



WP No. 32382 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : **08-07-2025**

Delivered on : **22-07-2025**

CORAM

THE HONOURABLE MR JUSTICE M. SUNDAR

AND

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 32382 of 2018

AND

WMP.No. 37579 of 2018

P.Natarajan

..Petitioner

Vs

1.Tamil Nadu State Human Rights Commission,
Represented by its Registrar,
143, P.S.Kumarasamy Salai,
Greenways Road, Chennai-600028

2.Government of Tamilnadu
rep. By its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,Chennai-600009.

3.K.Dhanalakshmi

4.Manjunathsasamy

5.Veeramuthu

..Respondents



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Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order dated 29.10.2018 passed in SHRC No.1261/2013 and quash the same and pass such other order or orders.

For Petitioner : Mr. R.Ganeshkumar

For Respondents : Mr.T.K.Saravanan ,AGP – R1&R2

For Mr.K.V.Sajeev Kumar

Mr.Anban Bharathy – R3

Mr. S.T. Bharath Gowtham – R4

Ms.T.Divya

For Mr.S.Selva Thirumurugan - R5

ORDER

HEMANT CHANDANGOUDAR, J.

The captioned writ petition has been filed seeking issuance of a writ of certiorari to set aside the order dated 29.10.2018 passed by the State Human Rights Commission, Tamil Nadu (hereinafter referred to as “SHRC” for the sake of clarity and convenience) in SHRC Case No. 1261 of 2013, wherein the Government of Tamil Nadu was directed to pay a sum of Rs. 3,00,000/- to the victim (PW1), Mr. Manjunathsamy, S/o Kumarasamy, and was also permitted



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to recover Rs. 2,00,000/- from the 1st respondent before the SHRC and Rs. 1,00,000/- from the 2nd respondent. Additionally, the Government was directed to initiate disciplinary proceedings and to lodge criminal prosecution against the said respondents.

Factual Background

2.1. The 3rd respondent herein (hereinafter referred to as “the complainant” for the sake of brevity) filed a complaint before the SHRC alleging that the petitioner, who was then serving as Inspector of Police, Thammampatty Circle, under whose jurisdiction Malliakkarai Police Station falls, had foisted several false cases against the victim, Mr. Manjunathsamy, through Malliakkarai Police Station. While some cases were still pending, the victim had been acquitted in others. It was further alleged that the victim had submitted complaints alleging corruption by the petitioner to various higher officials of the Government of Tamil Nadu. Provoked by these complaints, on 11.01.2013, the victim was allegedly arrested while eating in a hotel at Salem, brought to Malliakkarai Police Station, and assaulted with a lathi and iron rod. A false case was then registered against him, and he was produced before the Judicial Magistrate No.2, Attur, on 13.01.2013 at 6:00 PM, at which point his



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legs were swollen, and he was unable to walk.

2.2 The complainant also stated that she lodged a complaint before the learned Magistrate about the assault, but the Magistrate failed to record the statement. The victim was remanded to judicial custody for 12 days. On 14.01.2013, the jail authorities took him to Government Hospital, Attur, and later to Government Hospital, Salem, for further treatment, where he narrated the assault by the petitioner and other police personnel.

2.3. The petitioner/respondent entered appearance and denied all allegations. He stated that a complaint had been filed by one Ashokan, alleging that the victim had collected Rs. 3,000/- as consideration for helping him obtain a Transfer Certificate from Pavendar Arts College, Thalaivasal, but had failed to assist. It was alleged that the victim had later gone to the complainant's house and assaulted him. A case was registered in Crime No. 5/2013 for offences under Sections 294(b), 355, and 506(ii) IPC by the 2nd respondent, Sub-Inspector of Police. The petitioner stated that the victim was arrested on 13.01.2013 at 14:00 hrs at Keeripatti, and the arrest was informed to one



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Selvakumar of Keeripatti. The petitioner claimed that minimum force was used during the arrest as the victim resisted, and the victim was thereafter taken for medical treatment and produced before the Magistrate, who remanded him and directed the jail authorities to provide medical treatment.

2.4. The victim, Mr. Manjunathsamy, examined himself as PW1, filed an affidavit in lieu of chief examination, and marked 10 documents as Exhibits P1 to P10. The petitioner and other police officials did not adduce oral evidence but marked 7 documents as Exhibits R1 to R7. After evaluating the oral and documentary evidence, the SHRC passed the impugned order.

3. Mr. R. Ganesh Kumar, learned counsel for the petitioner, submitted that the victim's arrest was made in connection with Crime No. 5/2013 for cognizable and non-bailable offences under Sections 294(b), 355, and 506(ii) IPC. Therefore, the arrest without warrant was in accordance with the provisions of the Code of Criminal Procedure (Cr.P.C.). He also submitted that the victim was a habitual offender involved in six earlier criminal cases, and the complaint before the SHRC was an afterthought to thwart the discharge of



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official duties by the police. Further, there was no substantial evidence proving that the petitioner assaulted the victim during investigation.

4. In response, Mr. S.T. Bharath Gowtham, learned counsel for the 4th respondent/victim, contended that the offence under Section 506(ii) IPC is punishable with imprisonment up to 7 years, and hence, Section 41 and Section 41A Cr.P.C. were applicable. Since no notice under Section 41A Cr.P.C. was issued prior to arrest, the arrest was in violation of statutory safeguards. He further argued that human rights violations were established and placed reliance on the Supreme Court judgment in D.K. Basu v. State of West Bengal.

5. Mr. T.K. Saravanan, learned Additional Government Pleader for respondents 1 and 2, submitted that it is the State's obligation to implement SHRC's order. He further submitted that there were no specific allegations made against the 2nd respondent, and the State was prepared to act in accordance with any directions of this Court.



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6. The submissions of the respective learned counsel and the materials on record have been duly considered.

7. At the relevant time, the petitioner was the Inspector of Police, Thammampatty Circle, having jurisdiction over Malliakkarai Police Station. A case in Crime No. 5/2013 under Sections 294(b), 355, and 506(ii) IPC was registered against the victim. The complainant alleged that the victim was assaulted and tortured in custody, and that false charges were filed against him by the petitioner.

8. PW1, in his affidavit, stated that he was taken from his home by the 2nd respondent on 12.01.2013 at 5:00 PM, brought to Malliakkarai Police Station, stripped, tied, and hung upside down, during which he was assaulted with iron rods. He was then produced before the Court on 13.01.2013, and subsequently taken to the Government Hospital, Attur, and later to Government MKMC Hospital, Salem.



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9. The discharge summary from Government MKMC Hospital, marked as Ex.P6, showed that the victim was admitted on 14.01.2013 and discharged only on 27.01.2013. The Accident Register entry noted the assault by three known individuals at Malliakkarai Police Station. The medical record documented swelling, tenderness, and other injuries. Photographs marked as Ex.P3 corroborated these injuries, and no objections were raised by the petitioner. There was no effective cross-examination of PW1 to discredit the discharge summary or photographs. Thus, the medical evidence supported the victim's allegations.

10. As the offence under Section 506(ii) IPC is punishable up to 7 years, Section 41(1)(b) Cr.P.C. becomes relevant. This provision mandates that even if arrest is permissible, the officer must evaluate the necessity of such arrest and record reasons, failing which, Section 41A notice must be issued. As per Section 41A(3), a person complying with such notice shall not be arrested unless further conditions arise, and Section 41A(4) allows arrest only if there is non-compliance or refusal to identify.



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11. In the present case, the petitioner, being in charge of the police station, failed to issue notice under Section 41A Cr.P.C. prior to arrest. Hence, the arrest of the victim was vitiated for non-compliance with the mandatory provisions of Sections 41 and 41A Cr.P.C.

The Apex Court in the case of D.K. Basu supra, has ruled as follows ;

" It is now a well-established legal principle that when a citizen's fundamental right to life is violated by public servants, the State is vicariously liable to pay monetary compensation, based on the principle of strict liability—sovereign immunity is not a valid defense. This compensation is meant to relieve the victim's suffering and not to punish the wrongdoer, as criminal punishment lies within the domain of the criminal courts. Compensation awarded under public law jurisdiction is in addition to other legal remedies, such as civil suits for damages. The amount of compensation depends on the specific facts of each case, and there is no fixed formula. The State, after compensating the victim, may recover the amount from the responsible public servant."

12. In light of the foregoing discussion, we are of the considered view that PW1, the victim, has established that his right to liberty, as envisaged



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under Article 21 of the Constitution of India, was adversely affected by the illegal arrest and custodial violence, which constitutes a violation of human rights as defined under Section 2(d) of the Protection of Human Rights Act, 1993. Therefore, we do not find any justifiable ground to interfere with the impugned order passed by the SHRC.

13. Accordingly, the writ petition is dismissed as being devoid of merit. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

(M.S., J.)

(H.C., J)

22 .07.2025

Index : Yes

Internet : Yes

Neutral Citation : yes

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To

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Tamil Nadu State Human Rights Commission,
143, P.S.Kumarasamy Salai,
Greenways Road, Chennai-600028

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



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