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W.P. (Crl.) No. 1418 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12.02.2026

DELIVERED ON: 25.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE A.D. JAGADISH CHANDIRA

W.P.(Crl.)No.1418 of 2025 & W.P.M.P.(Crl.)Nos.689 to 691 of 2025

C.Ve. Shanmugam

Petitioner

vs.

1. The Tamil Nadu State Commission for Women
represented by its Chairperson
Kalasa Mahal
Chepauk
Chennai
Tamil Nadu 600 005
2. The Director General of Police
Police Headquarters
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004
3. Ms. G. Pramila
4. Ms. A. Radhika

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the proceedings in Case No.5279 of 2025 on the file of the first respondent, intimated to the petitioner vide summons dated 24.10.2025 and quash the proceedings in Case No.5279 of 2025, including any recommendation order dated 11.11.2025 issued therein and forbear the second respondent from proceeding with the recommendations of the first respondent.



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For petitioner	Mr. M. Mohamed Riyaz
For R1	Mr. David Sundar Singh Standing Counsel
For R2	Mr.K.M.D. Muhilan Additional Public Prosecutor
For RR 3 & 4	Mr. K.C. Karl Marx

ORDER

The prayer in this writ petition has two limbs. *Vide* the first limb, the proceedings in Case No.5279 of 2025 on the file of the first respondent Commission initiated pursuant to the complaint made by the respondents 3 and 4 and the recommendation dated 11.11.2025 made by the first respondent Commission to the second respondent (Director General of Police) to initiate criminal prosecution against the petitioner under relevant provisions of the Bharatiya Nyaya Sanhita, 2023 and the Tamil Nadu Prohibition of Harassment of Women Act, 1998, are sought to be quashed. *Vide* the second limb, a mandamus is sought to forbear the second respondent from proceeding with the aforesaid recommendation made by the first respondent Commission.

2. Facts leading to the filing of this writ petition could be summarised thus:



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2.4. While so, the first respondent Commission, vide a communication dated 11.11.2025 addressed to the second respondent, closed the complaint by recommending for initiation of criminal proceedings against the petitioner under the relevant provisions of the BNS and TNPHW Act. The said communication further stated that the report of the prosecution may be circulated to the Hon'ble Chairman, Rajya Sabha and the matter may be reported back to the first respondent Commission.

2.5. Challenging the proceedings initiated by the first respondent Commission and also the communication dated 11.11.2025 of the first respondent Commission addressed to the second respondent, this writ petition (criminal) has been filed, as has already been delineated in the opening paragraph.

3. Mr. Mohamed Riyaz, learned counsel for the petitioner, advanced the following submissions:

3.1. The summons dated 24.10.2025 has been issued by the first respondent unilaterally without the concurrence of other Members of the Commission and also



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without the authentication by the Member Secretary of the Commission, which is against the provisions of the TNSCW Act;

3.2 The summons dated 24.10.2025 was not accompanied by a copy of the complaint, thereby denying the petitioner an opportunity to put forth his defence, much less effective defence; and

3.3. The alleged speech made by the petitioner was in a meeting of his party cadres and it was not a public speech; even if the averments in the complaint are taken at their face value, no offence can be made out necessitating initiation of criminal action against the petitioner.

4. By inviting the attention of this Court to Section 7(1)(a) of the Tamil Nadu State Commission for Women Act, 2008 (for brevity "the TNSCW Act"), Mr. Riyaz submitted that as per the said provision, the first respondent Commission ought to have conducted an investigation which has not been done in this case.

5. Further, with reference to paragraph 3.1, *supra*, he submitted that as per Section 9(3) of the TNSCW Act, all orders and decisions of the Commission shall be authenticated by the Member

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Secretary or any other officer of the Commission duly authorised by the Member Secretary in this behalf, but, in this case, this provision has, completely and conveniently, been given a go-by.

6. To buttress his submissions at paragraph 4 and 5, *supra*, the attention of this Court was invited to a decision of a Co-ordinate Bench of this Court in **Mary Rajasekaran vs. University of Madras and others [2021 SCC OnLine Mad 4944]**, the relevant portion of which is reproduced below:

“49. Section 7 makes it very clear that functions of the commission under Section 7 of the Act is subject to the performance of the functions of the National Commission for Women under Section 10 of the National Commission for Women Act, 1990. Sub-Clause 2 indicate that the Commission is having all the powers of a civil court. Sub-Clause 3 indicates that if the Commission satisfies after thorough investigation and there is a *prima facie* case may refer the matter to the authority for appropriate action as per law. Sub-Section 4 deals with recommendations that may be made by the commission.

50. The primary function of the Commission is to find out the prima facie case after thorough investigation. Investigation cannot be merely on the basis of submissions of the complaint alone. Only after proper discovery of facts on evidence and records etc., Whereas in this case, the Chairperson alone visited, there is no evidence that the other members have accompanied and they have participated. The Chairperson on the same day, just accepted the case of the complainant and gave direction. Such direction to comply the order of the Commission is contrary to Sub-Clause 3 of Section 7. The power of the Commission is only to refer the matter to the concerned authority including the police to take appropriate action as per law, if any prima facie case is made out. Otherwise, the powers of the Commissioner is only in the nature of recommendations. Commission cannot direct the implementation of the orders to implement the orders passed by it.

53. At any event, the very conduct of the procedure by the Chairperson alone without the body of members constituted as Commission itself against the provision of the Act. Besides as indicated above Sub-Clause 3 of 7 of the Tamil Nadu State Commission for Women Act, 2008 makes it clear that the Commission can only recommend to the appropriate authority or police when the prima facie case is made out for appropriate action. Such being the position, the Order directing the College to pay huge compensation certainly liable to be interfered and not maintainable and such order is definitely against the very statue under which the Commission was constituted. Therefore, the Order of the Women Commission is necessarily to be set aside. Despite the Regulations under the Central Act for entertaining the complaint when same is already ceased by the Court of law. The Commission ought not have entertained the complaint independently and passed such order. The manner in which the findings have been recorded is also not based on proper evidence. At any event,



the very Order is against the Statute. In such view of the matter Order dated 23.12.2020 passed by the 1st Respondent in W.P. No. 1298 of 2021 is set aside. Accordingly, Writ Petition in W.P. No. 1298 of 2021 is allowed.”

(underlining made by this Court to supply emphasis)

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7. To put it pithily, the stand of the learned counsel for the petitioner is that even without going into the aspect as to whether the alleged speech made by the petitioner demoralizes the womenfolk of the State by portraying them as a commodity, the impugned proceedings against the petitioner, so also the recommendation made by the first respondent Commission to the second respondent, are liable to be quashed on the solitary ground of procedural violation itself.

8. Mr. K.M.D. Muhilan, learned Additional Public Prosecutor appearing for the second respondent, submitted that only after following the mandates of the provisions of Section 7(1)(a) and 9(3) of the TNSCW Act, was the recommendation dated 11.11.2025 made by the first respondent Commission and not as contended by the learned counsel for the petitioner.

9. Mr. David Sundar Singh, learned Standing Counsel for the first respondent Commission, made the following submissions:

9.1. The impugned proceedings was initiated only by a quorum of three members and not by the Chairperson alone, unilaterally;



9.2. Only after conducting an investigation, hearing the complainants and upon satisfaction that a *prima facie* case has been made out, was the communication dated 11.11.2025 addressed to the second respondent; and

9.3. There is no need whatsoever to supply a copy of the complaint along with the summons and even according to the petitioner, the summons does contain the names of the complainants together with their mobile number.

10. On the basis of the above submissions, it is the stance of the learned Standing Counsel for the first respondent Commission that there is no procedural violation and that apart, inasmuch as the petitioner's speech demoralizes the women community of the State, the first respondent Commission has rightly recommended initiation of criminal prosecution against the petitioner and hence, the writ petition is liable to be dismissed.

11. Mr. K.C. Karl Marx, learned counsel for the private respondents, submitted that the third respondent is the State President of All India Democratic Women's Association and the fourth respondent is the General Secretary of the said Association, which is



a nation-wide organisation striving hard for women emancipation and empowerment; based on their complaint against the petitioner, who is not a layman but a serving Member of Parliament, for his misogynistic speech in public, the first respondent Commission has rightly taken cognizance of the complaint and recommended initiation of criminal prosecution against the petitioner after finding that a *prima facie* case was made out and hence, the impugned proceedings and the communication dated 11.11.2025 do not deserve quashment.

12. Having given anxious thought and consideration to the rival submissions and perused the materials available on record, this Court proceeds to analyse the issue on hand from the following two angles:

1. Whether there is a procedural violation by the first respondent Commission, as contended by the petitioner; and
2. Whether the speech made by the petitioner is tantamount to demoralizing the women community of the State, thereby necessitating the first respondent Commission to act on the complaint made by the private respondents and recommend to the second respondent to initiate criminal prosecution against the petitioner.



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13. To answer the question at paragraph 12.1, *supra*, it becomes imperative for this Court to extract Section 3(2), 7(3) and 9(3) of the TNSCW Act:

“3. Constitution of Commission. (2) The Commission shall consist of –

- (a) a Chairperson, who shall be an eminent woman committed to the cause of women to be nominated by the Government;
- (b) five members to be nominated by the Government from amongst persons of ability and integrity, who have served the cause of women or have had sufficient knowledge and experience of law and legislation, administration of matters concerning advancement of women or voluntary organization for women, or who have sufficient experience in working in the field of economic development, health or education of women:

7. Central Act 20 of 1990. Functions of the Commission.

(3) If the Commission, after investigating any matter, is satisfied that there is a prima facie case, the Commission may refer the matter to the authority concerned, including the police, and such authority shall take appropriate action as per law.

Procedure to be regulated by Commission. — 9(3) All orders and decisions of the Commission shall be authenticated by the Member Secretary or any other officer of the Commission duly authorised by the Member Secretary in this behalf.

(underlining made by this Court to supply emphasis)

14. From a glance of Section 3(2) of the TNSWC Act extracted above, it is manifest that the Commission does not constitute the Chairperson alone and apart from the Chairperson, the Commission consists of five members as well.

15. Now, as regards compliance of the requirement under Section 9(3) of the TNSCW Act, it is apropos to point out that when Section 9(3) of the TNSWC Act is read conjunctively with Section



3(2) extracted above, it is evident that the Chairperson cannot take any decision unilaterally. In the instant case, it is manifest that both summons dated 24.10.2025 and the communication dated 11.11.2025 and also the office notes produced before this Court on 12.02.2026, have been signed only by the Chairperson and they do not have the authentication by the Member Secretary. In such perspective of the matter, this Court unhesitatingly holds that the proceedings initiated by the Chairperson against the petitioner, including the communication dated 11.11.2025 addressed to the second respondent, cannot be sustained in the eyes of law.

16. Now, coming to compliance of Section 7(3) of the TNSCW Act, even from a cursory reading of the said provision, it is clear as daylight that before a *prima facie* case is made out, conduct of an investigation is a *sine qua non*. In the instant case, no scintilla of material has been produced before this Court to show that this statutory requirement has been complied with, except a mere self serving statement in the communication dated 11.11.2025 that a *prima facie* case has been made out, without anything more. In this regard, the decision of this Court in **Mary Rajasekaran**, *supra*, also supports the case of the petitioner. Of course, this Court is cognizant of the fact that the said decision was rendered in an entirely different set of facts altogether.



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17. That apart, at this juncture, it is not out of place to point out that the first respondent Commission has not filed counter affidavit. On 12.02.2026, *i.e.*, the day on which this case was reserved for orders, the learned Standing Counsel for the first respondent Commission submitted to this Court, a photocopy of the communication dated 11.11.2025 recommending to the second respondent to initiate criminal prosecution against the petitioner, together with a couple of office notes signed by the Chairperson of the first respondent Commission.

18. Insofar as the contention of the learned counsel for the petitioner that the summons dated 24.10.2025 was not accompanied by the copy of the complaint, it is the categorical stance of the first respondent Commission that it will not circulate a copy of the complaint mechanically but will decide it on a case-to-case basis. The reason assigned for not furnishing a copy of the complaint to the petitioner is that the first respondent Commission handles complaints related to women's rights and protection, which also includes sexual offences against women in which the complaint of the victim is confidential. This stance and reason therefor do not cut ice with this Court for the simple reason that only if the allegations levelled against the petitioner are made known to him, can he put forth his defence. Further, the case in hand is not one arising from the POCSO Act. In fact, the names and address of the complainants

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and their contact number have been stated in the summons itself.

Having divulged the identity of the complainants in the summons, the first respondent Commission cannot be heard to say that to maintain confidentiality, the copy of the complaint was not served. In other words, the first respondent Commission cannot blow both hot and cold.

19. Next, though the first respondent Commission has taken a stand that second summons was communicated to the petitioner on 31.10.2025 to appear before it on 07.11.2025 and that the petitioner did not appear on the said date, there is no proof for having sent the second summons to the petitioner. In this connection, this Court hastens to add that in the counter affidavit filed by the fourth respondent, it has been unequivocally averred that the first, second and third summonses were issued by the first respondent Commission to the petitioner on 14.10.2025, 24.10.2025 and 31.10.2025 respectively. But, interestingly, there is no whisper by the first respondent Commission *qua* the so-called first summons dated 14.10.2025. It is beyond the ken of this Court as to how the first respondent Commission and the private respondents can take two different stands *qua* number of summonses issued. This glaring and apparent variation *qua* number of summonses issued itself prompts this Court to have a re-think over the credibility of the stand of the first respondent Commission as regards issuance of



summons on 31.10.2025 requiring the petitioner to appear on 07.11.2025.

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20. Superadded, with regard to the contention of the petitioner that the memo and vakalatnama filed by his counsel were refused to be accepted by the first respondent Commission, it is the case of the first respondent Commission that the Commission directly interacts with the victims and many of the victims cannot afford to have legal counsel. This stand of the first respondent Commission cannot be countenanced for the reason that this stand does not have a statutory backing. To put it differently, the TNSCW Act does not spell out so. Moreover, engaging a counsel to defend his case is the victim's botheration and not that of the first respondent Commission. When the petitioner wanted to defend himself by way of a counsel, nothing prevented the first respondent Commission to accept the memo and vakalatnama filed by the petitioner's counsel.

21. In view of the discussion made at paragraphs 14 to 20, *supra*, this Court has no incertitude in holding that there is, indeed, procedural violation in the initiation of the impugned proceedings against the petitioner and in fact, this Court deems it fit to even add that it is not proper on the part of the first respondent Commission to have closed the complaint *ex parte*. To be noted, it is settled law



that where a statute requires a particular act to be done in a particular manner, the act has to be done in that manner alone as has been held in crystal clear terms in **State of Uttar Pradesh vs. Singhara Singh [AIR 1964 SC 358]** and **Competent Authority vs. Barangore Jute Factory and others [(2005) 13 SCC 477]**.

For the sake of ready reference, the relevant portion from **Singhara Singh, supra**, is extracted below:

“8. The rule adopted in *Taylor v. Taylor* [(1875) 1 Ch D 426, 431] is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted.”

(underlining made by this Court to supply emphasis)

22. Now, moving on to answer the question at paragraph no.12.2, *supra*, it is profitable to advert to the speech made by the petitioner in vernacular and this is culled out from the counter affidavit of the fourth respondent:

1000 ரூபாய் தருவாரு, பொங்கல் பரிக தருவாரு,
Laptop குடுப்பாரு, ஆடு, மாடு குடுப்பாரு,
ஆளுக்கு ஒரு பொண்டாட்டி கூட குடுப்பாரு.



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23. Having gone through the petitioner's aforesaid speech, this Court is of the considered view that the same cannot be, by any stretch of imagination, construed to be misogynistic in nature or demeaning the womenfolk of the State as contended by the private respondents and instead, it can only be construed as a critique of the policy of the Government giving freebies. Just because of the fact that the petitioner had stated that along with other commodities, the Government may announce even one wife free to each citizen, it can no way be inferred or understood that the petitioner, by his speech, has equated women with commodities given by the Government gratis.

24. In view of the above, this Court answers the question at paragraph no.12.2, *supra*, in the negative.

25. Thus, in essence, the two questions at paragraph 12 having been answered in favour of the petitioner, the proceedings in Case No.5279 of 2025 on the file of the first respondent Commission and also the communication dated 11.11.2025 of the first respondent Commission addressed to the second respondent, are quashed.



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26. Resultantly, this writ petition (criminal) stands allowed, however, sans costs. Connected W.P.M.Ps. (criminal) are closed.

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Index : Yes/No
N.C. : Yes

To

1. The Chairperson
Tamil Nadu State Commission for Women
Kalasa Mahal
Chepauk
Chennai
Tamil Nadu 600 005
2. The Director General of Police
Police Headquarters
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004
3. The Public Prosecutor
Madras High Court
Chennai 600 104



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A.D. JAGADISH CHANDIRA, J.

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Pre-delivery order in
W.P. (Crl.) No.1418 of 2025

25.02.2026