



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No. 7688 of 2019

(Through video Conference)

WEB COPY

Antony Kensilin

.. Petitioner

Vs.

1.State Human Rights Commission,
Rep. by its Registrar,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Adayar, Chennai-600 028.

2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

3.Sanal Kumar
Sub Inspector of Police,
Pudukadai Police Station,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 and 2 to take appropriate legal action against the 3rd respondent for his illegal act and inhuman behaviour based on the petitioner's complaint, dated 17.11.2018 within the stipulated period by this Court.

For Petitioner : Mr.Ananth C.Rajesh

For Respondent R2 : Mr.B.Thanga Aravindh
Government Advocate

O R D E R

This writ petition is filed seeking a mandamus directing the respondent Human Rights Commission and the Superintendent of Police, Kanyakumari to take appropriate action against the Sub Inspector of Police, Mr.Sanal Kumar attached to Pudukadai Police Station, Kanyakumari for his legal and inhuman behaviour.

2. The petitioner alleging that on 14.11.2018 at about 8 p.m. the third respondent called him over phone and directed him to come to the station immediately when he and his manager went to the police station, the third respondent started abusing him using



filthy language and enquired, why he has not paid the salary to the employees and started assaulting him using Lathi. The other police in the station rescued him from the murderous attack of the third respondent. Again on 15.11.2018, the third respondent called him over phone to bring all the account books pertaining to the disbursing of salary to his employees when he went to the police station with account books, he was severely attacked and thrown in the lock up and after stripping his clothes made to sit in the floor nakedly was forced to pay a sum of Rs.20,000/- to one Thebajit, who was employed in his cold storage unit. Only after snatching Rs.20,000/- from him, he was allowed to go away from the police station. For the injury caused by the third respondent, he underwent treatment. Therefore, for the inhuman behaviour of the third respondent, to take action against him, representation was forwarded to the first and second respondent on 17.11.2018. Since no action taken on his representation, the writ petition filed on 29.03.2019.

3. The learned Government Advocate would submit that based on the complaint, an enquiry was conducted and it was found from the averments made in the complaint that in this connection, the writ petitioner already filed a complaint before the Human Rights Commission and the same was taken on file in No.12252 of 2018 and enquired by the first respondent and after enquiry, the petition was dismissed as devoid of merits. When the petitioner was called to the police station to submit records pertaining to his complaint, he did not submit necessary particulars. Therefore, the complaint has been closed as 'mistake of fact'.

4. The submission made by the learned counsel for the petitioner and the learned Government Advocate, in the light of the closure report of the Assistant Commissioner, Kulachal, this Court is of the view that the petitioner's complaint, dated 17.11.2018 has been duly enquired and closed as 'mistake of fact'. The petitioner has also approached the first respondent herein and the first respondent, after enquiry, has dismissed his petition. In the said circumstances, it is for the petitioner to work out his remedy before the appropriate appellate forum against the order of the Human Rights Commission. Since *prima facie* there is no material available for this Court to infer that the petitioner was tortured as alleged in this writ petition.

5. Accordingly, this writ petition is dismissed. No Costs.

Sd/-

Assistant Registrar (T&P)

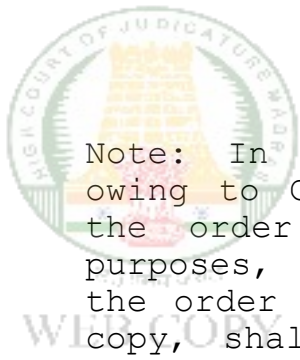
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/ /2022

Sub Assistant Registrar(CS)

PJL

<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Registrar,
State Human Rights Commission,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Adayar, Chennai-600 028.

2.The Superintendent of Police,
Kanyakumari District, Nagercoil.

3.The Sub Inspector of Police,
Pudukadai Police Station,
Kanyakumari District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No. 7688 of 2019
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MGJ(04.01.2022) 3P 5C