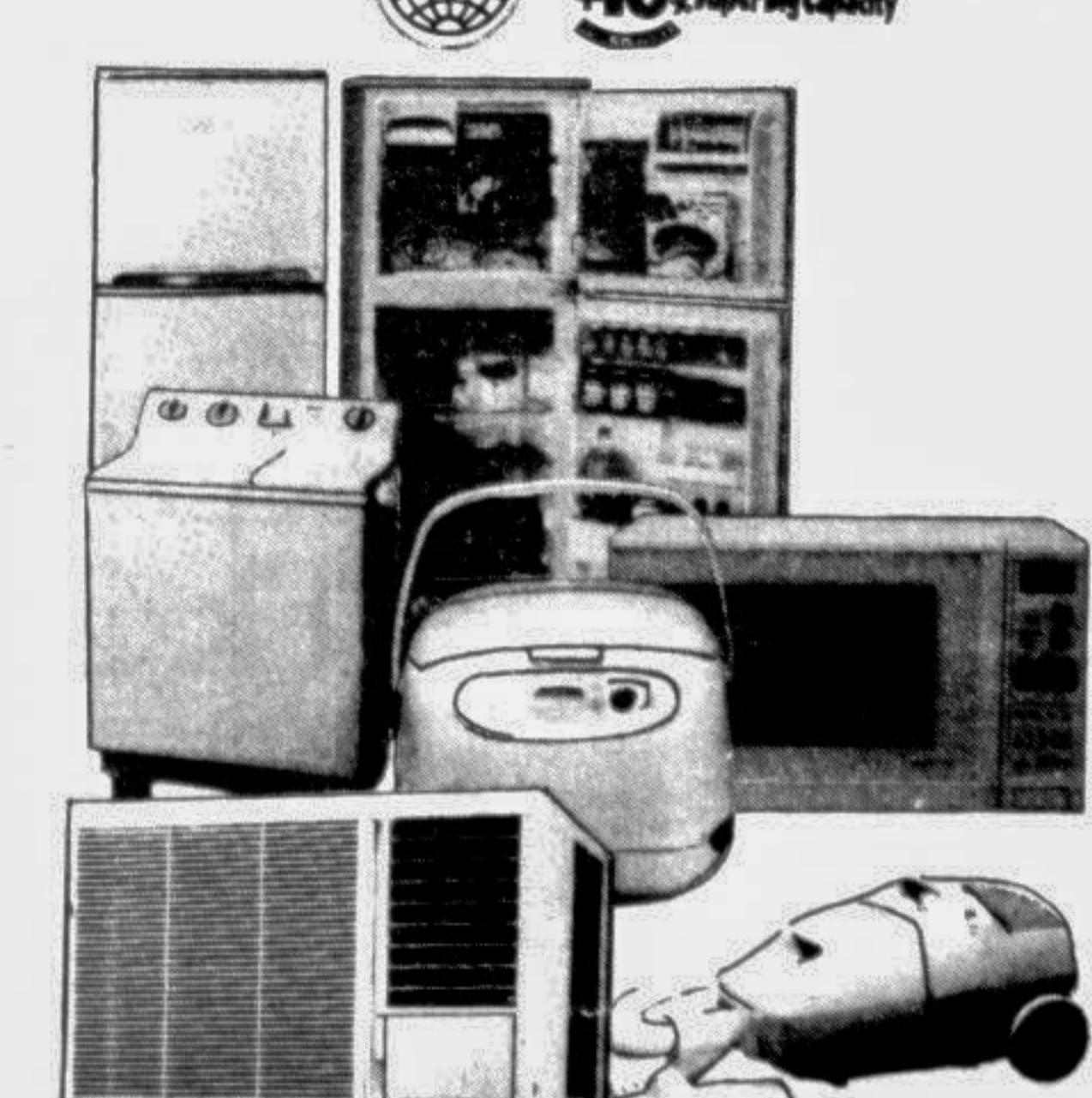
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৬৮ সুন্দর পাটলি, জাতীয়, ফুলি ১৯৬০০২-০০

* ঢাকা * পুরানা পাটলি ফুলি ১৯৬০০২-০০ * বিজয় সরলি ফুলি ৮১৮৮০-৮১ * সোনারগাঁও জোড় ফুলি ১৯৬০০৩০ * উলশান ফুলি ৮৭১৫৭৬ * উত্তর ফুলি ৮১১১৭১ * মিরপুর ফুলি ১০০৫৮৩০ * মালক পাজি

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