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W.P.No.5771 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.5771 of 2022

Mrs.J.Gnana Arul Rajamani .. Petitioner

v.

1. The Secretary
The State Human Rights Commission
Tamil Nadu
No.143, P.S.Kumarasamy Raja Salai
(Greenways Road)
Chennai 600 028

2. Mr.A.P.Sajith .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorari, calling upon the record from the
1st respondent and to quash the recommendation made by the 1st respondent
dated 27.10.2021 in SHRC Case No.4232 of 2018.

For Petitioner :: Mr.V.Balasubramani



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W.P.No.5771 of 2022

For Respondents :: Mr.S.Muthukumar
& Mrs.S.Usharani for R1
Mr.K.Sakthivel for R2

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed challenging the order passed by the State Human Rights Commission in S.H.R.C.No.4232 of 2018 dated 27.10.2021.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:-

(a) The petitioner is serving as Inspector of Police. The second respondent herein, being the complainant before the State Human Rights Commission, is an Advocate. One Mrs.Najimunisa, Wife of one Javeed Syed lodged a complaint stating that one Abdul Azees took her jewels to the tune of Rs.10 lakhs and pledged the jewels in his name and refused to handover the jewels. In the complaint, it is further stated that the said Abdul Azees, has also taken the i10 car owned by Mrs.Najimunisa. It is admitted that the complaint was not registered. It is also admitted that the



W.P.No.5771 of 2022

said Abdul Azees had not denied the receipt of jewels and the fact that he had taken the car owned by Mrs.Najimunisa.

(b) It is the case of complainant that the petitioner threatened the complainant that unless Mrs.Najimunisa is present for the enquiry on 06.05.2018, the complaint would be closed. It is the case of complainant that on 06.05.2018 at about 7.00 P.M., the complainant along with Mrs.Najimunisa were forced to appear for the enquiry. It is admitted by both sides that one Sivakumar, who is an Advocate, also accompanied them and the said Advocate was sent out of the police station by the petitioner. The complainant's further version is that the opposite party by name Abdul Azees took the chair in the police station and tried to assault the complainant. It is also his case that Abdul Azees used abusive language along with the petitioner and three other policemen. The complainant states that the petitioner also threatened the complainant. Therefore, the complainant preferred a complaint to the Commissioner of Police, Greater Chennai through SMS on the same day and prayed for suitable action as against the petitioner.

(c) The State Human Rights Commission, after elaborately discussing



W.P.No.5771 of 2022

all the issues, came to the conclusion that the petitioner had not acted in accordance with law and instigated a third party by name Abdul Azees to lodge a complaint against the complainant and registered a false case against the complainant. From the sequence of events, the State Human Rights Commission accepted the case of complainant to hold that the petitioner committed human rights violations and therefore directed the petitioner to pay a sum of Rs.50,000/- as compensation to the complainant. While directing the State to pay the compensation, the State Commission directed the Government to recover the sum from the petitioner. A further recommendation was also given by the Commission to the Government to give suitable direction to the Director General of Police to give appropriate instructions to the investigating officials to strictly adhere to Section 160(1) of the Code of Criminal Procedure during investigation that no male person (under the age of fifteen years or above the age of sixty five years or a woman or a mentally or physically disabled person) shall be required to attend enquiry at any place other than the place in which such male person or woman resides. Challenging the said order, the above writ petition has been filed by the petitioner.



W.P.No.5771 of 2022

WEB COPY

3. In support of the complaint, the complainant examined himself as P.W.1 and specifically narrated the harassment at the police station on 06.05.2018. An Advocate by name Sivakumar, who was also present in the police station, was examined as P.W.2 and he deposed that at the request of the petitioner, he informed the complainant that Mrs.Najimunisa should be present for the enquiry. The petitioner herself admitted the facts leading to the complaint by Mrs.Najimunisa and the enquiry that had taken place on 06.05.2018. The petitioner admitted during cross examination that Abdul Azees, against whom the complaint was lodged by Mrs.Najimunisa, used abusive language against the complainant and that she was unable to solve the problem, but asked the complainant to get out of the police station. The petitioner admitted that the complainant on that day sent an SMS to the Commissioner of Police, Greater Chennai and made the allegations against the petitioner as to what had happened on 06.05.2018.

4. The fact that the petitioner failed to register the case and treated the complaint as CSR is a crucial fact, which was taken note of by the State



W.P.No.5771 of 2022

Human Rights Commission. Even though the petitioner is aware of the fact that no woman can be asked to come to the police station after 6.00 P.M., the statements of P.Ws.1 & 2 and other witnesses would go to show that the petitioner had called Mrs.Najimunisa, a woman to the police station by coercion and threatened that the complaint given by Mrs.Najimunisa would be closed, in case she fails to appear on that date after 7.00 P.M. Referring to Section 160(1) of the Code of Criminal Procedure and on proper appreciation of the entire evidence, the Commission pointed out that the petitioner has committed human rights violations. On the admitted facts, the letter given by Abdul Azees on 06.05.2018, which is also marked as a document, would throw some light on the false version of the petitioner. Mr.Abdul Azees gave a complaint on 07.05.2018 against the complainant as if the complainant assaulted Mr.Abdul Azees on 06.05.2018. This complaint is also marked and it is admitted that the said complaint is registered in Crime No.284 of 2018. It is strange to note that in the letter dated 06.05.2018 given by Abdul Azees, he has referred to the fact that no agreement was reached on 06.05.2018 and that he would appear to see progress in the settlement talks on 07.05.2018. Having given a letter on



W.P.No.5771 of 2022

06.05.2018 that he would attend on 07.05.2018 for further negotiations, the second complaint on 07.05.2018 by the same person was taken note of and the Commission came to the conclusion that the complaint on 07.05.2018 was at the instigation of the petitioner.

5. This Court, having gone through the statements of witnesses during chief and cross examinations, is of the view that the conclusion reached by the State Commission on appreciation of evidence appears to be fair and the same requires no interference. Therefore, the writ petition is dismissed as devoid of any merit. Consequently, W.M.P.No.5525 of 2023 is also dismissed. No costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
10.06.2024

ss

To

1. The Secretary
The State Human Rights Commission
Tamil Nadu
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WEB COPY



W.P.No.5771 of 2022



WEB COPY



W.P.No.5771 of 2022

S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

W.P.No.5771 of 2022

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