

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27..02..2015

CORAM

THE HON'BLE Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE Mr.JUSTICE M.M.SUNDRESH

W.P. No.10755 of 2011
& M.P.No.1 of 2011

1.C.Mutharasu
2.J.Sambandam
3.S.Rajarajan
4.K.Viswanathan ...Petitioners

Versus

1.The Secretary to Government,
Home Department, Fort St.George,
Chennai 600 009.
2.Shanmugam @ Santhosh Kumar
3.The Registrar,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai-28.
4.N.Mathialagan ..Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, praying for the issuance of a writ
of Certiorari to call for the records relating to SHRC case
No.2725/2010 dated 10.02.2011 on the file of the third
respondent and quash the same.

For Petitioners

:: Mr.G.Innisai for
Mr.G.Muthukumar

For Respondents

:: Mr.S.T.S.Moorthy
Government Pleader for R1
No appearance for R2 to R4

O R D E R

(Order of Court was made by M.M.SUNDRESH,J.)

The petitioners, being police personnel, have filed this writ petition challenging the order passed by the State Human Rights Commission in SHRC Case No.2725/2010 dated 10.02.2011, by which a recommendation was made to pay a sum of Rs.35,000/- to the complainant by the Government of Tamil Nadu, out of which a sum of Rs.20,000/- was directed to be recovered from the salary of the 1st petitioner and a sum of Rs.5,000/- each from the petitioners 2 to 4.

2. The case of 2nd respondent/complainant is that he was picked up and detained without the authority of law and treated badly by the petitioners between 12.3.2010 to 21.3.2010. Though the Commission framed three issues, the petitioners were exonerated of the issues 2 and 3. Hence, we are concerned with only issue referred above.

3. Apart from the 2nd respondent, who filed the complaint, four other witnesses were examined on his side as against two on behalf of the petitioners. The Charge against the petitioners is that they have taken the 2nd respondent into illegal custody, took him to Madurai and Thanjavur on various days. The Commission found issue No.1 framed against the petitioners as proved based upon the documentary evidence as well as the oral testimony of the parties. P.W.2 is the daughter of the 2nd respondent and P.W.3 is his counsel. All the three witnesses viz., P.Ws.1 to 3 have spoken in unison. The Commission also found discrepancy in the statement made by R.W.1 in his evidence as against the counter statements. It also took into consideration the daily diary of the log book as well as the arrival - departure register maintained at the Youth Hostel, Madurai, in which the 1st petitioner booked a room in his name and stayed there. It drew adverse inference to the failure of the petitioners to explain their visit to Madurai in the counter affidavit filed by them. Accordingly, it was held that the 2nd respondent was taken by the petitioners on 12.3.2010, taken to different police stations, Youth Hostel, Madurai and finally to Tamil University Police Station, Thanjavur and kept in illegal detention upto 21.3.2010. Seeking to assail the said finding based upon which the recommendation was made, the present writ petition has been filed.

4. Learned counsel for the petitioners submitted that the 2nd respondent is a habitual offender. The complaint given by him lacks bonafide. The materials available on record have not been taken into consideration in the proper perspective by the Commission. The 2nd respondent was called for enquiry as he created a reasonable suspicion due to his presence and on questioning. Therefore, the order passed will have to be set aside.

5. The Commission's recommendation was based upon the evidence rendered by P.Ws.1 to 3 as well as the discrepancies found on the side of the petitioners. P.W.2, being the daughter of respondent No.2, has spoken in tune with the complainant. Same case was that of P.W.3. The statements made by the above were found in tune with the records. The Commission took note of the presence of the petitioners at Madurai. There is no material to implicate P.W.3 with the petitioners. Merely because the complainant was having a criminal antecedent, it can never be said that his liberty can be infringed de hors the authority of law. In a writ of certiorari, this Court is concerned with the decision making process adopted by an administrative or a quasi judicial authority. The proceedings before the Commission would not partake the role of a regular trial. The discrepancy on the part of the petitioners would also cover the date of release of the 2nd respondent. The conclusions were arrived at by the Commission after affording sufficient opportunities to the petitioners. Accordingly, we do not find any merit in this writ petition. The writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Home Department, Fort St.George,
Chennai 600 009.

2.The Registrar,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai-28.

1 cc to Mr.G.Muthukumar ,Advocate, SR.No.11195

1 cc to Government Pleader,Sr.No11043

bvr(co)
pmk.12.3.2015

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