



W.P.No.26548 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.26548 of 2022
and
W.M.P.No.25603 of 2022

K.Sivakumar

...Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600009.

2.The State Human Rights Commission,
Tamilnadu, Rep. By its Registrar,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai – 600028.

3.Saranya

4.Venkatesan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 2nd respondent in SHRC Case



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No.11603 of 2019 dated 25.02.2022 and quash the same.

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For Petitioner : Mr.A.Saranraj
For Respondents : Mr.A.Selvendran

Special Government Pleader for R1
Mr.S.Wilson for R2

ORDER

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

Challenge in the Writ Petition is to the order of the Human Rights Commission, imposing the penalty of Rs.25,000/- to be shared between the petitioner and the 4th respondent.

2.The petitioner was the Inspector of Kovilpalayam Police Station at the relevant point of time. A complaint was lodged by the de-facto complainant namely, one Hariharan accusing the 3rd respondent's husband and one Janaki of cheating. According to the de-facto complainant, the 3rd respondent's husband and one Janaki had received a sum of Rs.1,00,000/- from him, promising to issue a Life Insurance Policy. According to the complainant the 3rd respondent's husband and Janaki cheated him, since they did not either obtain a Insurance Police or pay back the money received from him.



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3. On receipt of the complaint on 22.07.2019, the petitioner issued a summon on 23.07.2019 under Section 91 r/w 160 of Cr.P.C., requiring the accused persons namely, the 3rd respondent's husband and one Janaki to appear before him on 27.07.2019 for enquiry. Another summon was issued on the very same day namely, 23.07.2019, requiring the 3rd respondent's husband to appear for enquiry on 24.07.2019. The 3rd respondent's husband was arrested on 25.07.2019 and remanded to judicial custody.

4. According to the 3rd respondent, after having issued summon requiring the accused person to appear on a particular day, the petitioner and the 4th respondent had conspired together and harassed husband by arresting him prematurely without conducting an enquiry. The State Human Rights Commission, which went into the issue found that issuance of two summons under Section 91 r/w. 160 of Cr.P.C., demonstrated an eagerness on the part of the petitioner and the 4th respondent to somehow put the husband of the 3rd respondent behind bars.



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5.This action, according to the State Human Rights Commission is in violation of the Human Rights apart from being in violation of the judgment of the Hon'ble Supreme Court in Arnesh Kumar's case. Therefore, the Commission thought it fit to slap a fine of Rs.25,000/- to be shared between the petitioner and the 4th respondent, who was the Sub-Inspector of Police at the relevant point of time.

6.Though the learned counsel for the petitioner would contend that the arrest is bonafide, we are unable to accept the said contention. On facts, the State Commission has found that issuance of multiple summons under Sections 90 r/w. 160 would show the unnatural eagerness on the part of the petitioner and the 4th respondent to somehow put the husband of the 3rd respondent behind bars.

7.The alarming speed with which the arrest has been made in a case in which at the best an offence under Section 420 could be made out impels us to accept the conclusions of the State Commission. We see no



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merit in the Writ Petition. This Writ Petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

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Internet:No
Index:Yes
Speaking

To:-

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600009.
- 2.The Registrar,
State Human Rights Commission, Tamilnadu,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai – 600028.



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KKN

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