



W.P.No.32970 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved On : 14.03.2023

Pronounced On : .04.2023

CORAM:

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

and

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

W.P.No.32970 of 2022
and W.M.P.Nos.32367 & 32368 of 2022

1.V.Balamurugan

2.T.Veera Ganesh

...Petitioners.

Vs.

1.The Registrar

Honourable State Human Rights Commission - Tamil Nadu
No.143.P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai - 600 028.

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

3.Sankaran

4.A.Jayaseelan

...Respondents.



W.P.No.32970 of 2022

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating to the impugned order dated 19.09.2022 made in SHRC No.421 of 2014 on the file of the 1st respondent.

For Petitioners : Mr.R.Sreerangan
For R1 : Mr.A.Thiyagarajan
For R2 : Mr.P.Gurunathan
Additional Government Pleader
For R3 : Mr.Sankaran, Party-in-person
For R4 : Mr. A.Jayaseelan

ORDER

(Order of the Court was delivered by V.LAKSHMINARAYANAN,J.)

This writ petition has been filed by one V.Balamurugan who is serving as the Inspector of Police and by one T.Veera Ganesh who is serving as the grade - 1 constable in the Manur police station.

2.The relief sought for in this writ petition is to call for the records on the file of the first respondent in SHRC No.421 of 2014 dated 19.09.2022 and quash the same as illegal and incompetent and without jurisdiction. SHRC No.421 of 2014 came to be taken on file pursuant to the complaint



W.P.No.32970 of 2022

lodge by one Sankaran @ Solomon and his son-in-law A.Jayaseelan. They have been arrayed as respondent Nos.3 & 4 to this writ petition.

3.The brief facts leading to the order passed by the SHRC, are that the respondent Nos.3 & 4 gave a complaint on 29.01.2014 against the writ petitioners who were working at the Manur Police Station. There is a family dispute between 3rd respondent and his brother one Muthan and his children. The 3rd respondent is living with his last daughter. The complaint further alleged that the brother Muthan used to accuse him that he does not have any male children and is having only six female children, out of which two of them are partially blind. The 3rd respondent alleged that despite several complaints being given to the police, they did not take any action. The details of the complaints are set forth below:-

(i) On 11.01.2012 petition was sent through email ID.

(ii) On 12.01.2012 the 4th respondent contacted the Inspector of Police through his cell phone about murder threat call received in his phone against which a C.S.R.No.14/2012 was issued.

(ii). On 09.04.2012 and 04.05.2012, 4th respondent has sent petitions to the Superintendent of Police, Tirunelveli through speed post directly.

Apart from the above, the 3rd respondent also has sent the following six petitions to various officials:



W.P.No.32970 of 2022

(i) *On 02.05.2012 a petition to the S.I. of Police, Manur directly,*

(ii) *On 04.05.2012 a petition to the District Superintendent of Police and Govt. Higher Officials.,*

(iii) *On 05.04.2012 a petition to the District Superintendent of Police and Govt. Higher Officials and the Registrar, Madurai Bench of Madras High Court.*

(iv) *On 20.07.2013 a petition to the Sub-Inspector of Police, Manur, directly,*

(v) *On 24.07.2013 a petition to the District Superintendent of Police and Govt. higher officials through email ID arulsaral40@gmail.com, and*

(vi) *On 05.10.2013 a petition to the District Superintendent of Police and other Senior Govt. officials directly.*

4. According to the 4th respondent, he used to receive threatening phone on his mobile. Further, a false complaint was prepared by Muthan and his family as if the 3rd & 4th respondents, and the daughters of 3rd respondent had assaulted his sister Mrs. Lakshmi and gave her a life threat. On the basis of this complaint lodged, the Manur Police had registered F.I.R., for which anticipatory bail was granted by the Madurai Bench of this Court.

5. The third respondent has further alleged that his brother Muthan is not permitting to carry on his work peacefully and is continuously



threatening him. It is the wish of his brother Muthan , that the 3rd respondent transfers his property in former's favour and since the third respondent is refusing to transfer the property, there has been repeated hindrances to his peaceful possession of the same at the instance of Muthan.

6.It is also the case of the 3rd respondent that he had approached the Tahsildar, Tirunelveli and had asked him to mark the boundary of his property. The Tahsildar deputed one Ganesh Kumar and former surveyor one Subramanian to demarcate the property and mark the boundaries. The 3rd respondent made allegations against Ganesh Kumar also. According to him, Ganesh Kumar supported Muthan and therefore, he approached the Tahsildar to change the Deputy Tahsildar responsible for the survey. Despite this assurance on 20.07.2013, the Ganesh Kumar came over to the site and was accompanied by Muthan's Son. The Deputy Tahsildar and Muthan's son threatened the 3rd respondent to transfer the property to his brother and sons and that in case, he did not do so, he will face dire consequences.

7.The 3rd respondent further complained that he immediately approached the police and lodged a complaint against the Deputy Tahsildar, his brother and his nephew. As no action was taken by the police on his complaint against the Deputy Tahsildar, he approached the Chief Minister's



W.P.No.32970 of 2022

Special Cell and other Senior Officers through email. On 04.10.2013, based on the complaint given to the Chief Minister's special cell, the police summoned the 3rd respondent for enquiry to the police station. The enquiry officer was the inspector of police and the station writer was Tr.Veera Ganesh, the writ petitioner herein.

8. According to the 3rd respondent, the police did not treat the letter to the Chief Minister's Special Cell with the seriousness it deserved. He further alleged that they were abused with bad words and it was stated as if the petitioners had held out that even if they go to any higher authority, the complaint would still have to come to them and therefore, they warned the 3rd respondent.

9. The 3rd respondent immediately met the Superintendent of Police, Tirunelveli and requested him to change the Investigating Officer. Acceding to the request, the Superintendent of Police, Tirunelveli directed the Deputy Superintendent of Police, Thazhaiyoothu to investigate the matter. But the Deputy Superintendent of Police did not investigate into the matter. The 3rd respondent stated that on 19.01.2014, while he was working on his field, the second respondent before the human rights commission and the second petitioner in this writ petition came on a motorcycle and took him to the



W.P.No.32970 of 2022

police station. He alleged that the police took his signature on a petition the contents of which he was not aware of. Thereafter his son in law, the 4th respondent came to the police station and read the same over and understood what was written therein. The main grievance of the 3rd and 4th respondents is that the police are supporting his brother Muthan and therefore, on these aforesaid facts he requested the first respondent to initiate action against the writ petitioners and Tr.Vellaiyan, the Special Sub Inspector of Police.

10.On receipt of the complaint, the human rights commission sent summons to the writ petitioners and Mr.Vellaiyan. The writ petitioners alone filed a common counter and denied the charges against them. Their specific case is that there is a dispute between the 3rd and the 4th respondents on one hand and his brother and his children on the other. The dispute relates to utilization of the property. Due to this dispute, it fell out to the complaint given by the sister of Muthan and the 3rd respondent to the Police. A case had been registered in Crime No.36 of 2012 under Section 147, 294 (b), 323, 352 and 506 (i) of the IPC read with Section 4 of the Tamil Nadu Protection of Women against Atrocities Act. They also stated that Thiru. Muthan had given a petition to RDO and the RDO in turn directed Tahsildar and Deputy Tahsildar to enquire into the matter after causing a spot inspection. The RDO



W.P.No.32970 of 2022

had advised both the parties that they should abide by his order. This was not acceptable to the Respondent Nos.3 and 4. There being a simmering dispute between Muthan and his sons on one hand and 3rd and 4th respondents on the other, a case was registered by the police in Cr.Nos.394 & 396 of 2013 under Section 107 of Cr.PC. Aggrieved over the same, the present complaint had been lodged.

11.The writ petitioners further alleged before the first respondent that a joint purchase of an extent of 2 Acres and 82 Cents were made by Muthan and the 3rd respondent. The property was equally divided and each of the brothers got 1 acre and 41 cents. During updating of the record proceedings by the revenue department, patta was issued in the name of the 3rd respondent including the land which fell to the share of Muthan. When Muthan started to rectify the same, disputes started arising between the 3rd respondent and his brother.

12.The first petitioner particularly pointed out that all the complaints dated 11.01.2012, 12.01.2012, 09.04.2012 and 04.05.2012, belong to period prior to him taking charge of the police station and at that time some other Officer was in charge. He further pointed out that the Special Sub-Inspector and Grade 1 constable, i.e., the respondent Nos.2 & 3 before the first



W.P.No.32970 of 2022

respondent/petitioner herein, were not in charge of the Police Station.

According to him, the Inspector of Police in charge at that time was Tr.Muthusubramanian. After him, the Inspector of Police was Tr.Sankareswaran. Tr.Muthusubramanian had enquired into the complaint lodged on 12.01.2012 and issued in CSR No.14/2012. Finding that it is a civil dispute, the same was closed.

13. Similarly, the petition dated 11.01.2012 was inquired by Tr.Sankareswaran and it was closed on 21.02.2012 with a direction that the parties approached the Revenue Department for resolution of the dispute. The complaint dated 09.04.2012 was also enquired by Tr.Sankareswaran and was closed on 20.04.2012. Finally the complaint dated 04.05.2012 was enquired by the then Inspector of Police on 11.05.2012 and closed. He alleged that at all points of time, the police officials had enquired into the complaints given by the respondent Nos.3 and 4 and the said complaints were closed, as there was no co-operation from Respondent Nos.3 & 4.

14. The complaint dated 04.05.2012 sent to the higher officials was also enquired into by Tr.Sankareswaran on 11.05.2012 and closed as an exaggerated complaint. According to them, the cause of action for giving a complaint before the first respondent was that the police did not register any



case against the Deputy Tahsildar and Muthan. They would allege that the aforesaid circumstances would show that the repeated complaints were to some how or the other rope-in Mr.Muthan in a Criminal complaint. They further stated that the complaints were not valid and since the police refused to register a complaint against Muthan as the complaints did not make out a cognizable offence, the 3rd and the 4th respondents have lodged the complaint with the 1st respondent. After receiving the counter, the first respondent framed the following issues:-

18. POINT FOR CONSIDERATION:

- (1) Whether the Respondents have violated the human rights of the petitioners?*
- (2) If so, what compensation the petitioners are entitled to?*

15. Before the Commission, the 3rd and the 4th respondents examined themselves as PW1 and PW2 and the daughter of the 3rd respondent one Tmt.Kovil Mani was examined as PW3. They produced six documents before the authorities which were marked as Ex.P1 to Ex.P6. The writ petitioners examined themselves as R.W.1 & R.W.2. They produced 11 documents to substantiate their case. On going through the statement of P.W.3, the commission held that the human rights of the complainants were violated and



W.P.No.32970 of 2022

that since there were contradictory statements in the cross-examination and written arguments of the writ petitioners, it recommended a sum of Rs.2,00,000/- be paid as compensation by the Government to the respondent Nos.3 & 4 and recover the same from the writ petitioners. It did not pass any orders as against the second respondent before it.

16. At the outset it has to be pointed out that respondent Nos.3 & 4 have not challenged the dismissal of the complaint against Tr.Vellaiyan who is supposed to have violated their human rights. This writ petition is confined only to the respondent Nos.1 and 3 before the Commission.

17. The narration of the aforesaid facts would go to show that the two brothers Sankaran @ Solomon, the 3rd respondent and Muthan are having a dispute with respect to the property measuring 2 Acres and 82 cents. They have approached all the authorities concerned, from the police through the Revenue Authorities, right up to the Chief Minister's Special Cell for the purpose of resolution of this dispute. As rightly pointed out by the Tribunal, the case is one which is civil in nature. The first respondent also rightly came to the conclusion that the police are not supposed to interfere in a civil dispute. We may add that the police should not interfere in a civil dispute but should refer the complaint and the alleged accused in all such cases to the



W.P.No.32970 of 2022

regularly constituted Civil Courts existing in Tirunelveli. If there is a dispute between the 3rd and the 4th respondents with Muthan and others, it is always open to them to present a civil suit for resolution of their dispute. Be that as it may, it was the third respondent who had given a complaint to the Tahsildar and Revenue Divisional Officer to demarcate the property and lay the boundary stones. It was pursuant to the complaint given by the 3rd respondent that the Tahsildar had deputed one Ganesh Kumar, the then Deputy Tahsildar to go over to the land, survey it and do the needful. The Commission also gave a finding that the said Deputy Tahsildar found at the time of Updating Register Scheme (UDR), patta had been granted in the name of Sankaran @ Solomon instead of being granted separately in the names of Sankaran @ Solomon and Muthan. This finding too had not been challenged by the Respondent Nos.3 & 4 before us. When there is property dispute and an official had been deputed to resolve the same, it appears to us that since the *prima facie* finding of Tr.Ganesh Kumar, the Deputy Tahsildar was not to the liking of respondent Nos.3 & 4, they lodged a complaint with the police against the Deputy Tahsildar and Muthan.

18. Prior to this complaint, as seen from above, the complaints dated 11.01.2012, 09.04.2012 & 04.05.2012 given to the Inspector of Police were

12/18



W.P.No.32970 of 2022

all closed as civil in nature. If the 3rd and 4th respondents were aggrieved over the closure of their repeated complaints, their solution would have seen to approach the jurisdictional Judicial Magistrate by way of a private complaint under Section 200 of Cr.P.C. Instead of doing so, they gave a complaint to the higher police officials. The said complaint was also enquired into and closed on 11.05.2012. That too became final. To expect the police to take one side or the other in a civil dispute, is to confer the power of resolving a civil dispute on a police official which we are afraid they do not possess.

19. Having not been able to succeed in any of their complaints, the respondent Nos.3 & 4 wanted to book the Deputy Tahsildar and Muthan in their fresh complaint. The Deputy Tahsildar had on the directions of the Tahsildar, went over to the field for the purpose of demarcating and laying the stones. That is an official act done in the course of his official duties. Sadly, the 3rd respondent found fault with this and lodged the complaint. If the police had registered this complaint, it would have been a travesty of justice. They would have proceeded against a person who was performing his official duties in the course of his office. The police did not rightly register a complaint against the Deputy Tahsildar and Muthan.



W.P.No.32970 of 2022

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20.One aspect to be pointed out is due to the simmering dispute, one side or the other were repeatedly lodging complaints against the other. In their wisdom, the Officials registered two complaints under Section 107 of the Cr.P.C. This registration was also not challenged before the Competent Court but on the registration of this complaint, the respondent Nos.3 & 4 approached the Human Rights Commission.

21.We have gone through the Protection of Human Rights Act of 1993 and do not find any provision which enables the Human Rights Commission to proceed against Police Officials for registering a complaint under Section 107 of Cr.P.C. To find fault for registering a complaint in this case, goes beyond the jurisdiction of the Commission and therefore, we are not in agreement with it.

22. This Court has already held in several cases that it is the duty of the Commission while exercising the power of a Civil Court, to apply the test of preponderance of the probabilities and not go by *ipse-dixit* of the complainants. A recommendation to the State Government has serious consequences not only financially but also departmentally. There can be no doubt that in appropriate cases, the Commission has power to quantify the damage and impose it on the erring officials. In this particular case, by a



W.P.No.32970 of 2022

single sentence, the Commission has come to a conclusion of guilt, which is

extracted below:-

“Considering the eyewitness and statement of PW3, it is clear that the respondents have violated the human rights of the complainant while he was working in his field.”

23.This sentence concludes that the human rights of the Respondent Nos.3 and 4 have been violated. It has to be pointed out that P.W.3 is the daughter of the 3rd respondent, who had been examined on the side of the respondents. She is an interested witness. A reading of her statement shows that she has been *more loyal than the king*. She has added to her deposition matters that had not been alleged even by the respondent Nos.3 & 4. No other independent witnesses have been examined to substantiate the statements of the PW3. There are circumstances where only interested witness alone will be available, but this is not such a case.

24.According to the respondent Nos.3 & 4, the incident took place during the day. It was alleged that Sankaran was taken on a motorcycle by Respondent Nos.2 & 3. The Commission which has exonerated the second respondent before it, could not have inducted the 3rd respondent who is the second writ petitioner herein. As to what are the contradictory statements, there has been no explanation in the order.



W.P.No.32970 of 2022

25. Apart from these aspects, it is clear from the evidence of PW1 that the respondents 3 & 4 were called to the police station for the purpose of serving the summons issued by the Revenue Divisional Officer. This act cannot be found as violation of human rights because it is the duty of a Police Officer to serve the summons.

26. The order fixing the liability and quantifying the compensation should be a reasoned one. How much ever effort we put in to read the order, apart from the aforesaid paragraphs, we do not find any reasoning as to what were the human rights which were violated and how commission came to a conclusion that they were violated. A reason, as it is said repeatedly, is the heart beat of the order. In this case, lack of reasons vitiates the impugned order.

27. The respondent Nos.3 & 4 for reasons best known to them had not lodged any complaint against Tr.Muthusubramanian or Mr. Sanakereswaran. We would further hold that police did not rightly lodged a complaint against the Deputy Tahsildar, who had come to the site, on the directions of the Tahsildar, who had directed the former to go over to the site, on the basis of the complaints lodged by the 3rd respondent and Muthan.



W.P.No.32970 of 2022

28. We have independently, assessed the evidence and do not find any violation of human rights. On the contrary, our finding is that a civil dispute is sought to be given a criminal colour and when this ruse did not satisfy the police, a human rights complaint had been lodged with the first respondent. It is unfortunate that the first respondent did not analyse the evidence of PW1, PW2, RW1 and RW2 in the correct perspective and by an unreasoned order, it has come to a conclusion that the writ petitioners have violated human rights of respondents 3 & 4. It has not even taken note of the fact that the first petitioner was not even in service in the concerned police station, when the complaints from 11.01.2012 to 04.05.2012 were lodged.

29. In fine, the writ petition is allowed and the order passed by the first respondent in SHRC 421 of 2014 is set aside. No Costs. Consequently, connected WMPs. are closed.

(V.M.V.,J) (V.L.N.,J)
.04.2023

Index : Yes/No
Speaking : Yes/No
Neutral Citations : Yes/No
nst



W.P.No.32970 of 2022

V.M.VELUMANI,J
and
V.LAKSHMINARAYANAN,J

nst

To:

1.The Registrar
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Pre-Delivery Order in

W.P.No.32970 of 2022

.04.2023