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W.P.No.10363 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.10363 of 2021

&

W.M.P No.10940 of 2021

in

W.P.No.10363 of 2021

Tmt.Hemalatha

Woman Head Constable (HC 314)

All Women Police Station

Cantonment

Trichy

.. Petitioner

VS

1. The State Human Rights Commission

Tamil Nadu

No.143, P.S.Kumarasamy Raja Salai

Greenways Road

Chennai – 600 028

2. T.Prabhu



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S/o.K.Thangaraj

.. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records in S.H.R.C.No.5791 of 2012 on the file of 1st respondent dated 24.03.2020 and quash the same.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Ms.Umayal Muthaiah
for Mr.K.S.Sri Giriprasath for R1

R2-Served (No Appearance)

ORDER

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

Captioned main writ petition has been filed assailing an order dated 24.03.2020 in S.H.R.C.No.5791 of 2012 on the file of 'State Human Rights Commission, Tamil Nadu' ['SHRC' for the sake of brevity]. This '24.03.2020 order of SHRC' shall be referred to as 'impugned order' for the sake of convenience and clarity.

2. The writ petitioner before us is R1 before SHRC and she was



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serving as Woman Head Constable in All Women Police Station, Cantonment, Trichy. The second respondent before us is complainant before SHRC. The 'first respondent' shall be referred to as 'SHRC', 'writ petitioner' shall be referred to as 'WHC' denoting Woman Head Constable and 'R2' shall be referred to as 'arrestee', all for the sake of convenience and clarity.

3. Short facts are that the arrestee went to Trichy (from Tiruchengode, Namakkal District) and he was sitting in the bus stand on 06.07.2012; that it is the case of the police that the arrestee was singing songs, passing comments about physical appearance of the women there; that it is the further case of the police that the arrestee was behaving in a manner which was impeding law and order and that the arrestee was doing so in spite of warning; that it is the case of the arrestee that two Police Constables questioned the arrestee as to why he was sitting in the bus stand and when arrestee replied that he was waiting there to go to



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Namakkal, a Women Constable assaulted the arrestee for answering them in sitting posture without standing; that the arrestee was taken to the jurisdictional police station and a case was registered against him vide Crime No.775 of 2012 *inter alia* under Section 509 of erstwhile 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity]; that the arrestee was released on station bail; that the arrestee thereafter got admitted in Thottiyam Government Hospital on the next day i.e., 07.07.2012, took treatment for alleged injury and was discharged on 09.07.2012; that arrestee approached SHRC alleging violation of Human Rights arraying as many as 8 police personnel (2 policewomen and 6 policemen); that SHRC, after examining the complaint, after oral evidence was let in and documentary evidence was marked, came to the conclusion that WHC (R1 before SHRC) along with R2 and R3 before SHRC has committed violation of Human Rights and directed the Government of Tamil Nadu to pay Rs.30,000/- as compensation to the arrestee; that aggrieved by this



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order, WHC has filed the captioned writ petition.

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4. Today, Mr.B.Gopalakrishnan, learned counsel for writ petitioner WHC and Ms.Umayal Muthaiah, learned counsel representing the counsel on record for R1-SHRC are before us. Arrestee, who has been arrayed as R2 in the writ petition, has been duly served, name of R2 is shown in the cause list but none appeared. We are informed by the Registry that the arrestee has not chosen to enter appearance through counsel. The arrestee did not represent himself either in the physical Court or on the 'VC' ['videoconferencing'] platform {to be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court}. The name of the arrestee was also called out aloud thrice in the Court and in the adjoining corridors.

5. This Court proceeded to hear the captioned writ petition by hearing the aforesaid counsel before the Court and by perusing the case file.



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6. A careful perusal of the impugned order brings to light that there is no evidence much less independent evidence as regards the alleged assault of arrestee by WHC. However, SHRC has vide the impugned order concluded that there is alleged violation of human rights owing to assault by saying a) there is no motive for the arrestee to lodge the complaint, b) two other police personnel present in the scene of occurrence were not examined and c) there is no complaint from women who were allegedly victims of eve teasing.

7. We find that conclusions have been arrived at by SHRC by making forays into the realm of surmises and conjectures in the absence of any evidence. As regards complaint from the victims, a case has been registered and it is for the jurisdictional criminal Court to go into all these aspects. It is the case of the WHC that she was part of the police party on patrol, which was only keen on maintaining law and order and intervened owing to disruptive behaviour of arrestee. No motive and other two



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police not being examined is in our considered view is also in the realm of surmises and conjectures (considering the facts and circumstances of the case on hand) as one is a assumption and the other is a mere perspective.

8. This takes this order to the injury part. The impugned order clearly mentions that the discharge summary has been marked as Ex.P5. We had the benefit of perusing a copy of Ex.P5 as placed before us. A perusal of Ex.P5 brings to light that it does not throw light on the issue which this Court is concerned qua the impugned order of SHRC. This Court is also of the view that SHRC itself while referring to Ex.P5 has made it clear that AR (Accident Register) copy and wound certificate have not been produced by the complainant. This means that there is no evidence of injury. We also find that admission in the hospital was on the next day post 10.00pm in the night while there is no dispute that the arrestee was granted station bail. As already alluded to supra, we find that the arrestee, though duly served, has not chosen to come before this



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Court.

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9. There is no allegation of malafides against SHRC. In such case when orders made by SHRC are assailed in a writ petition, the question as to whether SHRC should be made a party is left open and the same will be considered in another matter. We leave open this question considering the facts and circumstances of case on hand.

10. In the light of the narrative, discussion and dispositive reasoning thus far, we find that the impugned order is not based on evidence on the point and therefore deserves to be dislodged.

11. Ergo, the sequitur is, captioned writ petition is allowed and the impugned order dated 24.03.2020 in S.H.R.C.No.5791 of 2012 is set aside. Consequently, captioned writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.

[M.S., J]

[K.R.S., J]

11.12.2024



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Index: Yes/No

Neutral Citation: Yes/No

Speaking order / Non-speaking order
gpa



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To

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The Registrar
State Human Rights Commission
No.143, P.S.Kumarasamy Raja Salai
Greenways Road, Raja Annamalaipuram
Chennai – 600 028



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**M.SUNDAR,J.,
and
K.RAJASEKAR, J.,**

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