



W.P.No.27072 of 2022
and W.M.P. No.26288 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.27072 of 2022
&
W.M.P. No.26288 of 2022

1. P. Rajasekaran
2. S. Ashokan

...Petitioners

Vs.

1. The Registrar
State Human Rights Commission
No.143, PS Kumarasamy Raja Salai,
Greenways Road, Chennai 600 028.

2. C. Chandrasekaran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in SHRC Case No.1209 of 2020 dated 12.05.2022 on the file of the 1st respondent and quash the same.

For Petitioners	:	Mr. A. Sundaravadhanam
For R1	:	Mr. David Sundar Singh



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ORDER

(R.HEMALATHA, J.)

The two petitioners are policemen and have challenged the orders dated 12.05.2022 of State Human Rights Commission in Case No.1209 of 2020.

2. The first petitioner was the head constable in Erode Taluk, Police Station where the second petitioner was a Sub Inspector. The complainant C.Chandrasekaran (second respondent herein) is a resident of Pichandampalayam Village in Erode District and is a differently abled person. It is alleged that he had a dispute involving money with one Pavathal, her brother Chinnasamy and one Gopalakrishnan. On 02.01.2019 at about 03.00 pm when the second respondent was riding his two wheeler proceeding from Mettukadai to his residence, Chinnasamy and his mother Thulasi Ammal who were on another two wheeler intercepted the second respondent near Moolakarai bus stop. The said Chinnasamy kicked the complainant/second respondent's vehicle making him fall down along with



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the vehicle and subsequently, both Chinnasamy and Thulasi Ammal attacked him with an iron rod due to which the second respondent became unconscious. The onlookers who were there shifted him to Perundurai Government Hospital where he was treated as an in-patient and subsequently, shifted to Erode Government Hospital for further treatment. The first petitioner on getting information from the Perundurai Government Hospital, went there and recorded the statement of the complainant / second respondent about the incident. On the very next day, ie. on 03.01.2019, the second respondent / complainant himself went to the police station and lodged a complaint for which CSR.No.4/2019 was given. However, according to the complainant, he was an in-patient in Government Hospital, Perundurai from 02.01.2019 to 07.01.2019 and thereafter, referred to Government Hospital, Erode where he was admitted as an in-patient on 07.01.2019 and discharged on 09.01.2019. The case of the second respondent was that since no action was taken by the petitioners on his complaint he again visited the police station on 12.02.2019 and only then an FIR was registered in Cr.No.96/2019 under



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sections 341, 323 & 324 IPC against the two accused persons. The second petitioner who took up investigation recorded the statement of victim and filed the final report before the Judicial Magistrate, Perundurai on 18.05.2019 for the offences under Sections 341, 323 & 324 IPC in CC.No.992/2019.

3. The aggrieved second respondent made a complaint before State Human Rights Commission, Chennai, for the inordinate delay in filing FIR and final report and also diluting the nature of offences especially when the complainant was treated as an in-patient for about a week. The second respondent was also aggrieved over the fact that despite the first petitioner visiting him in hospital in Perundurai and recording his statement, he did not take steps to register FIR. The CSR No.4/2019 itself was registered only after receiving his written complaint on 03.01.2019 and that too in the police station.

4. The petitioners had disputed this allegation by stating that



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there was no further criminal proceedings only at the request of the second respondent since the second respondent had entered in to a compromise with his assailants. However, the State Human Rights Commission observed that the delay of 40 days in registering FIR in itself proves that the petitioners had failed to perform their duties in accordance with law which tantamount to human rights violations. The State Human Rights Commission also made the following recommendations:

"The Government of Tamil Nadu shall pay a compensation of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the complainant Thiru.C.Chandrasekaran, S/o. Chinnappan, residing in Door No.2/24, Pichandampalayam Village, Perundurai Via, Erode District, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover Rs.12,500/- each from the respondents 1 & 2."

5. Challenging the same, the present writ petition is filed.

6. Mr.A. Sundaravadhanam, learned counsel appearing for the petitioners submitted that they had acted immediately on receipt of the



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complaint on 03.01.2019 itself and CSR also was given followed by registration of FIR on 12.02.2019. According to him, though there is a delay in registering FIR, it was only due to the fact that the second respondent/complainant himself indicated a compromise settlement with the assailants. It was also argued that the element of human right violation is not at all there in the present case and if at all there was a delay in registering FIR it was only due to administrative reasons and it was the second respondent who has blown it out of proportion. Furthermore, it was argued that the sections under which the FIR was registered are commensurate with the nature of injuries inflicted upon the complainant as could be evidenced from the medical record and also from the statement of the Doctor who attended to the second respondent. It was also his contention that the functioning of the police force would be greatly affected if such cases are declared as human rights violations.

7. There was no representation for the second respondent/complainant though notice was served on him and his name



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was printed in the cause list. However, going by the earlier contentions before State Human Rights Commission it is the grievance of the second respondent that even though he was physically assaulted by the assailants and there were witnesses to the incident, the petitioners did not register FIR promptly and it was only after the second respondent's complaint to the higher police officials things started moving and therefore, he was discriminated against by the police by not responding to his complaint.

8. In the proceedings before the State Human Rights Commission it appears that both sides did not adduce any oral/documentary evidence. The State Human Rights Commission had to rely only upon the arguments and the materials on record. While the petitioners did not produce copy of the CSR 4/2019, the second respondent could not produce any evidence to substantiate his contention that the criminal case was filed for lesser offences with the intention of helping of assailants. Both the parties before the State Human Rights Commission could not strongly substantiate their respective contentions.



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The medical records and also the statement of the Doctor clearly show that the nature of injuries sustained by the second respondent is simple and therefore the allegation of the second respondent regarding the petitioners diluting the seriousness of the offences stands disproved. The second respondent has also claimed that he was assaulted with iron rods by both the accused. In such circumstances, the only glaring deficiency is the delay in registering the FIR which cannot be construed as human rights violations especially in the absence of any bias or influence or pressure as alleged by the second respondent. Therefore, the findings and the recommendations of State Human Rights Commission smacks of perversity and is liable to be set aside.

9. In the result, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed. The order of State Human Rights Commission in SHRC Case No.1209 of 2020 dated 12.05.2022 is set aside.



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(V.M.V.,J.) (R.H.,J.)
23.01.2023

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

To
The Registrar
State Human Rights Commission
No.143, PS Kumarasamy Raja Salai,
Greenways Road, Chennai 600 028.



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