



W.P(MD) No.1054 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 19.02.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

W.P(MD) No.1054 of 2022

&

W.M.P.(MD)No.888 of 2022

- 1.P.Parthiban
- 2.R.Venkataraman
- 3.K.Chitravel
- 4.R.Sankaranarayanan
- 5.S.Ganesan
- 6.K.Mohan

... Petitioners

Vs.

- 1.The Assistant Registrar (Law)
The State Human Rights Commission of Tamil Nadu,
Thiruvarangam,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai-600 028.
- 2.The Secretary to the Government,
Home Department, Fort St.George,
Chennai.



W.P(MD) No.1054 of 2022

3.The Commissioner of Police,
Madurai City.

4.U.Shahul Hameed (Died)
Kadhija Beevi

(Mother of the deceased complainant)
Minor Mohamed Ashik
(son of the deceased complainant)

No.82, Muniyandi Kovil street,
Seethalakshmi Nagar,
T.B.Road, Madurai-625 016.

Kadhija Beevi, mother of the deceased complainant
and Minor Mohamed Ashik, son of the deceased
Complainant impleaded as LRs of the deceased complainant
vide order dated 26.11.2021)

5.Alhaj

6.K.Rafeek Raja

7.J.Shainsha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in SHRC case Nos.3068/2011, 3069/2011, 3070/2011 and 3071/2011 and the common order dated 29.11.2021 on the file of the respondents 1 to 3 and to quash the same.



W.P(MD) No.1054 of 2022

For Petitioners : Mr.Aayiram K.Selvakumar
for Mr.AK.Azhagarsami

For Respondents : Mr.V.Muthuvelan
Standing Counsel for R1

: Mr.S.S.Madhavan
Additional Government Pleader
for R2 & R3

: Mr.C.M.Arumugam for R4 to R7

ORDER

(By G.R.SWAMINATHAN, J.)

The fourth respondent (since deceased) and the respondents 5 to 7 herein filed complaints before the State Human Rights Commission, Tamil Nadu alleging violation of their human rights at the hands of the writ petitioners herein. The complaints were taken on file in SHRC Nos. 3068 to 3071 of 2011. The State Human Rights Commission vide order dated 29.11.2021 recommended payment of compensation of Rs.1.00 lakh each to the complainants and also taking disciplinary action against the writ petitioners herein. Questioning the said order, this writ petition has been filed.



W.P(MD) No.1054 of 2022

WEB COPY

2.The learned counsel appearing for the writ petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order. His contentions were two fold:

a) The materials placed before the Commission are not sufficient to link the writ petitioners with the alleged human rights violation.

b) The Human Rights Commission could not have entertained the complaints in view of the statutory bar set out in Reg 9(g) of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997.

The learned counsel relied on the Division Bench decision rendered in W.P Nos.17370 & 17376 of 2020 dated 05.07.2022 **(M.Chelladurai Vs. The Registrar).**

3.Per contra, the learned counsel appearing for the complainants submitted that they were illegally detained by the writ petitioners and other police personnel and subjected to inhuman torture. He drew our attention to the medical records which indicated that the complainants /



W.P(MD) No.1054 of 2022

private respondents had suffered multiple injuries. Two of them had to be admitted as inpatients in the Government Hospital for more than five days. He also added that the subject matter before the Commission and the criminal court were not one and the same and hence, the statutory bar set out in Reg 9(g) is not attracted. Relying on the decisions of the Hon'ble Supreme Court, he submitted that whenever human rights violation are alleged, Courts should take them seriously. When the Commission had found merit in the complainants' allegations and its findings are supported by solid evidence, this Court ought not to interfere. He called upon this Court to dismiss the writ petition.

4.The learned Additional Government Pleader appearing for the State submitted that in view of the Full Bench ruling reported in **2021 SCC OnLine Mad 16611 (Abdul Sathar v. Principal Secretary to Government)**, the State would not question the correctness of the impugned order.



W.P(MD) No.1054 of 2022

WEB COPY

5.We carefully considered the rival contentions and went through the materials on record. On 10.03.2011, the head of a calf was found inside the compound of the RSS Office at Madurai. This led to registration of Crime No.370 of 2011 on the file of the S.S Colony Police Station under Sections 153(A) and 505(1)(c) of IPC. One Murugadasan was appointed as the Investigation Officer. Considering the sensitive nature of the case, the investigation was handed over to CBCID. Final Report was filed and it was taken on file in C.CNo.10 of 2017 on the file of the Judicial Magistrate No.IV, Madurai. The complainants before the Human Rights Commission are the accused in the said criminal case.

6.The gist of the complaints was that Alhaj and one Abbas were picked up by the petitioners and other police personnel on 08.03.2011 ; Rafeek Raja and Shainsha were picked up on 09.03.2011 and Shahul Hameed was picked up on 10.03.2011 and that they were illegally detained and subjected to inhuman torture. The police falsely projected as if the complainants were arrested only in the morning of 11.03.2011.



W.P(MD) No.1054 of 2022

7.The complaints graphically describe the torture to which the complainants were subjected to. This appears to be borne out by the medical records. At the time of remand before the Jurisdictional Magistrate on 11.03.2011, the accused had alleged that they were assaulted by the police. They filed petition under Section 53 of Cr.Pc for being provided with medical treatment. *Prima facie* it appears that the human rights of the complainants had been breached. The questions with which we are now concerned are whether the writ petitioners herein can be fastened with liability and whether the Human Rights Commission could have taken cognizance of the matter.

8.The writ petitioners were part of a Special Team known as "Vaigai Team" which apprehended the complainants in connection with the aforesaid crime (Crime No.370 of 2011) registered on the file of the S.S. Colony Police Station. Thereafter, the team handed them over to S.S.Colony Police Station. Though the team comprised some 12 members, the writ petitioners alone have been named before the SHRC. The complainants alleged before the doctor who gave them treatment that they were assaulted in Sellur Police Station. The complainants have



W.P(MD) No.1054 of 2022

also stated that while they could identify the perpetrators, they did not know their names. Evidence is not forthcoming as to how the complainants were able to zero in on the writ petitioners herein. The burden lay only on the complainants. This burden could have been discharged by placing positive material or by eliciting suitable answers through cross-examination. It is not as if the writ petitioners alone dealt with the complainants. According to the writ petitioners, their role stopped with apprehending the complainants and handing them over to S.S Colony Police Station shortly thereafter. As already mentioned, the Station House Officer of S.S Colony Police Station took up the investigation. The complainants have alleged that they were taken to the Sellur Police Station and that they were assaulted within the station premises. In these circumstances, when there was involvement of a number of police personnel, there must be definite material to specifically implicate the petitioners herein for the violence committed on the complainants. The complainants were not acquainted with the writ petitioners earlier. Even their names were not known to the complainants. That being so, the onus lay on the complainants to demonstrate as to how they concluded that the writ petitioners herein



W.P(MD) No.1054 of 2022

were identified as the persons who assaulted them. Merely because the petitioners were members of the Vaigai Team, that by itself is not sufficient to make them liable. There were six other members in the team. The criminal case was investigated by S.S Colony Police originally and then taken over by CBCID. The writ petitioners had no association with the complainants after they were handed over to S.S. Colony Police Station. We therefore find that the material placed on record is utterly insufficient to implicate the petitioners for the human rights violations committed on the complainants.

9. According to the writ petitioners, they apprehended the complainants on 11.03.2011 at about 06.45 A.M. The complainants have alleged that they were picked up on 8th, 9th and 10th. Thus, there is a fundamental divergence between the police version and the stand of the complainants. The Commission had rendered a categorical finding that the police claim that the complainants were arrested only on 11.03.2011 is false. As already mentioned, the complainants before the Commission are facing prosecution before the criminal court in C.C No.10 of 2017 on the file of the Judicial Magistrate No.IV, Madurai. If



W.P(MD) No.1054 of 2022

this finding of the Commission is allowed to stand, the entire criminal prosecution now pending before the Judicial Magistrate would be shattered. Courts do acquit the accused when they conclude that the arrest has been fabricated. In this case, the Commission has given a finding that the complainants were not arrested on 11.03.2011 but on earlier dates. This is bound to undermine the prosecution now pending before the Judicial Magistrate.

10.Reg 9(g) is extracted hereunder:-

"9.Complaints not ordinarily entertainable.-- The Commission may dismiss in limini complaints of the following nature:-

(a) ...

(b) ...

(c)

(d)

(e)

(f)

(g) Matter is sub judice before a Court or Tribunal;

(h) ...

(i) ...

(j)"



W.P(MD) No.1054 of 2022

The expression "ordinarily" is found in the Heading. The provision reads that the Commission "may" dismiss in limini complaints falling under categories (a) to (j). These two expressions, namely, "ordinarily" and "may" must be read together. The Commission must exercise its discretion and decline to entertain if the circumstances warrant. The nature of such circumstances have been catalogued from "a" to "j". When a matter is sub judice before a Court or Tribunal, the Commission would normally not undertake a parallel enquiry. It must in limini dismiss the complaint. This is the effect of Regulation 9(g). The Hon'ble Division Bench of the Madras High Court in the decision rendered in ***M.Chelladurai v. The Registrar, SHRC (WP Nos. 17370 & 17376 of 2020 dated 05.07.2022)*** held that the Commission has no jurisdiction in view of Regulation 9(g) to entertain a complaint when the criminal case is pending on the same subject matter.

11.If the subject matter before the Commission and the criminal court are not one and the same, the Commission would have the jurisdiction to proceed. But if they are inextricably linked even though



W.P(MD) No.1054 of 2022

the subject matter may be technically different and the finding given by the Human Rights Commission would have a direct bearing on the criminal prosecution, then, Regulation 9(g) would kick in. The rule of sub-judice is well entrenched in jurisprudence. Sub-judice means "before the court or judge for determination". This rule finds expression in Section 2(c) of the Contempt of Courts Act, 1971 which defines criminal contempt as the doing of any act which interferes or tends to interfere with the due course of any judicial proceeding. This signifies the importance which law attaches to the principle of sub-judice. If a matter is pending before a court of law, one cannot do anything that may prejudice its fair trial. The rule of sub-judice finds its application in variety of ways. It is invoked to restrain publication in media. The very same reason underlies Regulation 9(g) also. There cannot be parallel proceedings in respect of a given matter. If the petitioner before the Human Rights Commission is an accused in a criminal case and the complainant in the criminal case is a respondent before the Commission and the subject matter before both the Commission and the Court are one and the same, the conduct of proceedings by the Commission would definitely have a serious bearing



W.P(MD) No.1054 of 2022

on the proceedings before the Court. That is why, the Regulation bars the Commission from entertaining the complaint when the criminal court is seized of the matter.

12.The prosecuting agency in the criminal case was not before the Human Rights Commission. The writ petitioners' role in the criminal case registered against the complainants as per record is rather minimal. It was confined to apprehension of the complainants alone. But in Para 23 of the impugned order, the Human Rights Commission had expressed the view that the complainants were illegally detained and forced to admit that they threw the cow's head inside the RSS Office, Madurai. The Commission had virtually pronounced a judgment of acquittal. Such an approach is an egregious breach of the sub-judice rule. It is only the criminal court that can pronounce on the guilt or innocence of the accused in Crime No.370 of 2011. When the trial is pending before the Judicial Magistrate concerned, the Commission could not have dealt with the matter in a manner so as to cast a cloud on the criminal prosecution. The entertaining of the complaint is one thing, its disposal is another. Since the complainants had suffered injuries and



W.P(MD) No.1054 of 2022

there is prima facie case to show that it was sustained at the hands of the police personnel, the Commission rightly entertained the complaint.

But its recommendations and findings should have remained confined to answering the issue of human rights violation alone. But the Commission in the instant case ventured far beyond and into forbidden territory. The Commission could not have given a positive finding that the arrest of the complainants was post dated and that they were coerced to give a false confession for the purpose of implicating them as accused in Crime No.370 of 2011. It is for these reasons, we have to quash the impugned order passed by the Commission.

13.We set aside the impugned order. At the same time, the complainants cannot be left without remedy. They can very well project their case either during the criminal trial or thereafter. If the trial Court comes to the conclusion that the complainants herein / accused in the criminal case are victims of police torture, the trial court shall award them suitable compensation. The liability of the writ petitioners is left open.



W.P(MD) No.1054 of 2022

14.The Writ Petition is allowed on these terms. No costs.

Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (R.K.M., J.)
19.02.2026

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi/skm

To

1.The Secretary to the Government,
Home Department,
Fort St.George, Chennai.

2.The Commissioner of Police,
Madurai City.



WEB COPY



W.P(MD) No.1054 of 2022

G.R.SWAMINATHAN, J.
AND
R.KALAIMATHI, J.

rmi/SKM

W.P(MD) No.1054 of 2022

19.02.2026