



WEB COPY



W.P.No.31760 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM

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

W.P.No.31760 of 2022
and
W.M.P. No.31202 of 2022 in W.P.No.31760 of 2022

M.Rathina Kumar

... Petitioner

Vs.

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Home (Police IV) Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Registrar,
The State Human Rights Commission - Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai – 600 028.

3.R.Karunanithi

..Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the records pertaining to
the impugned order dated 03.08.2022 passed in SHRC Case

Page Nos.1



W.P.No.31760 of 2022

No.116/22/6 of 2021 by the second respondent and the consequential G.O.(D) No.1218 dated 01.09.2022 of the first respondent and quash the same.

For Petitioner : Mr.S.Ilamuhil
For Respondents : Mr.K.Suresh,
Government Advocate
for R1 and R2
R3 – No appearance

ORDER

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

The present writ petition has been filed challenging the legality and validity of the impugned order dated 03.08.2022 passed by the second respondent in SHRC Case No.116/22/6 of 2021, whereby the Commission directed the first respondent–State to pay a sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) as compensation to the third respondent/complainant, for the alleged violation of human rights. The impugned order further reserves liberty to the State to recover the said amount from the petitioner, and also directs the State to initiate disciplinary proceedings against the petitioner for alleged misconduct.

Page Nos.2



W.P.No.31760 of 2022

WEB COPY

2. The brief facts leading to the filing of this writ petition are as follows:

The third respondent, who is an advocate by profession, lodged a complaint before the second respondent Commission, alleging that the petitioner, while functioning as Inspector of Police at Dharmapuri New Town Police Station, had called the complainant's brother, Asaithambi, on his mobile phone on 31.12.2020 and used abusive and filthy language against him. It is further alleged that the petitioner also threatened to falsely implicate both the complainant and his brother in a criminal case and issued dire threats over the phone. The said conversation was allegedly recorded by the complainant's brother on his mobile phone.

3. Upon notice, the petitioner entered appearance before the Commission and categorically denied all the allegations leveled against him. After considering the materials on record, the second respondent Commission concluded that the petitioner had violated the human rights of the third respondent and accordingly passed the impugned



W.P.No.31760 of 2022

WEB COPY

order awarding compensation and directing initiation of disciplinary proceedings.

4. It is relevant to note that the third respondent/complainant, though duly served with notice of the proceedings before this Court, has failed to enter appearance either in person or through legal counsel, and was consequently set ex parte.

5. We have heard Mr. S. Ilamuhil, learned counsel appearing for the petitioner, and Mr. K. Suresh, learned Government Advocate, appearing on behalf of respondents 1 and 2.

6. On perusal of the records, it is seen that the complainant was examined as P.W.1 before the Commission. During the course of cross-examination, the complainant admitted that no certificate under Section 65-B of the Indian Evidence Act, 1872 was produced to establish the admissibility and genuineness of the alleged audio recording. Furthermore, a suggestion was put to the complainant regarding the existence of prior enmity between him and the petitioner, which was admitted.



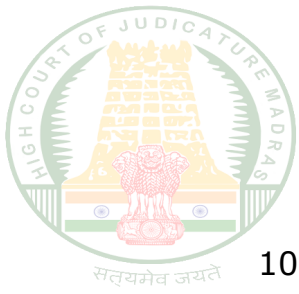
W.P.No.31760 of 2022

WEB COPY

7. Importantly, the complainant did not examine his brother, the alleged recipient of the abusive call, nor did he produce the mobile phone allegedly containing the recorded conversation. Thus, the primary and best evidence, i.e., the mobile device itself, was withheld, warranting an adverse inference against the complainant in terms of Section 114(g) of the Indian Evidence Act, 1872.

8. In the absence of any cogent and admissible evidence on record to substantiate the allegation that the petitioner used abusive language or issued threats, the finding recorded by the second respondent Commission that the petitioner committed human rights violations is legally unsustainable. The Commission erred in relying upon unauthenticated and uncorroborated evidence to arrive at its conclusion.

9. In light of the foregoing facts and circumstances, this Court is of the considered view that the impugned order passed by the second respondent Commission, and the consequential Government Order issued by the first respondent are not legally tenable and are liable to be quashed.



W.P.No.31760 of 2022

WEB COPY

10. Accordingly, the writ petition is allowed. The impugned order dated 03.08.2022 passed by the second respondent in SHRC Case No.116/22/6 of 2021 and the consequential order in G.O. (D) No.1218 dated 01.09.2022 issued by the first respondent are hereby set aside . Consequently, the complaint filed by the third respondent/complainant is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
27.06.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi

To

- 1.The Additional Chief Secretary,
Government of Tamil Nadu,
Home (Police IV) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Registrar,
The State Human Rights Commission - Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai – 600 028.

Page Nos.6



WEB COPY



W.P.No.31760 of 2022

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

mmi

W.P.No.31760 of 2022



WEB COPY



W.P.No.31760 of 2022

27.06.2025