



WP.No.12176 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.12176 of 2021
and WMP.No.12963 of 2021

Vivekanandan

...petitioner

Vs.

1. The State Human Rights Commission,
Tamilnadu,
143-P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai 600 028.

2. Velu Pillai

...respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records in S.H.R.C.No.13557 of 2018, dated 09.04.2021 on the file of the first respondent and quash the same.



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For petitioner : Ms.T.Nithya
for M/s.R.Prabudoss

For respondents
for R1 : Mr.S.Udayakumar
for R2 : No Appearance

ORDER

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

This Writ Petition is filed against the order of State Human Rights Commission in the Case No.13557 of 2018, dated 09.04.2021.

2. By the impugned order, the State Human Rights Commission has given the following recommendations:

"i) the Government of Tamil Nadu shall pay a compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the Complainant Thiru Velu Pillai, S/o. Rathina Pillai, residing at Door No.51A, Amman Koil Street, Thenkolapakkam Village, Mailam PO, Tindivanam Tk., Villupuram District, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover the same from the Respondent as per the Rules.

ii) This Commission also recommends to initiate disciplinary action against the Respondent as per the Rules."



3. The brief facts leading into filing of the complaint by the second respondent before the first respondent Commission are summarised as follows:

The second respondent preferred a complaint dated 02.02.2018 against his neighbour and the dispute appears to be in relation to a small bit of land adjoining to the land owned by the second respondent. The Writ Petitioner was working as the Sub-Inspector of Police, Mailam, Villupuram District, when the complaint was given by the second respondent. The petitioner had not taken any action on the complaint lodged by the second respondent before him. Due to some motive, the petitioner got a false complaint from the neighbour of the complainant on 05.12.2018 and kept the second respondent and his wife under custody for a whole night without allowing them to sleep.

4. The grievance of the complainant is that instead of taking action against whom the complaint was given on 02.12.2018, the petitioner asked the accused to give another complaint against the complainant and summoned the complainant and his wife. Further allegation made against the petitioner is that he had forcefully took his cellphone and made the complainant to sit in the Police Station for a whole night.



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5. It is the further case of the complainant that he was produced before the Judicial Magistrate on the next day and remanded to judicial custody. Though he got bail 2 days later, he was asked to sign in the said Police Station. The inhumane treatment suffered by the complainant at the hands of the petitioner made the complainant to lodge a complaint before the State Human Rights Commission. The Commission conducted a detailed enquiry and after giving opportunity to the complainant as well as the petitioner herein gave its recommendations. On the issue whether the petitioner had violated the Human Rights of the complainant, the Commission has rendered a specific finding to the effect that after obtaining a false complaint from the neighbour of the complainant, the complainant was kept under custody for the whole night and produced before the Magistrate one next day.

6. The petitioner had filed his objections before the Commission and also given his explanation. In fact that the complainant was produced before the Magistrate and remanded is not disputed.

7. Having regard to the nature of complaint and the action taken by



the petitioner, this Court can infer that the petitioner had some motive for showing police excess. The complainant is not a thief or a habitual offender had committed a heinous offence, and hence, the arrest is unwarranted. The arrest in cognizable offence can be justified only in certain circumstances and this has been considered by the Hon'ble Supreme Court and the High Courts. It has been repeatedly held that the arrest and remand of a person for petty offences should be avoided. The complainant had not committed any serious offence and hence, the Commission has rendered the following findings:

"21. The Complainant in his reply statement had specifically stated that he and his wife observed the condition imposed by the Court regularly without any fail and the Court by its order dated 02.01.2019 totally relaxed the condition imposed on them and the copy of the same was handed over to the respondent. But he refused to receive the same. He further threatened the complainant and his wife that he never received any order from the Court. So he compelled them to sign in the police station regularly. While so on 10.01.2019 when he and his wife went to the police station to put signature, a case in Cr.No.18/2019 was registered by the respondent alleging that they abused the policeman at the time of putting signature. Thereafter they were arrested and remanded to judicial custody and they were released on bail only on 13.01.2019 and



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both of them took treatment in the Government Hospital, Tindivanam and the documents produced by them established the same.

22. As I already said, the order of the learned Judicial Magistrate No.II, Tindivanam had categorically established the fact that the condition bail was totally relaxed by the Court by its order dated 02.01.2019 and the non-acceptance of the respondent in this matter and forced the complainant and his wife to put signature is also against the law. Though the copy of the Court order was also shown to the respondent, he refused to receive the same and threatened the complainant to sign before the police station also amounts to not only violation of human rights of the complainant but also the contempt of Court.

23. The complainant also filed the judgment of the learned Principal District Munsif, Tindivanam in OS.No.178/2014 dated 22.06.2016 that the land in dispute belongs to Nagammal, who is the wife of the complainant. The complainant also alleged that the previous Inspector of Police Karunakaran also lodged a false case against the complainant for the simple reason that he lodged a complaint against the DSP, Tindivanam and after the full pledged trial, he was acquitted by the Court in C.C.No.95/15 U/s 294(b), 352, 506(i) of IPC. The copy of the judgment was also produced before



this Commission.

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24. It is seen from the materials on record that though his wife is the owner of the suit property, the neighbour giving trouble to the complainant and his wife in enjoying the property peacefully as per the Court and lodged a complaint to the SHO, Mailam Police Station. But they failed to take action against the neighbour. Per contra, the police officials giving trouble to the complainant and his wife by registering false case and arrested them and remanded to judicial custody and it is categorically established the harassment of the police. The complainant also categorically stated in the reply statement that CCTV footage is available in the police station and he also filed a petition to receive the same under RTI Act and the respondent failed to give the same. If really the CCTV footage was produced by the respondent to this commission as claimed by the complainant, the truth will come out. Therefore, the respondent wanted to take vengeance against the complainant and arrested him is proved by the complainant. "

8. The findings regarding human rights violation are based on appreciation of evidence and this Court finds no irregularity in the decision or decision making process. The complainant preferred the complaint before the Commission on 26.12.2018. Thereafter, there was further event by



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registering a case on 10.01.2019 and arrested the complainant and his wife.

The later incident was when the second respondent was forced to come and sign in the Station even after the second respondent obtained orders relaxing conditions. Therefore, this Court is not inclined to entertain this Writ Petition. The petitioner failed to provide proper evidence in defence even though specific allegations were made against him. The evidence and the circumstances narrated by the complainant gives a clear indication that the petitioner had acted with vengeance by treating the second respondent respondent and his wife badly. The attitude of the petitioner as a whole cannot be tolerated. Hence, this Court is of the view that the impugned order of the State Human Rights Commission is perfectly in order. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.J.,) (N.S.J.,)
24.01.2024

Index : Yes / No
Speaking order: Yes/No
pvs



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To

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