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W.P.No.13950 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM:

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

W.P.No.13950 of 2018
and W.M.P.No.16476 of 2018

B.Kumar
then Sub Inspector of Police,
Villupuram Town Police Station,
Villupuram.

...Petitioner

vs.

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

2.K.Mohankumar

3.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records relating to the proceedings of the 1st respondent dated 07.03.2018 made in SHRC Case No.6833 of 2008 quash the same.

For Petitioner : Mr.M.Devaraj
For Respondents : R1 & R2 – No appearance
Mr.M.R.Gokul Krishnan for R3
Additional Government Pleader



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ORDER

(Order of the Court was made by N.Senthilkumar, J.)

This writ petition is filed by the petitioner challenging the proceedings dated 07.03.2018 made in SHRC No.6833 of 2008 passed by the first respondent/State Human Rights Commission.

2. The brief facts of the case of the second respondent/complainant are as follows:

(i). The second respondent/complainant's father by name Kannan owns a shop in the name of Sharmi Mottors at No.130, Thiru.Vi.Ka. Street, Villupuram. On 27.07.2008 at about 11.30 a.m., when the second respondent/complainant along with his daughter by name Sharmiladevi who was aged about 7 years were in the aforesaid shop, one constable in uniform and another constable in non-uniform came to the shop and enquired about one of his workers by name Elavarasan. The second respondent/complainant had informed the Police constables that he did not come to work being a Sunday Elavarasan was out of station. The Police informed the second respondent/complainant that the said Elavarasan drove the two wheeler without valid license and violated the traffic regulation and therefore, he has to pay a sum of Rs.650/- as fine.



The second respondent/complainant informed the Police that he will send the said Elavarasan to the Police Station on the next day. However, the Police constable insisted the second respondent/complainant to pay Rs.650/- by himself, or else to come to the Police Station with them since the complainant did not have money he was forced to get into an auto rickshaw.

(ii). As the complainant resisted, the Police constable called the writ petitioner herein who came to the spot. The second respondent/complainant had told the writ petitioner that he is a Teacher and also the President of the Teachers Association. However, the writ petitioner ignored the statement of the second respondent/complainant and slapped him on the left cheek twice and dragged him to the Police Station by walk. The writ petitioner had beaten up the second respondent/complainant till they reached the Police Station. The second respondent/complainant was let out free from the Police Station at 2.45 p.m. after the Police obtained his signature in a piece of paper. The second respondent/complainant was not aware of the contents written in the paper.

<https://www.mhc.tn.gov.in/judis> 3. The case of the petitioner is that the said Elavarasan was



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employed in the second respondent/complainant father's shop who drove the two wheeler bearing Registration No.TN09-AQ-5810 near Gandhi Statue Villupuram on 11.07.2008. The Police constable signaled him to stop the vehicle, however, he did not stop. Traffic violation case was registered under Section 132 read with Section 177, 3 and Section 181 of the Motor Vehicles Act. Thereafter, a charge sheet was filed by the Traffic Inspector before the Judicial Magistrate Court-I, Villupuram in which the said Elavarasan was ordered to appear before the Court. One constable namely Palanisamy was deputed to serve the summon on the said Elavarasan. On 27.07.2008 when the constable enquired about Elavarasan, the second respondent/complainant abused the Police in filthy language and prevented them from discharging their official duty. Therefore, the Head Constable gave a complaint against the second respondent/complainant and the same was registered as CSR No.157 of 2008. Thereafter, FIR in Crime No.401 of 2008 was registered for the offences under Section 294 (b), 353 IPC on 02.08.2008.

4. It is therefore contended by the writ petitioner that, to escape from the criminal complaint filed against the second respondent/complainant, he has made several complaints against the petitioner and other two constables before the higher officials in the Police Department on 29.07.2008 and also before the SHRC/first



respondent for human rights violation.

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5. The State Human Rights Commission based on the complaint given by the second respondent/complainant, has registered a case in SHRC Case No.6833 of 2008. The second respondent/complainant was examined as PW1 and he has marked 23 documents as Exs.P1 to P23 and further one eye witness viz., Prabhu was examined as PW2 on the side of the second respondent/complainant. The petitioner himself was examined as RW1 and one Police constable by name Palanisamy was examined as RW2.

6. The State Human Rights Commission made a recommendation to the Government of Tamil Nadu to pay a compensation of Rs.50,000/- to the second respondent/complainant within two months and recover the same from the writ petitioner herein. Challenging the above said order passed by the SHRC, the present writ petition has been filed.

7. Learned counsel for the petitioner submitted that when the constable went to serve the summons on the said Elavarasan, the second respondent/complainant did not allow the summons to be served on him by giving false reasons. Learned counsel for the petitioner denied the allegations in the complaint and contended that the complaint is an



exaggerated version and there is no violation of human rights as alleged by the second respondent/complainant herein and further contended that the recommendation made by the first respondent is without any basis and without any material.

10. We have given our anxious consideration to the submissions made by the learned counsel for the petitioner and perused the materials available on record.

11. It is relevant to note that a CSR No.157 of 2008 and FIR was registered against the second respondent/complainant in Crime No.401 of 2008 for the offences under Section 294(b), 353 IPC on 02.08.2008, for the occurrence that took place on 27.07.2008. This itself would show that the petitioner had created the documents as the second respondent/complainant had preferred a complaint with the first respondent and other officials on 29.07.2008. The second respondent/complainant was cross examined by the petitioner herein and there was not even an iota of material culled out during the cross examination to disprove the allegations made by the second respondent/complainant.



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12. The chief examination and the cross examination of PW1 would clearly show that the writ petitioner had committed gross human rights violation as against the second respondent. Even in the cross examination, PW2 has categorically deposed that the Police have taken the second respondent/complainant to the Police Station by walk. The petitioner and one Palanisamy were examined before the SHRC/first respondent, except the defence put forth by the petitioner that the second respondent/complainant did not allow summons to be served on the said Elavarasan and he picked up a quarrel with the Police personnel and prevented them from discharging their official duty, no cogent evidence was let in to disprove the case. According to the complaint given by the complainant, he states that the Police demanded Rs.650/- as bribe. The above said allegation though disputed was reiterated by PW1 and PW2.

13. It is true that in a case where a charge sheet was filed and summons were issued by the Court, it is a duty of the Police personnel to serve summons on the accused for the appearance in the Court. In the present case, we are surprised to see that why the two Police personnel who wanted to serve summons on the said Elavarasan for traffic violation case for his appearance as an accused before the Judicial Magistrate

Court I, Villupuram, went to the shop in which the said Elavarasan was



employed instead of finding him in his residence on a Sunday.

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14. The second respondent/complainant who happens to be a Teacher and sitting in his father's shop along with his daughter had no reasons to pick up quarrel with the Police constables especially when one of them was in uniform. As the demand of Rs.650/- and the compulsion made by the constables was resisted by the second respondent/complainant, the constables called the writ petitioner, who had come to the shop and picked up an argument with the second respondent/complainant. Out of anger, the petitioner had slapped the second respondent/complainant and dragged him to the Police Station by forcibly pushing and beating him on the road. For a traffic violation and the summons to be served on the employee/worker of the second respondent/complainant's father's shop, the petitioner had conducted himself in a rude and crude manner for no fault of the second respondent/complainant who was sitting along with his 7 years old daughter in the shop. Registration of a case as against the second respondent/complainant in CSR.No.157 of 2008 and subsequent registration of FIR in Crime No.401 of 2008 would clearly demonstrate the evil mind of the petitioner to over come the complaint given by the second respondent/complainant before the first respondent/Commission and other authorities.



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15. The only question arises before this Court is whether there is any human rights violation by the petitioner or not. There is no reason for the petitioner to go to the second respondent/complainant's father's shop and the allegation that the second respondent/complainant had prevented the constable from serving the summon on the said Elavarasan is totally unbelievable as the summons to be served only on the person to whom it has been addressed. The Police constables in uniform and non-uniform had made an attempt of threatening the second respondent/complainant and demanded a sum of Rs.650/- and the same is nothing but showing off the power vested with them. The findings of the State Human Rights Commission is on the basis of proper appreciation of evidence and we have no reasons to interfere with.

16. The petitioner's behaviour of registering a CSR and subsequently converting it into FIR in Crime No.401 of 2008 for no fault of the second respondent/complainant and the act of slapping the second respondent/complainant and taking him to the Police Station on the road projecting as if the second respondent/complainant has committed a great crime is a cruel behavior on the part of the petitioner and is certainly a human rights violation.



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17. Therefore, this Court is not inclined to interfere with the order passed by the first respondent.

18. With the above observations, this writ petition is dismissed for want of merits and the third respondent is directed to comply with the recommendations made by the first respondent/SHRC dated 07.03.2018 within a period of six months by following due process of law. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.,J.) (N.S.,J.)
03.06.2024

Index: yes/no
Speaking order:yes/no
Neutral Citation:yes/no
pam



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