

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25770 of 2014

- 1.P.Shanmugam,
Then Inspector of Police,
P-1, Puliyanthoppu Police Station,
Chennai.
- 2.S.George,
Then Sub Inspector of Police,
P-1, Puliyanthoppu Police Station,
Chennai.
- 3.E.Ramesh,
Then Constable,
P-1, Puliyanthoppu Police Station,
Chennai. ... Petitioners

-vs-

- 1.The State Human Rights Commission
of Tamil Nadu,
rep. by its Registrar,
No.143, P.S.Kumarasamy Raja Salai,
Chennai-600 028.

- 2.D.Kalibabu ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of the first respondent's impugned order in SHRC Case No.8736 of 2009/C2 dated 14.7.2014 and to quash the same as illegal.

For Petitioner : Mr.M.Purushothaman

For Respondents : Ms.Bhavani Subbaroyan for R1

Mr.J.Kumar for R2

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

A challenge is made to the impugned order of the State Human Rights Commission dated 14.07.2014 making recommendations to the Government of Tamil Nadu to make payment of Rs.25,000/- to the complainant and with further direction that it "may recover" the said amount from the three petitioners before us.

2. On the last date of hearing, we noticed that the findings in the impugned order were predicated only on the testimony of the complainant, coupled with two documents stated to be relatable to Stanley Government Hospital. The impugned order had opined that nothing emerged during cross examination. This aspect was assailed by the learned counsel for the petitioners pointing out that in the cross examination of the complainant, it has been stated as under:-

"It's true that the medical certificate I produced does not mention that its from Stanley Government Hospital but its obtained from Stanley Government Hospital only. Yes it does not contain any signature or seal of the doctor, they did not give any accident register copy for staying there as in-patient for 3 days."

The learned counsel for the petitioners also alleged that there was no averment that the complainant had suffered injuries at the hands of the police.

3. The learned counsel appearing for the complainant/respondent No.2, however, sought to dispute this position and thus, we thought it fit to direct production of the original documents from the first respondent, which have been produced today by the learned counsel for the first respondent, duly flagged.

4. A perusal of the records as well as the certified copies obtained and produced by the learned counsel for the petitioners show that the documents only purported to be from the Stanley Government Hospital, containing no seal of the hospital, nor are they signed by anybody, though the Accident Register Number is mentioned as 2385694.

5. On hearing the learned counsel for the parties, we are of the view that these documents could not have been relied upon in view of the cross examination of the complainant by the learned counsel for the petitioners without summoning the witness from the hospital to establish the authenticity of the documents.

6. We are, thus, of the view that the impugned order is liable to be set aside and the matter is remitted back to the State Human Rights Commission, before which these documents will have to be proved in accordance with law and thereafter, a fresh conclusion drawn based on the pleadings and testimony of records.

7. The writ petition is allowed and the matter is remitted back to the State Human Rights Commission/respondent No.1 in terms aforesaid, leaving the parties to bear their own costs. The parties shall appear before the Commission on 14.10.2015 at 10.30 A.M.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

bbr

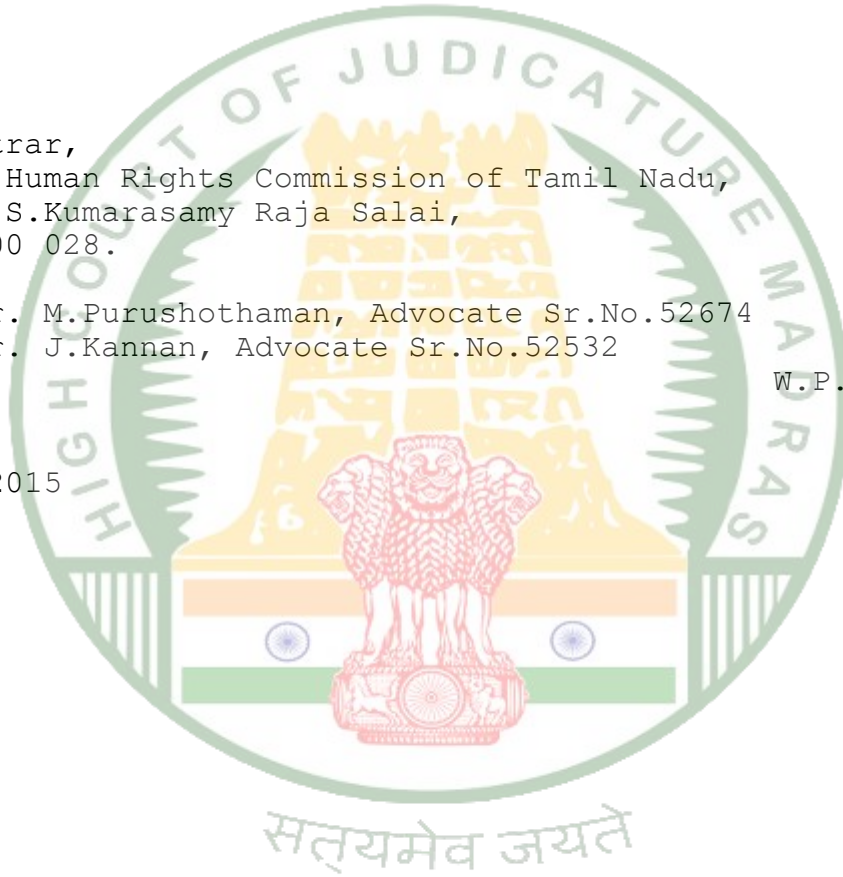
To

The Registrar,
The State Human Rights Commission of Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Chennai-600 028.

3 cc to Mr. M.Purushothaman, Advocate Sr.No.52674
1 cc to Mr. J.Kannan, Advocate Sr.No.52532

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JSV(CO)
PMK.1.10.2015



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