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W.P. No.25110 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Reserved on: 30.09.2024**

**Pronounced on: 22.11.2024**

CORAM:

**THE HONOURABLE MR.JUSTICE P.DHANABAL**

**W.P. No.25110 of 2021**  
**and W.M.P. Nos.26459 and 26463 of 2021**

S. Magesh S/o. Selvaraj

... Petitioner

vs.

1. The National Commission for Scheduled Castes,  
represented by its Registrar,  
5th Floor, Lok Nayak Bhawan, Khan Market,  
New Delhi - 110 003.

2. The Superintendent of Police,  
Office of the Superintendent of Police,  
PCR Cell, N. Rangasamy Street,  
Gorimedu, Ananda Nagar, Puducherry.

3. D. Mohana W/o. D. Manivannan

... Respondents

**PRAYER:** The Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the proceedings in File No.TN/17/2018-APCR dated 03.09.2021 on the file of the respondent and to quash the same.



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For Petitioner : Mr.K. Sharath Chandran

For Respondents : Mrs. A. Anuradh,  
Central Government  
Senior Counsel [for R1]

Mr. K.S. Mohandass  
Public Prosecutor, Puducherry.  
Assisted by  
Mrs. N. Danalatchumy [for R2]

Mr. T.R. Shanmugam [for R3]

### **JUDGMENT**

(Judgment of the Court was made by P.DHANABAL,J.)

The Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the proceedings in File No.TN/17/2018-APCR dated 03.09.2021 on the file of the respondent and to quash the same.

**2. The short facts necessary to dispose of the Writ petition are as follows:-**

The 3rd respondent is the owner of Amnibus bearing Registration No.TN16 A 2092. The petitioner entered into an agreement with the 3rd respondent's husband Manivannan on 14.03.2018. Manivannan received a



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sum of Rs.4 lakhs and a further sum of Rs.1,93,000/- was paid into the account of his wife, the 3rd respondent herein. A further sum of Rs.3,50,000/- was paid by Mrs. Anusamba for clearing the RTO papers and the bus was handed over to her by Manivannan and the bus was plying between Salem and Chennai. On 09.07.2018, the bus developed a technical snag in its rear brake drum. Manivannan refused to attend the major repair which was his obligation under the agreement. Mrs. Anusamba wrote a letter on 09.08.2018 to the 3rd respondent asking her to take the bus back and to return the advance given by her. Whiles, the Manivannan and his wife, 3rd respondent lodged a complaint before the police and the same was closed as false. Thereafter, a complaint was lodged by the 3rd respondent before the 1st respondent commission and based on the complaint the 1st respondent commission has passed order.

3. The learned counsel appearing for the petitioner would contend that the 3rd respondent and her husband lodged a complaint and the same was rejected by the police as false. While so, the 1st respondent passed an order directing the police to lodge FIR against the vehicle lifting gang and submit FIR copy on the next date of hearing and to conduct thorough



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inquiry over the issue and to submit report before the Commission on 30.09.2021. The 3rd respondent resorted to her usual practice of filing false and fake complaints with aid of her husband Manivannan by misusing and abusing provisions of 'The Act'. The Commission has no power to act as Civil Court, to invoke powers of the Civil Court and to decide the rights of the parties and to register a case by invoking powers under Cr.P.C. The petitioner is not a party to the proceedings before the Commission. Therefore, the order passed by the 1st respondent is liable to be quashed.

4. The learned counsel appearing for the petitioner has also relied on the following judgments in support of his arguments:

4.1. *All India IOB SC / ST Employees Association of India v. Union of India reported in 1996 6 SCC 606.*

4.2. *U.P. State Handloom Corporation Limited vs. State of U.P. 2012 SCC Online All 732.*



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**4.3. *Pankaj Kumar v. State of Uttarakhand reported in 2019 SCC Online Utt 929.***

5. The learned counsel appearing for the 1st respondent would contend that based on the complaint given by the defacto complainant, the 1st respondent Commission has enquired the matter and issued directions and the complaint prima facie disclosed the commission of offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [POA], 1989. Therefore, the 1st respondent Commission has passed an order and the present petition is liable to be dismissed.

6. The learned counsel appearing for the 2nd respondent would contend that based on the order passed by the 1st respondent Commission, the petitioner has to comply with the said order.

7. The learned counsel appearing for the 3rd respondent would contend that the petitioner being a member of non-scheduled caste,



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committed serious offences and caused financial loss to the 3rd respondent, who belongs to scheduled caste by unlawfully taking the bus. Thereby, she lodged a complaint before the 1st respondent Commission and the 1st respondent Commission also, based on the complaint given by the 3rd respondent, passed an order. Therefore, the present Writ petition is liable to be dismissed.

8. This Court heard both sides and perused all the materials available on record.

9. In this case, there was contract between the parties with respect to the plying of bus and already a Civil Suit was also filed by one Mrs. Anusamba for recovery of money as against the complainant before the Civil Court and already the property was also attached by the Civil Court. While so, by suppressing the above facts, the 3rd respondent has preferred a complaint before the 1st respondent Commission and the 1st respondent Commission has also passed an order to lodge FIR against the vehicle lifting gang and submit FIR copy on the next date of hearing and to



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conduct thorough inquiry over the issue and to submit report before the Commission on 30.09.2021.

10. The first and foremost point is that without hearing the petitioner, the 1st respondent Commission has passed an order as against the right of the petitioner, and thereby the Principles of natural Justice have not been followed. On that ground alone, the impugned order is liable to be quashed. Moreover, it is a well settled law that the National Commissioner for Scheduled Castes has no power to decide the rights of the parties and direct the police to register FIR. The 1st respondent can recommend the concerned authorities and no order can be passed by directing the officials to do a particular act, that too the civil rights of the parties in respect of the agreement and money dispute. The 3rd respondent has suppressed the material facts in respect of the money transaction based on the agreement in respect of plying of bus and filed complaint before the 1st respondent. It is also seen from the records that already a complaint was lodged before the police and the same was closed as false, while so



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without challenging the same in the manner known to law, the present complaint has been lodged.

11. At this juncture, the learned counsel appearing for the petitioner has also relied on the following judgments:

11.1. *All India IOB SC / ST Employees Association of India v. Union of India reported in 1996 6 SCC 606.*

11.2. *U.P. State Handloom Corporation Limited vs. State of U.P. 2012 SCC Online All 732.*

11.3. *Pankaj Kumar v. State of Uttarakhand reported in 2019 SCC Online Utt 929.*

On careful perusal of the above said judgments, it is clear that the Commission does not have powers to pass orders like a regular Court and its powers are merely recommendatory in character and the Commission has no authority to issue any order of injunction, direction or decree, which may be enforced by public authorities. The Commission has not been



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vested with the powers of issuing such order, exercising the powers of the Court. Moreover, the Hon'ble High Court of Uttarakhan in ***Pankaj Kumar v. State of Uttarakhan in 2019 SCC Online Utt 929***, held that '*we find it disconcerting that the National Commission should continue to pass orders, such as that impugned in this Writ petition, despite the Supreme Court having clearly held, in All India Overseas Bank SC & ST Employees Association, that it lacks the power to pass orders of injunction, temporary or permanent. With the fond hope and trust that the National Commission for the Scheduled Tribes would desist from issuing any such directions, and from making any such requests, in future, we refrain from saying anything more*'.

As far as the registration of FIR is concerned the 1st respondent Commission has no power to pass orders usurp the powers of Magistrate under Section 156(3) of Cr.P.C. Already a complaint has been lodged by the 3rd respondent and the same was enquired by the police concerned and closed. While so the 1st respondent cannot direct the police to register FIR by invoking the powers of regular court. Moreover this Court in G.Prabhakaran Vs Superintendent of Police, the Hon'ble Division Bench of this Court already held that *the normal course of remedy on a failure or*



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*refusal to record the information is to invoke Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154(3) of Cr.P.C.*

12. Therefore, the Commission has no authority to pass such an order directing the police official to register FIR. Therefore, the impugned order passed by the 1st Respondent Commission is liable to be quashed.

13. In the result, this Writ petition is allowed. The order passed by the 1st respondent Commission in File No.TN/17/2018-APCR dated 01.12.2021 is quashed. No costs. Consequently, the connected miscellaneous petitions are closed.

22.11.2024

mjs

Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No

**To**



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represented by its Registrar,  
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**P.DHANABAL,J**

(mjs)

Pre-delivery judgment in  
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(2/2)