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W.P.Nos.17616, 17730, 17771 & 18201 of 2022
and W.M.P. Nos.16883, 16884, 17010, 17011, 17066, 17067, 17538 & 17539 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.17616, 17730, 17771 & 18201 of 2022

and

**W.M.P. Nos.16883, 16884, 17010, 17011, 17066, 17067,
17538 & 17539 of 2022**

M.Ponraja	...Petitioner in W.P.No.17616 of 2022
Dickpal	...Petitioner in W.P.No.17730 of 2022
John Selvaraj	...Petitioner in W.P.No.17771 of 2022
S.Saravanan	...Petitioner in W.P.No.18201 of 2022
Vs.	

1.The Registrar,
The State Human Rights Commission,
No.36, Thiru-Vi-Ka-Salai,
Chennai - 600 014.

2.P.Jayaraman

3.The Secretary to Government,
Department of Home,
Fort St.George, Chennai - 600 009.... Respondents in W.P.Nos.17616
17730 & 17771 of
2022

(R2 impleaded vide order dated 10.10.2022 made in WMP.Nos.18945,

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18947 & 18941 of 2022 in W.P.Nos.17616, 17730 & 17771 of 2022)

1.The Registrar,
The State Human Rights Commission,
No.36, Thiru-Vi-Ka-Salai,
Chennai - 600 014.

2.P.Jayaraman

3.The Principal Secretary,
Government of Tamil Nadu,
Home Department,
Fort St.George, Chennai - 600 009. ... Respondent in W.P.No.18201 of
2022

Common Prayers in W.P.Nos.17616, 17730 & 17771 of 2022 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in the impugned proceedings in SHRC No.1375 of 2019 order dated 23.03.2022 on the file of the 1st respondent herein and quash the same.

Prayer in W.P.No.18201 of 2022 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the entire records in the impugned proceedings in SHRC No.1375 & 4400 of 2019 on the file of the 1st respondent herein and quash the same.



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In W.P.Nos.17616, 17730 & 17771 of 2022 :

For Petitioner : Mr.R.Balachandar for
Mr.P.Sivamuruganantham

For R1: Mr.S.Wilson

For R2 : No appearance

For R3 : Mr.P.Gurunathan,
Additional Government Pleader

In W.P.No.18201 of 2022 :

For Petitioner : Mr.A.Saravanan

For R1: Mr.S.Wilson

For R2: No appearance

For R3: Mr.P.Gurunathan,
Additional Government Pleader

COMMON ORDER

(R.HEMALATHA, J.)

These petitions are filed challenging orders dated 23.03.2022
passed by State Human Rights Commission, Tamilnadu, Chennai in
SHRC 1375/19 & 4400/19.

2.The Complainant in SHRC P.Jayaraman is the president of



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South Indian Merchants & Labour Welfare Association and residing in
Tirusulam, Chennai.

3.Shorn of unnecessary details, facts appertains are as follows:

The second respondent Jayaraman who is the complainant in State Human Rights Commission was the successful bidder in the auction conducted on 09.05.2017 by Tirusulam Panchayat over collection of tax for film shooting within Tirusulam Panchayat limits for a period of one year from 10.05.2017. According to him, Saravanan, the Inspector of Police, Pallavaram Police Station (petitioner in W.P.No.18201 of 2022) used to collect Rs.10,000/- to Rs.15,000/- from the second respondent on a regular basis and whenever he was unable to make the payment the police Inspector used to create obstacles and harass him by not taking on file the complaints against many of his adversaries who created nuisance and trouble to him. One such incident was on 06.03.2018 by one Suresh, Mani, Venkatesan, Francis, David, Maridurai and others and who not only created nuisance but also threatened him of dire consequences. His complaint on 06.03.2018 was not acted upon. According to the second



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respondent, these persons who were creating trouble to him were instigated by John Selvaraj, constable (petitioner in W.P.No.17771/2022) attached to the same police station. His complaints made in the police station regarding such incidents were also not acted upon and instead the Inspector Saravanan along with Vijaya Krishna, Sub Inspector of Police had threatened his wife due to which the second respondent was perturbed and experienced intense mental trauma. On 09.03.2018, he along with his wife and two children went to the office of the Commissioner of Police and poured kerosene on themselves and tried to immolate in which his wife suffered burn injuries and had to undergo treatment in Rajiv Gandhi Hospital, Chennai. His complaint on the Inspector and Sub Inspector of abetment to commit suicide was submitted to Commissioner of Police, Chennai and subsequently, on 12.03.2018 another complaint was sent to the Tamil Nadu Chief Minister Cell, Home Secretary, Director of Police and other higher police officials which also did not evoke any response from any of these authorities. Again on 20.11.2018 another Sub Inspector by name Bhaskar spoke disrespectfully to the second respondent and on 03.01.2019, a woman



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constable by name Selvi treated him shabbily which again was reported to the Commissioner of Police on 04.01.2019. According to him, he was continuously harassed by the policemen working in Pallavaram Police Station and had to confront threats from persons who were instigated by the police on different dates like 19.07.2018, 28.12.2018, 29.12.2018 & 06.01.2019 etc. on which complaints were registered by the police but no action was taken. In such circumstances, on 17.02.2019 at about 09.00 pm when the second respondent was bringing his children to home after tuition, one Kai @ Periyadurai, Sukumar and Vicky @ Vignesh mocked at him loudly and subsequently intercepted and pushed him down from the two wheeler. They also threatened him and in the meanwhile John Selvaraj, constable had reached the spot and apprehended Kai @ Periyadurai and took him to the police booth while the other two made good their escape. The second respondent/complainant after narrating the incident to the Police Inspector on his mobile and also to the Assistant Commissioner went to Chrompet Government Hospital for first aid at about 11.00 pm in the night, gave a written complaint to the Sub Inspector Dhanasekaran in Pallavaram Police Station the same night and



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again spoke to the Inspector of Police in detail narrating the entire sequence. Followed by this on 18.02.2019 at the behest of Sub Inspector Dhanasekaran and Shanmugam, the second respondent/complainant went to the police station at about 10.00 am where his mobile phone was snatched by the Inspector of Police and the Sub Inspector Dickpal, (petitioner in W.P.No.17730 of 2022) along with constable Ponraj (petitioner in W.P.No.17616 of 2022) and John Selvaraj called the parents of Kai @ Periyadurai and instructed them to give complaint against the second respondent for misbehaving with their daughter one Priya. Immediately thereafter, he was beaten up by the three policemen and also verbally abused and threatened. He was slapped on the face by the Sub Inspector Dickpal and who also stamped him with his boots. He was further also beaten with lathi and pushed down by John Selvaraj constable who also spat on his face. His signature was forcibly obtained in an arrest warrant and the complaint which was obtained from him at 11.00 pm on 17.02.2019 was altered as 09.30 am on 18.02.2019. The complaint by the parents of Kai @ Periyadurai which was a fabricated one was shown as if it was obtained before his complaint by mentioning



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the time as 08.30 am on 18.02.2019 on it. The second respondent / complainant has also alleged that one Chelladurai, relative of the father of Priya (one Kuberan) handed over a cover containing money to the Inspector of Police stating that the money is given as agreed for foisting a false case against the second respondent. He has further alleged that this was a blatant act of Human Rights Violation by the four policemen namely Inspector Saravanan, Sub Inspector Dickpal and constables John Selvaraj and Ponraj who brought disrepute to him and his family members, physically assaulted him, verbally threatened and abused him and therefore all the four of them are liable to be punished by State Human Rights Commission.

4. The State Human Rights Commission examined the complainant as PW1 and marked Ex.P1 to Ex.P31 while on the side of the petitioners all the petitioners were examined as RW1 to RW4 and marked 39 documents.

5. After careful analysis of oral and documentary evidence adduced



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by both sides, State Human Rights Commission in its order dated 23.03.2022 found that Human Rights Violations were committed by the four policemen and therefore recommended the following :

"25.In the result, this Commission recommends as follows:

i. *The Government of Tamil Nadu shall pay a compensation of Rs.1,00,000/- (Rupees One Lakh Only) to the Complainant Thiru.P.Jayaraman, S/o.Palanisamy, residing in Door No.1/101, Periyar Nagar 2nd Street, Tirusulam, Chennai, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover Rs.50,000/- from the 1st respondent and Rs.30,000/- from the 2nd respondent and Rs.10,000/- each from the respondents 3 & 4 as per the Rules.*

ii. *This Commission also recommends to initiate disciplinary action against the respondent as per the Rules"*

6.The State Human Rights Commission had primarily relied upon the correction carried out in the copy of the complaint (Ex.R38) by the second respondent to the Inspector of Police on



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18.02.2019 regarding the incident which reportedly occurred on 17.02.2019 when he was intercepted by Periyadurai and others at about 09.45 pm. According to State Human Rights Commission, this correction carried out in the original complaint given by the second respondent was only to suit the needs of the policemen to show that the complaint was made on 18.02.2019 and not on 17.02.2019 arousing suspicion as to the intentions of the policemen. Another important aspect highlighted by State Human Rights Commission was the time of the reported incident in the complaint made by one Priya sister of Kai @ Periyadurai. In her complaint dated 18.02.2019 she had alleged that the second respondent / complainant had misbehaved with her at 10.00 pm on 17.02.2019. This also was not convincing as according to the deposition of John Selvaraj / RW3 (petitioner in W.P.No.17771/2022) he had taken both second respondent and Kai @ Periyadurai to the police station immediately after the incident at 09.45 pm and therefore the alleged incident of harassing Priya at 10.00 pm on the same day is absolutely not



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possible and therefore the complaint of Priya itself was a concocted one. The arrest card shows that the Sub Inspector Dhanasekaran had arrested the complainant/second respondent near his house at 10.30 am on 18.02.2019 when he was very much available in the police station for enquiry at 10.00 am in the morning of 18.02.2019. This also did not go well with the State Human Rights Commission. These infirmities were highlighted in the report and the State Human Rights Commission concluded that all the four writ petitioners had violated human rights by foisting a false case against the 2nd respondent and physically assaulting him in a ruthless manner.

7. Heard Mr.R.Balachandar, learned counsel appearing for the petitioner in W.P.Nos.17616, 17730 & 17771 of 2022, Mr.A.Saravanan, learned counsel appearing for the petitioner in W.P.No.18201 of 2022, Mr.S.Wilson, learned counsel appearing for the first respondent and MR.P.Gurunathan, learned Additional Government Pleader appearing for



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8.The learned counsel for the writ petitioners contended that the antecedents of the second respondent/complainant clearly shows that he used to conduct Kangaroo Courts and had the dubious distinction of number of criminal cases against him. It was also contended that he was very notorious in the locality and there were earlier instances of land dispute, usage of abusive and filthy language, harassment of women and some sort of controlling the area where he was residing. There also appears to be a running feud with some persons in the locality and therefore the allegations of Human Rights Violations have to be taken with a pinch of salt, it was contended. The Learned Counsel also highlighted on to the various criminal cases in which compromises were arrived at during the trial and also some of them pending in the trial stage. According to the counsel, the second respondent also knew the technique of arm twisting the policemen and make them budge to his illegal demands and one such incident was by resorting to the act of attempted suicide. Moreover, it was contended that the element of human



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rights violations could not be established by the second respondent and alterations / corrections in the complaint or inconsistencies in the time mentioned in the police records cannot be considered as conclusive proof of human rights violations. According to him, the State Human Rights Commission erred in such a hasty conclusion when there was no medical records of any injuries caused to the second respondent / complainant as alleged by him during his detention in the police station. Therefore, these petitions deserve to be allowed on merits it was contended.

9.Per contra learned counsel for the second respondent contended that the second respondent has always been at the receiving end and none of his complaints against the inaction of the police was responded to by any of the higher police officials and that the suicide bid by his family was not a drama but out of immense mental agony and desperation. According to him, the local police expected him to share his income with them on a regular basis irrespective of whether he is in a position to earn adequately to share. According to him, this was the root cause for the grudge they carried against him and it went out of hand and



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his family was also unnecessarily dragged into the controversy. He also highlighted as to the number of complaints made by him against many hooligans who were bent upon disturbing his peaceful living in the locality.

10. After careful analysis of the order of the State Human Rights Commission and the related documents on which the State Human Rights Commission relied upon, it is clear that there were unanswered questions as to how that the said Priya claimed that the second respondent misbehaved with her on 17/02/2019 at 10 pm when another incident had taken place at 9.45 pm the same day involving her brother Kai @ Periyadurai and both of them were taken to the police station by the third petitioner, John Selvaraj. But it is to be noted that the complaint by the second respondent mentions that only Kai @ Periyadurai was taken to the police station and not the second respondent. Similarly, the arrest card of the second respondent (in the complaint made by the said Priya) it is mentioned as "arrested near his house at 10.30 am on 18.02.2019". This is also another blunder creating doubt as to his arrest. Moreover, the



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arrest was not made by the petitioners. Notwithstanding all these discrepancies the fact which is to be determined whether there was any human rights violation. The second respondent claimed that he was slapped and spat on his face. He was also stamped using the boots. Thereafter, he was beaten up with a lathi. If these things had happened there would have been visible injuries on his body when he was remanded and he would have also narrated the ordeal to the Magistrate. But the remand report states that he has no complaint against the police. Moreover, he also did not take any medical aid for the injuries, if any, inflicted on him. This shows that he did not suffer any injuries and therefore, the version of the second respondent appears to be untrue. Had there been a brutal assault on him he would have suffered bodily injuries requiring medical treatment. The second respondent was not a novice in these matters involving police. He had the courage to protest in the Commissioner's office by trying to immolate himself and his family against the in-action by police. Therefore, had there been any physical torture by the police he would have told the Magistrate about the same.



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11. Secondly, the State Human Rights Commission had contended that the said Priya's complaint was a concocted one. Why she was not instructed to depose in the commission to clarify the doubt in the mind of State Human Rights Commission is also not known. She ought to have been summoned by the SHRC as a witness to clarify the doubt.

12. Thirdly, the antecedents of the second respondent show him in bad light. There have been complaints and counter complaint in many incidents involving him. He has had land dispute. He had sour relationship with his neighbours. He had literally behaved like a Dada in his locality trying to command respect by inducing fear. With so many criminal cases against him and antisocial elements frequenting his house posing threats to him, are all not indicative of any peaceful living. Whether there was any dispute with the police or the police were vindictive against him are all matters which cannot be determined with the facts presented before SHRC. Whether there was a use of force by the police has not been substantiated by the second respondent. The State Human Rights Commission appears to have decided that there were



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human rights violations in haste. The order of the SHRC is perverse.

13. In the result, all the Writ Petitions are allowed. The order of State Human Rights Commission is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

(V.M.V.,J.) (R.H.,J.)

10.01.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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To
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Chennai - 600 014.

2.The Secretary to Government,
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