



W.P.(MD)No.10117 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.10117 of 2023

and

W.M.P.(MD)Nos.7840 and 7841 of 2021

G.Velammal

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9

2.The Special Secretary to Government,
Public (HR) Department,
Secretariat, Chennai-9

3.The State Human Rights Commission,
Rep. by its Secretary,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai-28

4.S.Antony

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for records pertaining to the order dated 12.04.2021



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passed by the 3rd respondent Commission in SHRC Case No.7122 of 2017 and quash the same.

For Petitioner : Mr.C.Muthu Saravanan
For R1 to R3 : Mr.M.Lingadurai
Special Government Pleader
For R4 : Mr.S.Suresh Manickam

ORDER

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

The writ petitioner is the Sub Inspector of Police at Vijayanarayanam Police Station. She challenges the order passed by the State Human Rights Commission in S.H.R.C.No.7122 of 2017 dated 12.04.2021.

2.The facts leading to the writ petition are:

(a)There existed a family dispute between the son of the fourth respondent and his wife one Muthu Selvi. Hence, she lodged a complaint with the police on 14.08.2017. Pursuant to the complaint at around 10.30 a.m., the deceased (son of the fourth respondent) was summoned to the police station by the writ petitioner and three other police constables.



(b)The case of the fourth respondent is that on appearing before the police station, he was beaten up by the police authorities. He had sought for the cellphone from his wife, Muthu Selvi, for which he was once again beaten up. On account of the fact that he was humiliated, he consumed poison on the very same day at about 05.00 p.m.. He had been rushed to the hospital at Chidambaram, near Thisiyanvilai and passed away at about 09.10 p.m..

(c)Feeling aggrieved about the treatment that had been given to the son of the fourth respondent, the fourth respondent lodged a complaint before the State Human Rights Commission, which was taken on file in S.H.R.C.No.7122 of 2017 in accordance with the Protection of Human Rights Act. The writ petitioner as well as the other persons were given opportunity and documents were received and marked.

(d)At the time of examination of dead body, the Human Rights Commission noted the following:

“23.It is also essential to mention the injuries pointed out in the postmortem certificate of the deceased Selvakumar which was marked as Ex.PI. In this document it is mentioned that the deceased Selvakumar sustained injuries viz. 5x1/4 cm abrasion seen over the



outer aspect of right side of the lower abdomen and multiple superficial incisions made with scalpel blade reveal no other injuries (contusions). The Respondent also admitted in the cross examination about this injury. But the Respondent has not explained how this injury was caused to the deceased. No explanation offered by the Respondent on this aspect. The ASP, Nanguneri also did not examine the Medical Officer on this aspect. According to the Complainant, his son was assaulted and kicked by the police in his abdomen and the said injury was caused to him. Therefore, this Commission is of the opinion that since the deceased was assaulted by the policemen, these injuries would have been caused and the same is also one of the reasons for the deceased Selvakumar to commit suicide.”

(e)The fact that the son of the fourth respondent was taken to the police station is not denied. Therefore, the burden of proving the fact that the injuries on the dead body of the deceased was not caused by the police officials lay upon them. In order to discharge the same, the writ petitioner did not even examine the concerned medical officer. Taking into consideration the over all circumstances, the Human Rights Commission came to the conclusion that the deceased Selvakumar died only on account of the torture that had met out by him at the hands of the writ petitioner. For the death, compensation was worked out at a sum of Rs.3,00,000/-. Challenging the same, the present writ petition has been filed.



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3.We have heard the learned counsel appearing on either side and perused the materials placed on record.

4.We have reminded ourselves while dealing with such case that we are only concerned with the decision making process and not with the decision itself. However, in order to satisfy ourselves on the merits of the case, we went through the order as well as through the connected records. There is no explanation about the antemortem injuries that were found on the body during the postmortem of the deceased Selvakumar. The Commission has also taken note of the fact that the writ petitioner had not taken any steps to explain as to how those injuries were found on the body of the deceased.

5.The learned counsel for the petitioner would also invite the notice of this Court to the evidence of Muthuselvi in order to substantiate the contention of the petitioner. It is pertinent to point out that Muthuselvi was the complainant, at whose instance the entire case was initiated and therefore, her statement can only be in support of the police.



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6.In light of the above, we are not inclined to interfere with the reasoned order passed by the Human Rights Commission. The Government of Tamil Nadu shall disburse a sum of Rs.3,00,000/- in compliance with the order of the Human Rights Commission to the fourth respondent, who is aged about 83 years within a period of eight weeks from the date of receipt of a copy of this order. The criminal case, which is stated to have been registered in Crime No.129 of 2017 may be proceeded in accordance with law.

7.This Writ Petition is dismissed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

28.11.2023

(1/2)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

- 1.Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9
- 2.The Special Secretary to Government,
Public (HR) Department,
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- 3.The State Human Rights Commission,
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