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W.P.No.10311 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.10311 of 2021
and
W.M.P. No.10894 of 2021 in W.P.No.10311 of 2021

Karthikeyapandiyan

... Petitioner

Vs.

1.The State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai - 28.

2.M.Sivakumar

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the records pertains to
the impugned order dated 16.03.2020 made in S.H.R.C. No.237 of
2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : Mr.Arun Anbumani for R1
No appearance for R2

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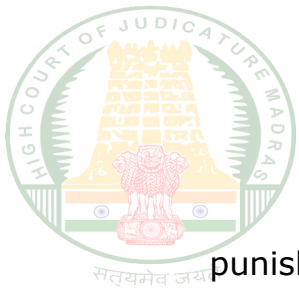
ORDER

[Order of the Court was made by **HEMANT CHANDANGOUDAR, J.,**]

The captioned Writ Petition has been filed challenging the order dated 16.03.2020 passed by the first respondent / Commission, by which the Government of Tamil Nadu was directed to pay a sum of Rs.25,000/- as compensation to P.W.2 – Singakumar, and recover the said amount from the writ petitioner in accordance with the applicable rules and regulations.

2. Factual Matrix leading to the Writ Petition:

2.1 The second respondent, M. Sivakumar, filed a complaint before the first respondent Commission stating that his sister's son, S. Singakumar, aged about 17 years and a 12th standard student in a private school, had come to his house during the half-yearly vacation. On 04.01.2018, at about 4:55 p.m., Singakumar, along with his friend Hussain, had gone to Puzhuthivakkam to meet another friend. While they were near Velachery Sunshine School, the writ petitioner, a Police Sergeant, along with his subordinate, stopped them, enquired about the driving licence and use of helmet, and charged them for offences



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punishable under Rule 50 of the Central Motor Vehicles Rules and Sections 177, 180, and 181 of the Motor Vehicles Act. The vehicle was also seized.

2.2 It was further alleged that the petitioner demanded a sum of Rs.1,500/- as gratification, failing which the victim was told he would have to pay Rs.3,000/- as fine before the Court. The petitioner allegedly abused the victim in filthy language, took him to an unfamiliar room, pushed him down, beat him with a plastic pipe, and caused injuries. He was detained in the said room for one hour and was released around 8:30 p.m. when his friends came to his aid. The following day, Singakumar was admitted to Dr. Rajiv Gandhi Government General Hospital for treatment.

2.3 The petitioner denied all the allegations. The complainant was examined as P.W.1 and the victim, Singakumar, was examined as P.W.2. They also produced documents marked as Exs. P1 to P4. The petitioner was examined as R.W.1 and produced documents marked as Exs. R1 and R2. Upon appreciation of the evidence on record, the first respondent Commission passed the impugned order holding that the petitioner had committed a human rights violation against the victim.



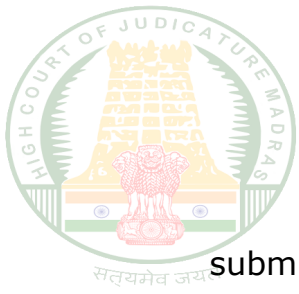
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3. Mr. P.R. Thiruneelakandan, learned counsel for the petitioner, submitted that the evidence on record clearly establishes that the injury allegedly sustained by the victim was not due to any assault by the petitioner. He argued that the petitioner, while discharging his official duties, imposed a fine of Rs.3,000/- against the rider of the motorcycle who did not possess a valid driving licence and was not wearing a helmet on the date of the incident. Therefore, he contended that the findings recorded by the first respondent Commission are contrary to the evidence on record and sought to have the impugned order set aside.

4. In response, learned counsel for the first respondent Commission contended that the evidence on record clearly established that the petitioner had committed a human rights violation against the complainant's nephew. He further submitted that the petitioner did not specifically deny the allegations, and hence, the Commission had rightly passed the impugned order.

5. The second respondent/complainant was not present on 03.07.2025, and the matter was adjourned to 04.07.2025 to provide an opportunity for him and his counsel to appear, with a caveat that the matter would be heard on the basis of available records and the



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submissions of counsel if R2 remained unrepresented. On 04.07.2025 also, there was no representation on behalf of R2, and the matter was again adjourned to today with the same caveat. Today, when the matter was called, there was no representation by R2 or his counsel. Accordingly, the matter is taken up in his absence, as R2 was afforded several opportunities to appear and represent his case.

6. The arguments of learned counsel for the parties have been duly considered, as well as the evidence placed before the first respondent Commission.

7. P.W.1, the complainant, is the uncle of the victim. In his examination-in-chief, he reiterated the averments made in the complaint. During cross-examination, a suggestion was put to him as to whether he had witnessed the incident, to which P.W.1 replied that he had not witnessed the petitioner demanding any gratification amount or assaulting the victim. He further admitted that the petitioner had issued a charge memo against the rider of the motorcycle for committing the aforesaid offence and for depositing a fine of Rs.3,000/- before the jurisdictional court.



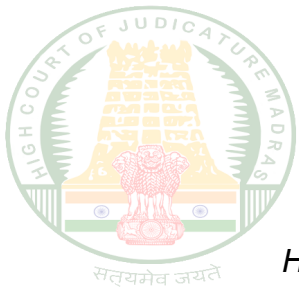
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8. The victim was examined as P.W.2, and he also reiterated the averments made in the complaint. The cross-examination of P.W.2 reads as follows

குறுக்கு விசாரணை
தற்போது என் வயது 18. சம்பவ சமயத்தில் என் வயது 17. நான் அப்போது 12-ம் வகுப்பு
படித்து வந்தேன். என் அப்பாவின் வண்டியை நான் சம்பவத்தன்று ஓட்டிச் சென்றேன்.
வண்டியின் முழு என் தெரியாது 9378 மட்டும் தான் தெரியும். ஓட்டுநர் உரிமம் இல்லாமல்
வாகனம் ஓட்டுவது தவறு என்று எனக்கு தெரியும். நான் சம்பவத்தன்று வாகனத்தை
வேகமாக ஓட்டியதற்காக வழக்கு போடவில்லை, தலைகவசம் அணியாததால் தான் வழக்கு
போட்டார்கள். எஸ்.ஐ என்னிடம் ரூபாய் 1500 லஞ்சம் கேட்டதாக சொன்னதற்கு ஆதாரம்
இல்லை. அது தாராததால் தான் என் மீது வழக்கு போட்டு அபராதம் போட்டார்கள். காவல்
நிலையத்தில் என்னிடம் செல்போனை தரும் படி கேட்டார்கள் நான் அம்மாவின் போன்
தரமுடியாது என்று சொன்னேன். செல்போனை அவர் பரிசுதல் செய்து பின் என்னிடம்
திருப்பி தந்து விட்டார். அபராதம் கட்ட மட்டும் ரசீது கொடுத்தார். காவல் நிலையத்திலிருந்து
இரவு 7.30 மணிக்கு வெளியே வந்தேன். சம்பவம் நடந்ததற்கு மறுநாள் தான்
மருத்துவமனைக்கு போனேன். அடிபட்டதை வீட்டில் சொல்லவில்லை. இரவு படுத்து
எழுந்தபோது தான் எனக்கு மூச்சு விட முடியவில்லை அதனால் தான் மறுநாள்
மருத்துவமனைக்கு போனேன். என்னை அடிக்காததால் தான் நான் அன்றே
மருத்துவமனைக்கு போகவில்லை என்றால் சரியல்ல. எதிர் தரப்பினர் நான் தலைகவசம்
போடாததால் என் மீது வழக்கு போட்டதால் தான் நான் அவர் மீது பொய்யாக வழக்கு
போட்டேன் என்றால் சரியல்ல.

9. The English translation of testimony of victim in the cross examination is reproduced below:

“The witness stated that he is currently 18 years old and was 17 at the time of the incident, studying in Class 12. He admitted to driving his father’s vehicle without a license and acknowledged that it is illegal.



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He could recall only part of the vehicle's registration number "9378."

He was not booked for speeding but for not wearing a helmet.

He denied any evidence proving that the Sub-Inspector (SI) demanded a bribe of Rs.1500 and stated that he was fined because he did not pay it. At the police station, he was asked to hand over his mobile phone, but he refused, saying it belonged to his mother. The phone was briefly confiscated and later returned. He received only a fine receipt and left the station at 7:30 PM.

He went to the hospital the day after the incident, as he experienced breathing difficulty during the night. He did not inform his family about being beaten. He denied that not going to the hospital on the same day meant he wasn't beaten and refuted the suggestion that he filed a false complaint merely because he wasn't wearing a helmet."

10. The petitioner filed an affidavit in lieu of chief examination, stating that he had stopped the vehicle ridden by the victim not only for not wearing a helmet but also for over-speeding, and that a charge memo was issued against the victim for the aforesaid offences. He further stated that the alleged incident had taken place on 04.01.2018, and that if the victim had actually sustained any injuries due to the alleged assault, he would have gone to the nearest hospital for treatment. However, the complainant produced certain medical records

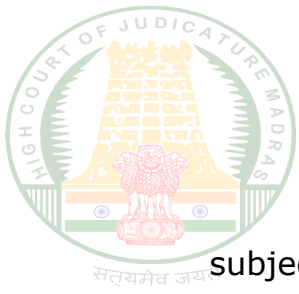


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marked as Ex.P2, indicating that he had taken treatment for injuries on 05.01.2018 at a government hospital located far from his residence. This, according to the petitioner, clearly establishes that the complainant, in order to build a case against him, deliberately sought treatment at a government hospital. He further stated that Ex.P2, the opinion of the neurosurgeon and orthopedist, does not suggest that the victim sustained any injury. The cut injury and abrasion on the victim's finger could have occurred when he was riding the motorcycle rashly and fell down accidentally.

11. The Commission proceeded to pass the impugned order stating that the petitioner had not denied the allegations of torture, assault, and the demanded gratification amount of Rs. 1,500/- from the victim. According to Order VIII Rule 5 of the Code of Civil Procedure, every allegation of fact in the plaint, if not denied specifically or by necessary implication, or if it is stated to be not admitted in the defendant's pleadings, shall be taken to be admitted—except in the case of a person under disability. However, in the present case, the petitioner had specifically denied the allegations of assault and torture. Furthermore, during the cross-examination of the victim, a suggestion was made that he had not been assaulted or



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subjected to harassment and torture on the date of the incident. The victim admitted that he went to the hospital the following day as he experienced breathing difficulty in the night , and he did not inform his family that he was brutally beaten. The complainant and the victim as an afterthought to falsely implicate the Petitioner alleged that he had assaulted the victim.

12. R1/Commission also failed to take into consideration that the victim had categorically admitted to committing the offence and had deposited the fine amount before the jurisdictional Court. The pillion rider, who was travelling with victim on the date of the incident, was not examined to substantiate the allegation against the petitioner. Therefore, an adverse inference must be drawn against the complainant and the victim for not examining the pillion rider, who was a material witness.

13. The allegation against the petitioner is that he assaulted the victim on his back with a plastic pipe. However, the medical records (Exs. P1 and P2) indicate that the victim sustained abrasions on his finger and not on his back. Therefore, the Commission erroneously recorded a finding that the victim was assaulted by the petitioner.



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14. In light of the foregoing discussion, we are of the considered view that there was no substantial evidence before the Commission to establish that the petitioner had demanded gratification of Rs. 1,500/- from the victim or had assaulted him on the date of the incident. Under such circumstances, the impugned order passed by R1/Commission is not legally sustainable. Accordingly, we pass the following order:

15. The writ petition is allowed. The impugned order dated 16.03.2020 passed in S.H.R.C. No. 237 of 2018 on the file of the first respondent is set aside. Consequently, the complaint filed by R2 is dismissed. The connected miscellaneous petition is also closed. There shall be no order as to costs.

(M.S.,J.) (H.C.J.)
07.07.2025

Index : Yes / No
Neutral Citation : Yes / No
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To
The State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai - 28.



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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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