

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition No.8334 of 2019 and
W.M.P.No.8875 of 2019

M.Kannapa Chettiyar ... Petitioner

Vs.

1.State Human Rights Commission,
Tamilnadu, Thiruvarangam rep. By its
Registrar, No.143, P.S.Kumarasamy Raja Salai,
(Green Ways Road),
Chennai - 600 028

2. Muralidharan
Deputy Superintendent of Police,
Gingee - 604 202

3. Saravanan
Inspector of Police,
Gingee Police Station,
Gingee - 604 202

4. Marudhappan ... Respondents

Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 21.02.2019 in SHRC No.792 / 2014 passed by the State Human Rights Commission, Tamilnadu [1st respondent] and quash the same as illegal, arbitrary and consequently, direct the 1st Respondent to permit the petitioner to further cross examine the 3rd respondent.

For Petitioner : Mr.R.R.Pradheep

For Respondents: No appearance

O R D E R

(Order of the Court was made by K.K.SASIDHARAN, J.,)

The State Human Rights Commission, Tamilnadu dismissed the application filed by the petitioner to recall R.W.2 for further cross examination and to mark the documents. The said order is under challenge at the instance of the complainant in SHRC No.792 of 2014 on the file of the State Human Rights Commission, Tamilnadu.

2. We have heard the learned counsel for the petitioner. None appears on behalf of the respondents 2 to 4 inspite of printing the name of the counsel in the cause list.

3. The petitioner preferred a complaint before the State Human Rights Commission against the respondents 2 to 4 alleging violation of human rights. The complaint was taken on file.

4. The State Human Rights Commission examined the petitioner and thereafter, it was the turn to examine the respondents. The 3rd respondent was examined as R.W.2. He was cross examined by the petitioner. It was only thereafter, the petitioner filed a miscellaneous application to recall R.W.2 for further cross examination and to mark the documents.

5. The State Human Rights Commission, Tamilnadu considered the document No.1 sought to be marked by the petitioner. The said document is stated to be the summons issued by the District Crime Branch, Villupuram to the petitioner for enquiry on the basis of the order obtained by Boovaragamoorthy in CrI.O.P.No.156 of 2014.

6. The State Human Rights Commission rejected the request of the petitioner with an observation that the documents sought to be marked did not relate to the respondents.

7. We are unable to subscribe to the views expressed by the State Human Rights Commission. The summons was issued by the Central Crime Branch to the petitioner. The said document has got a reference in the proof affidavit filed by R.W.2, who is none other than the 4th respondent herein. Since the witness himself has referred to the proceedings initiated by the complainant in CrI.O.P.No.156 of 2014, the petitioner was correct in producing the summons issued to him. Similar is the case with the other documents.

8. The various proceedings in connection with the complaint given were all marked in the chief affidavit filed by R.W.2. The petitioner, therefore, was correct in producing the documents for calling the attention of the witness with regard to the documents and to extract his answers. The State Human Rights Commission adopted a summary way for disposal of the application.

9. We are of the view that the State Human Rights Commission ought to have recalled R.W.2 for further cross examination and permitted the petitioner to mark the documents. It is for the witness to say as to whether it is an admitted document or to express his view with regard to the nature of documents and has knowledge about the transaction. The State Human Rights Commission is not expected to take the function of the witness and to say that document is not connected without putting it to the concerned witness to elicit answers.

10. The order dated 21.02.2019 in SHRC No.792 of 2014 is set aside. We direct the State Human Rights Commission to summon R.W.2 for further cross examination and permit the petitioner to mark the documents.

11. The complaint is said to be of the year 2014. We direct the State Human Rights Commission to dispose of the proceedings as expeditiously as possible and in any case, within a period of two months from the date of receipt of a copy of this order.

The Writ Petition is allowed as indicated above. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//सत्यमेव जयते
Sub Assistant Registrar

ssd

To,

1.The Registrar,
State Human Rights Commission,
Tamilnadu, Thiruvaramam
No.143, P.S.Kumarasamy Raja Salai,
(Green Ways Road), Chennai - 600 028

+1cc to Mr.Senthil kumar , Advocate SR.No. 59833

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A.SK(28/08/2019)