



WEB COPY



WP.No.29938/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.29938/2023 & WMP.No.29545/2023

V.Ganesh Kumar

... 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.the Additional Chief Secretary to Government
of Tamil Nadu, Department of Home,
Excise and Prohibition, Secretariat
Chennai 600 009.

3.Kalpana

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for issuance of Writ of certiorari calling for the records of the 1st
respondent's Impugned Order in SHRC Case No.9063/2018 dated



WP.No.29938/2023

01.09.2023 and to quash the same as illegal.

WEB COPY

For Petitioner	: Mr.S.Dharmakkan
For R1	: Mr.C.Jayaprakash
For R2	: Mr.M.Bindran,AGP
For R3	: Mr.D.Ashok Kumar

ORDER

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

- (1)The present writ petition has been filed by the petitioner, challenging the impugned order of the 1st respondent / State Human Rights Commission dated 01.09.2023 in SHRC Case No.9063/2018 and to quash the same.
- (2)The 3rd respondent herein [hereinafter referred to as 'the complainant'] filed a complaint before the 1st respondent / Commission alleging human rights violation by the petitioner herein who is the Sub Inspector of Police in C1 Kattoor Police Station, Coimbatore City, Coimbatore.
- (3)The case of the complainant before the 1st respondent / Commission is that she is working as a Coolie in Sithaputhur, Coimbatore and her son by name Vignesh is doing flower decoration work for marriage functions, apart from doing other social service. In the complaint, it is stated that



WP.No.29938/2023

WEB COPY

the petitioner had taken her son Vignesh to C1 Kattoor Police Station three months prior to complaint for an enquiry and assaulted him in various parts of his body. Therefore, the son of the complainant had lodged a complaint before the National Commission for SC/ST as well the first respondent Commission.

(4)The allegation against the petitioner is that he threatened the son of the complainant to withdraw the complaint in Cr.No.1137 of 2018 and falsely implicated the husband and sons of the complainant as the son of the complainant, Vignesh, refused to withdraw the complaint that was lodged by him before the National Commission for SC/ST. It was further alleged that the husband and sons of complainant were arrested and remanded in connection with a false case.

(5)The petitioner herein filed a detailed counter before the 1st respondent / Commission denying all the allegations. The petitioner has admitted that he had conducted enquiry pursuant to the complaint registered against the complainant and her family in Crime No.1137/2018 for the offences punishable under Section 75[1][c] of Tamil Nadu City Police Act and under Sections 323 and 506[1] of IPC and under Section 4 of the Tamil



WP.No.29938/2023

WEB COPY

Nadu Prohibition of Harassment of Women Act and arrested them. After completion of investigation, the petitioner had admitted submission of Final Report before the Court concerned which was taken on file in CC.No.233/2018. The petitioner has also admitted that son of the complainant sent a representation objecting to the installaiton of Vinayagar Idol, which according to him, was installed in a place affecting free flow of traffic.

(6) Though it is stated by the petitioner that he took action against the complainant's son in accordance with law and that he had not violated human rights of the complainant's son, the fact that the son of the complainant had lodged a complaint before the National Commission for SC/ST, is not disputed. Before the 1st respondent, a few witnesses were examined to prove the allegations made by the complainant against the petitioner, the fact that the complainant's son was arrested in connection with a petty case [dispute between the neighbours] gives an indication that the petitioner has acted at the instance of somebody or on his own accord in response to the complaint that had been lodged by the complainant's son before the National Commission for SC/ST. Except the



WP.No.29938/2023

WEB COPY

allegation that the complainant's son uttered words in filthy language against his neighbour, this Court finds some justification in the conclusion of the 1st respondent / Commission while accepting the case of the complainant for human rights violation. The petitioner has not let in any independent witness to show that the complaint was motivated or that there is no truth in any of the allegations in the complaint. The 1st respondent / Commission has elaborately considered the grievance of the complainant. All the witnesses, namely, PW1 to PW3 who were examined on behalf of the complainant, have deposed in detail to substantiate the case of the complainant. Despite the petitioner was given ample opportunity to cross examine all the witnesses, the Commission believed the version of PW1 to PW3 and the documentary evidence filed by the complainant and came to the conclusion that the sons of the complainant were taken custody without a complaint and ill-treated and later released without registering a FIR earlier. Therefore, complainant's son sent a complaint against the petitioner to SC/ST Commission about the custodial violence. This has propelled the petitioner to register a false case and arrest of husband and two sons of complainant.



WP.No.29938/2023

WEB COPY

(7)It is to be noted that custodial violence as against Dalits cannot be tolerated and the Hon'ble Supreme Court and this Court passed several judgments to protect the innocent, poor and hapless from police acts. It is indeed essential to protect their dignity and to prevent such recurrence in future.

(8)The finding of the 1st respondent / Commission is based on appreciation of evidence and therefore, the scope of judicial review is limited to any irregularity in the decision making process or perversity. From the entire facts on record, this Court is unable to find any irregularity or infirmity in the findings of the 1st respondent / Commission. Since the human rights violation has been established as against the petitioner, the recommendations of the 1st respondent directing the Government to pay a sum of Rs.2 lakhs with a further direction to the Government to recover the said amount from the petitioner herein cannot be faulted with.

(9)In the result, the writ petition stands **dismissed as devoid of merits**. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[N.S., J.]



WP.No.29938/2023

23.01.2024

WEB COPY

AP

Internet : Yes

To

- 1.The State Human Rights Commission of
Tamil Nadu, rep.by its Registrar
No.143, P.S.Kumarasamy Raja Salai
Chennai 600 028.
- 2.the Additional Chief Secretary to Government
of Tamil Nadu, Department of Home,
Excise and Prohibition, Secretariat
Chennai 600 009.



WEB COPY



WP.No.29938/2023

S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

AP

WP.No.29938/2023

23.01.2024