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W.P.No.4864 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM:

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

W.P.No.4864 of 2018
and W.M.P.No.6000 of 2018

C.Subramani

...Petitioner

VS.

1.State Human Rights Commission Tamil Nadu,
Represented by its Registrar,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

2.The Secretary to the Government,
Home Department, Fort St. George,
Chennai.

3.P.Adhimoolam

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to
issue a Writ of Certiorari to call for the records of the first respondent in
passing of the order dated 20.12.2017 made in SHRC.No.385 of 2008 and
quash the same.



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For Petitioner : Mr.V.Anil Kumar
for Ms.R.Vaishali

For Respondents : Mr.G.Nanmaran for R1 & R2
Special Government Pleader

R3 – No appearance

ORDER

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

This writ petition is filed by the petitioner challenging the order dated 20.12.2017 made in SHRC No.385 of 2008 passed by the first respondent/State Human Rights Commission.

2.The brief facts of the case of the petitioner are as follows:

(i). The petitioner is working as Inspector of Police. On 16.07.2006, while he was serving as Sub Inspector of Police, Bagayam Police Station, when the petitioner was conducting a routine vehicle check up at around 4.30 p.m., the complainant/third respondent before the State Human Rights Commission, was in inebriated state and he was transporting contraband viz., 330 liters of illicit liquor which was concealed in three lorry tubes in auto rickshaw bearing Registration No.TSL 8328.

(ii). The petitioner registered a case against the complainant/third respondent in Crime No.549 of 2006 for the offence under Section 4(1)



aaa, 4(1-A), 4(1)(j) of TNP Act. The petitioner after registering the case has collected samples from contraband apart from preparing seizure mahazar and recovery mahazar and obtained medical certificate to show that the complainant/third respondent was inebriated state and thereafter, he was produced before the Judicial Magistrate at Vellore on 16.07.2006 and he was remanded to judicial custody till 28.07.2006 and thereafter, he was released on bail on 31.07.2006.

(iii). The complainant/third respondent preferred a complaint before the National Human Rights Commission and the same has been forwarded to the SHRC and the SHRC/first respondent has taken cognizance of the complaint in SHRC Case No.385 of 2008. The complainant/third respondent has made serious allegations against the petitioner stating that the petitioner asked the complainant/third respondent to come to his home with auto rickshaw to drop his children in the school. Since the auto rickshaw has to go for Fitness Certificate, the complainant/third respondent was unable to honour the same. Having grudge over the complainant/third respondent, the petitioner had foisted a false case.

(iv). On 16.07.2006, during lunch hours, the petitioner took the complainant/third respondent along with Mohan and Shankar to the



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Police Station and the petitioner has caused injuries to the complainant/third respondent since he did not pick up and drop the children of the petitioner. Further, allegation made in the complaint is that the complainant/third respondent was beaten up with latti and the petitioner had kicked the complainant/third respondent with boot shoes and thereafter, he foisted a case against the complainant/third respondent that he was transporting illicit arrack. Further, contention by the complainant before the Human Rights Commission is that from 17.07.2006 to 31.07.2006, the complainant/third respondent was kept in Vellore Central Prison and inside the prison, he was taking treatment in the hospital attached to the Central Prison. Though the complainant/third respondent has stated that they were residing opposite to the Police Station for the past 16 years and his mother was having a tea shop, they did not have any difficulties from the Police officials. However, they have faced this traumatic situation only at the instance of the petitioner herein.

3. Learned counsel appearing for the petitioner contended that the allegations are made with concocted facts and there was no proof to prove the allegations made by the complainant/third respondent.

4. The petitioner contended that the complainant/third respondent was transporting illicit liquor and a case was registered in Crime No.549



of 2006. After the arrest, the Form-91 document which was produced before the Judicial Magistrate Court- I, Vellore, would show that the vehicle bearing Registration No.TSL 8328 was seized along with 330 litres of illicit liquor and the same was produced before the Court on 16.07.2006.

5. Another contention raised by the counsel for the petitioner is that there was an inordinate delay in pronouncing the order by the SHRC/first respondent. It is true that the order was reserved on 11.07.2011 and the order was passed on 20.12.2017, after a period of 6 years.

6. Learned counsel for the petitioner has relied upon a judgment of Hon'ble Supreme Court in the case of *Anil Rai vs. State of Bihar* reported in **(2001) 7 SCC 318**, the Hon'ble Supreme Court has held as follows:

42. If delay in pronouncing judgments occurred on the part of the Judges of the subordinate judiciary the whip of the High Court studded with supervisory and administrative authority could be used and it has been used quite often to chide them and sometimes to take action against the erring judicial officers. But what happens when the High Court Judges do not



pronounce judgments after a lapse of several months, and perhaps even years since completion of arguments? The Constitution did not provide anything in that area presumably because the architects of the Constitution believed that no High Court Judge would cause such long and distressing delays. Such expectation of the makers of the Constitution remained unsullied during the early period of the post-Constitution years. But unfortunately, the later years have shown slackness on the part of a few Judges of the superior courts in India with the result that once arguments in a lis concluded before them the records remain consigned to hibernation. Judges themselves normally forget the details of the facts and niceties of the legal points advanced. Sometimes the interval is so long that the Judges forget even the fact that such a case is pending with them expecting judicial verdict. Though it is an unpleasant fact, it is a stark reality.

43. Should the situation continue to remain so helpless for all concerned? The Apex Court made an exhortation in 1976 through a judgment which is reported as R.C. Sharma v. Union of India [(1976) 3 SCC 574 : 1976 SCC (L&S) 463] for expediting delivery of judgments. I too wish to repeat those words as follows: (SCC Headnote)



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“Nevertheless an unreasonable delay between hearing of arguments and delivery of judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even when written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments.”

44. A quarter of a century has elapsed thereafter but the situation, instead of improving has only worsened. We understand that many cases remain in the area of “judgment reserved” for long periods. It is heartening that most of the Judges of the High Courts are discharging their duties by expeditiously pronouncing judgments. But it is disheartening that a handful of few are unmindful of their obligation and the oath of office they have solemnly taken as they cause such inordinate delay in pronouncing judgments. It is in the above background, after bestowing deep thoughts with a sense of commitment, that we have decided to chalk out some remedial measures to be mentioned in this judgment as



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instructions.

45. Sethi, J. has enumerated them succinctly as follows:

(i) The Chief Justices of the High Courts may issue appropriate directions to the Registry that in a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title, date of reserving the judgment and date of pronouncing it be separately mentioned by the Court Officer concerned.

(ii) That Chief Justices of the High Courts, on their administrative side, should direct the Court Officers/Readers of the various Benches in the High Courts to furnish every month the list of cases in the matters where the judgments reserved are not pronounced within the period of that month.

(iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months the Chief Justice concerned shall draw the attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of



the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.

(iv) Where a judgment is not pronounced within three months from the date of reserving judgment, any of the parties in the case is permitted to file an application in the High Court with a prayer for early judgment. Such application, as and when filed, shall be listed before the Bench concerned within two days excluding the intervening holidays.

(v) If the judgment, for any reason, is not pronounced within a period of six months, any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as he deems fit in the circumstances.

6 a. In view of the mandate of the Hon'ble Supreme Court, it is incumbent on the Commission to pass orders within a period of six weeks from the date on which the case was reserved for orders in accordance with the judgment of the Hon'ble Supreme Court as stated supra. The delay of six years in passing the order is unjustified.



7. The complainant/third respondent was examined as PW1 before the SHRC/first respondent. In the chief examination, the complainant/third respondent has narrated the allegations made in his complaint.

8. It is pertinent to extract the statement given before the State Human Rights Commission/first respondent by the complainant/third respondent herein:

எதிர் மனுதாரர் மற்றும் அந்த காவல் நிலையத்தைச் சேர்ந்த மேலும் சில போலீஸ்காரர்கள் சேர்ந்துதான் என்னை அன்று அங்கு அடித்தனர். அப்படி என்னை அடித்ததில் 11 லத்திகள் உடைந்தாக நான் கூறியிருப்பதும் உண்மைதான். பூட்ஸ்கால்களால் அவர்கள் என்னை தாக்கியதாகவும் நான் புகார் மனுவில் குறிப்பிட்டுள்ளேன். இந்த ஆயைத்திலும் மற்றும் உயரிதிகாரிகளிடமும் எதிர்மனுதாரர் மீது மட்டும் தான் புகார் சொல்லியிருக்கிறேன். மற்ற போலீசார் மீது நான் ஏதும் புகார் சொல்லவில்லை. (சாட்சி தன்னிச்சையாக) எதிர் மனுதாரர் மூலமாக தான் மற்றவர்கள் என்னை அடித்ததால் மற்றவர்களை நான்குறிப்பிடவில்லை.

9. During the cross examination, the complainant/third respondent submitted that no other witnesses were examined on the side of the complainant. The specific case of the complainant/third respondent is



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that when he was sitting in a tea shop, the complainant/third respondent was taken by the petitioner to the Police Station along with two other persons. The complainant/third respondent has not chosen to examine any other witnesses to establish his case viz., none of the persons named in the complaint before the NHRC which was subsequently forwarded to the SHRC/first respondent were not examined before the SHRC/first respondent.

10. The petitioner was examined as RW1 and the petitioner had narrated that during the vehicle check up on intercepting the auto rickshaw driven by the complainant/third respondent, they found 330 litres of illicit liquor in three lorry tubes. While recovering contraband and producing the same before the Judicial Magistrate after preparing recovery mahazar, the said auto rickshaw bearing Registration No.TSL 8328 was also seized and produced before the jurisdictional Magistrate Court vide Form-91.

11. On the side of the petitioner, one Sundaramoorthy was examined as RW2 wherein, the said Sundaramoorthy had categorically stated that he used to pick up and drop the children of the petitioner to the school and the petitioner used to pay the charges for auto fares.



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12. The petitioner's specific case is that the complainant vehicle was intercepted and was found transporting illicit liquor for which, a case was registered against the complainant/third respondent.

13. The only question arises before this Court for consideration is whether the petitioner has caused any human rights violation or not.

14. In the complaint before the Human Rights Commission the complainant has stated that “16.07.2006 பிற்பகல் பாகாயம் காவல் நிலையம் எதிரிலுள்ள எமது கட்டையில் ஞாயிறு விடுமுறையாதலால், மத்திய உணவை நானும், பக்கத்து கடைகாரரான மகராஜன் மகன் மோகன், இடையன் சாத்து அண்ணாமலை மகன் சங்கர் ஆகியோருடன் சாப்பிடும் வேளையில் பாகாயம் காவல் நிலையத்திற்கு மூவரையும் அழைத்து சென்று தனி அறையில் அடைத்து, உதவி ஆய்வாளர் சுப்பிரமணி தனது பிள்ளைகளை ஆட்டோவில் ஏற்றி செல்லாத காழ்புணர்ச்சி காரணமாக மூவரில் என்னை மட்டும் லாடம் கட்டி அடித்தனர் and vis-a-vis in his statement recorded by the Police under Section 161(3) Cr.P.C, the complainant has stated that “நான் ஆட்டோ டிரைவராக வேலை செய்கிறேன். 16.7.2006ந் தேதி மாலை 4.00 மணிக்கு நான் பாலமடியில் இருந்து எனது ஆட்டோ டி.எஸ்.எல்.8328ல் பாகாயம் நோக்கி வந்தபோது நடுவழியில் சுமார் 45 வயது மதிக்கத்தக்க ஆண் நபர் ஒரு எனது ஆட்டோவை மறித்து மூன்று அரிசிமூட்டைகளை வேலுார் கொண்டு செல்ல வேண்டும் என்று சொல்லி எனது ஆட்டோவில் ஏற்றினார். ஆட்டோ சுமார் 4.30 மணிக்கு மேட்டு இடையம்பட்டி ஜங்ஷனில் வரும்போது மேற்படி எனது ஆட்டோவில் மூட்டைகளை ஏற்றிய நபர், மேட்டு இடையம்பட்டி ஜங்ஷனில் போலீசார் நிற்பதைப் பார்த்து ஆட்டோவில் இருந்து குதித்து



தப்பியோடிவிட்டார். பாகாயம் போலீசார் எனது ஆட்டோவை நிறுத்தி சோதனை செய்தபோது எனது ஆட்டோவில் ஏற்றிய மூன்று மூட்டைகளில் சாராயம் இருந்தது. மேற்படி நபர் எனது ஆட்டோவில் அரிசி மூட்டை என்று சொல்லிதான் ஏற்றினார். சாராய மூட்டை என்று எனக்குத் தெரிந்திருந்தால் நான் எனது ஆட்டோவில் ஏற்றி இருக்க மாட்டேன். மேற்படி நபரிடம் நான் வாடகை கூட வாங்க வில்லை. போலீசார் எனது ஆட்டோவில் இருந்து சாராயம் மூட்டைகளை எடுத்ததும், போலீசாரிடம் மேற்படி விபரத்தை சொல்லக்கூடிய மன நிலையில் இல்லாமல் இருந்தேன். எனது ஆட்டோவில் சாராயம் இருந்தது எனக்குத் தெரியாது. எனது ஆட்டோவில் சாராயம் இருந்ததால் பாகாயம் போலீசார் என்னை கைது செய்தார்கள். இன்று என்னை பாகாயம் ஆய்வாளர் விசாரித்தார்கள்”

15. Though the complainant has maintained the same version in the complaint given to the Human Rights Commission as well as in the chief examination, the complainant has given a different version about the incident of arrest in 161(3) statement recorded by the Police. The two different place of occurrence would show that the complainant himself is not clear as to where and how he was taken into custody by the petitioner herein.

16. Assuming for a moment that the statement recorded by the Police under Section 161(3) Cr.P.C was false, the said contradiction was not questioned by the complainant when RW1 was cross examined before the Human Rights Commission. When such contradiction was not elucidated by the complainant during the cross examination, the place of



arrest is a disputed fact and the fact was not clarified or elucidated by the complainant before the Human Rights Commission.

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17. In the absence of any such material or attempt to disprove the 161(3) statement made by the complainant or even a suggestion during the cross examination before the Human Rights Commission, the version of the complainant cannot be taken into consideration.

18. On examination of the records available and the evidences placed before this Court, except the allegations made in the complaint which is reiterated as evidence and documents, there are no other documents to show that the complainant/third respondent was illegally detained or injuries sustained at the hands of the petitioner. The complainant specifically stated before the Human Rights Commission that he was beaten up by the petitioner along with other persons at the time of arrest and after the arrest. He has specifically stated that he was taking treatment during the imprisonment. It is not in dispute that the complainant/third respondent was not lodged in Central Prison at Vellore.

19. It is seen from the typed set of papers filed by the petitioner, a



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RTI reply from the Prison Authorities dated 03.11.2006 discloses that the complainant/third respondent has underwent medical treatment in the Prison during his incarceration. The complainant/third respondent has also filed some documents to show that he took treatment for the injuries sustained and the same was marked as Ex.P2 before the first respondent/SHRC. However, the complainant/third respondent has failed to establish during chief and cross examination that the petitioner is the cause for the injuries sustained by him and the documents in Ex.P2 are related to the treatment taken for the injuries sustained at the hands of the petitioner. It is not established by any other documents marked before the first respondent/SHRC that the complainant/third respondent was subjected to physical torture by the petitioner and only for that reason the treatment was taken inside the Prison hospital. In the absence of any cogent and convincing materials, we are unable to take adverse inference as against the petitioner.

20. It is clear that the petitioner only intercepted the vehicle which was transporting illicit liquor. Both the vehicle and contraband were seized and the same were produced before the jurisdictional Magistrate Court.



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21. The complainant/third respondent was arrested and remanded by the Judicial Magistrate on the date of arrest and this fact was not disputed by the complainant/third respondent either in the complaint preferred before the National Human Rights Commission or before the State Human Rights Commission/first respondent. When there was dispute regarding time and place of arrest and physical torture at the hands of the petitioner and when there is not even a single document, bald allegations levelled against the petitioner cannot be taken into consideration and such factum was totally ignored by the Human Rights Commission.

22. The complaint against the petitioner which was originally filed before the National Human Rights Commission, which in turn, forwarded the same to the State Human Rights Commission/first respondent herein is only a counter blast for registration of FIR by the petitioner herein. If bald allegations are taken on file by the SHRC/first respondent without any evidence and other witnesses and recommendations are made against the police officials, it will demit their working condition apart from demoralizing the action taken to prevent the illegality committed by the accused.



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23. It is the duty of the Commission to examine whether there is any material or evidence showing human rights violation. If the complaint is not supported by any evidence, then it is a duty of the Commission or the Court to examine the allegations levelled by the complainant especially when the complainant is arrayed as accused.

24. If all the accused prefers complaint against the police officials as against the arrest made by the Police to prevent illegality, then this will bring the Police to be a mute spectator like any other civil person. Such a situation is very dangerous and it is for the Court to evaluate the recommendations made by the Commission.

25. The allegations made by the complainant/third respondent before the SHRC/first respondent is not only motivated but is only to create a fear in the mind of the petitioner who arrested the complainant/third respondent in the case.

26. We do not see any violation of human rights at the hands of the petitioner.

27. In the result, the Writ Petition is allowed and the order passed by the first respondent/SHRC dated 20.12.2017 is set aside. No costs.



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Consequently, connected miscellaneous petition is closed.

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(S.S.S.R.,J.) (N.S.,J.)
04.06.2024

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



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To

1.The Registrar,
State Human Rights Commission Tamil Nadu,
143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai – 600 028.

2.The Secretary to the Government,
Home Department, Fort St. George,
Chennai.



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