



W.P.No.6151 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

CORAM

THE HONOURABLE Mrs.JUSTICE J.NISHA BANU

and

THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.6151 of 2023

and

W.M.P.Nos.6169 & 6171 of 2023

1. M.Selvaraj
2. M.Senthil Kumar

...Petitioners

vs

1. The Registrar,
Hon'ble State Human Rights Commission,
Tamil Nadu,
No.143, PS Kumarasamy Raja Salai,
Greenways Road,
Chennai - 600 028.

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

3. The Director General of Police,
Office of DGP, Mylapore,
Chennai - 600 004.

4. Ka.Ra.Moorthy @ P.Krishnamoorthy

...Respondents



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Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari to call for the records pertaining to the impugned order and recommendations of the State Human Rights Commission, Tamil Nadu dated 01.09.2022 in SHRC case No.6445 of 2020 and to quash the same as null and void.

For Petitioners : Mr.N.Shanmuga Thayumanavan

For Respondents : Mr.N.Subramanian for R1
Mr.P.Gurunathan,
Additional Government Pleader
for R2 and R3
Mr.John Joseph.R
for Mr.R.Sreerangan for R4

ORDER

The petitioners have filed this writ petition aggrieved by the finding and conclusion reached by the State Human Rights Commission, Tamil Nadu (hereinafter referred to as the 'Commission') in its order dated 01.09.2022 passed in SHRC No.6445 of 2020, in and by which, the Commission has made a recommendation to the Government of Tamilnadu to pay a compensation of Rs.50,000/- to the complainant Moorthy @ P.Krishnamoorthy, 4th respondent herein within one month from the date of receipt of its order and additionally directed the Government to recover



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the said sum from the respondents 1 & 2/ petitioners herein viz., M.Selvaraj and M.Senthil Kumar at the rate of Rs.25,000/- each.

2. The learned counsel appearing for the petitioners assailed the impugned order passed by the State Human Rights Commission and contended that the Commission ought not to have taken on file the complaint filed by the complainant P.Krishnamoorthy, the 4th respondent herein, by virtue of Regulation 9(g) of the State Human Rights Commission Tamil Nadu (Procedure) Regulations, 1997, (hereinafter referred to as 'the Regulations')

3. Since the learned counsel appearing for the petitioners vehemently assailed the impugned order contending that the Commission has no power to entertain the complaint under Regulation 9(g), the said Regulation is extracted hereunder:

"9. Complaints not ordinarily entertainable--

The Commission may dismiss in limini complaints of the following nature:-

- (a) Vague, anonymous or pseudonymous or illegible trivial or frivolous;*
- (b) barred under Section 36(1) of the Act;*
- (c) Barred under Section 36(2) of the Act;*



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(d) Relates to civil dispute, such as property rights, contractual obligations;

(e) relates to service matters or labour or industrial disputes;

(f) Allegations do not make out any specific violation of human rights;

(g) Matter is sub judice before a Court or Tribunal;

(h) Matter is covered by a judicial verdict or decision of the Commission.

(i) Where copy of the complaint address to some other authority is received by the Commission;

(j) Matter is outside the purview of the Commission" (Emphasis added)

4. A careful perusal of Regulation 9(g) shows that if a matter is sub judice before a Court or Tribunal, the Commission may dismiss the complaint in limini,

5. The learned counsel appearing for the petitioners also drew our attention to page No.7 of the typed set of papers filed along with this writ petition which shows that a criminal case in Crime No.465 of 2020 has been registered for offence punishable under sections 294(b), 323, 324 & 506(2) IPC against Ka.Ra.Moorthy @ Krishnamoorthy, Sibinivas and Durai @



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Thangavel on the complaint given by Senthilkumar. Subsequently, Ka.Ra.Moorthy @ Krishnamoorthy was arrested and remanded to judicial custody on 10.06.2020 and in the remand order dated 10.06.2020 it has been specifically recorded that there are no complaints against the police. Charge sheet was also filed before the learned Judicial Magistrate, Perundurai in C.C.No.121 of 2022 against the 4th respondent and other accused mentioned in the said F.I.R. In paragraph No.8 of the counter affidavit filed before the Commission also clearly specifies that criminal case is pending. When the criminal case is pending, Regulation 9(g) comes into operation and the complaint given by Mr.Ka.Ra.Moorthy @ P.Krishnamoorthy, ought not to have taken up by the Commission.

6. Mr.N.Subramanian, learned counsel appearing for the first respondent attempted to justify the order of the Commission. However, he fairly stated that considering the Regulation 9(g), the Commission may not have taken up the issue.

7. Considering the submissions made by the learned counsel on either side and upon perusing the records carefully, we fully agree with the arguments advanced by the learned counsel appearing for the petitioners that the Commission has no jurisdiction under Regulation 9(g) of the



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Regulations, to entertain the complaint in view of the pendency of the criminal case as mentioned above.

8. In the result the Writ Petition is allowed and the impugned order dated 01.09.2022 made in SHRC.No.6445 of 2020 on the file of the first respondent is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B.,J.) (N.M.,J.)
16.08.2023

Index: Yes/No
Speaking/Non-speaking order
vsi

To

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**J.NISHA BANU,J.
and
N.MALA,J.**

vsi

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