



W.P.No.7090

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 31.10.2023

ORDERS DELIVERED ON: 24.11.2023

CORAM

**THE HON'BLE MRS.JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS.JUSTICE N.MALA**

**W.P.No.7090 of 2023
and
W.M.P.No.7166 of 2023**

M.Velmurugan

... Petitioner

vs.

1.The Principal Secretary to Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

2.The Registrar,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Chennai – 600 028.

3.Tmt.Nageshwari

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned recommendation in SHRC Case No.9796 of 2018 passed by the State Human Rights Commission dated



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04.08.2022 and to quash the same and pass such further or other orders as this

Honourable Court may deem fit and proper in the facts and circumstances of the case.

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For Petitioner : Mr.D.Alexis Sudhakar

For R1 : Mr.S.Balamurugan
Government Advocate

For R2 : Mrs. G. Prema

For R3 : Mr.R.Chandrasekaran

* * * * *

ORDER

(Order of the Court was made by N.MALA,J.)

This Writ Petition is filed to call for the records relating to the impugned recommendation in SHRC Case No.9796 of 2018 passed by the State Human Rights Commission dated 04.08.2022 and to quash the same.

2.The Writ Petition is filed challenging the order dated 04.08.2022 of the State Human Rights Commission directing the Government of Tami Nadu to pay compensation of Rs.60,000/- (Rupees Sixty Thousand Only) to the complainant and to recover the same from the respondents 1 to 3 at Rs.20,000/- each and further recommending initiation of disciplinary action against the respondents.



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3.The complainant filed the complaint before the State Human Rights Commission in SHRC.No.9796 of 2018 on 28.09.2018 against the petitioner and two other police officials for violation of human rights.

4.The case of the complainant is that there were two water pipes near her house which were used for drinking water by the residents of her area. The Officers of the Natham Town Panchayat without any prior intimation removed the water pipes and so she along with the residents filed a complaint before the Panchayat Office seeking restoration of the pipe lines. While so, on 18.07.2018 one Saravanan with 7 others entered into the complainant's house with deadly weapons and assaulted the complainant and others. The complainant therefore contacted the Sub Inspector of Police, Natham Police Station and informed him about the incident, but no action was taken. She therefore contacted the Deputy Superintendent of Police, Dindigul and Superintendent of Police, Dindigul through her cell phone and complained of the incident. Thereafter, the Sub Inspector of Police, Natham Police Station, the second respondent in the complaint went to the spot and advised the complainant to visit the police station the next day. On the next day, the complainant lodged a complaint in Natham Police Station but no action was taken on the complaint. The complainant, therefore, met the Deputy Superintendent of Police, Dindigul and Superintendent of



Police, Dindigul on 31.07.2018 and lodged a complaint against the offender. She also sent the complaint to the higher officials through registered post. On 27.08.2018, the complainant was called for enquiry and she attended the same. In the enquiry, the respondents ill-treated her and abused her by using the unparliamentary language. The complainant further stated that on the complaint of one Suresh a false case was registered against her and others on 26.07.2018 and the complainant and the other accused were forced to obtain anticipatory bail which was granted on conditions. The complainant aggrieved by the action of the police officials in not registering her complaint but driving her to obtain anticipatory bail on a false complaint of one Suresh, moved the State Human Rights Commission for violation of human rights.

5.The first respondent before the State Human Rights Commission filed the counter denying the allegations raised by the complainant. The respondent stated that based on the complainant's complaint, the Sub Inspector of Police, Natham Police Station visited the spot and examined the witnesses and concluded that Saravanan alone was present in the scene of incident and the others were not involved. According to the respondents they had acted in accordance with law and did not violate the human rights of the complainant.



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6. Before the Commission the complainant examined herself and she also examined one Dhanasekar on her side. The complainant marked Ex.P1 to Ex.P8 in support of her case. The first respondent examined himself and marked Ex.R1, enquiry report. The State Human Rights Commission on an appreciation of the entire evidence on record allowed the complaint. Aggrieved by the order passed by the State Human

Rights Commission, the second respondent in the complaint has filed the above writ petition for the aforesaid relief.

7. The learned counsel for the petitioner submitted that the State Human Rights Commission was not justified in finding that the second respondent had violated the human rights of the complainant without any substantial material in support of the same. He further submitted that the State Human Rights Commission failed to note that the complaint was barred under Section 36(1) and Regulation by 9(i) and 9(j) of the State Human Rights Commission of Tamil Nadu Procedure Regulation 1997. The learned counsel further submitted that the State Human Rights Commission had failed to note that there could not be two FIRs for the same incident. The learned counsel further submitted that the State Human Rights Commission failed to consider that there



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was no complaint received from the complainant by the petitioner on 18.07.2018.

Hence there was no question of issuing a C.S.R.No. and registering the FIR. The learned counsel relying on the other grounds raised in the writ petition prayed that the order passed by the State Human Rights Commission be set aside and the writ petition be allowed.

8.The learned counsel appearing for the complainant on the other hand submitted that the order passed by the State Human Rights Commission was justified on the facts and circumstances of the case and the same did not call for interference by this Court.

9.The petitioner will be referred to as the petitioner and the third respondent will be referred to as the complainant.

10.We have heard both the learned counsels and we have perused the records.

11.There is no dispute that the incident occurred on 18.07.2018. The complainant informed the petitioner over phone about the incident. He initially did not act on the same, but on the intervention of the Deputy Superintendent of Police, Dindigul and the Superintendent of Police, Dindigul he visited the spot and advised the complainant to



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file a complaint on the next day. Eventhough the complainant approached the petitioner on the next day and lodged the complaint, the petitioner did not act on her complaint.

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The complainant therefore approached the Deputy Superintendent of Police, Dindigul and Superintendent of Police, Dindigul and lodged the complaint. She also sent a complaint to the higher officials by registered post. Thereafter the police officials sent her summons to appear for enquiry on 27.08.2018. According to the complainant she was abused in the enquiry. The grievance of the complainant is that whereas no action was taken on her complaint but on a false complaint of one Suresh with respect to the same incident an FIR was registered on 26.07.2018 and a criminal case in Crime No.486 of 2018 was filed against the complainant's husband, herself and others. The complainant's husband was arrested and the others were forced to obtain anticipatory bail. When she appeared before the respondents in compliance of the bail conditions, she was harassed and abused. The complainant therefore approached the State Human Rights Commission complaining of violation of her human rights.

12.The objection of the learned counsel for the petitioner that the complaint is barred under Section 36(1) and Regulation 9(i) and 9(j) of the State Human Rights Commission of Tamil Nadu Procedure 1997 is concerned, we are of the view that as the said objection was not taken before the Commission, the same cannot be raised before



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this Court in the writ petition. On the submission of the learned counsel for the petitioner that the State Human Rights Commission failed to note that there could be no two FIRs for the same incident, we think that the issue is not whether two FIRs could be filed for the same incident, but why the complaint given by the complainant, which was earlier in point of time was not registered and why even a CSR.No. was not given for the complainant's complaint?

13.It is seen that even on the day of the incident i.e. 18.07.2018, the complainant complained to the petitioner. Initially the petitioner did not respond, but on the intervention of the higher officials he visited the scene of incident and advised the complainant to lodge the complaint the next day. According to the complainant, though she went to the petitioner's police station on the next day, the complaint was not taken on file and so she approached the higher authorities and at their instance she was called for an enquiry on 27.08.2018. In the counter neither the incident nor the complaint of the complainant is denied. The petitioner's case was that the petitioner had visited the scene of incident, recorded the statement of the witnesses and concluded that the only person who was present in the scene of incident was one Saravanan and others referred to in the complaint had no role in the incident. Though the petitioner in the counter



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specifically stated that the written statements were taken from the witnesses none was produced before the Commission. The petitioner admits that on the basis of the complaint lodged by one Suresh, who was one of the persons named in the complaint, the police officials registered the FIR and a criminal case was filed in Crime No.486 of 2018. The complainant's husband was arrested with respect to the aforesaid criminal case and the petitioner was forced to obtain anticipatory bail along with other accused.

14.It is pertinent to note here that the FIR was registered on 26.07.2018, a week after the incident and immediately the criminal prosecution was launched against the complainant, her husband and others named in the FIR, while no action was taken on the complaint given by the complainant, which was made immediately after the incident. It is pertinent to note here that in the counter the complaint lodged by the complainant was not denied. That the complainant's complaint was lodged on the day of the incident is clear from the counter filed by the Inspector of Police B.Sivakumar, before the Commission. The relevant portion of the counter is extracted hereunder for better appreciation.

“இந்நிலையில் மனுதாரர் சம்பவம் நடந்ததாக
சொல்லப்பட்ட 18.07.2018ம் தேதியில் சரவணன் என்பவர்
மட்டும். சம்பவ இடத்தில் இருந்ததாகவும் அவர்



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நாகேஸ்வரியை தகாத வார்த்தைகளால் பேசி மிரட்டியதாக
புகார் கொடுத்ததன் பேரில் சார்பு ஆய்வாளர் வேல்முருகன்.
அவர்கள் சம்பவ இடம் சென்று விசாரணை செய்ததில்
சரவணன் என்பவரை மேற்படி நாகேஸ்வரி தரப்பினரான
சின்னையா என்பவர் அடித்ததில் தலையில் காயம் ஏற்பட்டு
சிகிச்சை செய்து வீட்டில் இருந்துள்ளார். மேலும்
இப்புகார் மனு சம்மந்தமாக இம்மனுவில் கண்ட
எதிர்மனுதாரர்கள் மற்றும் சம்பவ வீட்டிற்கு அருகில் உள்ள
கோவில் டிரஸ்டி மற்றும் அருகில் இருந்தவர்கள் ஸ்ரீதேவி,
பஞ்சவர்ணம் பார்வதி லீலாவதி ஆகியோர்களை நேரில்
அழைத்து விசாரணை செய்யப்பட்ட அவர்கள்
வாக்குமூலத்தில் மனுதாரருடன் எதிர்மனுதாரர் சரவணன்
என்பவர் மட்டும் பேசிக்கொண்டிருந்தது உண்மை என்றும்
அப்போது சரவணன் என்பவருக்கு தலையில் காயம்
ஏற்பட்டிருந்ததாகவும், மற்றபடி மனுவில் குறிப்பிட்டுள்ள
மற்றவர்கள் யாரும் மனுதாரருடன் தகராறு ஏதும்
செய்யவில்லை என்றும் எழுதிக்கொடுத்துள்ளனர்.”

15. Therefore, when the complaint of the complainant was not denied by the officials, it is not known why even a CSR was not given for the complaint? The



respondents attempted to justify the non-registration of the complaint in the written arguments by stating that on investigation of the complainant's complaint it was found that the complaint was false and therefore the same was closed. The closure of the complaint was not pleaded in the counter and no materials were produced in support of the same. In the light of the said facts, the finding of the Commission at paragraph No.18 to the following effect cannot be faulted.

“18.As per Section 154 of Cr.P.C. it is the duty of the Station House Officer to register a criminal case if any credible information or prima facie case is made out from the complaint he should register the same and conduct investigation on this aspect. No document to show that the 2nd respondent visited the occurrence place, prepared observation mahazar, sketch and recorded the statement of the parties and witnesses to the incident. Therefore, the 2nd respondent had not discharged his duty in accordance with law and the non-registration of the case on the basis of her complaint is dereliction of duty which amounts to violation of human rights of the Complainant.”

16.On a conspectus of the entire materials on record, we are of the view that the petitioner by closing the complaint of the complainant in violation of law and registering the complaint of the complainant's opponent which was later in point of time



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resulting in the arrest of the complainant's husband and driving her to obtain anticipatory bail violated the complainant's human rights and has failed to discharge the duties cast on him by law. We, therefore, find no merits in the writ petition and the same is dismissed.

17. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently the connected miscellaneous petition is closed.

J.N.B., J. N.M., J.

24.11.2023

Index : yes/no
Internet : yes/no
Speaking order : Non-speaking order
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To

1. The Principal Secretary to Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

2. The Registrar,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Chennai – 600 028.

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J.NISHA BANU, J.
and

N.MALA, J.

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PRE-DELIVERY ORDER IN
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24.11.2023