



W.P.Nos.9725 & 10585 of 2020
and W.M.P.Nos.11836, 11837, 12868 & 14687 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.01.2023

DELIVERED ON : 02.02.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.9725 & 10585 of 2020

and

W.M.P.Nos.11836, 11837, 12868 & 14687 of 2020

W.P.No.9725 of 2020 :

D.Mahesh Kumar

...Petitioner

Vs.

- 1.The Principal Secretary to Government,
Home Department,
Fort St.George, Chennai - 9.
- 2.The Secretary to the Government,
Public Department,
Fort St.George, Chennai - 9.
- 3.The Registrar,
The State Human Rights Commission
Tamil Nadu,
"Thiruvaramangam",



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No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 28.

4.L.Sandhana Idhaya Amudhan
5.M.Pandian
6.G.Arumugam
7.E.Dinesh Raj
8.K.Hema Prakash

... Respondents

W.P.No.10585 of 2020 :

J.George Miller Ponraj

...Petitioner

Vs.

1.The Registrar,
The State Human Rights Commission
Tamil Nadu,
"Thiruvaramangam",
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 28.

2.L.Sadhana Idhaya Amudhan
3.M.Pandian
4.G.Arumugam
5.E.Dinesh Raj
6.K.Hema Prakash

... Respondents

Prayer in W.P.No.9725 of 2020 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order passed by the 3rd respondent in SHRC No.3248 of 2013 vide order dated 16.03.2020 and quash the same in so far as the petitioner is concerned.



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Prayer in W.P.No.10585 of 2020 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the first respondent in SHRC No.3248 of 2013 by order dated 16.03.2020 and quash the same.

In W.P.No.9725 of 2020 :

For Petitioner : Mr.R.Anand
For R1 & R2 : Mr.A.Selvendran,
Special Government Pleader
For R3 : Mr.S.Wilson
For R4 to R8 : Mr.K.Kalaichelvan

In W.P.Nos.10585 of 2020 :

For Petitioner : Mr.D.Alexis Sudhakar
For R1 : Mr.S.Wilson
For R2 to R6 : Mr.K.Kalaichelvan

COMMON ORDER

(R.HEMALATHA, J.)

The petitioners D. Mahesh Kumar (petitioner in W.P.No.9725/2020) presently Deputy Commissioner, Tirunelveli City and J.S.George Miller Ponraj (petitioner in W.P.No.10585/2020), Inspector of Police, Ambattur have challenged the orders dated 16.03.2020 of State Human Rights Commission in SHRC Case No.3248/2013 and have prayed for quashing the same.



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2.The State Human Rights Commission took up the complaint filed by five persons namely Santhana Idhaya Amudhan and Pandian both of whom are advocates and one Arumugam, Dinesh Raj and Hema Prakash. The complaint was against seven policemen which included the Deputy Commissioner of Police, Ambattur Police District, Thiru.Mahesh Kumar and six other policemen including the Inspector of Ambattur Police Station, George Miller Peter.

2.1. On 31.05.2012, one Alagumalai lodged a complaint in the All Women Police Station, Ambattur, regarding his dispute with his wife Latha. The relatives of Latha, one Subramanian (father of Latha), Arumugam, Dinesh Raj, Hema Prakash along with the said Latha went to the Police Station for enquiry on 01.06.2012 at about 05.30 pm. The two advocates namely Santhana Idhaya Amudhan and Pandian had accompanied the family members since Alagumalai had a criminal background and Subramanian had apprehensions about a fair enquiry.



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2.2. The said Alagumalai started intimidating relatives of his wife Latha and also the advocates who had accompanied. This prompted the advocate Pandian who was a junior to the counsel Mr.V.Kannadasan, to call up his senior who in turn sent two more advocates Sathath and Thirisangu to the police station. They reached the police station at 10.00 pm.

2.3. According to the contents of the complaint given by the respondents before the State Human Rights Commission, Alagumalai was made to sit on a chair while his wife Latha, Arumugam and advocate Pandian were made to sit on the floor. Unable to bear the intimidatory tactics of the policemen present in the police station, the advocate Pandian had questioned them when a scuffle broke out and the relatives of Latha were beaten up with lathi and detained in the lock up. When the two advocates questioned the police, they were also assaulted causing injuries to them and when this was intimated by advocate Pandian to his senior Mr.V.Kannadasan, the latter came down to the police station at 11.00 pm along with another advocate Mariappan. However, their entry



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into the police station was prevented by Maheshkumar, Deputy Commissioner of Police and the police had also snatched cash of Rs.4,656/-, a watch, a mobile phone and ID card from the advocate Santhana Idhaya Amudhan and also the ID card and mobile phone from another advocate Pandian and burnt the ID cards. Court fee stamps and railway pass were also taken away. Thereafter, without heeding to the request of the advocate Mr.V.Kannadasan, the other advocates and the injured persons were taken away in a police van to Avadi Police Station and detained in lockup.

2.4. The Deputy Commissioner of Police Maheshkumar had allegedly instructed the other policemen to cause damage to the property in the police station in order to blame the advocates present there. He also took photos of the station and addressed the press about the violence in the police station.

2.5. The advocate Kannadasan immediately sent a message to the Commissioner of Police and also approached the Chief Justice,



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Madras High Court at his residence at about 2.15 am along with one Mohana Krishnan, the President of Advocate Association on 02.06.2012 seeking permission to file Habeas Corpus Petition which was numbered as HCP No.1216 of 2012 and was heard the next morning. The HCP was closed since three advocates and five other persons who were detained by the police were released on bail in the morning of 02.06.2012 and cases were registered on complaint and counter complaint in Crime Nos.976/2012 and 978/2012 and as the incidents took place inside the premises of police station, the matter was reportedly referred to the Revenue Divisional Officer by the police for enquiry. The injured persons were taken to hospital for treatment by other advocates after 11 a.m on 02.06.2012.

2.6. The State Human Rights Commission after considering the oral and documentary evidence concluded that the depositions of the witnesses and the refusal of Deputy Commissioner of Police to enter the witness box pointed out to the truth in the allegations that the policemen had assaulted the two advocates and the other persons who were present



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there and therefore, held that there was human rights violation by the police. Hence, the commission had made the following recommendations:

- i. *"The Government of Tamilnadu shall pay a compensation of Rs.5,00,000/- (Rupees Five Lakhs Only) to the complainants 1 to 5 viz., Thiruvallargal L.Santhanan Idhaya Amudhan, M.Pandian, G.Arumugam, E.Dinesh Raj and K.Hema Prakash (to be shared equally among the complainants 1 to 5 @ Rs.1,00,000/- each) within one month from the date of receipt of a copy of this recommendation and the Government of Tamilnadu may recover Rs.1,00,000/- each from the respondents 1 & 2 and Rs.60,000/- from the respondents 3 to 7 as per the rules (total compensation is Rs.5,00,000/-)*
- ii. *This commission also recommends to initiate disciplinary action against the respondents 1 to 7 as per the rules".*

3. Challenging the said orders of the State Human Rights Commission, the present Writ Petitions have been filed by the present petitioners/respondents 1 & 2 in SHRC Case No.3248 of 2013.



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4. Heard Mr.R.Anand, learned counsel for the petitioner in W.P.No.9725 of 2020, Mr.D,Alexis Sudhakar, learned counsel for the petitioner in W.P.No.10585 of 2020, Mr.A.Selvendran, learned Special Government Pleader for the respondents 1 & 2 in W.P.No.9725 of 2020, Mr.S.Wilson, learned counsel for the third respondent in W.P.No.9725 of 2020 and for the first respondent in W.P.No.10585 of 2020 and Mr.Kalaichelvan, learned counsel for the respondents 4 to 8 in W.P.No.9725 of 2020 and for the respondents 2 to 6 in W.P.No.10585 of 2020.

5. The learned counsel for the petitioners contended that one Alagumalai who had a dispute with his wife Latha had complained that she was kept in illegal confinement by her parents and had alleged that her father Subramanian was the main person responsible for the same. The said Subramanian along with the other family members of Latha accompanied by two advocates went to the Ambattur police station and picked up a quarrel with the said Alagumalai and also lodged a counter complaint against Alagumalai. It was further contended that the



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advocates wanted the policemen to immediately arrest the said Alagumalai and in the scuffle which followed more advocates joined leading to a precarious situation inside the station and the police had to act in a stern manner to bring the situation under control. According to the counsel, in such a chaotic situation another couple of advocates who claimed that they were seniors reached the station and presumably messaged the Commissioner of Police and tried to aggravate the situation. About ten persons had come in a jeep and were intercepted by the police. In order to prevent any further damage to the property and also to the persons involved in this scuffle, the police had to detain some of them who indulged in violence and shift them to Avadi Tank Factory Police Station to restore normalcy. He also argued that the policemen were also injured in this scuffle and had to get treated in the hospital. There was also damage to the property in the police station which according to him has to be attributed only to the persons which included group of advocates who indulged in violence. It was also argued by him that there was no illegal detention or any sort of human rights violation as alleged by the advocate Kannadasan, who during his cross



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examination had clearly stated that his knowledge about the incident was only hearsay from his junior advocate who was present in the police station and that he himself was not a witness to it. His further contention is that the advocate Pandian suffered no external injuries as is seen from the copy of the Accident Register submitted and the other relatives of Latha were treated as out patients. He also pointed out that there was an attack on the police inside the station which is not to be tolerated.

6. Per contra, learned counsel for the respondents who were also the complainants in the SHRC Case, contended that the policemen including the Deputy Commissioner of Police who were present there had intimidated the relatives of said Latha and also the accompanying advocates in such a provocative manner and also refused to register FIR and the complaint against Alagumalai. According to the counsel, the said Alagumalai was a notorious person and could wield such an influence over the police and that instead of warning the said Alagumalai after knowing the facts of the case, the police threatened the relatives of the said Latha and the advocates who had accompanied them. According to



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him, the police had unleashed violence on the advocates and the relatives of Latha without any warning or reason. It was also contended that the damage to the property in the police station was self inflicted at the behest of the Deputy Commissioner of Police to make it appear that there was a mini riot-like situation in the station caused by those who had come on behalf of Latha. It was further contended that the police had illegally detained them by shifting them to another station and on sensing that, advocate Kannadasan had raised an alarm by texting message to the Commissioner of Police and they were released on bail in the early hours of 02.06.2012. They were not even given water through out the detention period and treated shabbily by the police without even providing medical aid which ought to have been given after they got injured. It was further argued by him that the case pertains to the All Women Police Station and the presence of the policemen involved in the violence against the relatives of Latha and the advocates, was not warranted.

7. This is a case where there has been a clash between the police and the advocates. The contents of the complaint of Latha gives



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glimpse of the seriousness of her grievance against her husband Alagumalai. Though this case does not pertain to the contents of the complaint and counter complaint made by the husband Alagumalai and wife Latha, the serious turn which the events took at the time of enquiry that too in a police station is a sordid tale. It is alleged by the advocates Pandian and Santhana Idhaya Amudhan, who had accompanied Latha and her relatives that it was Alagumalai who had created the problem by threatening them in front of the policemen. It is intriguing that Alagumalai was not amongst the persons who allegedly indulged in violence and got injured. This creates a doubt as to whether at all he was present in the police station. It is the version by the police as well as the persons supporting Latha that the police were requested to register the FIR in the complaint made against Alagumalai and also arrest him. It is also alleged that when advocate Pandian got a feeling that things were going out of control he had requested his senior advocate Kannadasan to send two more advocates and thereafter, one Sathath and Thirisangu arrived at 10.00 pm. There is no whisper as to what happened to them since even as per the Habeas Corpus Petition only three advocates,



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namely Pandian, Sandhana Idhaya Amudhan and L.S.Amuthan were detained by the police. The name of L.S. Amuthan suddenly finds a place but is not found in the written complaint of the State Human Rights Commission. It is also reported by advocate Kannadasan that there were other advocates from Ambattur bar present there at the time when he visited the police station though he does not remember their names.

8. It is not the case that only the advocates and the other relatives of Latha were injured. George Miller Ponraj, Inspector of Police, Ambattur Police Station, was also given medical treatment as is evidenced by the Accident Register, which states "a linear scartch mark 8 x 0.2 cm over the flexor aspect of left arm". Other policemen also suffered injuries and were given treatment. Another advocate Sandhana Idhaya Amudhan had taken CT scan of brain and also x-ray in Rajiv Gandhi Government Hospital and got discharged on the same day.

9. The State Human Rights Commission had relied on the depositions of those injured and concluded that the police had beaten up



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them for no reason whatsoever causing injuries to them. The policemen on their side had deposed giving their version. However, the Deputy Commissioner of Police did not examine himself. Moreover, the State Human Rights Commission also questioned the version of the police that ten persons had come in a Tata Sumo jeep at about 10.30 pm and barged into the police station taking everyone by surprise. According to the police, the relatives and advocates who were not happy with the police inaction left the police station in a huff and returned back in larger numbers i.e. about ten persons in a Tata Sumo jeep and took the police by surprise. They were reportedly intercepted by one Chandrasekaran, Special Sub Inspector of the station and were taken into custody. However, the said Chandrasekaran has not been examined.

10. The advocate Kannadasan in his deposition stated that though he saw the injured advocates and persons being shifted to another police station, he did not take any photos of the same. His knowledge on the incidents seem to be one which was told to him. We would not conclude that no untoward incident happened. We find that there was



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fault on both sides with the advocates who went to the police station overreacting and the policemen in the spot not handling the situation deftly. The presence of a senior police official in the police station ought to have helped the policemen to act wisely. Emotions appear to have ruled supreme with logic and rationale thinking taking a back seat. The advocates involved in this as well as relatives of Latha also got provoked and it was not a case where policemen have indulged in violence on a peaceful group. On the side of the police, overcrowding inside the police station could have been avoided. According to our view the group of advocates and Latha's relatives cannot be excluded and made totally innocent. Restraint was not exercised on both sides and things were blown out of proportion by the advocates and the relatives of Latha since they were in a vantage position to exaggerate the incident. As earlier stated, the police lacked expertise in managing the situation and did a lot of damage control exercise much later. It was a 'too little too late' situation. However, the State Human Rights Commission's order smacks of bias and perversity. Human rights violations were not established and merely because there were injuries to the relatives of



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Latha and her advocates, it cannot be construed as police excess because equal number of policemen were also injured. We do not find any merit in the order of the State Human Rights Commission and it is set aside. The policemen ought to be sensitised on how to manage such situations while the advocates and public in general also need to be sensitised similarly.

11. In the result, the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed. The order dated 16.03.2020 of the State Human Rights Commission in SHRC Case No.3248 of 2013, is set aside.

(V.M.V.,J.)

(R.H.,J.)

02.02.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga/mtl



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Pre-delivery Order in
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