

W.P. No. 29006 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 25-06-2025

Delivered on : 07.07.2025

CORAM

THE HONOURABLE MR JUSTICE M. SUNDAR

AND

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P. No. 29006 of 2022

AND

WMP.No.28290 of 2022

T.Thavasi Anand
S/o.Thambudurai

..Petitioner

Vs

1.The State Human Rights Commission, Tamil Nadu,
Rep. by its Secretary,
Thiruvarangam Maaligai,
Greenways Road,
Raja Annamalaipuram,
Chennai-600028.

2.G.Saran Srinivasan,
S/o.R.Gopal.

3.The Secretary to Government,
Home Department, Secretariat,
Chennai-600009.

..Respondents



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Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records, calling for the entire records on the file of the 1st respondent herein relating to the 1st respondent's impugned order passed in S.H.R.C. No. 9323 of 2016, dated 28.12.2020 and quash the same as illegal and pass such further or other orders.

For Petitioner : Mr.B.Ganesha Moorthy

For Respondents : Mr.T.C.Gopalakrishnan – R1
Mr. T.K.Saravanan, AGP – R3
No Appearance – R2

ORDER

(HEMANT CHANDANGOUDAR, J.)

The captioned Writ Petition has been filed seeking issuance of a writ of certiorari to call for the records pertaining to the order dated 28.12.2020 passed by the first respondent – the State Human Rights Commission, Tamil Nadu (hereinafter 'the Commission'), and to quash the same. By the said impugned order, the Commission directed the third respondent/ State to pay compensation of Rs.1,00,000/- (Rupees One Lakh only) to the second respondent/complainant. Further, the third respondent was preserved with



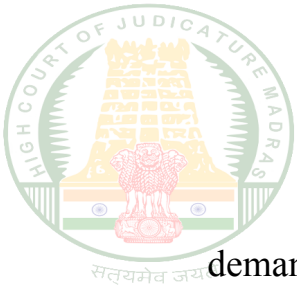
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the liberty to recover the said compensation amount from the writ petitioner and to initiate disciplinary proceedings against him for having registered First Information Report (FIR) in Crime No.1714 of 2016.

2. The facts leading to the filing of the present Writ Petition, as projected by the petitioner, are as follows:

2.1 The second respondent/complainant had lodged a complaint before the first respondent/Commission alleging police excess by the writ petitioner. It was alleged that on 13.11.2016, while the petitioner was serving as Head Constable and was on patrol duty along with three other police personnel, he stopped the complainant and demanded that he disclose his identity. At the time, the complainant was seated on his motorcycle. Upon being asked to produce proof of identity, the complainant showed his driving licence and documents pertaining to the vehicle. According to the complainant, the petitioner then slapped him and questioned how he dared to remain seated on the vehicle while producing the documents. This, allegedly, caused the complainant to fall down along with the motorcycle. It was further alleged that the petitioner, suspecting the complainant,



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demanding that he come to the police station. When the complainant hesitated or resisted, the petitioner allegedly assaulted him on the back with a lathi and, by grabbing his shirt collar, forcibly took him to the police station. At the station, the complainant was allegedly forced to remove his clothing and made to remain in his undergarments. Subsequently, an FIR was registered against the complainant in Crime No.1714 of 2016, invoking, inter alia, Section 41(1)(a) of the Code of Criminal Procedure, 1973 (CrPC), which empowers a police officer to arrest a person without warrant in certain cognizable cases.

2.2. In support of his case before the Commission, the complainant examined himself as PW1 and his relative as PW2. He also marked documents as Exhibits P1 to P6. On the other hand, the petitioner, in his defence, filed an affidavit in lieu of examination-in-chief and marked a document as Exhibit R1. Upon evaluation of the oral and documentary evidence adduced by both parties, the first respondent/Commission proceeded to pass the impugned order dated 28.12.2020 awarding



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compensation and issuing directions adverse to the writ petitioner, as stated

3. Mr. B. Ganesha Moorthy, learned counsel appearing for the writ petitioner, submitted that the impugned order passed by the first respondent Commission does not disclose any conclusive finding or credible material to establish that the petitioner violated the human rights of the second respondent/complainant. It was further submitted that the Commission failed to appreciate the evidence and materials on record in the proper legal perspective and, therefore, the impugned order is not legally sustainable and is liable to be set aside.

4. Per contra, Mr. T.C. Gopalakrishnan, learned counsel appearing for the first respondent Commission, and Mr. T.K. Saravanan, learned Additional Government Pleader appearing for the third respondent/State, submitted that the Commission, after a thorough appreciation of both oral and documentary evidence adduced by the parties, passed a reasoned order in consonance with law, and as such, the impugned order does not warrant



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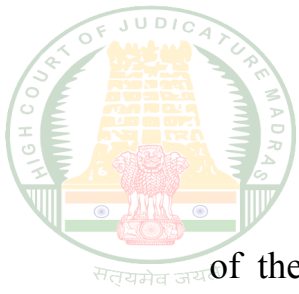
any interference by this Court under Article 226 of the Constitution of India.

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5. The second respondent/complainant, despite due service of notice, has neither entered appearance in person nor through counsel. Hence, he is set ex parte.

6. The submissions of the learned counsel for the parties have been duly considered and the materials placed on record have been carefully perused.

7. A perusal of the FIR in Crime No.1714 of 2016, registered by the petitioner against the second respondent, reveals that the complainant was arrested on 13.11.2016 at 11:30 p.m. However, the FIR does not disclose the commission of any cognizable offence by the complainant. The arrest appears to have been effected solely on the basis of suspicion. In the absence of any material implicating the complainant in a cognizable offence, the petitioner was not empowered to arrest him under Section 41(1)



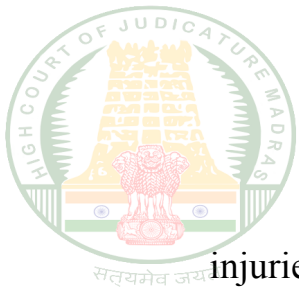
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of the Code of Criminal Procedure, 1973. It is well-settled that a police officer may arrest a person without warrant only in circumstances enumerated under Section 41 CrPC. In the present case, the failure to satisfy these statutory prerequisites renders the arrest patently illegal and violative of the complainant's fundamental right to personal liberty as guaranteed under Article 21 of the Constitution of India.

8. Section 2(d) of the Protection of Human Rights Act, 1993, defines the expression "human rights" to mean the rights relating to life, liberty, equality, and dignity of the individual, guaranteed by the Constitution or embodied in international covenants and enforceable by courts in India. Applying this definition, the illegal arrest of the complainant in the present case, without justification or adherence to due process, clearly amounts to a violation of his human rights.

9. The Commission also recorded a finding that the writ petitioner had physically assaulted the complainant using a lathi, resulting in grievous



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injuries. In support of this allegation, the complainant marked the following documents:

Ex.P1 – Outpatient receipt dated 14.11.2016 issued by Stanley Government Hospital;

Ex.P2 – Accident Register entry noting alleged assault with a wooden stick on 13.11.2016;

Ex.P3 – Trauma Ward case sheet recording that the complainant was allegedly assaulted by the police;

Ex.P5 – Discharge Summary indicating abrasions on both forearms and an injury on the foot.

Upon examination, these records confirm that the complainant sustained injuries. However, the medical evidence does not support the conclusion that the injuries were grievous or that they were the result of the alleged assault by the petitioner, particularly when the specific allegation was that the complainant was assaulted on his back with a lathi. Consequently, the specific finding of the Commission that the petitioner caused grievous injuries is not borne out by the evidence and to that extent, the said finding is legally unsustainable.



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10. As already noted, the arrest of the complainant was merely on the basis of suspicion, particularly due to his alleged contradictory answers during the encounter. In the absence of any credible material establishing the commission of a cognizable offence, the arrest was illegal and infringes the complainant's right to liberty under Article 21 of the Constitution of India.

11. In light of the foregoing analysis, this Court is of the considered view that the compensation awarded by the first respondent Commission to the complainant is legally sustainable, being a reasonable redress for the violation of his human rights. However, the direction issued by the Commission to initiate disciplinary action against the writ petitioner is unwarranted, particularly in the absence of any prior record of human rights violations committed by the petitioner in the discharge of his duties as a police officer. A warning would have sufficed in the given circumstances. The said direction, if implemented, would adversely affect the service conditions of the petitioner. Accordingly, the following order is passed:



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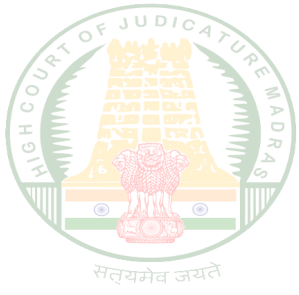
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- i. The writ petition is allowed in part. The impugned order of granting compensation of Rs.1,00,000/- to the complainant payable by the 3rd respondent/State and, thereafter to be recovered from the petitioner is confirmed.
- ii. Clause (c) of the recommendation in the impugned order directing the 3rd respondent to initiate disciplinary action against the petitioner is set aside and the petitioner is let off with a warning that he should not repeat such illegal act in future.
- iii) The State, having deposited the compensation amount which was subsequently withdrawn by the complainant, is preserved with the right to recover the same from the petitioner, in accordance with the order passed by the Commission.
- iv. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

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

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Index : Yes
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Neutral Citation :Yes
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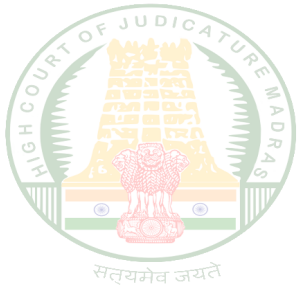
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To

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Pre-delivery order in
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