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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.Nos.2411 & 2415 of 2022

Mrs. Manjula

... Petitioner in
W.P.No.2411/2022

Mr.S.Ashok Kumar

... Petitioner in
W.P.No.2415/2022

vs

1. The Registrar,
The Human Rights Commission,
Tamil Nadu,
Thiruvaramangam,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 600 028.

2. Mr.Siva
S/o. Ramaiyan ... Respondents in both petitions

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records pertaining to SHRC Case No.10096/2018/C-3 and set aside the Order dated 27.11.2021 passed by the first respondent and consequently dismiss the complaint preferred by the second respondent.

For Petitioner in both Petitions	:	Mr.P.Sesubalan Raja
For Respondent 1 in both Petitions	:	Mr.K.V.Sajeew Kumar, Special Government Pleader
For Respondent 2 in both Petitions	:	No Appearance



COMMON ORDER

[Order of this Court was delivered by SATHI KUMAR SUKUMARA KURUP, J.]

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These Writ Petitions are filed by Mr.Ashok Kumar and Mrs.Manjula as the petitioners challenging the order dated 27.11.2021 passed in SHRC Case No.10096/2018/C-3 by the first respondent and consequently dismiss the complaint preferred by the second respondent.

2.As per the averments in the affidavits of the petitioners in both petitions, the petitioner in W.P.No.2415 of 2022 viz., Mr.Ashok Kumar was serving as Special Inspector of Police at Haridhuvarmangalam Police Station in Thiruvarur District and the petitioner in W.P.No.2411 of 2022 viz., Mrs.Manjula was serving as Inspector of Police in the same police station. On 13.08.2018, while the Special Sub Inspector of Police was on duty, the Haridhuvarmangalam Police received an anonymous call stating that life of one Ragu was at danger and he might be killed by one Thathuvapathy, Kabilan and Siva/the second respondent herein in these petitions. If the Police had not reached the scene of occurrence, Ragu would have been killed. Since the petitioner/Ashok Kumar was on duty, he rushed to the spot and found that the said Ragu was assaulted by Thathuvapathy, Kabilan and Siva/second respondent herein. Therefore, the petitioner/Ashok Kumar attempted to arrest the Accused and to take them to Station. At that time, the second respondent/Siva resisted the attempt of arrest by scolding the petitioner/Ashok Kumar in filthy language and threatened him with dire consequences. Therefore, the petitioner/Ashok Kumar requested for additional force. On seeing the arrival of additional force, the three Accused escaped from the scene of occurrence. Later, the Police Officials recorded the statements from victim Ragu who was admitted in the Hospital as an inpatient for treatment. Based on the statements recorded from Ragu, the case was registered in FIR No.56 of 2018 under Sections 341, 324 and 506 (ii) of IPC against the Accused viz., Thathuvapathy, Kabilan and Siva/second respondent herein. Further, on the complaint of the petitioner/Ashok Kumar, another case was registered in FIR No.57 of 2018 under Sections 294 (b), 353, 506 (i) of IPC. Hence, the second respondent herein approached this Court and obtained the Anticipatory Bail in the above two cases.

3.The second respondent herein is an influential person in the area and having enraged by filing of two FIRs' against him, with a mala-fide intention, he preferred a false complaint before the first respondent/State Human Rights Commission as if that in pursuant to the filing of the FIRs, on 14.08.2018 at



about 11.00 a.m., the petitioner in both petitions viz., Ashok Kumar and Manjula went to CVS Freedom Vidhyalaya Nursery & Primary School, wherein the two daughters of the second respondent were studying and forced them to tell the whereabouts of the second respondent by harassing them. The second respondent further alleged in the complaint before the State Human Rights Commission that the School Correspondent and a teacher by name Saranya had interfered and retrieved the children from the petitioner in both petitions. It is pertinent to note that according to the second respondent, though the incident was occurred on 14.08.2018, he had chosen to send the complaint to the first respondent only on 01.10.2018. Besides, he had alleged in his complaint that the School had issued a certificate to affirm the above incident.

4.The first respondent, who received the complaint, conducted an enquiry against the petitioners herein. The petitioners herein had participated in the enquiry by filing counter statements. Though the second respondent had alleged in his complaint that the children were retrieved by the School Correspondent and a Teacher, he had not chosen to examine them. Likewise, he had not filed the certificate alleged to have been issued by the School Authorities regarding the harassment made by the petitioners on the children of the second respondent and no such certificate was produced during the enquiry also. The second respondent had examined some persons, who were very close to him. Though the statement made by the witnesses examined on behalf of the second respondent are contradictory to each other, the first respondent was pleased to arrive at a conclusion that the petitioners had committed Human Rights violation on the children of the second respondent and awarded compensation of Rs.1,00,000/- to the second respondent. Besides, the first respondent had recommended strictures to be passed on the petitioners and also departmental action against them. The findings of the first respondent is based on mere assumption and presumption and his personal prejudicial notion against the Police Officials.

5.The petitioners submitted that they had not at all gone to the School and never interrogated the children as alleged by the second respondent. Further, according to the second respondent, his house is situated just one kilometre from the School. He had alleged that after the occurrence, the children were taken by the correspondent to his home and handed over the children only on the next day morning to the second respondent. The Teacher by name Saranya mentioned by the second respondent is the wife of one of the Accused in FIR No.56 of 2018. Above all, the second respondent's statement during the cross examination not only reveals his influence in the area but also exemplifies a false complaint. Therefore, the order passed against the



petitioners by the first respondent is based on prejudicial notion against the Police Officials on mere assumption and presumptions. Therefore, the petitioners seek to set aside the order dated 27.11.2021 in SHRC Case No.10096/2018/C-3 passed by the first respondent and consequently dismiss the complaint preferred by the second respondent.

6.Mr.P.Sesubalan Raja, learned Counsel for the petitioners had submitted that the case had been wantonly foisted by the Accused against whom the case had been registered by the petitioners herein. Further, he invited attention of this Court to the cross-examination of P.W-1/Siva and also one Sivaraj who was examined as P.W-3.

7.Mr.K.V.Sajeev Kumar, learned Special Government Pleader had invited attention of this Court to Paragraph No.8 of the Order passed by the Human Rights Commission. Further, in paragraph 12, the Human Rights Commission quoting Section 41-A of Cr.P.C., as amended in 2008, has observed that what is the urgency of arresting the Accused and based on which, the Commission had arrived at a conclusion that it is a case of Police excesses. The relevant portion of the order is extracted as under:

"14.The Commission is aware that there are cases of Police excesses. In the case on hand, it is seen that the police had questioned the two very young minor girl children, and that at the entrance of the school, wearing full police uniform and in a police car, which is a violation at many levels. Needless to state that the very sight of policemen in uniform in a police car would have caused the children great mental trauma and that the same cannot be removed from their minds for years to come. The trauma that these two innocent girl children were subjected to on that day cannot be compensated."

8.Considering those averments in the Order passed by the Human Rights Commission, it is only a summary proceedings which does not warrant any interference. The petitioners, who are respondents before the State Human Rights Commission, were granted opportunities to cross-examine the witnesses, but still it is a fact that the enquiry held by the Human Rights Commission clearly shows that the Commission has arrived its conclusion that the harassment was caused to the children of the Complainant/second respondent. Therefore, it had rightly awarded compensation and recommended for disciplinary action against the petitioners herein by the higher officials of the Police Department. Hence, in our considered view, it does not require interference by this Court on the Writ side under



Article 226 of Constitution of India.

In the result, both the Writ Petitions lack merits and are dismissed at the admission stage itself. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dh

To

The Registrar,
The Human Rights Commission,
Tamil Nadu,
Thiruvarangam,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 600 028.

+2cc to Mr.K.V.Sajeev Kumar, Advocate, S.R.No.9778,9779
+1cc to Mr.P.Sesubalan Raja, Advocate, S.R.No.9653

W.P.Nos.2411 & 2415 of 2022

SV(CO)
CT 14/03/2022