



W.P.No.25323 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.04.2024

DELIVERED ON : 30.04.2024

CORAM:

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

W.P.No.25323 of 2023
and W.M.P.No.24732 of 2023

S.Anbarasan

...Petitioner

VS.

- 1.Mrs.Hemalatha,
Then Inspector of Police,
Pappanadu Police Station,
Thanjavur District.
- 2.R.Saravanan,
Then Sub-Inspector of Police,
Pappanadu Police Station,
Thanjavur District.
- 3.Mrs.Rajesh Kumar,
Then Sub-Inspector of Police,
Pappanadu Police Station,
Thanjavur District.
- 4.Mrs.Subramaniam,
Then Sub-Inspector of Police,
Pappanadu Police Station,
Thanjavur District.



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5.Mrs.Saravanan,
Then Head Constable,
Pappanadu Police Station,
Thanjavur District.

6.Mrs.Selvamani,
Then Sub-Inspector of Police,
Pappanadu Police Station,
Thanjavur District.
Now, Shankar Nagar Police Station,

7.The Registrar,
State Human Rights Commission,
Tamil Nadu,
No.143, P S Kumarasamy Raja Street,
Greenways Road, Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating the order passed in SHRC Case No.9024/2018 dated 23.03.2020 on the file of the 7th respondent herein and quash the same.

For Petitioner : Mr.Anil Sandeep
For Respondents : R1 to R3, R5 & R6 – No appearance
R4 – Tapal Returned – 'Addressee moved'

ORDER

N.SENTHILKUMAR, J.

The Writ Petition has been filed by the petitioner challenging the order dated 23.03.2020 made in SHRC Case No.9024/2018 passed by the seventh respondent/State Human Rights Commission with a prayer to quash the same.



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2.The case of the Writ Petitioner is that he had preferred a complaint on 12.06.2018 against one Pouliya [who is not a party to SHRC proceedings] and others for spraying chilli powder and snatching his two mobile phones and all his belongings. The complaint preferred by him in Pappanadu Police Station was cognizable in nature. However, neither a case was registered nor CSR was issued based on the complaint preferred by him.

2(a). According to the petitioner, the fifth respondent/Head Constable of Pappanadu Police Station, is a relative of Ms.Pouliya and he seems to be a very influential person. He pressurized the Writ Petitioner to withdraw the complaint against the said Pouliya. The Writ Petitioner had made a complaint to the higher officials and Chief Minister's Special Cell. There was no response. The Writ Petitioner contends that though he had preferred a complaint on 12.06.2018, the Pappanadu Police have not chosen to register FIR immediately after he filed a complaint, for the reasons best known to them.

2(b). According to the Writ Petitioner, he got a RTI reply with regard to the action taken on his complaint dated 12.06.2018 and came to



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know that two of his cell phones were in custody of the said Pouliya.

There is a counter complaint given by Ms.Pouliya as against the Writ Petitioner in Pappanadu Police Station. To avoid embarrassing situation, Pappanadu Police had registered a case in Crime No.81 of 2018 on the basis of complaint given by him as against the said Pouliya and others on 24.07.2018 for offences under Sections 147, 342, 352, 506(i) r/w 379 of IPC and on the basis of the complaint given by Ms.Pouliya, a counter case was registered against the petitioner in Crime No.82 of 2018 on 24.07.2018 for offence under Section 294(b), 506(i) IPC r/w Section 4 of the Women Harassment Act.

2(c). On 15.08.2018 at about 3.00 A.M., the said respondents 2 to 6 attached to Pappanadu Police Station and St.Thomas Mount Police Station along with one Suresh Head Constable barged into the house of the petitioner to attack and abuse him in the presence of his room-mate Mr.Durairaj.

2(d). The first contention of the Writ Petitioner is that the respondents took him in a car to St. Thomas Mount Police Station, Chennai and he was made to wait outside the Police Station and arranged



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another car in which he was taken to Pappanadu Police Station. The Writ Petitioner specifically contends that he was not informed about the reason for arrest. There is a violation of guidelines prescribed by the Hon'ble Supreme Court *D.K.Basu vs. State of West Bengal* reported in *1997 (1) SCC 416*.

2(e). The Writ Petitioner contends that his arrest was not intimated to his blood relatives and he was treated like a hardcore criminal. The Writ Petitioner was produced before the incharge Magistrate at Pappanasam for the case registered against him, who had remanded him to judicial custody. The Writ Petitioner further contends that he had narrated the sequence of events before the Magistrate at the time of remand. However, the learned Magistrate did not record the same and advised the petitioner to inform the same before the regular Magistrate at the time of his bail application.

2(f). The Writ Petitioner contends that during his confinement in Sub Jail, Pattukottai, one person by name Solomon came to see the Writ Petitioner. The said Solomon was a suspended Prison Constable who had threatened the Writ Petitioner with dire consequences that if he failed



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to settle the amount which was payable to one Radhakrishnan, who is a Real Estate Broker, he will do away with his life.

2(g). The Writ Petitioner contends that the said Radhakrishnan had given some money to a person in Karur towards purchase of land and those persons neither conveyed the land nor returned the money. The said Radhakrishnan had sought the petitioner's help in getting the money back. However, the petitioner did not oblige to the demand.

2(h). The Writ Petitioner has a strong belief that the said Radhakrishnan had influenced to arrest him in the above case and to settle the money dispute. The Writ Petitioner further contends that respondents 2 to 6 have not followed the guidelines as enumerated by the Hon'ble Supreme Court in cases of arrest and remand and further procedures after the registration of FIR, the first respondent herein had issued notice under Section 41A Cr.P.C. on 04.08.2018 and requested the petitioner to appear before him on the next day i.e. on 05.08.2018. The Writ Petitioner contends that as per the guidelines of the Hon'ble Supreme Court, a minimum of fifteen days notice period is required for a person to appear before the respondent Police under Section 41(A) Cr.P.C.



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2(i). According to the Writ Petitioner, though the said Pouliya had appeared on 27.07.2018 pursuant to registration of FIR in Crime No.81 of 2018, no arrest was effected.

2(j). The petitioner contends that on the basis of the above violation, he had preferred a complaint before the State Human Rights Commission. The State Human Rights Commission took cognizance in SHRC No.9024 of 2018 against the respondents 1 to 6, in which a common counter was filed by all the respondents.

2(k). The petitioner contends that he had adduced evidence that the second respondent and one Constable attached to St. Thomas Mount Police Station, Chennai had come to his house at Chennai and they sought the help of the sixth respondent herein. The said information was obtained by the Writ Petitioner by way of RTI Act which was marked as Ex.P10 and the same is admitted by the second respondent.

2(l). The specific case of the Writ Petitioner is that he was taken to Pappanadu Police Station and the second respondent forcibly obtained the password of his mobile and it was passed on to the said Pouliya who



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in turn had operated his face book and Whatsapp and sent something bad to all of his contacts in the phone.

2(m). The Writ Petitioner's claim is that, CSR was registered against the petitioner on 12.06.2018 as CSR Nos.404 of 2018 and 405 of 2018, maintained at Pappanadu Police Station, Thanjavur. According to the Writ Petitioner, there were some corrections and manipulations by striking the entries with a whitener and further no entries were made in the General Diary about the CSR maintained in the Police Station which according to the petitioner is mandatory. The said manipulation of CSR and registration of FIR and no entries in General Diary established that the respondents have tried to escape from the clutches of law and the order passed by the SHRC in SHRC Case No.9024 of 2018 dated 23.03.2020 is in utter disregard to the facts as stated by the Writ Petitioner herein.

2(n). The contentions in the petitioner's complaint before the Inspector of Police dated 12.06.2018 and before the Hon'ble Chief Minister's Cell dated 18.06.2018 are that, a person by name Pouliya was introduced to the petitioner in the year 2010. The said Pouliya got



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married to one Karthick by way of registered marriage. The said Karthick was employed at England and after the marriage between Pouliya and Karthick, the said Karthick did not turn back.

2(o). The said Pouliya had contended that they did not live as husband and wife and did not have any physical relationship and compelled the Writ Petitioner to marry her. After continuous persuasion, the Writ Petitioner informed Pouliya to get divorce from her husband, thereafter he could marry her.

2(p). That being so, under the pretext of the words of Pouliya, the Writ Petitioner had given a sum of Rs.2,70,000/- altogether within a span of 20 days and the Writ Petitioner demanded the said money back. The said Pouliya and her family members requested him to come on a particular date and on two to three occasions. Thereafter, they informed the Writ Petitioner to come to the house of Pouliya where all of her family members threw chilli powder on the face of the Writ Petitioner and said Pouliya had snatched two cell phones. As the Writ Petitioner was not given even water, he was in continuous tears and unable to bear the irritation caused due to chilli powder and thereafter, he was let out from the house around 4.30 p.m.



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2(q). Another contention of the Writ Petitioner/complainant is that

he filed a RTI query to know about the movement of Saravanan, Sub Inspector of Police who has been arrayed as the second respondent and the specific reply furnished to the Writ Petitioner by the Inspector of Police, S1 St. Thomas Mount Police Station is that, Saravanan, Sub Inspector of Police was informed that a case is being registered in Crime No.82 of 2018 under Section 294 (b), 506(i) IPC r/w Section 4 of the Women Harassment Act in which the second respondent was directed to assist the Inspector of Police attached to Pappanadu Police Station, who is the sixth respondent herein to identify the Writ Petitioner's place.

2(r). The Writ Petitioner contends that he has raised several allegations against the respondent Police and the same was not considered by the SHRC, the SHRC by its order dated 23.03.2020 had dismissed the complaint stating that there was no human rights violation.

3. During the course of enquiry before the SHRC, the petitioner and two more persons were examined as PW1 to PW3 and 24 documents were marked as Exhibits and on the side of the respondents, the second respondent had examined himself as RW1 and the documents were marked as Exs.1 to 4.



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4. On reading the order passed by the seventh respondent/State Human Rights Commission, it is seen from the order that the Writ Petitioner is a practising Advocate in Madras High Court.

5. It is seen from the records that at the time of arrest and when the Writ Petitioner was produced before the Magistrate, the Writ Petitioner had not made any allegation about his illegal arrest, place of arrest and physical assault by Pappanadu Police. The remand report which has been endorsed by the Magistrate on 15.08.2018 would show that the petitioner was produced at 4.50 p.m. The Writ Petitioner had not made any allegation or disputed the place of arrest, manner of arrest or torture at the hands of the respondent Police.

6. The Writ Petitioner has also filed an anticipatory bail application before the Madras High Court in CrI.O.P.No.22534 of 2018 in which, this Court passed the following order:

“It is seen from the typed set of papers filed by the petitioner that the petitioner has lodged a complaint before the Central Crime Branch, Chennai on 31.08.2018 by marking copy to the second respondent. The petitioner's complaint has



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been acknowledged by the Deputy Commissioner of Police, Chennai vide C.No.444/CCB/Visitors/2018. Therefore, the Deputy Commissioner of Police, Chennai is directed to forward the said complaint to the Inspector of Police, Cyber Crime. On receipt of the said complaint, the concerned Inspector of Police has to make enquiry and if the enquiry reveals any cognizable offence, then he has to register a case and proceed in accordance with law.”

7. The Writ Petitioner has also examined one Durairaj as witness on his side. In the proof affidavit filed during chief examination, viz., the said Durairaj has contended that the Sub Inspector of Police and another person barged into the house and kicked the Writ Petitioner and immediately moved the Writ Petitioner in a Yellow Colour Maruti Swift Dzire car. Another witness by name Danial was examined on the side of the Writ Petitioner who has contended that he was working as a practising Advocate and the Writ Petitioner is a friend of him. On 15.08.2018 at about 3.40 am, he received a call from the Writ Petitioner alleging that St.Thomas Mount Police has taken him and in the middle of the conversation, the phone line got disconnected.



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8. In the cross examination, the Writ Petitioner has specifically admitted the following:

“vd;id hpkhd;L nra;j NghJ ePjpgjpaplk;
vd;id mbj;jij nrhy;ytpy;iy vd;Wk; hpkhd;L nra;j
fhuzj;ij njhpe;J nfhz;L jhd; nts;is jhs py; ifnaOj;J
Nghl;Nld; vd;W nrhd;dhy; rhpay;y. vd;Dila Gfhh;
kw;wk; gpukhz thf;f%yj;jpy; vd; nkhigy; Nghdpy;
vd;d Mjhuzk; ,Ue;jJ vd;W nrhy;ytpy;iy vd;why;
rhpjhd;. vd;id hpkhd;l nra;J nIapy; ,Ue;j NghJ
kUj;Jt rpfpr;ir VJk; vLj;Jf; nfhs;stpy;iy. ntspapy;
te;j gpd;dUk; ehd; ve;j rpfpr;irAk;
vLj;Jf;nfhs;stpy;iy. Gfhh; nfhlj;jgpd;dh; fhtyh;
vd;id tprhuizf;F tUkhW gjpT jghy; %yk; rk;kd;
mDg;gpdh; Mdhy; ehd; Nghftpy;iy.”

9. The second respondent in the Writ Petition has filed a proof affidavit before the State Human Rights Commission contending that a case was registered against the Writ Petitioner in Crime No.82 of 2018 on 24.07.2018. Under Section 41(A) Cr.P.C. a notice was served through the Village Administrative Officer which was marked as Ex.P1. However, the Writ Petitioner was absconding, evading and did not participate in the enquiry.



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10. The Writ Petitioner was arrested by the second respondent on 15.08.2018 at 9.00 a.m. at Thanjavur new bus stand. The arrest card, arrest intimation form were marked as exhibits and the Writ Petitioner did not make any complaint against the respondents herein.

11. Regarding the nature of complaint and the allegations levelled against the respondents in the Writ Petition by the Writ Petitioner/complainant, FIRs in Crime Nos.81 & 82 of 2018 are nothing but a case and counter case based on the complaint given by the Writ Petitioner/complainant and the said Pouliya. Both the complaints were registered by Pappanadu Police Station. The Writ Petitioner as well as Pouliya have to deal the same after the charge sheet is filed.

12. Regarding the next contention that there was manipulation in C.S.R. given by Pappanadu Police Station, this Court is of the view that no fault can be found. The Writ Petitioner himself has confessed that he did not appear before the respondent police, when 41(A) Cr.P.C notice was served on him and the record also would reveal that the Writ Petitioner had filed anticipatory bail application and it only demonstrates that the Writ Petitioner wants to avoid the arrest at the hands of



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Pappanadu Police and he had evaded appearing before Pappanadu Police and that is why he has taken a specific stand that sufficient time was not given to him for appearing before the police under Section 41(A) Cr.P.C.

13. That apart, the reply to the RTI query of the Writ Petitioner also could not come to the aid of the Writ Petitioner as the answer only narrates that the sixth respondent herein had been sought the help in identifying the place of the Writ Petitioner's house. Identifying the house of the Writ Petitioner is different from effecting arrest in the absence of any material to show that the Writ Petitioner was arrested and witnesses examined on the side of the Writ Petitioner had not established that the Writ Petitioner was arrested against the procedure established.

14. We have given anxious consideration. The only question before us is whether the respondents had committed any human rights violation as alleged by the Writ Petitioner. While considering several contentions raised by the Writ Petitioner/complainant against the respondents herein and the order passed by the State Human Rights Commission, it is clear that registration of FIRs in Crime Nos.81 & 82 of 2018 based on the complaint given by the Writ Petitioner as well as



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the said Pouliya is a case in counter and it has to be dealt before the criminal Court after filing of charge sheets. The manipulation as alleged by the Writ Petitioner do not constitute a case of human rights violation and the Writ Petitioner had not made any statement before the Magistrate at the time of remand or the Writ Petitioner had not taken any steps to establish that he was subjected to physical torture at the hands of the respondents Police at the time of remand.

15. The Writ Petitioner has not marked any document to substantiate the contentions raised by him in his bail application and the learned counsel appearing for the Writ Petitioner contended that the bail application was a format. We are unable to accept the said contention that the bail application is a format since the Writ Petitioner himself a practising Advocate who alleges the specific case of torture at the hands of the respondents Police apart from disputing the place of arrest. The place of arrest shifts from one jurisdiction to another jurisdiction. According to the Writ Petitioner, he was arrested at Chennai whereas the records would show that the Writ Petitioner was arrested at Thanjavur bus stand, the said statement is unchallengeable in any manner and also when he was produced before the learned Judicial Magistrate.



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16. In the absence of any attempt made by the Writ Petitioner to show that the arrest and remand of the Writ Petitioner was in gross violation to the dictum of the Hon'ble Supreme Court and on thorough examination of the complaint, the proof affidavit and cross examination on the side of the petitioner and the counter filed before the seventh respondent/SHRC would clearly show that there is no semblance of evidence that the petitioner was subjected to any kind of human rights violation.

17. This Court cannot close its eyes because of the fact that the petitioner was a practising Advocate, the person who is well versed with the procedure of arrest and illegal detention, he would have made complaint when he was produced before the learned Judicial Magistrate for remand. In the absence of any mention or any information made by the petitioner before the learned Judicial Magistrate at the time of remand, the said allegation could only be an afterthought and therefore, the aforesaid contention cannot be acted upon.

18. Though for the first time, the Writ Petitioner has made an allegation that he has expressed complaints about the place of arrest and



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manner of arrest was informed to the Judicial Magistrate at the time of remand but the same was not recorded. The Writ Petitioner after coming out of bail had not made any allegation to any authority that his statements were not considered at the time of remand. Therefore, this is nothing but slanderous allegations made against the Judicial Officer which is highly condemnable.

19. The petitioner is a practising Advocate who is well versed with laws and his claim on the objection made regarding the arrest cannot be accepted and it is nothing but an utter falsehood. Therefore, we uphold the order passed by the seventh respondent/SHRC.

20. At this juncture, this court takes note of the contention of the learned counsel for the petitioner that the seventh respondent/SHRC has discussed the factual aspect in the order which according to the petitioner is highly unwarranted as these facts may affect the case of the Writ Petitioner in other proceedings which are pending before other appropriate forums. Therefore, the paragraph Nos.13 & 16 may not be relevant to note whether there was a violation of human rights and these observations are not relevant for the Human Rights Commission to look



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into it. The specific plea for the learned counsel for the petitioner is that such an observation may not be warranted and paragraph Nos.13 & 16 may be expunged.

21. In view of the guiding principles of the Hon'ble Supreme Court, the paragraphs of 13 & 16 of the SHRC order be expunged as it is unwarranted as per obiter ratio laid down by the Hon'ble Supreme Court.

22. With the above observations, the Writ Petition is dismissed. The paragraph Nos.13 & 16 of the order in SHRC Case No.9024/2018 dated 23.03.2020 is expunged. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.,J) (N.S.,J)
30.04.2024

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