



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.6229 of 2022

1. Thiru.Seetharaman
S/o. Venkatachalam
Then Deputy Superintendent of Police,
Musuri, Trichy District.
2. Thiru. Ravichakravarthi
Then Inspector of Police,
Thathaiyangapet Police Station,
Trichy District.
3. Muruganandham,
Then the Sub-Inspector of Police,
Jambunathapuram Police Station,
Trichy District.

... Petitioners

vs

1. The State Human Rights Commission,
Tamilnadu,
143-P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai - 600 028.
2. Mr.S.Suthakar,
S/o. Subramanian,
Thiruthalaiyur Village & Post,
Musuri Taluk, Trichy District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records in S.H.R.C.No.10927 of 2018 dated 25.01.2022 on the file of the first respondent and quash the same.

For Petitioner : Mr.B.Kumarasamy

For Respondent 1 : Mr.K.V.Sajeev Kumar,
Special Government Pleader

For Respondent 2 : No Appearance



ORDER

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

WEB COPY

The Writ Petition is filed by Mr.Seetharaman, who was serving as Deputy Superintendent of Police, Musuri, Trichy District; Mr.Ravichakravarthi, who was serving as then Inspector of Police, Thathaiyangapet Police Station, Trichy District and Mr.Muruganandham, the then Sub-Inspector of Police, Jambunathapuram Police Station, Trichy District seeking to issue a Writ of Certiorari calling for the records in S.H.R.C.No.10927 of 2018 dated 25.01.2022 on the file of the first respondent and quash the same.

2. Mr.Seetharaman, Deputy Superintendent of Police had filed an affidavit on behalf of the other petitioners. As per the contents of the affidavit, the first petitioner in the Writ Petition viz., Mr.Seetharaman is now serving as Deputy Superintendent of Police, Lalgudi. During the year 2018, while he was working as Deputy Superintendent of Police, Musuri, Trichy District, it was alleged by the second respondent that he was having two Acres of Nanja land. One Mr.Tamil Selvan, who is the uncle of the second respondent, is also residing at Kilpauk, Chennai and he is a native of the same village. The said Tamil Selvan owned 0.74 cents of land in Survey Field No.331/4B in Kannanur Vadakkuveli Village in Patta No.3692 wherein there was a dilapidated hallow block house which was in possession and enjoyment of the second respondent. Since the building was in dilapidated condition, the same was demolished by the second respondent and his uncle. However, one Sumathi W/o. Kannan, Thuraiyur Town lodged a complaint with the third petitioner stating that they destroyed the house of the defacto complainant and a case in Cr.No.132/2018 was registered on 12.10.2018 for the offences under Sections 147, 294(b), 323 of IPC, Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002, Section 3 (1) (r) and 3 (1) (s) of the SC/ST (Prevention of Atrocities) Amendment Act, 1989 and Section 3 of the Public Property (Prevention of Damage and Loss) Act, 1992. His name is not found in the FIR. However, on 11.10.2018, when he was in his farm house in Thiruthalaiyur Village, the Police Officials came and arrested the second respondent without informing the nature of the case. Furthermore, on 15.10.2018, he was produced before the learned Judicial Magistrate, Thuraiyur and remanded to Judicial Custody. He was released on bail by the learned Additional District Judge, Trichy on 17.10.2018. Though the second respondent and defacto complainant also belongs to SC Community, there is no possibility for him to register a criminal case under SC/ST Act wantonly in order to put him in



jail, included the section under SC/ST Act in the FIR and remanded him to Judicial Custody. Hence the second respondent had preferred a complaint before the State Human Rights Commission.

WEB COPY

3. The first petitioner is the then Deputy Superintendent of Police, Musuri, Trichy District; the second petitioner is the then Inspector of Police, Thathaiyangapet Police Station, Trichy District and the third petitioner is the then Sub Inspector of Police, Jambunathapuram Police Station, Trichy District. While the third petitioner was on duty, one Sumathi, W/o. Kannan lodged a complaint. In the complaint, she had specifically stated that she is the owner of the land in Survey Field No.331/4B, having 74 cents. On 11.10.2018 at about 11 a.m., at the instruction of Kannan and his wife Kavitha some unidentified persons came there with JCB vehicle and used abusive language by calling her caste name and assaulted her and others. The first petitioner being a Deputy Superintendent of Police, he is empowered to investigate the case registered under SC/ST Act. Therefore, the first petitioner as the Deputy Superintendent of Police took up the investigation, went to the spot, examined the witnesses and recorded their statement. On information, on 13.10.2018 at about 12.00 noon, first petitioner came to know that one Thangaiyan demolished the house of Sumathi with his vehicle bearing registration No.TN 48 J 6275 and he gave a confession statement. One Sasikumar and the second respondent were also present at the time of the incident. Therefore, the above said Sasikumar and the second respondent were arrested and remanded to Judicial Custody in accordance with law. The second respondent was arrested only under the confession statement given by Sasikumar who was the driver of the JCB. There was no personal intention or animosity to arrest the second respondent. The second respondent was arrested not only under SC/ST Act and also under Sections 147, 294(b), 323 of IPC, Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002 and Section 3 of the Public Property (Prevention of Damage and Loss) Act, 1992. The first petitioner submitted that the third petitioner registered the case against the second respondent on the basis of the confession statement of Sasikumar and remanded to Judicial Custody. At the time of arrest, the petitioners had not violated any Human Rights Act. The petitioners had strictly followed the procedure laid down by the Hon'ble Apex Court. After being released on bail, the second respondent/complainant made false and frivolous complaint before the first respondent against the petitioners. The entire allegation of the second respondent is absolutely false and imaginary. In this regard, the petitioners, as respondents 1 to 3 before the first respondent, had filed detailed counter affidavit stating that they had not violated any Human Rights at the time of arrest of the second respondent.



4. The petitioners arrested the second respondent at the initial stage of registration of the FIR. Thereafter, the petitioners conducted enquiry and deleted the provision of SC/ST Act against the second respondents and filed final report before the Special Court, Trichy and the same has yet to be taken on file. In order to escape from the criminal case registered against him and others, the complainant had preferred false and frivolous complaint before the first respondent/State Human Rights Commission. The first respondent had taken the complaint on file in S.H.R.C.No.10927/2018 against the petitioners for violation of Human Rights. There was absolutely no Human Rights violation against the second respondent at any point of time. The allegation levelled against the petitioners are purely imaginary, false and frivolous. To prove the contention of the petitioners, as respondents before the State Human Rights Commission, the first petitioner himself examined as R.W-1 and the petitioners categorically denied the entire averments made in the complaint. The petitioners had not violated any of the procedure established by law while arresting the second respondent or after arresting the second respondent. The petitioners submitted that they had not committed any Human Rights violation against the second respondent. The second respondent was not known to the petitioners, but without considering the facts and circumstances of the case, the State Human Rights Commission allowed the complaint on 25.01.2022. The first respondent on his own come to a wrong conclusion on 25.01.2022 and passed the following Orders which are as follows:

23. In the result, this commission recommended as follows:

The Government of Tamilnadu shall pay a compensation of Rs.5,00,000/- to the complainant Thiru.S.Suthakar, S/o. Subramanian, Thiruthailaiyur Village and Post, Musuri Taluk, Trichy District within one month from the date of receipt of copy of this recommendation and the Government of Tamil Nadu may recover Rs.4,00,000/- from the first respondent and Rs.50,000/- each from the second and third respondents.

(ii) This Commission also recommends to initiate disciplinary action against the respondents as per the rules.

(iii) This Commission further recommends to initiate criminal prosecution against the respondents.

5. Mr.B.Kumarasamy, learned counsel for the petitioners submitted that the petitioners in this Writ Petition was the



respondents before the State Human Rights Commission. The first petitioner-Seetharaman was the Deputy Superintendent of Police, Musuri, Trichy District and the case was registered by the third petitioner as the then Sub Inspector of Police, Jambunathapuram Police Station, Trichy District based on the complaint of the defacto complainant-Sumathy, in Cr.No.132/2018 for the offence under Sections 147, 294(b), 323 of IPC, Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002, Section 3 (1) (r) and 3 (1) (s) of the SC/ST (Prevention of Atrocities) Amendment Act, 1989 and Section 3 of the Public Property (Prevention of Damage and Loss) Act, 1992. At the time of remand, the learned I Additional District Judge(PCR), Trichy had granted ad-interim bail to the second respondent and another person. Subsequent to the filing of the FIR and subsequent investigation by the petitioners, they came to know that the second respondent was also a member of SC Community, therefore, the provision of SC/ST Act is not attracted against him. Therefore, the Writ Petitioners had filed alteration report regarding two of the Accused viz., Suthakar S/o. Subramanian and Sasikumar S/o. Andavar before the criminal Court. Upon completion of the investigation, the final report was filed in the Court of the learned Special Judge (Protection of Civil Rights). In the final report, the provisions of SC/ST Act were removed and the case is still pending before the learned I Additional District Judge(PCR), Trichy. While so, based on the enquiry, the Hon'ble State Human Rights Commission had passed the orders as though the petitioners herein committed grave injustice on the second respondent by registering the case under the provisions of SC/ST. The learned Special Judge granted interim relief to the second respondent as he belongs to SC Community. Therefore, the finding of the Hon'ble State Human Rights Commission directing the State Government to deduct the award amount of Rs.5,00,000/- which was directed to be paid to the second respondent, from the petitioners is to be set aside.

6. During the arguments, learned Special Government Pleader drew the attention of this Court to para No.11 of the Orders of the Hon'ble State Human Rights Commission which is extracted below:

11. The Complainant also produced one another order passed by the same Judge in CrI.M.P.No.414 of 2018 dated 14.11.2018 regarding with the Jambunathapuram PS Cr.No.132/2018 and the same was also marked as Ex.P-16. It is seen from the order of the said Judge that the Complainant, who is also an accused in Jambunathapuram PS Cr. No.132/2018 and another one Sasikumar also belongs to SC Community. The learned Judge also discussed that where the petitioner claim to be persons belongs to Schedule Caste Community and there is no possibility for registering a criminal case against them



WEB COPY

under SC/ST Act. Therefore, the learned Judge granted interim bail to the Complainant. The learned Judge also passed one another order after giving notice to the defacto complainant, who sold the property in favour of the said Tamilselvan and in this order also the Court categorically mentioned that there is no specific allegation against the petitioner under the SC/ST Act.

7. On perusal of the same, it is found that in the cross examination of the first petitioner as P.W-1 has admitted that in Ex.P-3 remand report he requested the learned Judge to remand the accused under SC/ST Act. The first respondent was also questioned regarding with the SC/ST Act and he replied that he did not know on this aspect. The first respondent being the Investigation Officer, who hold the post of DSP, ought to have been known that whether a person belongs to SC/ST community should brought under this Act as Accused. He also admitted in the cross-examination that he also filed charge sheet on the file of the PCR Court and the same is pending and it is for the competent Court to decide on this aspect."

8. In the light of the above, the Hon'ble Human Rights Commission recommended as follows:

23. In the result, this commission recommended as follows:

The Government of Tamilnadu shall pay a compensation of Rs.5,00,000/- to the complainant Thiru.S.Suthakar, S/o. Subramanian, Thiruthailaiyur Village and Post, Musuri Taluk, Trichy District within one month from the date of receipt of copy of this recommendation and the Government of Tamil Nadu may recover Rs.4,00,000/- from the first respondent and Rs.50,000/- each from the second and third respondents.

(ii) This Commission also recommends to initiate disciplinary action against the respondents as per the rules.

(iii) This Commission further recommends to initiate criminal prosecution against the respondents.

9. On perusal of the order passed by the Hon'ble State Human Rights Commission, it is found that based on the evidence let in by the first petitioner -Seetharaman in the witness box admitting the fact that he knew the second respondent in the Writ Petition, who was the defacto complainant before the State Human Rights Commission, and considering the fact that he



belongs to SC Community, being arrayed as an Accused and implicated him in a case under the Provision of the Public Property (Prevention of Damage and Loss) Act, 1992 and SC/ST (Prevention of Atrocities) Amendment Act, 1989, with an intention that he would not get bail, he should suffer in Prison and also to suffer social stigma. Under those circumstances, the arguments of the learned counsel for the petitioners that the Order of the Hon'ble State Human Rights Commission is unsustainable and is to be quashed, does not find support from the materials available before the Hon'ble State Human Rights Commission. The Writ Court, in its discretion under Article 226 of the Constitution of India cannot re-appreciate the evidence and sit in appeal over the finding of fact arrived at by the State Human Rights Commission. Therefore, the submission of the learned counsel for the Writ Petitioner is rejected.

10. In the light of the above discussion, this petition lacks merits and is to be dismissed in limine.

In the result, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dh

To

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

Copy to:

1. I Additional District Judge (PCR),
Trichy.
2. The Deputy Superintendent of Police,
Musiri, Trichy District.
3. The Inspector of Police,
Thathaiyangarpet Police Station,
Trichy District.



4. The Sub-Inspector of Police,
Jambunathapuram Police Station,
Trichy District.

WEB COPY

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.19390

+1cc to Mr.K.V.Sajeev Kumar, Advocate, S.R.No.19018

+1cc to the Government Pleader, S.R.No.19520

W.P.No.6229 of 2022

SPD (CO)
SU (28/04/2022)