

W.P No. 12703 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : **30-07-2025**

Delivered on : **11-08-2025**

CORAM

THE HONOURABLE MR JUSTICE M. SUNDAR

AND

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 12703 of 2022

AND

WMP.No. 12157 of 2022

Sundaramoorthy

..Petitioner

Vs

1. The Government of Tamilnadu

Rep.by The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600009.

2.P.Dhillibabu, Ex.MLA

..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records in order dated 22.03.2022, made in SHRC Case No. 6743/2018 passed by the State Human Rights Commission, Tamilnadu and quash the same.



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For Petitioner : Mr.B.Jawahar

**For Respondents : Mr.K.Suresh, GA – R1
Mr.K.C.Karlmarx - R2**

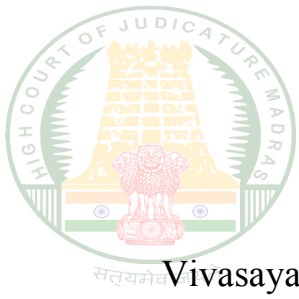
ORDER

HEMANT CHANDANGOUDAR, J.

The captioned writ petition has been filed seeking the issuance of a writ of certiorari to quash the order dated 22.03.2022 passed by the State Human Rights Commission (hereinafter referred to as “SHRC” for the sake of brevity, convenience, and clarity) in SHRC Case No. 6743 of 2018. By the said order, the SHRC directed the Government of Tamil Nadu to pay a compensation amount of Rs. 1,00,000/- to the complainant and further directed the recovery of a sum of Rs. 50,000/- from the petitioner/1st respondent before the SHRC and Rs. 25,000/- each from respondents 2 and 3 therein.

Factual Background:

2.1. The complainant (2nd respondent in this writ petition) filed a complaint before the SHRC, stating that he served as a Member of the Legislative Assembly from 2006 to 2016 and was also the State President of Malaivazh Makkal Sangam and the State Deputy Secretary of All India



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Vivasaya Sangam. On 26.06.2018, farmers, including one Elango, protested against the construction of the Chennai-Salem Greenways Road by hoisting flags on their houses and lands. The complainant also participated in the said agitation.

2.2. Later, at around 2:00 PM, while the complainant, along with party members Ganapathy and four others, was having lunch at JPR Hotel, the respondents before the SHRC, along with a Sub-Inspector of Highway Traffic Police, entered the hotel and surrounded the complainant. The 1st respondent/petitioner herein allegedly used abusive language and directed other policemen to assault the complainant. The 1st respondent allegedly punched him in the left side of his chest. Thereafter, the complainant was forcibly taken to Pudupalayam Police Station. The 1st respondent also allegedly snatched the complainant's mobile phone. The complainant, along with Kamaraj and Dhanraj, was detained at the police station and later released at 5:30 PM. A criminal complaint was subsequently filed by the complainant on 03.07.2018 at Chengam Police Station, which was registered as CSR No. 283/2018.

2.3. The respondents entered appearance and denied all allegations. The 1st respondent submitted that, upon receiving credible information that the



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complainant and others intended to conduct a road blockade and disrupt public order, they were advised not to proceed with the protest. Since the complainant refused, minimum force was used during his arrest to prevent a law and order situation. A complaint was registered in Crime No. 580 of 2018 under Section 151 of Cr.P.C. on 26.06.2018, and the complainant along with two others was released the same evening.

2.4. The complainant examined himself as PW1 and two others, Lakshman and Kamaraj, as PW2 and PW3, respectively. He also marked exhibits Ex.P1 to P5 in support of his case. The 1st respondent examined himself as RW1 and marked two documents as Ex.R1 and R2 during the cross-examination of PW1. After evaluating the evidence and records, the SHRC concluded that the 1st respondent had violated the complainant's human rights and passed the impugned order accordingly.

3. Mr. B. Jawahar, learned counsel for the petitioner, submitted that the petitioner, who was then serving as Deputy Superintendent of Police, acted based on credible information and used minimal force to prevent a potential breach of public peace. He emphasized that PW2 admitted police protection



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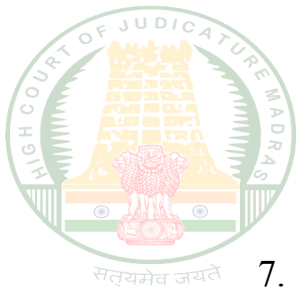
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was extended to the complainant during the morning protest. Hence, in the absence of any evidence proving a violation of human rights, the SHRC's order is unsustainable in law.

4. In response, Mr. K.C. Karlmarx, learned counsel for the 2nd respondent/complainant, contended that arresting a person on the mere apprehension of a future protest is not tenable under the law. He argued that the arrest was illegal and constituted a violation of human rights. As the protest in the morning did not cause any disturbance, the assumption that the complainant would later create a law and order problem was baseless. Therefore, the SHRC's order is just and does not warrant interference.

5. Mr. K. Suresh, learned Government Advocate appearing for the 1st respondent, adopted the submissions of the learned counsel for the 2nd respondent and sought dismissal of the writ petition.

6. The arguments of the learned counsels and the materials on record have been duly considered.



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7. The incident arose based on alleged credible information received by the petitioner suggesting that the complainant, a former MLA, was likely to protest against the construction of the Chennai-Salem Greenways Road. Apprehending a possible law and order issue, the police arrested the complainant and took him to the police station for inquiry, subsequently registering Crime No. 580/2018 under Section 151 Cr.P.C.

8. Under Section 151 Cr.P.C., the police may arrest a person without a warrant if they have knowledge of a design to commit a cognizable offence and believe the offence cannot otherwise be prevented. In the present case, the complainant and others were merely having lunch at a hotel at the time of the alleged incident, and no material evidence was presented to justify the belief that they intended to engage in an unlawful protest.

9. Mere suspicion or apprehension cannot justify an arrest under Section 151 Cr.P.C. unless supported by credible evidence. The FIR against the complainant under Section 151 Cr.P.C. does not cite any specific cognizable offence being planned. PW2's testimony confirmed that police protection was provided during the morning protest, indicating there was no disturbance or



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threat to public order.
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10. While police officers may arrest someone planning a cognizable offence without a warrant, such an arrest must be based on concrete evidence. In this case, the complainant was arrested without the identification of any such planned offence, making the arrest non-compliant with Sections 151, 41, and 41A of the Cr.P.C.

11. PW3 admitted he was lying in front of a police jeep and was arrested, which may justify his detention. However, this does not support the contention that the complainant was about to commit a cognizable offence. The SHRC rightly relied on precedent, including a Madurai Bench decision where criminal proceedings against a peaceful protester were quashed, affirming that peaceful expression of dissent is a fundamental right.

12. Ex.P1, a CD containing footage recorded by a Sun TV reporter, was viewed by the SHRC. The footage revealed that the 1st respondent used force by pulling and dragging the complainant to a police van. The respondents also admitted in their counter statement that minimum force was used during the



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13. In light of the above discussion, this Court finds no illegality, arbitrariness, or infirmity in the SHRC's impugned order. The SHRC correctly concluded that the complainant's arrest by the use of force amounted to a violation of human rights.

14. In the result, the writ petition is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

[M.S.,J.] [H.C.,J]

11.08.2025

Index : Yes

Internet : Yes

Neutral Citation : Yes

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To

The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600009.



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M. SUNDAR, J.
and
HEMANT CHANDANGOUDAR, J.
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Pre-Delivery order in

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AND

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