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W.P.No.14130 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.14130 of 2020
and
W.M.P. Nos.17541 of 2020 and 16284 of 2022
in W.P. No.14130 of 2020

R.Raja Robert,
Inspector of Police,
Then N-1 Royapuram Police Station,
Chennai.
presently serving as
The Inspector of Police,
Central Crime Branch,
Entrustment & Document Fraud II,
Team-3, Vepery, Chennai – 600 007.

... Petitioner

Vs.

1.The State Human Rights Commission of
Tamil Nadu rep. By its Registrar,
No.143, P.S.Kumarasamy Raja Salai,
Chennai – 600 028.

2.Suguna

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the records of the first
respondent's impugned order in SHRC Case No.4945/2018 dated
22.05.2020 and to quash the same as illegal.

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For Petitioner : Mr.C.Vijay
For Respondents : Mr.S.Wilson for R1
Mr.R.Vijayaraghavan for R2

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed assailing an 'order dated 22.05.2020 bearing reference SHRC Case No.4945 of 2018' (hereinafter 'impugned order' for the sake of convenience and clarity) made by 'State Human Rights Commission, Tamil Nadu' (hereinafter 'SHRC' for the sake of brevity).

2. Writ petitioner was serving as Inspector of Police, N1 Royapuram Police Station, Chennai.

3. The entire matter pertains to arrest of R2/arrestee on 09.06.2018.

4. Prior to the arrest, R2 arrestee approached SHRC by way of complaint dated 20.05.2018. To be noted, there is no complaint from



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R2/arrestee after arrest on 09.06.2018 (to be noted, this is going by the case file before us and the submissions made before us).

5. Short facts are that R2/arrestee is residing at No.19/11, Corporation Lane Second Street, Royapuram, Chennai – 600 013 and she was arrested on 09.06.2018 pursuant to a complaint from Ms.Bhuvaneshwari (then Government Advocate) and her spouse Mr.D.Bharath, Advocate; that the advocate couple and R2/arrestee are neighbours; that a counter complaint was given by R2/arrestee; that based on the complaint of the advocate couple, FIR was registered in Crime No.897 of 2018 and on the basis of counter complaint of R2/arrestee, FIR was registered vide Crime No.898 of 2018 both on the file of N1 Royapuram Police Station, Chennai; that it is submitted that the anticipatory bail application of R2/arrestee was pending as of 09.06.2018; that R2/arrestee was remanded on the same day and the remand report has been marked as Ex.P7 before SHRC; that prior to arrest (on 20.05.2018), a complaint has been sent by R2/arrestee to SHRC inter-alia alleging trespass and taking away of her gas stove and gas cylinder; that post arrest, SHRC took up the complaint; that in the complaint, R2/arrestee examined herself as P.W.1; that documents were marked as exhibits; that vide impugned order, SHRC has



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awarded compensation of Rs.50,000/- to be recovered from the writ petitioner; that it is to be noted that along with the writ petitioner a police constable by name Mr.N.Sasikumar and a woman police constable by name Ms.M.Dhanalakshmi were arrayed as co-respondents before SHRC; that there is no adverse order as against them; that the above Inspector of Police has preferred the captioned WP assailing the impugned order of SHRC.

6. Mr.C.Vijay, learned counsel on record for writ petitioner (then Inspector of Police), Mr.S.Wilson, learned counsel for R1 (SHRC) and Mr.R.Vijayaraghavan, learned counsel representing the counsel on record for R2/arrestee are before us.

7. Arguments of the aforementioned counsel were heard and the case file as placed before us was perused.

8. A careful perusal of the impugned order brings to light that the allegations are three fold i.e., (a) assault, (b) violation of *D.K.Basu* [**D.K.Basu Vs. State of West Bengal** reported in **AIR 1997 SC 610**] principle (not producing for remand immediately) and (c) registration of false complaint.

9. As regards the first point, as already alluded to supra, there is



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no complaint from R2/arrestee post arrest on 09.06.2018. The impugned order itself vide paragraph 9 records that the remand report has been marked as Ex.P7 and the remand report does not show any complaint against investigating officer. As regards the issues framed, one issue is whether the respondents violated human rights of the complainant and the second issue is what other relief complainant is entitled to. It is clear that second relief is generic and residuary in nature. SHRC in the impugned order has discussed the evidence of the complainant who deposed as P.W.1 and has also discussed the documents marked as exhibits but there is no finding much less specific finding regarding assault. It is also seen that the proof affidavit of R2/arrestee (who is complainant before SHRC and who deposed as P.W.1) does not mention anything specific about the assault. Therefore, this Court is of the considered view that the first point turning on assault is a non-starter qua impugned order.

10. This takes us to the next point of violation of *D.K.Basu* principle. It is seen even from the array of respondents that a woman police constable was part of the arrest party/team. Be that as it may, it is submitted by learned counsel for petitioner that R2/arrestee was taken to the Magistrate well within time and in the light of Magistrate's



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work, the remand ultimately happened at around 8 p.m. Be that as it may, the Sub Inspector of Police, who is the investigating officer, has not been arrayed as respondent before SHRC. In this view of the matter, as even according to the complainant, a woman constable was part of the arrest party/team and in the absence of any evidence qua delay beyond the prescribed 24 hours time limit, we find that the second point also is a damp squib.

11. This takes us to the third point of false complaint. The impugned order clearly records that a case has been registered inter-alia under certain sub-sections of Section 71 of 'The Madras City Police Act, 1888' (hereinafter 'City Police Act' for the sake of brevity). We also find that there is no dispute that FIR has been registered both on the complaint and the counter complaint. In this view of the matter, we find that the allegation of registration of false complaint is unsubstantiated as there is no further evidence or material in the case on hand in this regard.

12. 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



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the same will be considered in another matter. We leave open this question considering the facts and circumstances of case on hand.

13. In the light of the narrative, discussion and dispositive reasoning set out supra, we find that the impugned order deserves to be dislodged as the three points on which it is hinged do not sustain itself in the legal drill before us. Before we write the operative portion in the captioned WP, we find that there is a implead petition in W.M.P. No.16284 of 2022 taken out by the writ petitioner with a prayer for impleading (1) The Principal Secretary of Government, Home, Prohibition and Excise Department, Government of Tamil Nadu, Secretariat, Chennai – 600 009 and (2) The Secretary to Government, Public (Human Rights) Department, Government of Tamil Nadu, Secretariat, Chennai – 600 009. In the light of the narrative thus far and considering the legal perimeter within which the captioned WP perambulates, we find implead petition is unnecessary. Implead petition in W.M.P. No.16284 of 2022 is disposed of as closed.

14. Ergo sequitur is captioned WP succeeds, it is allowed and the impugned order i.e., order dated 22.05.2020 bearing reference SHRC Case No.4945 of 2018 on the file of R1 (SHRC) is set aside.



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Consequently, captioned Writ Miscellaneous Petition (W.M.P. No.17541 of 2020) thereat is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)
11.12.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

The Registrar,
State Human Rights Commission of
Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Chennai – 600 028.



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

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