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W.P.Nos.21226 to 21228 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

W.P.Nos.21226 to 21228 of 2015

K.Sasikumar	...Petitioner in W.P.No.21226 of 2015
D.Manoharan	...Petitioner in W.P.No.21227 of 2015
S.Rathinam	...Petitioner in W.P.No.21228 of 2015
Vs.	

1. The State Human Rights Commission
of Tamil Nadu,
Represented by its Chairperson,
No.143, P.S.Kumarasamy raja Salai,
Greenways Road,
Chennai - 600 028.

2. G.Manoharraj,
S/o George

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India
to issue a Writ of Declaration declaring the complaint petition bearing
case No.1253/2009/C2 on the file of the 1st respondent filed by the 2nd
respondent against the petitioners as null and void.

For Petitioners



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in all the W.Ps.
For Respondents
in all the W.Ps.

: Mr.R.Subramanian
: Mr.T.Balaji
Standing Counsel for R1
Mr.C.E.Pratap
for R2

COMMON ORDER

(The Order of the Court was made by J.Nisha Banu,J.)

These Writ Petitions have been filed for a declaration, declaring the complaint petition bearing Case No.1253/2009/C2 on the file of the 1st respondent filed by the 2nd respondent against the petitioners as null and void.

2. The brief facts of the case of the petitioners are as follows:

(i) The petitioners are working as Inspector of Police, Head Constable and Grade II Constable respectively in the Wellington Police Station. There occurred an incident on 21.01.2009 where the 2nd respondent (Manoharraj) was arrayed as an accused in Crime No.31 of 2009 in relation to an incident in the school of the 2nd respondent's son, when the school authorities had taken action against his son. Pursuant to which, FIR in Crime No.137 of 2009 dated 06.05.2009 was registered against the 2nd respondent for his activities such as forging school seal and letter heads.



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(ii) In order to wreak vengeance on the petitioners, the 2nd respondent initiated a private complaint against the petitioners and other officers stating false allegations and an FIR was also registered based on the same. The petitioners had challenged the same by way of quash petition in CrI.O.P.No.11409 of 2009 and this Court was pleased to quash the entire proceedings vide order dated 26.07.2013 and the same has become final. Not satisfied with the same, the 2nd respondent had given complaints to various RTI authorities and also preferred a complaint before the 1st respondent /State Human rights Commission making baseless allegations in Case No.1253/2009/C2. Hence, the present writ petitions seeking the aforesaid relief.

3. Learned counsel for the petitioners submitted that already a private complaint was lodged against the petitioners and the same was taken on file in C.C.No.1 of 2009 on the file of the learned Chief Judicial Magistrate, Udthagamandalam, and the petitioners filed a petition to quash the said complaint in CrI.O.P.No.11409 of 2009 and the same was ordered in favour of the petitioners by quashing the complaint. Therefore, the present complaint i.e., impugned proceedings are in violation of settled principles of law relating to double jeopardy wherein the



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petitioners cannot be put to prosecution twice. He would further submit that the statutory requirement of section 17 of the Protection on Human Rights Act, 1993 have not been followed. The 1st respondent have inquired into the matter after a lapse of the period stipulated under Section 36 of the Act. Hence, he would pray to declare the Complaint mad against the petitioners as null and void.

4. (i) Per contra, the learned Standing Counsel appearing for the 1st respondent would state that the crux of the complaint of the 2nd respondent is that the 2nd respondent's son, a student of class V in Holy Innocent High School, Wellington Barracks at Nilgiris, was naughty and created problems and did not mend his ways even after advise. The Principal of the School, without trying to change the 2nd respondent's son's attitude, straight away asked the parents to change his school. The 2nd respondent's son was made to stand outside the Principal room for 3 days and was not allowed to attend classes for the reason that he was talking in the class room.

(ii) The School authorities also abused the 2nd respondent in front of his son with harsh words which created mental agony to his son as well as the 2nd respondent. Thereafter, during a meeting, the Principal



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alleged to have abused the 2nd respondent and his son, for which, the 2nd respondent lodged a complaint before the local police.

(iii) Learned Standing counsel would further submit that initially, the matter was compromised orally but subsequently, after coming to know that the 2nd respondent video-graphed the entire compromise discussions, the petitioners trespassed into the 2nd respondent's house, ransacked in search of cell phone and also harassed the 2nd respondent and his wife. Therefore, the 2nd respondent's wife preferred a complaint against the petitioners in Cr.No.31/2009, in which, a final report was laid before the Chief Judicial Magistrate, Udagamandalam, and it was taken on file in C.C.No.1/2009. Against the same, the petitioners filed Crl.O.P. to quash the complaint and this Court, vide order dated 26.07.2013 quashed C.C.No.1/2009 on the file of Chief Judicial Magistrate, Udagamandalam.

(iv) Learned Standing counsel would further submit that the 2nd respondent has preferred a complaint to the Commission under Section 17 of the Protection of Human Rights Act which was registered as Case No.1253/2009/C2. Without facing the proceedings before the State Human Rights Commission, the petitioners have come before this Court



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seeking declaration declaring the said complaint petition as null and void.

Hence, the learned counsel would pray to dismiss the writ petitions.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. A complaint was given by the 2nd respondent stating that his son was studying Class V in Holy Innocent High School, Wellington Barracks at Nilgiris, and it is alleged that he was naughty and created problems in the school and the Principal of the School alleged to have abused the 2nd respondent and his son, for which, the 2nd respondent lodged a complaint before the local police. Initially, the matter was compromised between the parties orally but subsequently, after coming to know that the 2nd respondent video-graphed the entire compromise discussions of the police personnel, the Principal of the School and the 2nd respondent, the petitioners trespassed into the 2nd respondent's house, ransacked in search of cell phone and also harassed the 2nd respondent and his wife. Therefore, a complaint was lodged by the 2nd respondent's wife against the petitioners which was registered in



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Cr.No.31/2009, in which, a final report was laid before the Chief Judicial Magistrate, Udagamandalam, and it was taken on file in C.C.No.1/2009.

The petitioners have also filed CrI.O.P. to quash the complaint and this Court, vide order dated 26.07.2013 quashed C.C.No.1/2009 on the file of Chief Judicial Magistrate, Udagamandalam.

7. The 2nd respondent had also preferred a complaint to the Commission under Section 17 of the Protection of Human Rights Act which was registered as Case No.1253/2009/C2. The cause of action to prefer a complaint by the 2nd respondent before the Commission arose on 06.01.2009 when the petitioners alleged to have entered into the house of the 2nd respondent, pushed his wife and went into the bedroom of the 2nd respondent and made him half naked and demanded his mobile phone. The complaint has been received by the Commission on 09.02.2009, which is well within the period of one year mentioned in Section 36(2) of the Act. Thereafter, enquiry was initiated and a report was filed.

8. The Investigation Division of the Commission came to the



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conclusion that the petitioners infringed upon the Human rights of the 2nd respondent and his family. Hence, summons were issued to the petitioners by the Commission. However, in view of the huge pendency of cases and rising institution of cases, the enquiry was not completed within a period of one year. Further, the period of one year envisaged under section 36(2) of the Act is the limitation period for filing fresh complaints and does not apply to cases under enquiry.

9. Further, as regards the contention of the petitioners that the complaint and proceedings before the Commission is hit by doctrine of double jeopardy is concerned, the proceedings before a criminal court and the proceedings before the commission will not constitute double jeopardy. The Commission is only an advisory and recommendatory body constituted under Section 21 of the Act. The proceedings before the Commission is only an enquiry to ascertain the facts and not a trial to determine the guilt or innocence of an accused. There is no acquittal, conviction or punishment. Hence, it cannot be stated that the petitioners suffered twice on account of the proceedings before the Magistrate and proceedings before the Commission. Further, the complaint made by the



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2nd respondent does not fall in any other category of non-entertainable complaints enumerated in Regulation 9 of the State Human Rights Commissioner (Procedure) Regulation, 1997.

10. The petitioners have only received the summons in the impugned proceedings and the matter is at the pre-mature stage. Therefore, without facing the enquiry, the petitioners have come before this Court by filing the present writ petitions seeking declaration declaring that the impugned proceedings are null and void.

11. In view of the above discussion, we are of the view that no valid grounds are made out to entertain these writ petitions. Accordingly, the Writ Petitions are dismissed. No costs.

(J.N.B,J.) (N.M., J.)
20.07.2023

Index : Yes / No
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To
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The Chairperson,
State Human Rights Commission
of Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,Chennai - 600 028.

J. NISHA BANU, J.
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