



W.P.No.19301 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	04.02.2025
Pronounced on	26.02.2025

Coram

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

and

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

W.P.No.19301 of 2018

and

W.M.P.No.22707 of 2018

K.S.Saravanan

S/o. K.Sabapathi

.. Petitioner

VS

1. The Registrar
The State Human Rights Commission Tamilnadu,
"Thiruvarangam",
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road),
Chennai-600 028.



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2. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai-600009.

3. A.Ali Akbar .. 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.7026 of 2013 dated 15.05.2018 passed by the 1st respondent herein and to quash the same.

For Petitioner : Mr.J.Prakasam

For Respondents : Ms.S.Gajalakshmi
for Mr.K.V.Sajeev Kumar for R1,

Mr.V.Ravi,
Special Government Pleader for R2

Mr.A.Raja Mohamed for R3



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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.7026 of 2013 dated 15.05.2018 holding that, the act of the writ petitioner amounts to violation of Human Rights and directing the writ petitioner to pay a sum of Rs.1,00,000/- as compensation to the complainant besides recommending initiation of disciplinary action against the writ petitioner.

2.The writ petitioner would contend that there was no Human Rights violation, and as such the order of the State Human Rights Commission (hereinafter referred to SHRC) imposing penalty and a further direction to take disciplinary proceedings against him are not justified and the same is liable to be quashed.

3.Mr.J.Prakasam, learned counsel for the writ petitioner submits that, while the petitioner was serving as Inspector of Police, Meignanapuram Police Station, Thoothukudi District, one Mr.Packiaraj lodged a complaint before the Deputy Superintendent of Police,



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Sathankulam, that he was cheated to the tune of Rs.60,00,000/- (Sixty lakhs only) by the third respondent herein namely A.Ali Akbar and the same was forwarded to the Meignanapuram Police Station, Thoothukudi District where the petitioner was serving as the Inspector of Police at that time. After detailed enquiry about the complaint lodged by Packiaraj, the petitioner registered a case against the 3rd respondent herein in Cr.No. 102 of 2013, under sections 406 and 420 of I.P.C on 18.06.2013.

4.Subsequently another criminal case was registered against the 3rd respondent herein on the basis of the complaint lodged by one Esther Rasathi in Cr.No. 112 of 2013 dated 29.06.2013 under section 376 of I.P.C. In the above referred criminal case, the 3rd respondent was enlarged on anticipatory bail by Principal Sessions Judge, Thoothukudi in CrI.MP.No. 2687 of 2013 dated 07.08.2013 on the basis of compromise entered between 3rd respondent and the defacto complainant. The petitioner also submits that the 3rd respondent herein was also enlarged on anticipatory bail in Cr.No.112 of 2013 by Principal Session Judge, Thoothukudi in CrI.MP.No. 2821 of 2013 on 19.08.2013.

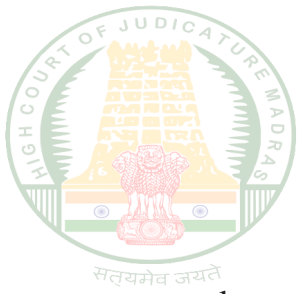


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5. In the above referred criminal cases registered against the 3rd respondent herein, the Learned Principal and sessions Judge while enlarging him anticipatory bail, imposed the condition including that the 3rd respondent shall report before the Meignanapuram Police Station daily at 05.00 PM until further Orders. The petitioner also states that in order to evade complying the conditional order, the 3rd respondent lodged a false complaint against the petitioner before the 1st respondent. The gist of the false complaint filed by the 3rd respondent before the 1st respondent against the petitioner is that, the petitioner demanded a sum of Rs.80,000/- from the 3rd respondent herein and when he refused the same, the petitioner abused and assaulted him. The petitioner also states that he filed a counter statement in the above complaint before the 1st respondent herein and specifically denied the false allegations leveled against the petitioner by the 3rd respondent herein and that, on the alleged day i.e on 07.09.2013 the petitioner was on leave and he was not present in the police station at the alleged time.

6. After filing counter statement in SHRC No.7026 of 2013, the 1st respondent did not issue any notice thereby intimating further hearing



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date to the petitioner. Thereafter, the petitioner came to know from the newspaper that the 1st respondent has passed the order against the petitioner. Immediately the petitioner rushed to the 1st respondent's office at Chennai, and came to know that the petitioner was set ex-parte and the following order was passed:

" (i) The Government of Tamil Nadu shall pay a compensation of Rs.1,00,000/-(Rupees One Lakh only) to the Complainant Thiru. A.Ali Akbar S/o Ansudeeen, No.6A/12 Kattu Thaikka Street, Kayalpattinam, Thoothukudi District within one month from the date of receipt of a copy of this recommendation and the Government of TamilNadu may recover the same from the respondent.

ii) This Commission is also recommends to initiate disciplinary action against the respondent as per the rules."



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7.The petitioner also states that the 1st respondent herein without giving any opportunity to the petitioner to putforth his case, passed the impugned order against the petitioner, which is unsustainable either in law or on facts. The 1st respondent herein without perusing the documents filed by the petitioner passed the order against him mechanically. The 1st respondent failed to note that the 3rd respondent herein did not come with clean hands is his further contention. The learned counsel further submits that the absence of the writ petitioner does not absolve the Commission from fully satisfying itself of the factual and legal veracity of the complaint before it. It casts a greater responsibility and onerous obligation on the Commission to be fully satisfied that the complaint preferred by the 3rd respondent stands proved. The Commission ought to have scrutinized the available materials on record before passing the ex-parte order. To support his contention, he has relied upon the following Judgments reported in:

(1) Maya Devi Vs. Lalta Prasad* reported in *(2015) 5 SCC 588

***(2) Ramesh Chand Ardawatiya Vs. Anil Panjwani* reported in**

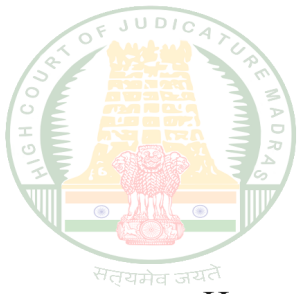
(2003) 7 SCC 350



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8.Mrs.S.Gajalakshmi, learned counsel appearing for the 1st respondent submits that the Principal District Court, Thoothukudi enlarged the Complainant in SHRC/3rd respondent herein, on anticipatory bail in Meignanapuram Police Station in Cr.No.112 of 2013 subject to the condition that the 3rd respondent should appear before the above said police station daily at 05.00 p.m until further orders and the 3rd respondent is observing the condition. On 07.09.2013 at about 05.00 p.m the 3rd respondent came out from the Meignanapuram police station after complying with the condition. At that time, he was called by the petitioner / Inspector of Police, who enquired about the money involved in the above case and demanded a sum of Rs.80,000/- from the 3rd respondent. When the 3rd respondent refused the same, the petitioner threatened him that he will be remanded in a rape case and sent to jail under 'Goondas Act'. By saying so, the petitioner assaulted the 3rd respondent and caused injury upon him. On 07.09.2013 at about 07.30 p.m the 3rd respondent was taken to the Government Hospital, Kayalpattinam and was treated as in-patient. Hence, the 3rd respondent was forced to file a complaint against the petitioner for violation of



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Human Rights. Hence, the writ petitioner is not entitled to challenge the Commission's findings and recommendations.

9. We have considered the rival submissions.

10. We have gone through the connected records and the impugned order. On perusal of records, it is seen that on 13.09.2013, the SHRC received a complaint from the complainant in Form A and had issued summons to the writ petitioner through the Superintendent of Police, Thoothukudi District requiring him to appear before the Commission on 24.01.2014. The writ petitioner upon receipt of notice filed a petition under Section 317 Cr.P.C to dispense with the attendance of the writ petitioner. Therefore, the contention of the writ petitioner that he was not put on notice regarding the proceedings of SHRC at Madurai cannot be accepted.

11. The further contention of the writ petitioner is that in the accident register relied upon by the respondents (Ex.P.7) it is stated that the 3rd respondent was assaulted by unknown persons and that the wound certificate and treatment particulars were not marked on the side of the



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respondents. While so, the 1st respondent erroneously came to the conclusion that the 3rd respondent was assaulted by the writ petitioner.

12. At the time of examination of the accident register, the Human Rights Commission noted as follows:

"It is well settled law that unless and otherwise the averments in the complaint is specifically denied by the respondent in his counter statement then it will amount to an admission. As I already said, the respondent never denied the allegation of torture and assault by him. Furthermore, the respondent has not given any explanation how the complainant sustained injuries in his body.

The complainant also produced the copy of the accident register issued by the Medical Officer, Government Hospital, Kayapattinam dated 07.09.2013. It is seen from this document that the complainant reported to the Doctor that he was assaulted by an



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unknown person at Meignanapuram at about 5.00 p.m on 07.09.2013 and the complainant also sustained three injuries. But the same is not readable one.

The letter addressed to the Complainant by the Dean of Tirunelveli Medical College Hospital dated 30.09.2014 was also marked as Ex.P8. It is seen from this letter that the Complainant was assaulted by some unknown persons and took treatment in the Government Hospital, Kayalpattinam from 07.09.2013 and referred to Tirunelveli Medical College Hospital and took treatment from 14.09.2013 to 18.09.2013. He also advised the Complainant to send an application through the Medical Officer, Government Hospital, Kayalpattinam to receive the wound certificate and treatment particulars. But the same was not obtained by the Complainant. Further, it is proved that he sustained injuries on 07.09.2013. Though it was mentioned as he was assaulted by an unknown person, the Complainant had specifically stated that he was assaulted by the



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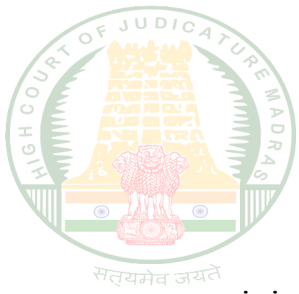
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Respondent. Therefore, the word unknown may be written as false one."

13. 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. 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 neither chose to examine himself nor the concerned Medical Officer.

14. Taking into consideration, the overall circumstances, the Human Rights Commission came to the conclusion that the complainant/3rd respondent has sustained injuries only on account of the assault that had met out to him at the hands of the writ petitioner.

15. The Commission has thoroughly examined the materials on record and passed the impugned order. Therefore, in our considered



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opinion that the arguments put forth by the learned counsel for the writ petitioner that the commission failed to test the factual and legal veracity of the complaint is unsustainable. The findings of the 1st respondent/SHRC are based on appreciation of oral and documentary evidence, which established the facts narrated in the complaint. All the above facts clearly prove the fact of Human Rights violation made to the 3rd respondent by the Law Enforcing Officer, who is not expected to violate Human Rights of a Citizen. We are unable to see any perversity in the findings of the 1st respondent/SHRC warranting interference under Article 226 of the Constitution of India.

16. In the light of the above, we are not inclined to interfere with the reasoned order passed by the Human Rights Commission. The Government of Tamil Nadu shall disburse a sum of Rs.1,00,000/- in compliance with the order of the Human Rights Commission to the 3rd respondent within a period of 8 weeks from the date of receipt of a copy of this order. The recommendations by the Commission to initiate disciplinary action against the writ petitioner is also confirmed.



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17.In the result, this writ petition stands dismissed without any order as to cost. Consequently, the connected miscellaneous petition is also closed.

[M.S., J]

[K.G.T., J]

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Index: Yes/No

Speaking order / Non-speaking order

vsn

To

1. The Registrar
The State Human Rights Commission Tamilnadu,
"Thiruvaram",
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road),
Chennai-600 028.
2. The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai-600009.



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M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

vsn

Pre-delivery order in
W.P.No.19301 of 2018
and W.M.P.No.22707 of 2018

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