



W.P.No.6304 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.04.2024

DELIVERED ON : 10.06.2024
CORAM:

THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.6304 of 2023
and W.M.P.No.6350 of 2023

S.Parthiban
Then, Sub-Inspector of Police,
Kelamangalam Police Station,
Hosur District, Tamil Nadu.

...Petitioner

vs.

1.The State Human Rights Commission of Tamil Nadu,
Rep. by its Registrar,
No.143, P.S.Kumarasamy Raja Salai,
Chennai - 600 028.

2.The Additional Chief Secretary to the
Government of Tamil Nadu,
Department of Home, Excise and Prohibition,
Secretariat, Chennai – 600 009.

3.Manjunath

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the 1st respondent's impugned order in SHRC case No.8501/2020 dated 17.10.2022 and to quash the same as illegal.

For Petitioner : Mr.Purushothaman



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for Mr.C.Vijay

For Respondents : Mr.S.Udayakumar for R1
Standing Counsel for SHRC
Mr.M.R.Gokul Krishnan for R2
Additional Government Pleader
R3 – No appearance

ORDER

N.SENTHILKUMAR, J.

This nation has been bestowed with great teaching of Saints like Buddha, Mahavir, Thiruvalluvar, Ramana Maharishi, Vallalar and other such lendararies. They all had one dispersion, one preaching and it has been nothing but love and kindness. With this being the core principle of not just scholarly writing, it forms the bedrock of how humanity works and in how one another are treated. With inclusivity barring systemic differences in mind and compassion in words, it becomes impossible for human rights to go violated.

2. A person subjected to humiliation stands mortified and unarmed. In some cases, such mental turmoil could consume a person and leave a lasting negative impact on their lives. The quality of life stands primitive for both the abuser and the abused, when the person in authority chooses to express their voice and/or instructions that are heavily coated with ignominy or even intemperate and unkind words.

<https://www.mhc.tn.gov.in/judis> 3. This Writ Petition has been filed by the petitioner as against the



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order dated 17.10.2022 made in SHRC.No.8501 of 2020 passed by the first respondent/State Human Rights Commission.

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4. Before narrating the facts of the case, this court deems it fit to extract the following couplets of Saint Thiruvalluvar:

யாகாவா ராயினும் நாகாக்க காவாக்கால்
சோகாப்பர் சொல்லிழுக்குப் பட்டு.

Dr. G.U. Pope has made the following translation:

“whate'er they fail to guard, o'er lips men guard should keep; If not, through fault of tongue, they bitter tears shall weep.”

*Whatever besides you leave unguarded, guard your tongue;
otherwise errors of speech and the consequent misery will ensue.*

தீயினாற் சுட்டபுண் உள்ளாறும் ஆறாதே
நாவினாற் சுட்ட வடு.

Dr. G.U. Pope has made the following translation:

“In flesh by fire inflamed, nature may thoroughly heal the sore; In soul by tongue inflamed, the ulcer healeth never more.”

The wound which has been burnt in by fire may heal, but a wound burnt in by the tongue will never heal.

இனிய உளவாக இன்னாத கூறல்
கனிஇருப்பக் காய்கவர்ந் தற்று

Dr. G.U. Pope has made the following translation:

“when pleasant words are easy, bitter words to use, Is, leaving sweet ripe



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fruit, the sour unripe to choose.”

To say disagreeable things when agreeable are at hand is like eating unripe fruit when there is ripe.

5. The brief facts of the case is that the complainant/third respondent resides at Bairamangalam Village, Denkanikottai Taluk, Krishnagiri District along with his family. He is a physically challenged person running his family by way of grazing cattle and goats. On 29.09.2020, the complainant received a call from the petitioner herein stating that a complaint has been given by one Sivaprakash against him and had asked the complainant to appear for enquiry. Immediately after receipt of the call from the petitioner, Mrs.Nagamani, Special Sub Inspector of Police attached to Kelamangalam Police Station had come to house of the complainant/third respondent, assaulted and dragged him to the Police Station. According to the complainant, he was stripped naked by the petitioner and known rowdies in the locality namely Hari and Anand had also assaulted him in the Police Station along with the Police apart from using filthy language.

6. Apart from these specific allegations, the complainant has alleged that the petitioner had ridiculed him by asking how he got married



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being a handicapped person. The petitioner was very crude as he had asked the third respondent's wife to come to the Police Station or he will take away his wife. These two incidents and harsh words used by the petitioner were inhuman and degraded the complainant/third respondent and his wife. The complainant/third respondent alleges that the petitioner did not take any action against the Rowdy Sivaprakash and Hari for the complaint given by him. However, based on the complaint given by the said Sivaprakash and Hari, the third respondent was taken to the Police Station on 29.09.2020 at 11.00 A.M. and he was illegally detained till 3.30 P.M on 30.09.2020 for nearly 28 hours.

7. The petitioner thereafter had taken the complainant/third respondent to the Primary Health Centre and had given medical treatment. Another allegation levelled against the petitioner by the complainant/third respondent is that the petitioner has demanded a sum of Rs.6,00,000/- and threatened that if he fails to honour the demand, the complainant/third respondent will have to give his land to the said rowdy Hari. The petitioner has further threatened the third respondent that a false case will be registered against him under Section 420 IPC. The complainant/third respondent contented that photographs were taken to show that the said Sivaprakash and the petitioner were celebrating the joy



towards harassing the third respondent.

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8. Apprehending arrest by the Police herein, the complainant/third respondent had filed Crl.O.P.No.55927 of 2023 for anticipatory bail. This Hon'ble Court has recorded that since there was no case as against the complainant/third respondent, the said petition was closed.

9. The complainant/third respondent contended that on 09.10.2020, the petitioner assaulted the complainant/third respondent on the road near CSI Christ Church, Hosur for having filed anticipatory bail application before the High Court for which, the complainant/third respondent had taken treatment at the Government Hospital. The complainant/third respondent had preferred a complaint with the first respondent after this incident.

10. The complainant/third respondent's specific case is that the said Sivaprakash has given assurance that he will get a job in Indian Railways under physically challenged persons category. Under the pretext of securing a job, the said Sivaprakash had taken an absolute Sale Deed in Document No.3700 of 2013 registered in SRO Kelamangalam as well as the General Power of Attorney document was registered vide Document



No.4544 of 2016 before SRO, Kelamangalam.

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11. On coming to know that the said Sivaprakash was cheating the complainant/third respondent, he had cancelled the General Power of Attorney on 30.05.2020 vide Document No.2848 of 2020. The accused Sivaprakash had retained the original Sale Deed and the General Power of Attorney and threatened the complainant/third respondent. Therefore for retaining the original document from the accused Sivaprakash, the complainant/third respondent has preferred a complaint with the petitioner herein.

12. Per contra, the Writ Petitioner while denying the allegations made by the complainant/third respondent, contended in the affidavit filed before this Court that one Sivaprakash came to the Police Station to file a complaint against the complainant/third respondent and the complainant also accompanied him, whereas in the counter filed before the State Human Rights Commission, the writ petitioner has stated that he had asked the complainant/third respondent to appear before him only for enquiry. The Writ Petitioner has taken double standard, one stand before the State Human Rights Commission and a different stand before this Court. The writ petitioner is not clear as to his own conduct and



behaviour towards this particular incident.

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13. The petitioner denied the allegations of detaining the complainant/third respondent for 28 hours in illegal custody, physical torture, abusing in unparliamentary words/filthy language and stripping him naked and beating him up while he was in illegal custody. The petitioner went on to deny the allegations that the petitioner is an alcoholic who consumes liquor on a day to day basis in the Police Station.

14. The Writ Petitioner had filed a Full & Final Settlement dated 04.07.2016 executed between Manjunath and Suresh Babu which is printed on a Rs.20/- non judicial stamp paper. The said Full & Final Settlement document which was executed by the third respondent and his brother Y.Suresh Babu would reflect that the first party sold the schedule of property for a sum of Rs.5,99,000/- received by way of cash from the second party, whereas in the counter filed before the first respondent/SHRC, the petitioner has stated that the complainant/third respondent had executed a General Power Attorney to the said Sivaprakash after receiving a sum of Rs.6,75,000/- and unilaterally cancelled the same.



15. The petitioner would contend that document No.3 is a wound certificate issued by the Government Primary Health Centre, Kelamangalam on 29.09.2020, wherein it has been stated that it was an accident fall injury (right elbow). The petitioner would further contend that according to the complainant/third respondent it is an accident fall injury and thereafter, he refers to another Accident Register dated 09.10.2020 at 1.15 p.m. stating that the complainant/third respondent was assaulted by an unknown person on 09.10.2020 at 1.00 in Sub Court Campus, Hosur. There are some discrepancies in the statement made by the complainant/third respondent regarding cause of injury. This discrepancies would not lead to adverse inference. The writ petitioner referred to a sworn statement filed by the complainant/third respondent and relied on paragraph No.7 and paragraph 9(4) which is extracted hereunder:

...7) “கடந்த 29.09.2020 அன்று SI பார்த்திபன் என்னை கெலமங்கலம் அரசு ஆரம்ப சுகாதார நிலையத்திற்கு அழைத்துச் சென்று மாலையில் எனக்கு Medical Treatment கொடுத்து நான் கேட்பது போல் 6 லட்சம் பணம் கொடு இல்லை என்றால் கெலமங்கலத்தை சேர்ந்த ரவுடி உறாக்கு (9943599308)க்கு உன்னுடைய நிலத்தை எழுதிக்கொடு இல்லை என்றால் நான் உன் மீது U/S.420 IPC படி பொய் வழக்கு போடுவேன் என்று மிரட்டினார். பிறகு 30.09.2020 அன்று மாலை 3.30 மணிக்கு என்னை சில நிபந்தனைகளுடன் விடுவித்தார். அரசு ஆரம்ப சுகாதார நிலையம் கெலமங்கலத்தில்



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29.09.2020 மருத்துவச்சான்றை இணைக்கிறேன்.”

...9(b) General Power of Attorney
Doc.No.4544/2016 SRO Kelamangalam
dt.04.01.2016. இதனை என்னிடம் ஏமாற்றி அசல்
பத்திரத்தை வாங்கி வைத்துக்கொண்டு கெலமங்கலம்
பகுதியில் சூதாட்டம் நடத்தி வரும் சிவபிரகாஷ் (செல்:
9443518487) என்பவர் நான் ஊனமுற்றவன் என்பதால்
Indian Railway -ல் வேலை வாங்கி தருகிறேன் என்று
சொல்லி என்னுடைய ஆவணம் மற்றும் ஏமாற்றி GPA
வாங்கினார். சின்னர் நான் 30.05.2020 அன்று
மேற்கண்ட GPA-வை ரத்து செய்துவிட்டேன்.
சிவபிரகாஷ் என்னை ஏமாற்றுவதை உணர்ந்து GPA-
வை கேன்சல் செய்துவிட்டேன். மேலும் என்னுடைய
அசல் கிரய பத்திரம் மற்றும் GPA சிவபிரகாஷிடம்
உள்ளது. இதனை பெற்றுத்தரும்படி நான் SI
பார்த்திபனிடம் கேட்டேன். கடந்த 01.08.2020 அன்று
அதற்கு SI பார்த்திபன் எனக்கு பணம் கொடு என்றார்
என்னிடம் பணம் இல்லை என்று விட்டுவிட்டேன்.”

16. We have perused the documents available on record and heard
the learned counsels appearing on either side.

17. The complainant/third respondent was examined as PW1 in the
proceedings before the first respondent. The learned counsel for the
petitioner had relied upon chief examination and cross-examination of
PW2 which is of, no aid to the allegation levelled against the petitioner.

The learned counsel for the petitioner has taken us to the evidence of



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PW3, in which PW3 has admitted that he is a distant relative of the Writ Petitioner and on 29.09.2020 at about 11.00 A.M., it was Mrs.Nagamani, Special Sub Inspector who took the complainant/third respondent in a Sumo Car to the Police Station. Even in the cross-examination, there is no suggestion with regard to violation of human rights by the petitioner or against Mrs.Nagamani. The Writ Petitioner was examined as RW1. He has deposed that on 03.11.2020 at about 3.00 p.m., one Sivaprakash has preferred a complaint against Manjunath and his brother Suresh Babu who had taken a sum of Rs.5,99,0000/- as full and final settlement and thereby giving a General Power of Attorney but without informing the said Sivaprakash, the General Power of Attorney was cancelled by the complainant/third respondent herein and the said Sivaprakash stated that the complainant/third respondent had threatened him by involving rowdy elements.

18. While Sivaprakash preferred a complaint with the writ petitioner, the complainant/third respondent was also accompanied by two other persons viz., his brother Suresh Babu and his father Ellappa. For the complaint given by the said Sivaprakash, C.S.R.No.146 of 2020 was given. The complainant/third respondent neither appeared for the



enquiry nor was he present or reachable in his house when the Police visited his place for an enquiry.

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19. Therefore on 09.10.2020, the complaint was closed for it being civil nature concerning. It was therefore advised to prefer a complaint before the District Crime Branch Police.

20. The main contention of the Writ Petitioner before this Court is that the complainant/third respondent has not produced any evidence to establish the allegations levelled against him.

21. We are conscious of the fact that by no stretch of imagination, the complainant/third respondent who happens to be a physically challenged person could produce evidence for ridiculing him. The writ petitioner has indulged in further inhuman, humiliating calumny acts of insulting the complainant/third respondent by posing filthy questions as to the ability and fitness to be married given his physical predisposition and by asking the wife of the complainant/third respondent to come to the Police Station fearing which “he will take away his wife”.

22. From the cross-examination of PW1 to PW3 before the first



respondent/SHRC and from the chief examination and in the cross examination of RW1, there was not a piece of evidence that was produced to refute the allegations levelled against the Writ Petitioner.

23. Interestingly, the documents which were filed before the first respondent/SHRC and the typed set filed before this Court, vide the Document dated 04.07.2016 as full and final settlement, only strengthens the case of the complainant/third respondent.

24. The order of this Hon'ble Court in CrI.O.P.No.15978 of 2020 dated 09.10.2020 reads as follows:

“When the matter is taken up for hearing, the learned Additional Public Prosecutor would submit that there is no petition or enquiry pending against the petitioner herein. Recording the same, the Criminal Original Petition was closed”.

25. At this juncture, it is contended that the second respondent had made the payment of Rs.4,00,000/- in which Rs.3,00,000/- was in respect of the the Writ Petitioner and Rs.1,00,000/- was in respect of the said Mrs.Nagamani who was the second respondent before the Human Rights Commission. The learned counsel for the Writ Petitioner undertook that



the petitioner will pay the sum of Rs.3,00,000/-, which the second respondent was bound to recover within a period of two weeks from the date of receipt of a copy of the order, and further, contended that the second recommendation to initiate disciplinary action may not be acted upon.

26. Since the Writ Petitioner has come forward to pay a sum of Rs.3,00,000/- which will be made in a couple of weeks and considering such submissions made by the learned counsel for the petitioner, this Court is of the view that the second recommendation made by the first respondent/SHRC regarding initiation of disciplinary proceedings against the Writ Petitioner can be set aside.

27. Directions to State Human Rights Commission:

(i) During the course of the proceedings, we had taken note of certain procedural aspect, which have to be followed by the State Human Rights Commission. This Court is of the view that in all the orders pronounced by the State Human Rights Commission, there is no mention with regard to the examination of witnesses and documents adduced and marked on either side after the recommendations that were mentioned. It is necessary for the State Human Rights Commission to put forth the



names and descriptions of the witnesses and documents which are marked on either side.

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Direction No.1: We therefore, direct the State Human Rights Commission to follow the same procedure as it is done in Civil Court Judgments, Criminal Court Judgments and all Tribunal Orders. Human Rights Commission has no exemption in avoiding such practice.

28. It is also brought to our notice, that, when Rule Nisi is issued, the original documents were not transferred to this Court, which is the essence of issuing notice. It is necessary to extract Rule 19 of Madras High Court Writ Rules, 2021.

19.Admission

(1) Upon Categorization, Writ Petitions shall be posted before Court, as per the roster assigned by the Hon'ble Chief Justice from time to time, for admission, along with Writ Miscellaneous Petitions, if any, for filing single Writ Petition, dispensing with production of original impugned order and for other interim reliefs.

(2) The Court may, upon hearing the petitioner or his Advocate, admit the Writ Petition, issue rule nisi or order notice of motion and pass such interim order as it may deem necessary, or dismiss the Writ



Petition.

(3) Rule nisi may be returnable by 4 weeks or earlier if so ordered by the Court.

Direction No.2: The first respondent/State Human Rights Commission is hereby directed to forward the entire records to the High Court once the State Human Rights Commission receives a notice mentioning Rule Nisi.

29. The Universal Declaration of Human Rights which was proclaimed by the UN General Assembly on 10.12.1948 (India is a party to the same). However, much prior to the introduction of human rights convention before the United Nations, the extracted verses of Thirukkural would only lament on how, when a person is treated by any infraction more so drenched in humiliation is a violence. The violence to the body may be considered as a physical torture, but the violence by way of ridiculing a person's physical ailment is an unbearable insult to any person. It is another form of discrimination and that borders on a sense of untouchability. Ridiculing a person by caste, race, colour, religion and physical appearance is nothing but cruelty and a sense of sadistic pleasure.



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30. Though it is not brought to our knowledge or notice, we are cognizant of most of the cases that are filed before the State Human Rights Commission/National Human Rights Commission against atrocities/physical torture committed by the Police Force/Armed Force. The allegations which surrounding the physical disability or usage of filthy, unparliamentary words/statements against subordinates happen regularly by or at the behest of higher authorities irrespective of their positions. This state of mind in every category depicts their superiority against persons working under them.

31. The order of standing and the hierarchical structure of authority is a system of governance. While the system is insulated, it is all the more duty of the personnel acting under authority to ensure the rights, safety and dignity of those who may be placed subordinate to them or on whomsoever their blanket of authority extends to. The system has not give a carte blanche rule to displace human rights that must be protected in any case.

32. Though Mrs.Nagamani, Special Sub Inspector of Police, the second respondent before the SHRC has not challenged the order by way of a Writ Petition, if she comes forward to pay the amount immediately,



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the order of initiating Disciplinary Proceedings against Mrs.Nagamani may be dropped.

33. We therefore, do not wish to interfere with the recommendations made by the first respondent/State Human Rights Commission.

34. In the result, the Writ Petition is partly allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.,J) (N.S.,J)
10.06.2024

Index: yes/no
Speaking order:yes/no
Neutral Citation:yes/no
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To

1.The Registrar,
State Human Rights Commission of Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Chennai - 600 028.

2.The Additional Chief Secretary to the
Government of Tamil Nadu,
Department of Home, Excise and Prohibition,
Secretariat, Chennai – 600 009.



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