



W.P.No.21478 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023
CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.21478 of 2018
and
W.M.P.No.25228 of 2018

Nepolian,
Inspector of Police,
Bangalapudur Police Station,
Erode District.

.... Petitioner

vs

1. The Registrar,
State Human Rights Commission,
"Thiruvaram",
No.143, P.S.Kumarasamy Raja Salai,
Chennai - 600 028.

2. Manimegalai,
W/o Ganesan

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order of the 1st respondent in SHRC.Case No.8971 of 2007 dated 27.06.2018 and quash the same as illegal, arbitrary.



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W.P.No.21478 of 2018

For Petitioner : Mr.M.Velmurugan
For Respondents : Mr.K.V.Sanjeevkumar for R1
Mr.N.Manokaran for R2

ORDER

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

This Writ Petition has been filed challenging the order passed by the the State Human Rights Commission/1st respondent in SHRC.Case No.8971 of 2007 dated 27.06.2018, by which, the Government, Home Department, was directed to pay a compensation of Rs.1,00,000/- each, to the 2nd respondent herein and to the victim Muthukrishnan(PW2) and to recover the same from the pay and allowance of the petitioner and to take disciplinary action against the petitioner.

2. The allegation against the petitioner is that the 2nd respondent gave a complaint dated 15.11.2007 before the State Human Rights Commissioner against the petitioner, complaining registration of FIR , while he was working as S.I. of Police, Nallur Police Station, on a false complaint and for illegal arrest of Muthukrishnan, who is the sister's son of the 2nd respondent herein who was a minor then, in connection with crime No.189 of 2007, when a civil dispute was pending between the 2nd respondent's grant mother late Sambayammal and one Kumbeswaran. It is the further allegation that the



W.P.No.21478 of 2018

petitioner had extended his helping hands to the said Kumbeswaran and deliberately arrested the petitioner and Muthukrishnan. Hence, a complaint in SHRC Case No.8971 of 2007 was made and the State Human Rights Commission had directed the Government to pay a compensation of Rs.1,00,000/- each, to the 2nd respondent and to the victim Muthukrishnan(PW2) and to recover the same from the pay and allowance of the petitioner and further directed to take disciplinary action against the petitioner. Hence, the present writ petition.

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

4. At the outset, it would be useful to refer to paragraph No.14 of the impugned order, which is extracted hereunder:

14. The accused Muthukrishnan, PW2 was arrested in the crime No.187/2007 on an allegation that he along with all the accused have damaged the compound wall with deadly weapons and assaulted the defacto complainant and gave threat to the defacto complainant's live.

(a) To prove the damage of compound wall, the respondent has not produced any photograph of the damaged



W.P.No.21478 of 2018

wall. The other allegation is that defacto complainant has sustained injuries.

(b) To prove the same medical certificate of the defacto complainant was not produced before this commission. Whereas RW1 has stated that he enquired witnesses and filed a charge sheet.

(c) Further on perusal of evidence of RW1, no charge has been laid with regard to damage of compound wall. RW2 the respondent has stated that the scene of occurrence is near to the school, hence PW2 Muthukrishnan has participated in crime no.187/2007. Hence he was arrayed as an accused. Whereas PW1 has deposed that the entire case is false and on the said alleged date Muthukrishnan was present in the school. In order to prove that the scene of occurrence is near the school, the respondent has stated that he had prepared document such as rough sketch and mahazar.

(d) This commission, on perusal of exhibits finds that the respondent has not submitted rough sketch and observation mahazar. The respondent has conveniently suppressed this fact. This shows that the scene of occurrence is not near the school. It is the evidence of prosecution witnesses that on the occurrence day 16/10/2007, PW2 Muthukrishnan was present in the school. RW3, the Head master of the school has also stated the same. To prove the same attendance register is marked as exhibit R6. This proves that PW2 was present in



W.P.No.21478 of 2018

school at the time and day of occurrence of the crime.

(e) Copy of the FIR in crime no.187/2007 was not marked before this commission. It is observed that the respondent has not produced the FIR, this would clearly have stated the time of the occurrence and this would prove that Muthukrishnan was at school. The evidence of the PW2 is that after producing him at the court, he was directed to the Juvenile court. However, he was refused by the Juvenile jail authorities and he was taken to the police station and kept in illegal custody. Though the respondent should have taken Muthukrishnan to the nearest magistrate or to the remanding magistrate after the refusal by the Juvenile jail authorities, he was taken to the police station and kept in illegal custody which is a clear violation of his Rights. With the above discussion, this commission finds that Muthukrishnan was falsely implicated in a case and he was kept in illegal custody by the respondent Mr.Nepolian and in a case of violation of Human Rights.

5. From the above, it is clear that Muthukrishnan was kept in illegal custody even after he was sent to judicial custody and violated his fundamental and human rights.

6. P.W.2 Muthukrishnan was arrested in Crime No.187/2007 for the



W.P.No.21478 of 2018

allegation that he along with other accused damaged the compound wall with deadly weapons and assaulted the defacto complainant and gave threat to the defacto complainant's life. In this regard, the petitioner/RW2 deposed that he registered a case in Crime No.187/2007, enquired the witnesses and prepared observation mahazar, rough sketch and recovered 2 feet iron rod, 2 ft. crow bar an aruval and arrested Nallusami on 18.10.2007 and arrested Velumani and Muthukrishnan/ P.W.2. on 23.10.2007 and sent him to judicial custody. However, no photographs were produced to prove the damage of compound wall and no medical certificate was produced to prove that the defacto complainant sustained injuries. Further, there is suspicion with regard to the date of birth of Muthukrishnan. When Muthukrishnan was produced before Court, he was directed to the Juvenile Home. However, the juvenile jail authorities refused to admit Muthukrishnan, as a minor without age proof. The petitioner should have taken Muthukrishnan to the nearest magistrate or to the remanding magistrate, after the refusal by the Juvenile jail authorities, but the petitioner had taken him back to Nallur Police Station and had kept him in illegal custody. Hence, the petitioner had committed violation of human rights.



W.P.No.21478 of 2018

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7. Considering all the aspects, the State Human Rights Commission has rightly come to the conclusion that it is a clear case of Human Rights violation and accordingly, ordered for compensation and to take disciplinary action against the petitioner, with which, we do not find any justifiable reasons to interfere with. Hence, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
23.11.2023

vsi

Index : Yes / No

Internet : Yes / No

To

The Registrar,
State Human Rights Commission,
"Thiruvaram",
No.143, P.S.Kumarasamy Raja Salai,
Chennai - 600 028.



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W.P.No.21478 of 2018

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W.P.No.21478 of 2018

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