



W.P.No.15153 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.07.2024

DATE OF DECISION : 12.08.2024

CORAM :

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

W.P.No.15153 of 2024

V.Yuvarajan
S/o Mr.A.Venkatachalam
Inspector of Police
Eriyur Police Station
Pennagaram, Dharmapuri District 636 810 .. Petitioner

v.

1. State Human Rights Commission, Tamil Nadu
No.143, P.S.Kumarasamy Raja Salai
Greenways Road, Chennai 600 028
2. The Principal Secretary to the Government
Home (Police HR) Department
Secretariat, Chennai 600 009
3. The Director General of Police
Head of Police Force, Tamil Nadu
Chennai 600 004
4. G.Muthukumaran .. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the SHRC Case No.9956 of 2018 before the 1st respondent herein and quash the order dated 28.09.2022.

For Petitioner :: Mr.J.Chelladurai Caldwell

For Respondents :: Mr.Arun Anbumani for R1
 Mr.M.R.Gokulkrishnan
 Addl. Government Pleader for R2
 Mr.C.E.Pratap
 Government Advocate (Crl.Side)
 for R3
 No appearance for R4

ORDER

S.S.SUNDAR,J.

This writ petition is filed by the respondent before the Human Rights Commission, as against the order passed by the State Human Rights Commission in SHRC Case No.9956 of 2018 dated 28.09.2022, taking suo motu cognizance on the basis of news item that appeared in the daily newspaper 'Malai Malar' dated 02.11.2018. The Human Rights Commission held that the complainant was subjected to human rights violations by the writ petitioner by arresting the complainant without following the procedure laid down in law. The Human Rights Commission held that the complainant is entitled to get a sum of Rs.25,000/- from the writ petitioner as



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compensation and recommended the Government to pay the said amount and to recover the same from the writ petitioner. The Human Rights Commission also recommended to initiate disciplinary action against the writ petitioner. Aggrieved by the same, the writ petitioner is before this Court challenging the order of Human Rights Commission.

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

(a) Between the families of the fourth respondent/complainant and one Govindan of Periyeripatti Village, Omalur Taluk, Salem District, there was a dispute over the pathway, which is leading to the complainant's house. In connection with the dispute, there was a scuffle between the members of the two families on 31.10.2018 and a complaint and counter were filed before the writ petitioner. The writ petitioner was the Sub Inspector of Police at that time in the jurisdictional police station. In view of the land dispute between the two families, a civil suit also is pending since 1997 and it is not in issue. It is alleged that on 31.10.2018 at about 2.00 P.M., there was an incident and it is the case of complainant that he along with two



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others were admitted in the Government Hospital, Omalur on the same day due to physical assault by the rival claimants. It is the version of complainant that the writ petitioner came to the hospital at 7.00 P.M., to record the statements of the complainant and his relatives. It is further alleged that on the next day i.e., 01.11.2018, at about 8.30 A.M., the writ petitioner came to the complainant's house and abused his relatives by name Chandrasekaran and Ramakrishnan and detained them in Omalur jail at about 7.00 P.M. The grievance of the complainant is that on the same day i.e., 01.11.2018, at about 9.30 A.M., the writ petitioner came to the hospital and dragged the complainant in a car and assaulted him with booted legs and also abused him in filthy language. It is further alleged that later at midnight, the complainant was again assaulted. The entire incident was published in the daily newspaper on 02.11.2018 and it was based on the newspaper report the complaint was taken on file suo motu.

(b) The writ petitioner denied the allegations in the counter affidavit and gave a different version about the whole incident. It is the version of petitioner that he went to the hospital and examined one Kiruthika and recorded her statement. The said complaint of the individual was registered



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in Crime No.199 of 2018 for the offence under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC read with Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. It is stated further that on 02.11.2018, the complainant was arrested when he was standing near the Omalur Taluk Office bus stop and he was remanded to judicial custody. It is the case of writ petitioner that the complainant did not make any allegation against the writ petitioner when he was before the Magistrate at the time of remand. It is only to tarnish the image of the writ petitioner, a false news was published in the newspaper with the help of some relatives of the complainant.

3. From the narratives, this Court is able to see that there was a civil dispute between the complainant's family and his relatives and a suit is also pending on the file of Sub Court, Omalur in O.S.No.674 of 2018, as seen from the copy of plaint marked as Ex.P1. It is also not in dispute that on 31.10.2018, there was a scuffle between the complainant's family and the family of one Devaraj, who is also stated to be the relative of the complainant. But cases have been registered in Crime No.199 of 2018 and



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the counter in Crime No.200 of 2018. It is also not in dispute that the First Information Report registered on the basis of complaint lodged by the complainant was closed as mistake of fact and the charge sheet was filed before the competent Court on the basis of First Information Report registered against the complainant. The Human Rights Commission, during the course of enquiry, required the Superintendent of Police, Salem to conduct an enquiry and to submit a report. Thereafter, the Deputy Superintendent of Police, Omalur conducted an enquiry and a report dated 20.02.2019 was also submitted to the Commission. In the report, it is concluded that the complainant had exaggerated the incident in anticipation of his arrest in connection with the complaint given by his neighbour against the complainant. However, the specific allegation that the complainant was arrested at the time when he was taking treatment in the hospital was not dealt with and it was observed that the complainant created a scene in the hospital fearing that the police may arrest him.

4. Before the Human Rights Commission, the complainant was examined as P.W.1. He has stated in his proof affidavit that the writ



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petitioner took him to the police station from the hospital when he was taking treatment on 01.11.2018 at about 9.30 A.M. Though he was later brought to the hospital and admitted in the ward, it is further alleged that the complainant was discharged from the hospital on 02.11.2018 and the writ petitioner took him to the police station and was sent to jail at about 7.00 P.M., on that day. Though the writ petitioner specifically denied the allegations in his counter statement before the Human Rights Commission and filed his proof affidavit by stating his version, he did not appear before the Commission and failed to subject himself to cross examination. In view of the conduct of the writ petitioner, the Human Rights Commission accepted the version of P.W.1., the complainant and recorded a finding that the complainant was arrested at the hospital and the writ petitioner had created a false record.

5. The Commission accepted the case of complainant that there was no necessity for the writ petitioner to arrest the complainant in the criminal case and that the police did not follow the procedure laid down by the Hon'ble Supreme Court in D.K.Basu's case. It is also observed that the writ



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petitioner, without valid reasons, arrested the complainant, which amounts to violation of human rights of the complainant. It is not made out that the complainant is a habitual offender nor there was any reason to suspect that he would abscond. It was further held that the police had failed to follow the procedure laid down in law while arresting the complainant and hence the writ petitioner had violated the guidelines issued by the National Human Rights Commission and the State Human Rights Commission and the judgment of the Hon'ble Supreme Court of India.

6. Assuming for a moment that the arrest of the complainant was justified, the fact that the complainant was not arrested in the place as recorded by the respondent police, is evident from the records. The petitioner has failed to prove his version before the Commission and his conduct in not subjecting himself to cross examination would show that the Commission has not committed any irregularity in arriving at a conclusion that the arrest of the complainant by the petitioner is unwarranted and that the same was without following the minimum procedure laid down in law. In view of the human rights violation recorded by the Human Rights



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Commission, a sum of Rs.25,000/- is awarded by way of compensation. To that extent, the order impugned cannot be assailed for the facts narrated by the Commission. However, this Court is of the view that the further recommendation directing the Government to initiate disciplinary proceedings against the petitioner is not warranted, in view of the report of the Deputy Superintendent of Police, Omalur. This Court, having regard to the circumstances and the events, finds that the writ petitioner need not be put to embarrassment once again by initiating proceedings for the alleged irregularity he had committed in 2018. Therefore, though this Court affirms the recommendation as regards payment of compensation to the complainant, the order insofar as it relates to recommending initiation of disciplinary proceeding against the writ petitioner stands set aside. The writ petition stands partly allowed to the extent indicated above. Consequently, W.M.P.No.16476 of 2024 is closed. No costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
12.08.2024

SS



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To

WEB COPY

1. The Registrar
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 (Police HR) Department
Secretariat, Chennai 600 009
3. The Director General of Police
Head of Police Force, Tamil Nadu
Chennai 600 004



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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

Order in

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