



WEB COPY



W.P.No.7974 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.7974 of 2022
and
W.M.P.No.7962 of 2022

D.Kathiresan

...Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Registrar,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Chennai – 28.

3.The Special Secretary to Government,
Public (HR) Department,
Secretariat, Chennai – 600 009.

4.C.Muthulakshmi

5.J.Sundarraaj, PC 1455,
Ottapidaram Police Station,
Thoothukudi District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, to call for the records relating to the impugned recommendation passed by the 2nd respondent in SHRC Case No.10044/2019 dated on 28.04.2021 and to quash the same.

For Petitioner : Mr.D.Alexis Sudhakar

For Respondents : Mr.A.Selvendran,

Special Government Pleader for R1 and R3

Mr.S.R.Sumathy for R2

R4 and R5 – No appearance

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge is to the order of the State Human Rights Commission dated 28.04.2021, in an by which, the Commission had directed payment of compensation of Rs.25,000/- by the Government of Tamil Nadu with a recommendation to recover the same at the rate of Rs.12,500/- from the petitioner and one Sundarraaj, a Police Constable.

2. The complainant before the Commission viz., 4th respondent herein had claimed that there is a violation of human rights because of the



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action of the petitioner in not registering the criminal case for the motor accident that occurred on 25.05.2019. According to the complainant/ 4th respondent herein she was travelling in a private bus towards Tiruchendur. When she was asleep the bus dashed against certain object and as a result of the impact she had dashed against the front seat and sustained injuries on her right thigh. Though a complaint was lodged by the driver with the concerned Police Station viz., Ottapidaram Police Station, the police took her statement in the hospital and promised that she would be compensated for the injury. However, she later came to know that the police closed the case based on the statement that was obtained from her when she was in the hospital. Claiming that this action of the police had resulted in her being deprived of compensation for the accident, the 4th respondent approached the State Human Rights Commission seeking compensation.

3. The same was resisted by the petitioner contending that the case was closed on the basis of the statement made by the complainant/ 4th respondent herein and the driver of the bus. The State Human Rights Commission however refused to buy the story of the petitioner and imposed



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a fine as stated above. The main reason for imposition of fine is that the 4th respondent has been deprived of compensation and her right to approach the Motor Vehicles Tribunal has been thwarted by the action of the petitioner in not registering the complaint.

4. Heard Mr.D.Alexis Sudhakar, learned counsel appearing for the petitioner.

5. The 4th respondent complainant before the Human Rights Commission though served is not appearing either in person or through counsel duly instructed. From the records we find that she had not appeared before the Human Rights Commission also. Therefore, there is no testimony of the 4th respondent dis-owning the statement made before the police except her complaint. The State Human Rights Commission has held that there is violation of human rights solely on the ground that the 4th respondent has been deprived an opportunity to approach the Tribunal under the Motor Vehicles Act.



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6. It is clear to our mind that the said reasoning is incorrect. The fact that the criminal case was not registered will not dis-entitle the victim of the motor accident from approaching the Tribunal. This Court as well as the Hon'ble Supreme Court have repeatedly held that finding in a criminal case will not de-bar the Tribunal from going into the nature of the accident and conclude whether there was any rash and negligent driving on the part of the driver of the vehicle which was responsible for the accident.

7. We are therefore unable to accept the reasons assigned by the State Human Rights Commission for its conclusion that there has been violation of the human rights. If the 4th respondent seeks to dis-own the statement made before the petitioner, which has been recorded soon after the accident, she should have gone into the box and deposed before the commission. She has not chosen to do that. Therefore, the statement recorded by the petitioner on 26.05.2019 remains uncontroverted.

8. In such scenario, we are unable to sustain the order of the Human Rights Commission that there is violation. The writ petition is



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allowed and the order of the State Human Rights Commission will stand set aside. No costs. Consequently, connected Miscellaneous Petition is also closed.

(R.S.M.,J.) (K.B.,J.)
10.10.2022

dsa

Index :No
Internet :Yes
Speaking order



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To:-

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