



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.18599 of 2019

and

W.M.P.No.17923 of 2019

1.Mangala Priya
2.Perumal
3.Moorthy
4.Gopi
5.Uthayakumar

... Petitioners

vs

1.State Human Rights Commission - Tamil Nadu,
Rep. by its Secretary,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai - 600 028.

2.The Principal Secretary,
Department of Home, Prohibition and Excise,
Secretariat,
Chennai - 600 009.

3.Parvathy

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records relating to SHRC Case No.5614/2009 and quash the ex parte order dated 29.05.2018 and consequentially issue a direction to the first respondent to provide full opportunity to the petitioners to defend the case.

For Petitioner	:	Mr.R.S.Raveendhren
For Respondent 1	:	Mr.S.Wilson
For Respondent 2	:	Mr.R.Siddharth
For Respondent 3	:	Mr.N.D.Sivakumaran



ORDER

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

WEB COPY This Writ Petition is filed by the petitioners - 1) Mangala Priya, Sub Inspector of Police, 2) Perumal, Head Constable, 3) Moorthy, Police Constable, 4) Gopi, Police Constable and 5) Uthayakumar, Police Constable, Thazhampoor Police Station, Kancheepuarm District, challenging the order dated 29.05.2018 passed in SHRC Case No.5614/2009 by the first respondent and consequently direct the first respondent to provide full opportunity to the petitioners to defend their case.

2.The brief facts which are relevant for the disposal of this Writ Petition are as follows:

2.1.One Parvathy, residing at No.3/17, Amman Koil Street, Moolachery Village, Ponmar Post, Chennai - 600 127, had preferred a complaint before the Tamil Nadu State Human Rights Commission, Chennai, against the petitioners herein/respondents therein. As per her complaint, on 05.06.2009 when the complainant - Parvathy and her younger son Udhaya Kumar were returning home from their relative's house at Velachery in a car bearing Registration No.TN-22-Y-5362 near Pallikaranai bus stand, a TATA ACE van bearing Registration No.TN-22-AN-6311 hit their car and proceeded without stopping. Hence, the complainant and her son followed the van for some distance of 10 Kilometres and on enquiry, they found that the vehicle belonged to one Kriba Acqua Water Company. The complainant called the owner of Kriba Acqua water company over phone and informed the occurrence. He assured her to make good the damage caused to the car and requested the complainant not to give any complaint. The next day on 06.06.2009 the petitioners entered the house of the complainant to arrest the son of the complainant on the basis of the false complaint preferred by one Ranjith Kumar. The petitioners enquired about Sanjay Kumar who is another son of the complainant and demanded the complainant to cooperate with the pending enquiry. The next day, the complainant took her son to the police station. Since the first petitioner/first respondent therein was not available, they came back home. On 08.06.2009 at around 01.00 a.m. in the night dogs were barking continuously. Therefore, the complainant came out of the house and saw a jeep parked near the gate and some persons thrown stones on the dogs. When the complainant enquired them, they said that they were from Thazhampoor Police Station and ordered her to open the gate. When the complaint hesitated to open the gate, the second petitioner herein became wild and instructed his colleagues to dash the gate with the jeep and destroy the



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gate. Therefore, the complainant opened the gate and all the police officials/the petitioners herein rushed into her house scolding the complainant in filthy language. They damaged the household articles. They enquired about the son of the complainant.

2.2. On the next day, the son of the complainant Sanjay Kumar preferred an anticipatory bail petition before the learned Principal District and Sessions Judge in Crime No.174 of 2009 on 09.06.2009. When the case came up for hearing on 12.06.2009, the said petition was dismissed on wrong instructions given by the first petitioner/first respondent therein to the Public Prosecutor that the de-facto complainant had been admitted in the Government Medical College Hospital, Chengleput and immediately, the son of the complainant was arrested on 13.06.2009 and the same was not intimated to the complainant. Thereafter, he was taken to Kelambakkam Police Station where the first petitioner was present and she locked him inside the cell and questioned him about the complaint regarding illicit arrack and brutally attacked him. She also snatched the gold chain of complainant's son weighing two sovereigns and ring weighing $\frac{1}{2}$ sovereigns. The petitioners tied the hands and legs of the complainant's son and hanged him and beat him with their lathis and spitted saliva on his face. When his health condition worsened, they poured water on his face and made him lie down. When he asked for water, the second petitioner addressed him as bastard and stamped him on his chest with his boots. The fifth petitioner asked him to open his mouth and pretended to pour water and gave him only four drops of water and locked him in the cell without giving any food. Again in the morning on 14.06.2009, the petitioners beaten him with lathi. The petitioners took him to Chengleput on the night of 14.06.2009 and threatened him that if he opens his mouth in front of the learned Magistrate, he will be shot dead. He was produced before the Magistrate at around 8.30 p.m. and remand order was obtained and when he was taken to Maduranthagam Sub Jail, the Jailor refused to take him inside the prison seeing wounds all over his body and told the petitioners to get treatment for the victim in the hospital. The victim was taken to Government Hospital and was treated as out-patient under O.P.No.3110 and on receiving the OP chit alone he was admitted inside the prison.

2.3. Since the petitioners committed human rights violation against the son of the complainant and her family members, she preferred a complaint before the State Human Rights Commission. The complaint was enquired by the State Human Rights Commission, Chennai. The complainant Parvathy examined herself



as P.W-1 and her son Sanjay Kumar was examined as P.W-1 and P.W-1 and P.W-2 were cross-examined on the side of the petitioner. In the cross-examination, nothing was elicited in favour of the petitioners/respondents before the State Human Rights Commission. Not only that, in spite of several chances, the petitioners did not appear and let any evidence. Therefore, the State Human Rights Commission had arrived at the finding that the presumption in favour of the complainant before the State Human Rights Commission and directed the Government of Tamil Nadu to pay a total compensation of Rs.3,00,000/- (Rupees Three Lakhs only) to the complainant's son. It was further directed that a sum of Rs.2,00,000/- (Rupees Two Lakhs only) from first petitioner/first respondent therein and a sum of Rs.25,000/- (Rupees Twenty Thousand only) each from the petitioners 2 to 5/respondents 2 to 5 therein and recommended for taking departmental action against them. Aggrieved by the order passed by the learned State Human Rights Commission, the respondents before it, had come before this Court by way of Writ Petition.

3.The contention of the learned Counsel for the Writ Petitioners that the State Human Rights Commission was biased against the petitioners and had not conducted proper enquiry. The petitioners were not afforded sufficient opportunities and therefore, the order passed by the State Human Rights Commission has to be set aside.

4.On a perusal of the order passed by the learned State Human Rights Commission it is found that the petitioners had engaged a counsel and filed counter denying the contents of the complaint. During enquiry, they had cross-examined the complainant as P.W-1 and her son as P.W-2. When the evidence of the complainant was closed with P.W-2, it was their duty to enter into the witness box and let in evidence. Instead none of them appeared. It is found that the learned State Human Rights Commission had observed that in spite of several chances and adjournments were granted to the respondents therein, they did not appear. Therefore, the evidence of the respondents was closed and on assessment of the evidence, the learned State Human Rights Commission had arrived at a just conclusion that the respondents before the State Human Rights Commission had wantonly and falsely implicated P.W-2 in the case before the learned Judicial Magistrate as an accused and threatened him to protect the owner of the Kriba Acqua Water Company. Also when P.W-2 filed a petition for anticipatory bail, the first petitioner/first respondent before the State Human Right Commission had instructed the State Public Prosecutor to object the anticipatory bail petition on the ground that the injured in



the case was admitted in the hospital and P.W-2 was an arrack seller and he had assaulted the de-facto complainant. The contention of the learned counsel for the petitioners in the Writ Petition cannot be accepted as it is contrary to the fact that the petitioners were not afforded an opportunity to cross-examine and let in evidence and thereby the evidence was closed and judgment was delivered.

5.The principle regarding disposal of Writ Petitions is to be noted that in service matters, regarding departmental enquiries, the Writ Court shall not enter into the evidence and appreciate the evidence. If at all there is any violation of principles of natural justice and fairness, equity and good conscience were not adopted in the enquiry. Generally, in enquiries, there will not be evidence at the stage of Interlocutory Application and the Writ Court can only consider the materials available before the Court concerned.

6.In this case, the petitioners/respondents before the Human Rights Commission had not succeeded in their arguments and Writ jurisdiction cannot be invoked regarding re-appreciation of evidence before the State Human Rights Commission. Therefore, in spite of several chances, the petitioners in the Writ Petition as Respondents had not entered the witness box and let in evidence before Human Rights Commission. Therefore, the learned State Human Rights Commission has arrived at the conclusion that the respondents have committed human rights violations. It had rightly awarded compensation and recommended for disciplinary action against the Respondents, Petitioners herein. Hence, in our considered view, it does not warrant any interference by this Court on the Writ jurisdiction under Article 226 of Constitution of India.

In the result, the Writ Petition lacks merits and the same is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srm



To

1.The Secretary,
The State Human Rights Commission,
Thiruvarangam,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 600 028.

2.The Principal Secretary,
Department of Home, Prohibition and Excise,
Secretariat,
Chennai - 600 009.

W.P.No.18599 of 2019

PMK(CO)
SP(28/03/2022)