



W.P.No.30477 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 05.10.2023
Order delivered on 01.11.2023

CORAM

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

W.P.No.30477 of 2022
and
W.M.P.No. 29909 of 2022

1. Thooyamani Vellaisamy
S/o Athimoolam.

2 G.Manivannan
S/o Gopalakrishnan

3. R.Anandakumar
S/o Rajagopal

.... Petitioners

vs

1. The State of Tamil Nadu,
rep. by its Additional Chief Secretary to
Government, Home Department,
Fort St.George,
Chennai - 600 009.

2. The State Human Rights Commission,
rep. by its Registrar (Law),
Thiruvaramangam,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai - 600 028.



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3. R.Rameshkumar,
S/o K.Ranganathan

...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 passed by the 2nd respondent in SHRC.Case No.11726 of 2019 dated 31.05.2022 and quash the same.

For Petitioners : Mr.A.Mohamed Ismail

For Respondents : Mr.Abisekmoorthy,
Government Advocate for R1
Mr.S.Karthikeyan for R2
No appearance for R3

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This Writ Petition has been filed challenging the order dated 31.05.2022 passed by the 2nd respondent/State Human Rights Commission, by which, the Government was directed to pay a sum of Rs.1,00,000/- to the 3rd respondent herein, within a month and to recover Rs.25,000/- each from 1st and 2nd petitioners herein and Rs.50,000/- from the 3rd petitioner herein, as per the rules.

2. The case of the petitioners is that the 1st petitioner is presently working as Inspector of Police, Chenglepet Railway Police Station, Chenglepet District. The 2nd petitioner is presently working as Inspector of Police, Minisal Police Station, Pudukottai District. The 3rd petitioner is presently



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working the Sub-Inspector of Police, Sirumugai Police Station, Coimbatore District. When the 1st petitioner was working as Inspector of Police, Madukarai Police Station, Coimbatore District, the 2nd petitioner was working as Inspector of Police, Vadavalli Police Station, Coimbatore District and the 3rd petitioner was working as Sub-Inspector of Police, K.K.Chavvadi Police Station, Coimbatore District, the 3rd respondent preferred a complaint with the 1st respondent dated 13.11.2019 alleging that he was harassed and unlawfully detained by the petitioners. The 2nd respondent Commission had taken up the complaint in SHRC No.11726 of 2019 and pursuant to the said complaint as per the directions of the Superintendent of Police, Coimbatore, the Deputy Superintendent of Police Perur, Coimbatore District, conducted an enquiry and submitted a report in C.No.18/SHRC/SDO-Perur dated Nil.09.2020 wherein it was observed that the 3rd respondent was not abducted or kidnapped and the complaint appears to be false. The 2nd respondent conducted further enquiry and passed the impugned order. Hence, the present writ petition.

3. (i) Learned counsel for the petitioners would submit that the 2nd respondent had proceeded on presumptions rather than proven facts. The 2nd respondent Commission had taken on record, the report filed by the



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Superintendent of Police, Coimbatore and had erroneously come to a conclusion that the report admits human rights violation. However, it was contrary to the report which concludes that there was no human rights violation. Thus, the 2nd respondent Commission has misconceived the report. It was also established and accepted in the report of the Superintendent of Police that the petitioners had enquired the 3rd respondent based on the instructions of the senior Officials and it is the duty of the petitioner to act according to the direction of their superiors. Therefore, having found that the petitioners had acted upon the instructions of the superiors, the petitioners cannot be found fault with. It is alleged that the 3rd respondent was enquired even without a registration of an FIR. It was pleaded before the 2nd respondent that they were under the impression that the complaint would have been received against the 3rd respondent by the Higher Officials and on such instructions of the higher officials, the petitioners had to enquire the 3rd respondent.

(ii) Learned counsel for the petitioners would further submit that the 2nd respondent has not considered the contention of the petitioners that only based on the request of the 3rd respondent to enquire in some other place rather than his house as it would spoil his image, he was taken from his house.



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Therefore, there was no violation of human rights. He would further submit that the petitioners had discharged their duty in good faith and any action done while discharging the duty in good faith cannot be termed as illegal when no sort of excess or misuse of powers is alleged and established. The action of the petitioners in good faith cannot constitute an act that deprives or violates the human rights of the 3rd respondent. Hence, the learned counsel would submit that the order of the 2nd respondent is liable to be set aside.

4. Per contra, the learned counsel appearing for the 2nd respondent would state that the complainant/3rd respondent herein is a Law student, studying final year in the Government Law College at Coimbatore. He has sought for some information regarding solid waste management through RTI Act from Thirumalainpalayam Town Panchayat on 25.10.2019. According to the 3rd respondent/complainant, the Executive Officer of the said panchayat, Felix informed the same to Manikandan, driver of the said Panchayat and the said Manikandan called the 3rd respondent through cell phone on 06.11.2019 and threatened him not to ask any information from the said panchayat. He also went to the house of the 3rd respondent and threatened his father. Therefore, the 3rd respondent gave a complaint on 08.11.2019 before the District Collector and Sub-Inspector of Police, K.K.Chavadi Police Station. It



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is alleged that the petitioners herein went to the house of the 3rd respondent during night hours at 2.00 a.m. and took him to a distance of 800 metres from his house and threatened him under the guise of enquiry and asked him to appear before DSP on 12.11.2019 at 11.00 a.m. When he went to the office of DSP on 12.11.2019 at 11.00 a.m., DSP was not there. Learned counsel would further state that the 3rd respondent is a social activist and aged about 30 years. He has no bad antecedents. No FIR has been registered against him. Therefore, there is no necessity for the petitioners to go to the house of the 3rd respondent during night hours at 2.00 a.m. and take him to some other place and conduct enquiry without any reason. He was tortured and humiliated by the petitioners. Thus, the behaviour of the petitioners amounts to violation of human rights. Hence, he would pray to dismiss the writ petition confirming the order passed by the 2nd respondent.

5. We have considered the submissions made on either side and perused the materials available on record.

6. The main allegation against these petitioners is that they have tortured the 3rd respondent under the guise of enquiry by taking him 800 meters away from his house during night hours i.e., at 2.00 a.m. on 12.11.2019. However, it was denied by the petitioners/police officials stating



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that when they went to the complainant house to conduct enquiry, only on his request to enquire him in some other place, in order to avoid, spoiling his image, they took him away from his house.

7. It is pertinent to note that the complainant/3rd respondent herein is a final year Law student of Government Law College, Coimbatore. He filed an application under the RTI Act 2005 asking some details regarding solid waste management from Thirumalainpalayam Town Panchayat. The same was received by the Public Information Officer of the said Panchayat. In spite of giving information, the Executive Officer of the said panchayat by name, Felix, informed the same to one Manikandan, who was working as temporary driver in the said panchayat. He called the 3rd respondent through cell phone on 06.11.2019 and threatened him, not to ask for any information from the said panchayat and he also came to the house of the 3rd respondent and picked up quarrel with the 3rd respondent's father Ranganathan. Therefore, the 3rd respondent filed a complaint on 08.11.2019 to the District Collector, Superintendent of Police, Coimbatore and also to the Sub-Inspector of Police, K.K.Chavadi PS.

8. From the report filed by the Superintendent of Police dated 12.10.2020, it is seen that these petitioners went to the house of the



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complainant during night time and conducted enquiry. It is specifically not mentioned about the time of visit to the house of the complainant/3rd respondent. However, the 3rd petitioner herein had specifically denied the allegation that the 3rd respondent lodged a complaint to the police station to take action against Manivannan and others. If there is no complaint, there is no necessity for the petitioners to go to the house of the complainant to conduct enquiry. Further, the 3rd petitioner had categorically denied the complaint of the 3rd respondent/complainant through online to C.M.Cell dated 11.11.2019. The Enquiry officer had not specifically conducted any enquiry with the Executive Officer or the Public Information Officer of the said panchayat on the complaint sent to the Superintendent of Police, Coimbatore. No notice was sent to the 3rd respondent or to the officers concerned. No case was registered on the complaint given by the 3rd respondent and not even treated the complaint as CSR. The police officers had stated that only based on the instructions given by the higher officials, they conducted enquiry, but no proper explanation was given in the report filed by the Superintendent of Police with regard to the enquiry conducted by the police officers with the 3rd respondent/complainant on the instructions given by the higher officials.

9. It is not in dispute that the complainant is a social activist and he was



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not an accused and he had no bad antecedents. As per the report of the Superintendent of Police, Coimbatore, the complainant had sought information regarding solid waste management. Without taking action on the complaint, the petitioners/police officials went to the house of the complainant/3rd respondent and tortured him as alleged in the complaint and the same is not disproved by the petitioners. There is no necessity for these petitioners to go to the house of the 3rd respondent and conduct enquiry during night hours without any reason.

10. In view of the above, we are of the view that the action on the part of the respondents amounts to violation of human rights of the 3rd respondent/complainant. We find no infirmity or illegality in the order passed by the 2nd respondent/State Human Rights Commission. Therefore, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
01.11.2023

vsi
Index : Yes / No
Internet : Yes / No
Neutral citation : Yes / No

To



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Government, Home Department,
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2. The Registrar (Law), Thiruvarangam,
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