



W.P.No.9576 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE N. MALA

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Jayavelu

.... Petitioner

Vs.

1. Lakshmi
2. The Registrar,
State Human Rights Commission,
Chennai.

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a writ of Certiorari, calling for the records of the respondents in connection with the impugned order passed by the second respondent in SHRC Case No.9875 of 2004 dated 09.08.2005 and quash the same.

For petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.S.Arokia Maniraj for R1
Mr.R.Srinivas for R2



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ORDER

(Order of this Court was made by D.KRISHNAKUMAR, J.)

This Writ petition has been filed seeking to issue a writ of Certiorari, calling for the records of the respondents in connection with the impugned order passed by the second respondent in SHRC Case No.9875 of 2004 dated 09.08.2005 and quash the same.

2. The petitioner had entered into service as a directly recruited Grade-II Police Constable in District Armed Reserve, Kancheepuram on 14.11.1974. While he was working as Head Constable in Thiruttani Police Station during the year 2004, the first respondent had preferred a petition No.330/2004 before the Thiruttani Police Station stating that the petitioner called her for prostitution on 22.12.2004 for which, she refused, but on the next day on 23.12.2004, the petitioner caught hold of the first respondent and beat her and caused injury on her right hand wrist. The above petition was enquired and it was proved that it was a false allegation. Hence, the first respondent preferred a petition before the State Human Rights Commission, Tamilnadu on 23.12.2004, stating that the petitioner called her on 23.12.2004 at 10.30. a.m. in the



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Bus stand at Tirutani by saying, why she did not fulfill his desire to have sex with him on previous day (i.e. 22.12.2004).

2.1. The above complaint was enquired by the State Human Rights Commission in SHRC No.9875 of 2004. The first respondent examined three witness on her side and the petitioner examined himself. After examination, the Human Rights Commission, vide order dated 09.08.2005, has held that the complaint against the petitioner is proved and also recommended to pay a sum of Rs.10,000/- as compensation to the first respondent. Challenging the above order, this writ petition has been filed before this Court.

3. The learned Senior counsel appearing for the petitioner submitted that the State Human Rights Commission has refused to record the cross examination of PW1 to PW3 by the petitioner and further, there is lot of discrepancy with regard to the date of alleged occurrence. He further submitted that, the PW1, in her evidence stated that the occurrence had taken place on 22.12.2004 at 10.30.a.m. at Tirutani Bus stand. The PW2 in her evidence stated that the date of



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occurrence as 23.10.2005. The another witness PW3 stated as 22.12.2004 and the PW5 has given a certificate that the occurrence had taken place on 23.12.2004. Therefore, the contradictory statements given by the witnesses before the Human Rights Commission itself disproved the allegations raised against the petitioner by the first respondent.

4. The learned Senior Counsel further submitted that several criminal cases were lodged against the first respondent under the Immoral Traffic (Prevention) Act, and she was convicted by the concerned jurisdictional Magistrate. Therefore, he submitted that the above facts clearly proved the conduct of the first respondent and only to safeguard herself from being proceeded criminally for her illegal act, she has chosen to file a false complaint by making such allegations against the petitioner. Thus, the order passed by the Human Rights Commission is liable to be set aside.

5. The learned counsel appearing for the first respondent vehemently opposed the contentions of the Senior counsel for the



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petitioner and submitted that merely the discrepancies in the statement of the PW1, PW2, PW3 and Pw5 would not disprove the allegations against the petitioner. He further submitted that the petitioner has not adduced any materials to disprove the allegations made against him.

6. Heard the learned Senior Counsel appearing for the petitioner and the learned Counsel for the first respondent and we have perused the materials.

7. As far as the alleged occurrence is concerned, on the side of the first respondent/ complainant, witnesses were examined and they spoke about the alleged occurrence. Further, no contra materials has been placed before the Human Rights Commission to disprove the allegations raised by the first respondent against the petitioner. The PW2, who is the Treasurer of " Protection of Health Care for Women Association" had also stated that the petitioner herein had beaten the complainant. The PW3, one of the member of the Manging Committee of the Association had also given evidence, narrating the alleged occurrence. The PW4, Assistant Surgeon of Tirutani Government



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Hospital adduced evidence that on 23.12.2004 at 6.00 p.m., he examined the complainant for the injuries sustained by her and found swelling over the middle of right forearm with abrasion 3 cm x 2 cm.

8. Though the main contention of the learned counsel for the petitioner is, there is lot of discrepancies in the evidence with regard to the date of occurrence, a perusal of the evidence of PW2, PW3 and PW4 proved the alleged occurrence takes place on the date of occurrence and also proved the factum of sustaining injury by the complainant.

9. The petitioner herein, examined himself as RW1 and marked Ex.R1 to R4, to prove the factum of previous convictions against the complainant. The above convictions are fairly admitted by the complainant before the Human Rights Commission. But, such convictions will not bind the complainant from making complaint against a person, who caused injuries to her. Further, though the petitioner had denied the allegations in his evidence while deposing as RW1, he had not filed any contra evidence to rebut the above



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occurrence and the allegations made against him. Therefore, we are of the considered view that the Human Rights Commission has rightly come to the conclusion that the petitioner herein had violated human rights and has recommended to pay a compensation of Rs.10,000/- to the victim. Hence, we do not find any fault on the order passed by the second respondent and as such, the same does not warrant any interference by this Bench.

10. Admittedly, the petitioner had retired from service. While admitting the writ petition, this Court has granted Interim Stay vide order dated 14.06.2006, made in WPMP No.10632 of 2006, on condition to deposit a sum of Rs.10,000/- (as recommended by the Human Rights Commission) in favour of the Registrar General, High Court, Madras, Indian Bank, High Court Extension, Chennai. Pursuant to the above order, the amount has been deposited on 03.07.2006 under interest bearing deposit and the Deposit Receipt has also been placed before this Court.



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11. The learned counsel appearing for the first respondent/complainant submitted that appropriate direction may be given to the Registrar General, Madras High Court, Chennai to transfer the above deposited amount with accrued interest, to the credit of SHRC Case No.9875/2004 on the file of the State Human Rights Commission, Tamil Nadu, so as to enable the first respondent to withdraw the same.

12. Accordingly, it is ordered as follows.

i) The Registrar General, Madras High Court, Chennai is directed to transfer the deposited amount of Rs.10,000/- under Deposit Receipt TDR No.TF/BTDG 177863 dated 03.07.2006, to the credit of SHRC No.9875/2004 on the file of the State Human Rights Commission, Tamilnadu, within a period of eight weeks from the date of receipt of the copy of this order.

ii) On such remittance being made, the first respondent is at liberty to withdraw the amount with accrued interest, by filing appropriate application before the second respondent.

iii) It is needless to say that the Government shall not recover the amount from the petitioner.



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13. With the above direction, the writ petition stands dismissed.

No costs.

(D.K.K., J.) (N.M., J.)

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Index:Yes/No
Internet:Yes/No
mst

To

1. The Registrar,
State Human Rights Commission,
Chennai.

Copy to

The Registrar General,
Madras High Court,
Chennai-104.



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**D. KRISHNAKUMAR, J.
and
N. MALA, J.**

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