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W.P.No.9390 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.9390 of 2022 and W.M.P. No.9133 of 2022

G.Santhanakrishnan

... Petitioner

VS

1.Government of Tamil Nadu,
rep. by its Principal Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Registrar,
Tamil Nadu State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai – 600 028.

3.V.Ezhilarasan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records of the second respondent in order dated 21.02.2022 passed in SHRC Nos.2750 of 2016 and 9353 of 2017 and quash the same in respect of the petitioner alone.

For Petitioner : Mr.S.Prabhudoss

For Respondents : Mr.K.Karthik Jaganathan,
Government Advocate for R1

Mr.K.V.Sajeev Kumar,
Special Government Pleader for R2



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ORDER

[Order of this Court was delivered by T.RAJA, J.]

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Challenging the order dated 21.02.2022 passed by the Tamil Nadu State Human Rights Commission, the second respondent herein in SHRC Nos.2750 of 2016 and 9353 of 2017, the petitioner has come to this Court.

2. Learned counsel appearing for the petitioner submitted that the petitioner has joined in the Tamil Nadu Police Service as a Police Constable in the year 2003 and after serving in various places, on 11.03.2016, he was deputed to the Special Team to prevent Organised Gangster Activities in Ennore Police Station. While so, the third respondent herein, the complainant in SHRC No.2750 of 2016 had preferred a complaint as against the petitioner before the second respondent alleging that his younger brother, namely, Ajithkumar had developed some previous enmity with the petitioner as if he had foisted false case against him, while he was serving as Sub Inspector of Police at M.5 Ennore Police Station, Chennai. It was further alleged in the complaint that the petitioner along with five others, after attending the night shift, on 29.03.2016 early morning, had trespassed into the house of the third respondent, kicked him and his mother with boot legs in the course of searching the brother of the



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third respondent and that the petitioner and the other police men assaulted the third respondent using lathi all over his body and dragged him out of his house.

3. Learned counsel appearing for the petitioner further submitted that after the alleged injury sustained by the third respondent on his right eye, the third respondent was entrusted to his family members and he was admitted in Egmore Eye Hospital for the injuries sustained by him and treated as inpatient from 30.03.2016 to 05.04.2016. Thereafter, the third respondent/complainant had made a false complaint against the petitioner before the Tamil Nadu State Human Rights Commission, which, fully accepting his false claim that the petitioner had assaulted the third respondent on his right eye, as a result, the third respondent had lost his vision, had erroneously passed an order directing the Additional Chief Secretary to Government, Chennai to pay a compensation of Rs.2,00,000/- to the complainant within a period of eight weeks and after making such payment, to recover the same from the petitioner and another and to take disciplinary action against them. Assailing the same, the present writ petition has been filed.



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4. Continuing his argument, learned counsel appearing for the petitioner submitted that the allegation made by the complainant/third respondent herein is false, since the petitioner is no way connected to the same. However, the second respondent/Commission had miserably failed to consider the fact that while a person was attacked with lathi and boot legs in a brutal manner, there may not be a chance of sustaining injury on the right eye alone, without getting supplementary injuries all over his body. When the third respondent has produced Ex.P9/prescription issued by one Aakash Hospital, Thiruvotriyur stating that on 29.03.2016 at about 03.00 p.m., he was taking treatment at Private Hospital at Thiruvottiyur, he deliberately suppressed those facts at the time of filing complaint and that there was no oral or documentary evidence substantiating the allegation made against the petitioner that he had assaulted the third respondent. Learned counsel for the petitioner further submitted that the claim made by the third respondent against the petitioner that due to previous enmity with his younger brother, who is having three criminal cases, the petitioner dragged him out of his house and assaulted him indiscriminately, is without any basis. Since it is the usual practice on the part of the police to visit the house of the accused to make an enquiry, the petitioner visited the house of the third respondent only to make an enquiry about his brother, who was



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facing three criminal cases and found missing from his house on every occasion. Only in an effort to get away from the further enquiry, the third respondent has made an allegation against the petitioner, which has been wrongly accepted by the State Human Rights Commission. When there was no evidence whatsoever produced before the Commission connecting the petitioner's overt act in causing grievous injury on the right eye of the third respondent, fastening liability on the part of the petitioner to pay a huge compensation of Rs.1,00,000/- is unfair and un-justified. Therefore, for all these reasons, learned counsel for the petitioner sought for interference with the impugned order.

5. Opposing the above prayer, learned Special Government Pleader appearing for the first respondent pleaded that the petitioner was deputed to the Special Team to prevent Organised Gangster Activities on 11.03.2016 and to initiate action against the violators of law in the procedure known to law and the brother of the third respondent has three criminal cases including an attempt to murder case registered under Section 307 of IPC. Though the said criminal cases have been registered by various officials and not by the petitioner, when the petitioner has nabbed the third respondent to the police station for enquiry, it is not open to him to misbehave by



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assaulting indiscriminately, resulting blood injury on his right eye.

Learned Commission, considering the serious allegations made by the third respondent that he lost his right eye completely, due to the indiscriminate attack made by the petitioner and considering both oral and documentary evidence, gave a finding that the petitioner, being an experienced Sub Inspector of Police, ought not to have visited the place of the third respondent, without for the issuance of Non-Bailable Warrant. Learned Special Government Pleader further argued that the findings given by the learned Commission in paragraphs 6, 7 and 8 would show that when the third respondent had examined himself as P.W.1, while a lady neighbour had been examined as P.W.2, Exs.P1 to 10 were marked on the side of the complainant/third respondent and on the side of the petitioner, both the petitioner and another were examined as RW1 and RW2 and after the cross examination of the complainant, which took place for a long time, the learned Commission came to the conclusion that the evidence of the third respondent was cogent and the same was supported by the evidence of P.W.2, who is the neighbour and the petitioner had admitted that he had been posted in Organised Gangster Activities Special Team, he had visited the house of the complainant and he had taken a stand that he and his party never knocked the doors of the house of the complainant.



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6. Learned Special Government Pleader further pleaded that the learned Commission, after perusing Ex.P1, the discharge summary of the complainant, had specifically stated that the complainant/third respondent was badly assaulted by the police officers at Sathangadu Police Station on 29.03.2016 at 3.00 a.m.; the third respondent was treated at Vasan Eye Hospital on the next day, namely on 30.03.2016; he was admitted as an inpatient from 31.03.2016 to 05.04.2016; and the complainant was taking treatment till 12.04.2016. Learned Commission, after perusing the series of photographs/Ex.P2, receipt issued by Sankara Nethralaya/Ex.P3, prescription issued by Vasan Eye Care on 29.03.2016/Ex.P4, prescription issued by Aakash Hospital, Thiruvettriur/Ex.P9, has come to the conclusion that the right eye of the third respondent was bulged and injured and that the third respondent was taking treatment for a quite long time for the grievous injuries suffered on his right eye. Therefore, the Commission, while coming to the conclusion that only because of the indiscriminate assault carried out by the petitioner, the complainant/third respondent would have got his right eye vision impaired, had passed an order directing the Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Chennai to pay a sum of Rs.2,00,000/- as compensation to the third respondent; to recover the same from the petitioner and another police man; and to initiate



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disciplinary action against the petitioner and another police man.

When the third respondent, who is an innocent person and brother of the accused, cannot be treated very badly by the petitioner, no error can be found fault with in the order passed by the learned Commission.

7. We fully agree with the submissions made by the learned Special Government Pleader appearing for the second respondent. When there was no criminal case foisted by anyone against the third respondent, it is not known why the petitioner along with three other police men had visited the house of the 3rd respondent during the odd hours and dragged him to the police station and assaulted him to the extent of impairing vision of his right eye. The oral and documentary evidences adduced by the Commission, in our considered opinion, cannot be impeached for the simple reason that when the criminal cases have been foisted against the brother of the third respondent, the poor and innocent person, namely, the third respondent could not be punished to the extent of losing his right eye. Since the Commission has completely gone through Exs.P1 to 10 and arrived at the conclusion that it is not their business to assault the family members of the Ajithkumar, brother of the 3rd respondent, just to obtain information about the absconder, we are not inclined to



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interfere with the same.

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8. In the result, the writ petition fails and the same is accordingly dismissed. Consequently, W.M.P. No.9133 of 2022 stands closed. No costs.

[T.R.,J.] [S.S.,J.]
26.04.2022

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Index: Yes

To

- 1.Principal Secretary,
Government of Tamil Nadu,
Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Registrar,
Tamil Nadu State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
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