



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

ORDERS RESERVED ON : 16.12.2021

ORDERS PRONOUNCED ON : 12.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P.No. 26592 of 2021

Mayavan

... Petitioner

Vs

1. Tamil Nadu State Human Rights Commission,
Rep., by its Registrar,
143, P.S.Kumarasamy Raja Salai,
Greenways Road, Adyar,
Chennai-600028.

2. Govarthanan,

3. Singaravelu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorified Mandamus to call for the records relating to the impugned order dated 02.11.2021 issued by the 1st respondent in SHRC Case No.8745 of 2013 and quash the same and consequently direct the 2nd and 3rd respondent to hand over the 5 sovereign chain and Rs.5 lakhs compensation for violation of Human rights of the petitioner.

For Petitioner : Mr.R.Prabhakaran

For R1 : Mr.K.V.Sajeev Kumar
Special Govt. Pleader

O R D E R

V.SIVAGNANAM, J.

In this writ petition the petitioner has challenged the legality of the order dated 02.11.2021 in SHRC Case No.8745 of 2013 passed by the State Human Rights Commission, Tamil Nadu. The petitioner filed a complaint before the State Human Rights Commission with regard to registration of case in Crime Nos.95 of 2013 and 96 of 2013 on the file of Kattur Police Station, Tiruvallur District.



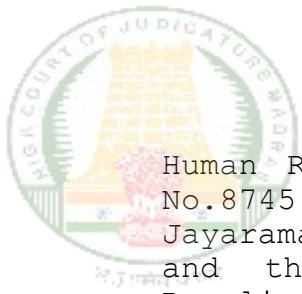
respondent/police threatened the petitioner to withdraw his complaint against the accused persons and not to take action against the complaint given by the complainant. The impartial investigation and filing of two charge sheets without fair investigation severely affected the right of complainant and thereby violated the Human Rights enshrined in the Constitution. The Commission has wide power under the Act to probe into the instance of Human Rights violations. The Commission refused to exercise its jurisdiction, considering the order passed by this Court in W.P.No.825 of 2017. If the Commission finds the allegations raised by the complainant were prima facie true, it can order for investigation under Section 18 of the Act. The Commission has failed to look into the other issues raised by the petitioners in the complaint. The respondent police sent a letter to College in which the petitioner's son is studying and projected him as a rowdy element which has spoiled his future. The right to maintain dignity of the petitioner and his son has been jeopardised by the police and reiterated other grounds raised in the grounds of writ petition and thus pleaded to quash the order of SHRC Case No.8745 of 2013 the and consequently direct the second and third respondent to hand over five sovereigns of gold chain and to pay Rs.5,00,000/- as compensation for violation of the Human Rights of the petitioner. The learned counsel for the petitioner further relied upon the following Hon'ble Supreme Court judgements reported in [AIR 1954 SC 440] T.C.Basappa Vs. T.Nagappa and Another, and [AIR 1962 SC 1621] Smt. Ujjam Bai Vs. State of Uttar Pradesh to show the scope of Human Rights Commission.

5. The learned counsel appearing for the first respondent would support the order of the State Human Rights Commission and further contended that the commission has got limited power. As stated under Section 12 of the Protection of Human Rights Act 1993, it has power to investigate only to find out whether the public servant violated the Human Rights and beyond that, it cannot pass any order with regard to fabrication of Government records. The petitioner has to approach proper legal forum. Therefore, the Human Rights Commission rightly dismissed the complaint and there is no merit in the writ petition and thus, pleaded to dismiss the writ petition.

6. Heard, the learned counsel for both the parties and perused the materials available on record.

7. We have considered the matter in the light of the submissions made by the learned counsel for the parties and grounds made in the Writ Petition.

8. On perusal of the material available on record, it is found that the petitioner filed a complaint before the State



Human Rights Commission which was taken on file in SHRC Case No.8745 of 2013 and 2710 of 2014. The complaints indicate that Jayaraman and Pathmavathy Ammal were resided at Kattur village and they had four sons and two daughters viz., Nagan, Ramalingam, Kongan, Mayavan, Malligeshwari and Thilagavathy. This complainant is Mayavan, his father Jayaraman died in the year 2011 and there was a partition of their family properties. The complainant and his brother Ramalingam's share were being enjoyed by his brothers viz., Nagan and Kongan, this was questioned. On 22.09.2013 his brothers Nagan and Kongan called them for compromise. Then, the complainant/Mayavan and his brother Ramalingam went to the house at Kattur where the complainant was assaulted and his brother Ramalingam's five sovereign gold chain was snatched by his brother Nagan. Thereafter, a complaint was given by the complainant to the respondent police and the accused Nagan also gave a complaint against the complainant, both the complaints have received and registered the case in Crime Nos.95 of 2013 and 96 of 2013.

9. The complainant case registered in Crime No.95 of 2013 under Sections 323, 324, 506 (ii) of IPC and Section 2 & 3 of Tamil Nadu Prevention of Public Properties (Destruction and Loss) Act and the accused's complaint was registered in Crime No.96 of 2013 under Sections 323, 324, 506 (ii) of IPC. The complainant has filed the complaint to quash the case in Crime No.96 of 2013, the prayer in the complaint runs as follows:

'In this circumstances I pray that this honourable forum to quash Crime No.96 of 2013 is false counter case created by Mr.Govarthanan, Sub -Inspector of police, Kattur Police Station, Thiruvallur district, by supporting the accused Mr.Nagan and others and take action against Mr.Govarthanan, Sub Inspector of Police, Kattur Police Station, Thiruvallur district, and MR.Singaravelan, Circle Inspector of Police, Minjur Police Station, Thiruvallur district for impartial investigation in Crime No.95 of 2013 and Crime No.96 of 2013 and the file of Sub-Inspector of Police Mr.Govarthanan, and thus tender justice'.

10. The police after investigation filed a charge sheet in S.No. A 2451126 dated 29.10.2013 against which the complainant Mayavan along with his brother Ramalingam and his son Ramesh filed a petition before this Court, for quashing the charge sheet in W.P.No.825 of 2017 this Court by its order dated 28.11.2019, quashed the impugned charge sheet dated 29.10.2013 in S.No. A 2451126. The Human Rights Commission taking into consideration of the order of this Court since the



charge sheet in Crime No.96 of 2013 is quashed the prayer before the Human Rights Commission become infructuous. The Human Rights Commission in its order para 18 observed the fact and further found that with regard to fabrication of documents and the complainant has to work out his remedy against the officials separately. The Human Rights Commission found that there is no violation of Human Rights of the Complainant and dismissed the complaint and declined to grant any compensation.

11. We have considered the scope of the jurisdiction of Human Rights Commission in the light of the decisions relied on by the petitioner. The Hon'ble Supreme Court decision in TC Basappa Vs., T.Nagappa and Another reported in [AIR 1954 SC 440] is pertaining to election of the first respondent therein. The another case reported in Smt. Ujjam Bai Vs., State of Uttar Pradesh [AIR 1962 SC 1621] pertaining to Tax Assessment made by the Authority of Uttar Pradesh Government. Both these decisions had not dealt with the scope of Human Rights Commission. Therefore, the decision relied on by the learned counsel for the petitioner, it is not helpful and not supportive to his case.

12. We have considered the scope of the Human Rights Commission constituted under Human Rights Act. The Primary function of Human Rights Commission is to enquire into the violation of Human Rights or abetment thereof. Section 12 of the Act speaks about the function and powers of the Commission is runs as follows:

'12.Functions of the commission.-- The Commission shall perform all or any of the following functions, namely:--

(a) inquire, suo mottu or on a petition presented to it by a victim or any person on his behalf, [or on a direction or order of any court] into complaint of--

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court;

[(c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the Sate Government, where persons are detained or



lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;]

WEB COPY

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

(f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

(g) undertake and promote research in the field of human rights.

(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) encourage the efforts of non-Government organisations and institutions working in the field of human rights;

(j) such other functions as it may consider necessary for the promotion of human rights.

13. This power is an extensive one which should not be a narrowly viewed. The Human Rights is a broad concept. The categories of Human Rights, being of infinite variety, are never really closed. The jurisdiction of the Human Rights Commission was enlarged by Section 12 (j) of the Act 1993 Act to take necessary action for the protection of Human Rights. Such action would include inquiring into cases where a party has been denied the protection of any law to which he is entitled, whether by a private party or a public institution, the prayer of the complainant before the Human Rights Commission is to quash the charge sheet filed in Crime No.96 of 2013 against the complainant and his brother. Admittedly the charge sheet filed in Crime No.96 of 2013 was quashed by the Court in W.P.No.825 of 2017. Therefore, the prayer of the complainant before the Human Rights Commission is fulfilled by the order of this Court by



quashing the charge sheet filed in Crime No.96 of 2013, with regard to other allegations the Commission found no violation of Human Rights and rightly dismissed the complaint and denied to pay compensation. We find no reason to interfere with the impugned order of the Human Rights Commission and found no merit in the Writ petition and dismissed the petition.

14. In the result, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsn

To

The Registrar,
Tamil Nadu Human Rights Commission
143, P.S.Kumarasamy Raja Salai,
Greenways Road, Adyar,
Chennai-600028.

+1cc to the Government Pleader, S.R.No.3105

W.P.No.26592 of 2021

SSD(CO)
CT 16/02/2022