



W.P.No.6127 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18.02.2025
Pronounced on	25.03.2025

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN
THILAKAVADI**

W.P.No.6127 of 2020

and

W.M.P.Nos.7193 & 7194 of 2020

S.Sudhakar

.. Petitioner

VS

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Tamil Nadu Human Rights Commission,
No.143, P.S.Kumarasamy Raja Road,
(Greenways Road) Chennai-28.

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3. The Special Secretary to Government,
Public (HR) Department,
Secretariat, Chennai-600 009.

4. V.Murugan .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in SHRC No.7414 of 2017 dated 13.12.2019 passed by the 2nd respondent and to quash the same.

For Petitioner	:	Mr.P.Vijendran for Mr.M.Malaviya
For Respondents	:	Mr.M.S.Arasakumar, Government Advocate for R1 to R3 No Appearance for R4



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ORDER

K.GOVINDARAJAN THILAKAVADI,J.

Challenge in this writ petition is to the order of the State Human Rights Commission in SHRC Case No.7414 of 2017 dated 13.12.2019 passed by the 2nd respondent, directing the 1st respondent to pay a sum of Rs.50,000/- as compensation to the complainant and to recover Rs.25,000/- from the writ petitioner and Rs.12,500/- each from the other respondents in the complaint.

2. The brief facts necessary for disposal of this writ petition are as follows:

The 4th respondent in this writ petition viz., V.Murugan approached the State Human Rights Commission alleging that, he lodged a complaint before Kulasekarapattinam Police Station for the alleged occurrence that took place on 07.07.2016 and the same was registered as CSR No.164 of 2016. While so, the respondents therein forced him to withdraw the said complaint. Thereafter, on 25.07.2017 at about 08.30 a.m, when he was returning from School and passing through



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Chidambaram Street, the Respondents intercepted the vehicle of the Complainant and assaulted him with lathi and thereafter took him to the Police Station and detained him in the lockup till 03.45 p.m. Thereafter, a false case in Crime.No.178 of 2017 was registered against him and he was produced before the Learned Judicial Magistrate who remanded him to judicial custody. The Respondents threatened the Complainant not to disclose anything to the Magistrate about the harassment made by the Police. Thereafter, he was released on bail 18.08.2017. On 18.08.2017 the Complainant while returning to his village, the Respondents along with other policemen came in a TATA Sumo Car, intercepted his two wheeler and took a sum of Rs.1000/- from his pocket. The 1st Respondent slapped the complainant on his cheek and pushed him into the TATA Sumo Car. The other Respondents also assaulted him severely. Thereafter, he was thrown out from the car near Kulasekarapattinam bypass road. He then went along with his uncle to the Government Hospital at Madurai for treatment. He was admitted as in-patient till 21.08.2017. Hence, the complainant preferred a complaint before the Human Rights Commission for the alleged violation of Human Rights.



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3. The defence of the respondents before the State Human Rights Commission is that the complainant is a Ganja seller and he was involved in Cr.No.178 of 2017 under Section 8(c) 20(b)(II)(A) of NDPS Act 1985 filed in Kulasekarapattinam Police Station. On the basis of the complaint lodged an enquiry was also conducted by one Mennakshinathan, the then Inspector of Police, Kulasekarapattinam Police Station. Since a compromise was entered between the parties, the said complaint was closed.

4. On 25.07.2017 at about 10.00 a.m, when the 1st respondent was under prohibition raid in the Udangudi area along with other Respondents, the Complainant came in a two wheeler bearing Registration No.TN59-AQ-9896 in a speedy manner. The police team under suspicion intercepted his motorcycle and seized 1.100 Kilograms of Ganja containing 25 paper pockets from the tank cover of the motorcycle. A criminal case was registered against him. Thereafter, the complainant was produced before the Learned Judicial Magistrate and subjected him to judicial custody. The Complainant is a habitual offender of the said



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crime, selling the drugs in busy locality and thereby acted in a manner prejudicial to the maintenance of public order and public health. There was no harassment or violation of Human Rights committed by the police team during the said enquiry. The said complaint was filed by him in order to escape from the clutches of law and hence, the complaint is liable to be dismissed.

5. The State Human Rights Commission framed the following points for consideration:

(1) Whether the Respondents had violated the human rights of the Complainant?

(2) What reliefs the Complainant is entitled to?

6. On the side of the complainant, the complainant/4th respondent examined himself as P.W.1 and marked 12 documents (Ex.P.1 to Ex.P.12). The 1st respondent/writ petitioner examined himself as R.W.1 and Ex.R.1 was marked on his side.



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7. The State Human Rights Commission, upon examination of the rival contentions found that the complainant/4th respondent was manhandled by the respondents therein and thereby violated the Human Rights of the complainant/4th respondent herein and made the following recommendations:

" The Government of Tamil Nadu shall pay a compensation of Rs.50,000/- (Rupees Fifty Thousand only) to the Complainant Thiru Murugan, S/o Vembu, No.1A, Pudumanai Pallivasal East Street, Udangudi, Tiruchendur Taluk, Thoothukudi District, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover Rs.25,000/- from the 1st Respondents and Rs.12,500/- each from the 2nd & 3rd Respondents respectively."

8. Aggrieved by this, the 1st respondent therein has preferred the present writ petition.



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9. The contention of the writ petitioner is that there was no harassment or violation of Human Rights committed to the complainant/4th respondent either by the writ petitioner or by the police team during the enquiry. The complainant/4th respondent did not suffer any injury and the documents produced by him before the Commission were fabricated in order to escape from the clutches of law. The Commission failed to consider the facts of the case in a right perspective manner and erroneously passed the impugned order.

10. Despite notice to the complainant/4th respondent, he neither appeared through counsel nor appeared in person.

11. On the other hand, Mr.M.S.Arasakumar, learned Government Advocate appearing for the respondents 1 to 3 submits that the complainant/4th respondent categorically proved the occurrence that took place on 18.08.2017 through oral and documentary evidence. The Human Rights Commission has given cogent reasons regarding ill-treatment



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caused to the Complainant/4th respondent and made recommendations as fact finding authority. The SHRC has rendered a finding that the respondent Police Officials have grossly misused their official powers and caused physical and mental agony to the complainant/4th respondent. Hence, prayed for dismissal of the writ petition.

12. We have considered the rival submissions and gone through the records.

13. In order to satisfy ourselves on the merits of the case, we have perused the impugned order as well as the connected records. There is no explanation on the side of the writ petitioner about the injuries found on the complainant/4th respondent. The complainant/4th respondent who deposed as P.W.1 had spoken about the alleged incident that took place on 18.08.2017 as found in the complaint. He further deposed about the harassment caused by the writ petitioner and other police officials and about taking treatment in the Government Hospital at Madurai. The complainant/4th respondent had also filed the copy of the accident register



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dated 19.08.2017 which was marked as Ex.P.3 before the Commission.

The Commission also took note of the above document and observed as follows:

" *It is seen from this document that he was taken to the hospital by his uncle Viswam. The Complainant informed to the Chief Medical Officer that he was assaulted by 6 police people by stick, hand at about 07.00 PM yesterday (18.08.2017) at Kulasekarapattinam in lower side of the bridge. He also sustained injuries on both thighs and admitted in the hospital for treatment. During his cross-examination he admitted that he took treatment only in the Government Hospital, Madurai with the help of his uncle.*

17. However, there is no other cross-examination on this aspect with this witness. But it



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was argued by the Respondents that the date in the AR copy was corrected by the Complainant. I have perused the same, but there is no such correction was made by the Complainant. It is seen from the complaint that he was assaulted on 18.07.2017. But the same is a typographical error because it is admitted that he was remanded to judicial custody on 25.07.2017 and released on bail only on 18.08.2017. Therefore, the objection raised by the Respondents is rejected.

18. The Complainant categorically, deposed about the alleged incident took place on 18.08.2017 in page No.3 to 5 of the main complaint. But the Respondents had not specifically denied this allegation in the counter statement filed by them. No reason is stated for the non-denial of this fact. However, the 1st Respondent only in the proof



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affidavit filed by him has stated that the allegation against the police team is false. But no reason was stated by the Respondents that why the allegation was not at all denied by them at the earliest point of time in their counter statement.

19. According to Order 8 Rule 5 of the CPC it was categorically stated that every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability. It is also stated in Order 8 Rule 4 that evasive denial is not sufficient and specific denial should be made in the counter statement. Therefore, this Commission is of the considered opinion that the Respondents, in their counter statement, had not denied the allegation stated by the Complainant in his complaint in page 3



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to 5. It seems to me that the Respondents deemed to have been admitted the said allegation against them."

14. Therefore, in the absence of any explanation offered by the writ petitioner on this aspect, the Commission has rightly opined that the injuries sustained by the complainant would have been caused by the writ petitioner and other Police Officials. The burden of proving the fact that the injuries on the body of the complainant was not caused by the writ petitioner lies upon writ petitioner. In order to discharge the same and other allegations, the writ petitioner failed to examine the concerned Medical Officer.

15. Taking into consideration, the overall circumstances, the Human Rights Commission came to the conclusion that the complainant/ 4th respondent had sustained injuries only on account of the assault inflicted by the writ petitioner and his police team. There is no motive for the complainant/4th respondent to give a false complaint against the writ petitioner and his Police team before the Commission.



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16. The Commission also disbelieved Ex.R.1 (G.D) and the contention of the writ petitioner that he was not present in the Police Station at the relevant point of time. The Commission observed that the alibi has to be pleaded and proved and that the respondents failed to make a specific averment in the counter statement with regard to alibi and therefore, the Commission came to a conclusion that the plea of alibi is only an after thought.

17. All the above factual aspects clearly prove the fact of Human Rights violations made to the complainant/4th respondent by the Law Enforcing Officers, who are not expected to violate Human Rights of a Citizen.

18. The Commission has thoroughly examined the materials on record and passed the impugned order. We are unable to see any perversity in the findings of the 2nd respondent/State Human Rights Commission, warranting interference under Article 226 of the Constitution of India.



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19. In the result, this writ petition stands dismissed without any order as to cost. Consequently, connected miscellaneous petitions are closed.

[M.S., J]

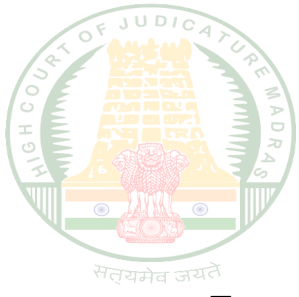
[K.G.T., J]

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Index: Yes/No

Speaking order / Non-speaking order

vsn



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Secretariat, Chennai-600 009.
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M.SUNDAR,J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

vsn

Pre-delivery order in

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and W.M.P.Nos.7193 & 7194 of 2020

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