

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

Date of Reserving the Judgment	Date of Pronouncing the Judgment
18.08.2015	25.08.2015

Coram

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

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P. No.16796 of 2015

Mrs.K.S.Maleeswari

... Petitioner

Vs.

1. The Registrar,
State Human Rights Commission,
Tamil Nadu,
Chennai - 600 028.

2. Inspector of Police,
W-10, All Woman Police Station,
Flower Bazaar Range,
Chennai - 600 079.

3. Mythili
4. Murali
5. Sasikala
6. Mahesh
7. Kunjammal

8. The Commissioner of Police,
Vepery,
Chennai - 600 008.

... Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorified Mandamus, to call for the records relating to the impugned order bearing Case No.7550 of 2005, dated 16.12.2005 and case No.2411 of 2011, dated 08.04.2011

passed by the first respondent and quash the same and to direct the first respondent to Conduct enquiry into the complaint dated 23.03.2005 and 20.11.2014 and pass orders on merit and in accordance with law.

For petitioner : Mrs.K.S.Maleeswari
[Party-in-person]

For Respondents : Ms.Bhavani Subburoyan for R1

Mr.S.T.S.Moorthy G.P., for RR2 &R3

O R D E R

T.S.SIVAGNANAM, J.

The petitioner appearing in person has filed this Writ Petition praying for issuance of a Writ of Certiorified Mandamus, to quash the order passed by the State Human Rights Commission in Case No.7550 of 2005, dated 16.12.2005 and case No.2411 of 2011, dated 08.04.2011 and directing the State Human Rights Commission to conduct enquiry into her complaints, dated 23.03.2005 and 20.11.2014.

2. The petitioner was arrested and remanded to the Judicial custody pursuant to a case registered against her under Sections 419, 384, 356 read with 511 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and Section 5(1) of the Immoral Traffic (Prevention) Act. The petitioner's husband was the second accused and he was also arrested and remanded. Ultimately, the case was decided by the Mahila Court at Chennai in S.C.No.199 of 2007 and the petitioner/first accused was acquitted under Section 235 (1) Cr.P.C. During the pendency of the trial, the petitioner's husband, the second accused, died and charged against him stood abated.

3. The petitioner would state that on 03.11.2005, she filed a complaint before the first respondent Commission and the complaint was rejected without conducting an enquiry. The petitioner would state that no reasons have been assigned by the first respondent and the order is bad in law. The petitioner is stated to have approached the Commission during 2006, 2007 and 2008 for issuance of a certified copy of the order dated 16.12.2005, rejecting her earlier complaint. The petitioner would state that her husband died due to the harassment and mental torture by the second respondent, Inspector of

Police, All Woman Police Station, Flower Bazaar Range. After the petitioner was acquitted, she lodged another complaint before the first respondent Commission, which was rejected by order dated 08.04.2011 and challenging both the orders of rejection, the petitioner has filed this Writ Petition.

4. The petitioner appearing in person reiterated the facts and submitted that she is innocent and she has been harassed by the Police and her complaints before the first respondent Commission were never dealt with and rejected by non speaking orders and therefore, prayed for setting aside the impugned orders and to direct the first respondent Commission to enquire into her complaints.

5. The learned counsel appearing for the first respondent Commission was directed to verify the averments contained from paragraph 11 onwards of the Writ Petition wherein the complaint was that she was not provided with the certified copies of the impugned orders dated 16.12.2005 and 08.04.2011. The Commission was directed to state as to whether the certified copy of the order was sent to the petitioner and the details of the same along with the extract of the relevant register which may be produced before this Court for perusal. Accordingly, the learned counsel for the first respondent filed a counter affidavit as well as a typed set containing the copies of the order dated 13.01.2006, 08.04.2007, copies of the extract of despatch register, letter given by the petitioner seeking for copy of the order and the extract of the despatch register, dated 18.03.2015. The original files and register were placed before us for consideration.

6. We have heard the petitioner patiently and she was allowed to express her grievance. From the submission made by the petitioner, it is clear that after the petitioner secured bail in the criminal case, she lodged a complaint before the Human Rights Commission. The said complaint was registered as Case No.7550 of 2005, and the Commission by order dated 16.12.2005, forwarded the complaint to the Commissioner of Police Chennai for action. Thereafter, the petitioner appears to have not done any substantial move though she states that on yearly basis she had been approaching the first respondent Commission. After her acquittal in the Criminal case, the petitioner once again approached the Commission with a fresh complaint with the same allegations, which was registered as Case No. No.2411 of 2011, and rejected by order dated 08.04.2011, as being barred by limitation in terms of Section 36(2) of the Protection of Human Rights Act, (Act) as the occurrence is alleged to have been occurred during 2009.

7. The first grievance of the petitioner is that she was never given certified copies of both the order i.e., order dated 13.01.2006 and 08.04.2011. On a perusal of the relevant registers, we find that the submission made by the petitioner is false. She has received those orders and register contains her signatures. The petitioner cannot therefore state that she has not received the orders. This leaves us with the only question as to whether the petitioner can now seek to reopen the entire matter in respect of allegation, which is said to have occurred in 2005 [wrongly noted by the Commission as 09.12.2009 in its order dated 08.04.2011].

8. Be that as it may, the complaint given by the petitioner in 2005, was registered by the Commission and forwarded to the Commissioner of Police for appropriate action. Though the petitioner has received the copy of the order, she took no further steps to pursue the matter. The petitioner would state that the Commissioner of Police will not take action as the allegation is against the Inspector of Police. If the petitioner is of the view that no adequate and appropriate action would be initiated by the first respondent, then she should have availed the other remedies available to her under the Code of Criminal Procedure. It cannot be stated that the petitioner was unaware of the procedures, since at the relevant point of time, she was facing trial in the Criminal case registered against her and was defended by a counsel. In fact, she had secured an order of bail and it is only thereafter the complaint was lodged before the Commission. Therefore, the petitioner did not effectively prosecute her case, if at all she had a case to prosecute. The petitioner was acquitted by the Mahila Court by judgment dated 29.03.2010, after nearly about one year she filed another complaint before the Commission with the same set of allegations. The complaint was registered by the Commission and rejected as being barred by limitation by applying Section 36(2) of the Act. The view taken by the Commission is perfectly in order.

9. On perusal of the original files produced before this Court and the registers, we are satisfied that the petitioner is guilty of delay and laches and the first respondent Commission was justified in rejecting her second complaint as barred by limitation and the order referring the first complaint to the Police for enquiry was never put to challenge since 2005 and the allegation that the petitioner did not receive the certified copy of the order dated 13.01.2006, has been found to be factually incorrect.

10. For all the above reasons, no case has been made out by the petitioner to interfere with the orders passed by the first respondent Commission. Accordingly, the Writ Petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pbn

To

1. The Registrar,
State Human Rights Commission,
Tamil Nadu,
Chennai - 600 028.
2. Inspector of Police,
W-10, All Woman Police Station,
Flower Bazaar Range,
Chennai - 600 079.
3. The Commissioner of Police,
Vepery,
Chennai - 600 008.

+1cc to M/s.Mallieswari, Advocate, S.R.No.43890
+1cc to Mr.V.Bavanai Subbaroyan, Advocate, S.R.No.45075
+1cc to the Government Pleader, S.R.No.45110

W.P. No.16796 of 2015

LRS (CO)
CA(09/09/2015)

WEB COPY