



W.P.No.12276 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	24.02.2025
Pronounced on	25.03.2025

Coram

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

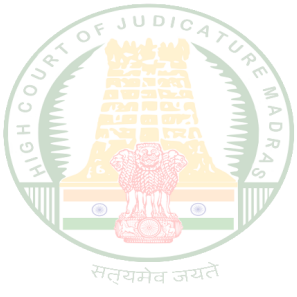
**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

W.P.No.12276 of 2021

and

W.M.P.Nos.13050 & 13052 of 2021

1. N.Ganesalingapandi
The Then Sub-Inspector of Police, Special Crime Squad,
S/o.Narayanan
No.3/185, Vellakkarai, Thiruppuranam,
Allinagaram, Sivaganga, Tamil Nadu- 630 611
2. S.Gajendran
The Then Police Head Constable, Special Crime Squad,
S/o.Sathayya,
No.2020, B Block,



W.P.No.12276 of 2021

WEB COPY

Sethupathinagar, Pattinampakkam,
Ramanathapuram, Tamilnadu- 623 503.

3. B.Suresh
The Then Police Head Constable, Special Crime Squad,
S/o.Balusamy,
No.L 29, TNHB Kudiyiruppu,
Muvakothalam, Ramanathapuram, Tamilnadu- 623 501
4. V.Murali Selvam
The Then (Police AR), Special Crime Squad,
S/o. Veerakula Sekara Pandian,
The Head Constable,
No.3/3087 Meenakshi Nagar,
Ramanathapuram-623 503.

.. Petitioners

VS

1. The State Human Rights Commission (Tamilnadu)
No.143, P.S.Kumarasamy Raja Salai,
Chennai -600 028
2. K.Syed Abutagir,

.. Respondents



W.P.No.12276 of 2021

WEB COPY

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of State Human Rights Commission -Tamil Nadu and quash the impugned order passed in S.H.R.C. 6720 of 2017 dated 28.08.2019 passed without following the Rule of Law and pass such further orders

For Petitioners : Mr.M.Lourdu Savio

For Respondents : Mr.V.Ravi,
Special Government Pleader,for R1
No Appearance for R2

ORDER

K.GOVINDARAJAN THILAKAVADI,J.

This writ petition is filed challenging the order of the State Human Rights Commission in SHRC Case No.6720 of 2017 dated 28.08.2019 passed by the 1st respondent herein, directing the Government of Tamil Nadu to pay a compensation of Rs.50,000/- to the complainant/2nd respondent and recover the said amount from each respondents therein.



W.P.No.12276 of 2021

WEB COPY

2. The brief facts necessary for disposal of this writ petition are as follows:

a. The second respondent in this writ petition viz., Thiru. Syed Abutagir approached the State Human Rights Commission alleging that he is an Auto driver and his wife is a differently abled person. While so, on 01.08.2017 at about 6.p.m after dropping the School students in their houses and while returning back to the Auto stand, the respondents and other unknown persons intercepted him and took him to the Kenikarai Police Station.

b. His further allegation in the complaint is that, in the police station he was forced to remove his clothes and was subjected to harassment by the respondents/Police Officials therein. On the next day, he was taken to Pattinampakkam and Sakkarakottai check post and other places by the respondents/Police Officials and was threatened to admit that he had concealed the crime weapons and was also threatened with foisting of false cases against his family members. Thereafter, the respondents foisted a false case against him and was illegally detained for four days in the Police lock up. Considering his illegal detention the



W.P.No.12276 of 2021

judicial Magistrate refused to remand him and released him on bail.

Alleging as above, the complainant/2nd respondent approached the Human Rights Commission and prayed for suitable action against the respondents Police Officials for violation of Human Rights.

3. The respondents / Police Officials filed their counter affidavits denying all the allegations contained in the complaint lodged by the complainant/2nd respondent. In the counter affidavits it is stated that the 1st respondent/ 1st writ petitioner at the relevant point of time was working as Sub-Inspector of Police in Serious Crime Branch, attached to the Superintendent of Police, Ramanathapuram District; that no such occurrence took place on 01.08.2017 as alleged in the complaint; that the complainant/2nd respondent was never kept in illegal detention for four days and never subjected to torture by the respondents/ Police Officials; that they have not violated any of the Human Rights of the Complainant and prayed for dismissal of the complaint.

4. The Human Rights Commission framed the following points for consideration:



WEB COPY



W.P.No.12276 of 2021

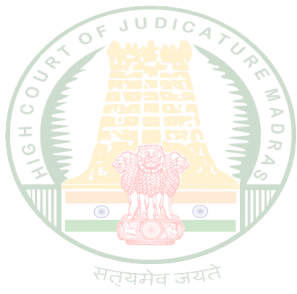
*" Whether the respondents had violated any of the
Human Rights of the Complainant; and*

2. What reliefs the complainant is entitled to? "

5. Before the Commission, the complainant examined himself as P.W.1 and also examined P.W.2 and P.W.3 on his side. On the side of the respondents/ Police Officials R.W.1 to R.W.4 were examined and four documents were marked on their side.

6. The above points for consideration were determined against the respondents/ Police Officials and the Commission passed the following recommendations:

*(i) The Government of Tamilnadu shall pay a
compensation of Rs.50,000/- (Rupees Fifty
Thousand only) to the complainant/P.W.1 Thiru.
Syed Abutagir, son of Kaja Muhideen, No.8 Basi
Vanakara Street, Vellipattinam,*



WEB COPY



W.P.No.12276 of 2021

Ramanathapuram District within four weeks from the date of receipt of this order; and

(ii) The Government shall recover the said sum of Rs.50,000/-(Rupees Fifty Thousand only) from the respondents equally, subsequently as per the rules and regulations.

7. Aggrieved by this, the present writ petition is preferred by the respondents/ Police Officials.

8. Heard Mr.M.Lourdu Savio, learned counsel appearing for the petitioners and Mr.V.Ravi, learned Special Government Pleader for the 1st respondent.

9. Despite notice, the 2nd respondent did not appear before this Court.

10. The learned counsel for the writ petitioners submits that no such occurrence took place on 01.08.2017. The petitioners' at that point



W.P.No.12276 of 2021

WEB COPY

of time were present in different places which is evident from the caller ID marked as Exs.R.1 & R2 before the Commission. Whereas, the complainant/2nd respondent was about 70 Kilometers away from them. The complainant/2nd respondent failed to prove that the petitioners' were present in the occurrence place at the relevant point of time. However, the SHRC rendered a finding that the petitioners did not mention about the Caller ID in their counter statement as per Order 8 Rule 5 CPC. Such findings of the Commission does not hold good for the reason that the petitioners in their counter statements, proof affidavit and in their cross examination have categorically mentioned their mobile number and the the timings, which are reflected in the Caller ID.

11. The further contention of the petitioners is that the 1st petitioner was serving as Sub Inspector of Police and the other petitioners P2 to P4 are Head Constables and Constables and they were part of the Serious Crime Squad serving under the Superintendent of Police, Ramanathapuram District and that they were not serving in Kenikarai Police Station at the time of alleged occurrence. The then Inspector of Kenikarai Police Station, Mr.Senthil kumaran was examined as D.W.4 on



W.P.No.12276 of 2021

the side of the petitioners. He deposed that, at the time of the alleged occurrence the petitioners were part of Serious Crime Squad and only on 04.08.2017 the petitioners came to the Kenikarai Police Station to enquire the complainant/2nd respondent based on the order of the Superintendent of Police. He had further deposed that the petitioners conducted the enquiry within the bounds of law and that they did not commit any Human Rights Violation upon the complainant/2nd respondent. D.W.4 has categorically deposed that based on the complaint given by the Village Administrative Officer, Sakkarakottai against the complainant/2nd respondent, FIR was registered in Crime No.499 of 2017 on 03.08.2017 and the complainant/2nd respondent was arrested by him in the midnight on the same day and he was released on bail on 04.08.2017 by the Judicial Magistrate. Therefore, the petitioners are in no way connected with the arrest of the complainant/2nd respondent and that the complainant/2nd respondent was not in illegal custody for 4 days as alleged by the complainant. This aspect was not considered by the SHRC.

12. It is further alleged that there is no Medical evidence to



W.P.No.12276 of 2021

WEB COPY

establish that the complainant/2nd respondent was assaulted by the petitioners. Moreover, the complainant/2nd respondent did not make any statement before the Judicial Magistrate about the alleged assault, when he was produced before him for remand. If really such incident had occurred, the complainant/2nd respondent would have informed the Judicial Magistrate about the alleged assault. Moreover, the complainant/2nd respondent failed to establish that he was subjected to illegal custody by the petitioners from 01.08.2017 till 04.08.2017 i.e., for four days. The petitioners enquired the complainant/2nd respondent only on 04.08.2017 as per the direction of the Superintendent of Police. Therefore, the alleged occurrence dated 01.08.2017 as narrated by the complainant/2nd respondent before the Commission is baseless. However, the Commission failed to appreciate the oral and documentary evidences produced on the side of the petitioners and passed the impugned order which requires interference by this Court.

13. On the other hand, the learned Special Government Pleader appearing for the 1st respondent/SHRC submits that, the complainant/2nd respondent was subjected to harassment by the petitioners herein. He was



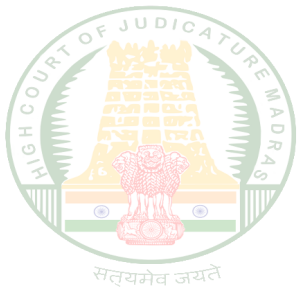
W.P.No.12276 of 2021

illegally detained by the petitioners for four days and the writ petitioners foisted a false case against him. Considering the same, the learned Judicial Magistrate refused to remand the complainant/2nd respondent and released him on bail. The State Human Rights Commission based on the oral and documentary evidence passed the impugned order which requires no interference.

14. We have considered the rival submissions and gone through the record.

15. The SHRC has rendered a finding that the writ petitioners have grossly misused their official power and caused mental agony to the complainant/2nd respondent. The relevant portions in the impugned order is extracted as hereunder:

19. Furthermore, I have also perused the Ex.R2 to R4 in a careful manner. There is no reference to show that this 3 caller ID maintained by which department or the name of the cellphone company. No authenticated



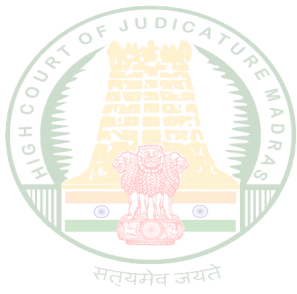
WEB COPY



W.P.No.12276 of 2021

signature of the cell phone company was found in this document. There is no headline or any other details on these documents. Simply it was attested by one Inspector of Police, District Special Branch, Ramanathapuram. Therefore, these documents cannot be treated as a valid one for the simple reason that it is not an authenticated one and no signature of the officials who issued the caller ID was not found.

20. As I already said, this fact was not mentioned in the counter statement, which was filed by him at the earliest point of time. If really the 1st respondent was not in Ramanathapuram and went to his native place to meet his parents, the same should have been stated in the counter statement. But as I already said no reason was stated on this aspect in his evidence. There is no record to show that this cell phone number was issued to the 1st respondent by the police department to use for his official capacity. Therefore, the evidence of RW1 and



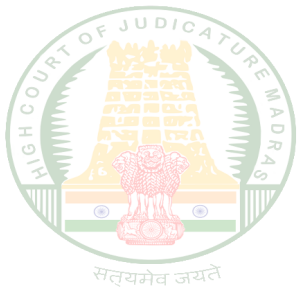
WEB COPY



W.P.No.12276 of 2021

these documents of Ex.R2 and R3 cannot be relied upon and rejected this evidences for the reasons stated above.

25. RW4 also deposed that PW1 was examined by the 1st respondent on 04.08.2017 at about 8 AM in his presence. He never spoken about what was happened to the complainant after his arrest. He did not speak about whether he was taken to the judicial magistrate for remand and any order was passed by the learned judicial magistrate. There is no explanation by the respondents on this aspect. But during the cross examination, RW4 categorically admitted that the complainant was taken to the court for judicial remand and at the instruction of the judicial magistrate, he was let off on bail in the police station. But there is no explanation on the side of the respondents that why the learned judicial magistrate refused to remand the accused/PW1 and gave instruction to the police to release him on bail in the police station itself or on his



WEB COPY

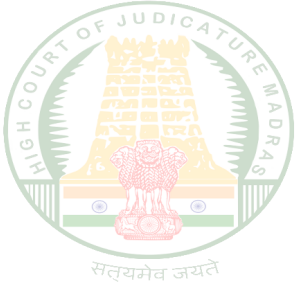


W.P.No.12276 of 2021

own Bond by the court. No satisfied explanation on this aspect by the respondents. It also creates suspicious in the minds of this Commission about the arrest and detention of the complainant by the respondents.

26. PW3, the mother of PW1 also deposed that his son was released by the police on the instructions of the learned judicial magistrate. It is also important to note that the copy of the FIR was marked by the respondents as Ex.R4. It is seen from the contents of the FIR that when one Sub Inspector of Police Tr. Vengatesh Perumal of Kenikarai police station was on duty on 03.08.2017 at about 8 PM one Senthilkumar, Village Administrative Officer of Sakkara Kottai Group, Ramanathapuram appeared in person and lodged a complaint against the complainant and a case in Cr.No.499/2017 under Section 20, 30 of Indian Arms Act, 1959 was registered.

It is very essential to reproduce the complaint, which is

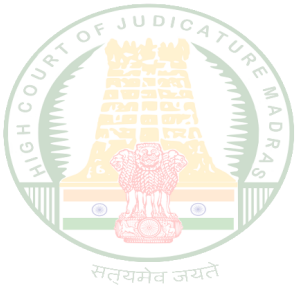


W.P.No.12276 of 2021

WEB COPY

as follows:-

நான் இராமநாதபுரம் வட்டம் 46 சக்கரக்கோட்டை குரூப், கிராம நிர்வாக அலுவலராக பணிபுரிந்து வருகிறேன். இன்று 01.08.2017 நான் எனது அலுவலகத்தில் இருந்தபோது இராமநாதபுரம் வெளிப்பட்டிணம், பாசி பவளக்கார தெருவை சேர்ந்த உறாசா முகைதீன் மகன் செய்யது அப்தாகீர் என்பவர் TN 65 E 8332 S.அப்துல்லா தாபித் என்று எழுதப்பட்ட ஆட்டோவில் பெரிய வான் போன்ற ஆயுதங்களை ஆட்டோவில் வைத்துக் கொண்டு இராமநாதபுரம் சக்கரக்கோட்டை ஆகிய பகுதிகளில் ஏதோ சதி திட்டத்தோடு சுற்றி திரிவதாக தகவல் வந்துள்ளது. மேற்படி நபரையும் ஆட்டோவையும் கண்டுபிடித்து உரிய நடவடிக்கை எடுக்குமாறு கேட்டுக்கொள்கிறேன். If really the Village Administrative Officer lodged the complaint on 03.08.2017 the word இன்று 01.08.2017 will not be mentioned instead of கடந்து 01.08.2017 நாள் அலுவலகத்தில் இருந்தபோது ought to have been mentioned in the complaint. But the copy of the complaint is not



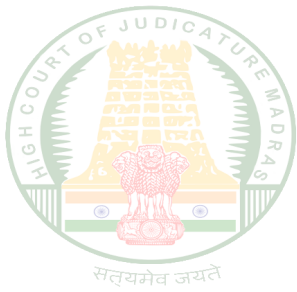
W.P.No.12276 of 2021

WEB COPY

produced by the respondent before this Commission for perusal.

28. Therefore, this document coupled with the evidence of PW1 to PW3 reveals the fact that the complainant was intercepted by the police officials/respondents on 01.08.2017 at about 6 PM as alleged by the complainant on the basis of the complaint lodged by the Village Administrative Officer and taken to the police station on that day and he was illegally detained in the police station for 4 days. That is why, considering the entire circumstances and also the documents, the judicial magistrate refused to remand the accused and instructed the police to release him on bail. If really the case of the respondents is genuine, the magistrate ought to have remanded the complainant to judicial custody. Therefore, the respondent police has not come to this Commission in a clean hand and wanted to hidden some material points as discussed above.

30. Considering the oral and documentary evidence



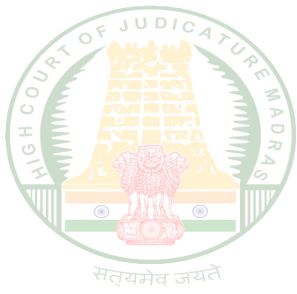
WEB COPY



W.P.No.12276 of 2021

of the parties, this Commission is considered opinion that the complainant has categorically established that the respondents had illegally detained him in the police station for 4 days for the reasons best known to them and tortured the complainant and violated the human rights of the complainant. The respondents has not acted in accordance with law and they misused their police power towards the complainant. This point is answered accordingly. "

13. On the basis of the above factual findings, the State Human Rights Commission made the impugned orders. The findings given by the Human Rights Commission are based on appreciation of oral and documentary evidence, which establishes the fact that the Complainant/2nd respondent was subjected to mental agony by illegal detention. Evidently, the learned Judicial Magistrate has also refused to remand the complainant/2nd respondent considering his illegal detention. No CCTV footage is produced by the petitioners/Police Officials to prove that they were not present in the Police Station at the time of the alleged occurrence. Therefore, the contention of the writ petitioners that they

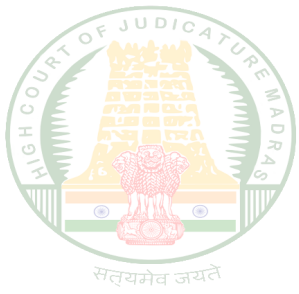


W.P.No.12276 of 2021

were not present in the Police Station cannot be accepted. Mere production of the Caller ID is not sufficient. Moreover, there is no motive for the complainant/2nd respondent to lodge a false complaint against the petitioners before the Human Rights Commission.

14. The Hon'ble Supreme Court in *Arnesh Kumar Vs. State of Bihar and Another* reported in *2014 (3) SCC (Cri) 449* has clearly pointed that a Police Officer who has the power to arrest and detain a person must be extremely careful in exercising such power.

15. In the present case, the petitioners/Police Officials failed to exercise their powers by following the procedures/guidelines as set out in the above reported judgment, in the matter of arrest of the complainant/2nd respondent. The act of the writ petitioners subjecting the complainant/2nd respondent to illegal detention is unjustifiable. We are unable to see any perversity in the findings of the 1st respondent/SHRC which warrants interference by this Court.



W.P.No.12276 of 2021

WEB COPY

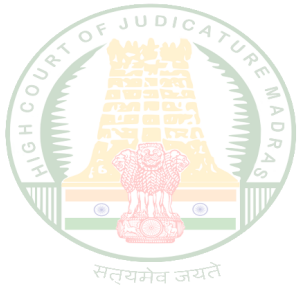
16. In the result, this writ petition stands dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

[M.S., J] [K.G.T., J]
25.03.2025

Index: Yes/No
Speaking order / Non-speaking order
vsn

To

The State Human Rights Commission (Tamilnadu)
No.143, P.S.Kumarasamy Raja Salai,
Chennai -600 028



WEB COPY



W.P.No.12276 of 2021

M.SUNDAR,J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

vsn

Pre-delivery order in

W.P.No.12276 of 2021

W.M.P.Nos.13050 & 13052 of 2021

25.03.2025