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W.P.(MD)NO.1528 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R.POORNIMA

W.P.(MD)No.1528 of 2020

and

W.M.P.(MD)No.1234 of 2020

N.Rajaservai

... Petitioner

Vs.

1. S.Jarina Banu

2. Arunachalam,
Inspector of Police,
Aravakurichi police station,
Karur District.

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

4. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.



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5. The Principal Secretary to the Government,
Public (HR) Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.

6. Director General of Police(Law& Order),
O/o.Director General of Police,
Beach Road,
Chennai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the third respondent vide order in SHRC Case No.4943 of 2015 dated 18.11.2019 and quash the same as illegal as devoid of merits.

For Petitioner : Mr.Raja Karthikeyan

For Respondents : Mr.V.Shathurthi Raja for R-2.

Mr.M.P.Senthil,
Government Advocate for R-4 to R-6.

Mr.M.Pozhilan,
for Mr.Arul Vadivel Sekar for R-3.

Mr.K.Samidurai for R-1.

* * *

**ORDER**

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(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard the learned counsel appearing for the writ petitioner and the learned counsel appearing for the complainant and the learned Standing counsel appearing for the State Human Rights Commission and the learned Government counsel appearing for the respondents 4 to 6.

2. The writ petitioner herein was working as Sub-Inspector of Police, Aravakurichi police station during 2014-2015. The first respondent herein lodged complaint before the State Human Rights Commission that the writ petitioner herein did not register her complaint promptly and that even when it was registered, it was not under the relevant provisions of IPC. The Commission took the complaint on file in SHRC No.4943 of 2015 and conducted enquiry. The Inspector of Police, Aravakurichi police station was shown as the first respondent while the petitioner herein was shown as the second respondent. Notices were issued to them. The Inspector of Police did not respond. The writ petitioner alone appeared before the Commission and made his submissions. Vide order dated 18.11.2019,



the Human Rights Commission found that the petitioner herein had

violated the human rights of the complainant. Paragraph Nos.24 and

25 of the impugned order read as follows:-

“24. Considering the oral and documentary evidence of the parties and also the arguments of both the parties, this Commission is of the considered opinion that as stated in the report of the Superintendent of Police, Karur the 2nd respondent failed to register a case in Cr.No. 92/2015 under non-bailable section of law and he reached the scene of the occurrence after a long delay and he had in collusion with the house owner and acted as mere spectator for the offence committed in the presence of him and caused mental and physical agony to the Complainant due to the action of the 2nd Respondent. Therefore, the 2nd Respondent had committed violation of human rights of the Complainant. As I already said, though the 1st Respondent failed to monitor the affairs of the 2nd Respondent, no other specific allegation against him. Hence the 1st Respondent had not violated any of the human rights of the Complainant and the complaint against him is liable to be dismissed. This Point is answered accordingly.

Point No.2: While answering the Point No.1



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this Commission has held that the 2nd Respondent had violated the human rights of the Complainant and the 1st Respondent had not committed any of the human rights of the Complainant and hence the complaint against the 1st Respondent is liable to be dismissed. Hence this Commission is of the considered view that the Complainant is entitled to receive compensation for the violation of human rights from the 2nd Respondent only and fixing of Rs.25,000/- as compensation to the Complainant would be fair and reasonable and would meet the ends of justice. Hence this Commission holds that the Complainant is entitled to get Rs.25,000/-from the 2nd Respondent. Since the department already initiated disciplinary proceedings against the 2nd Respondent, there is no order on this aspect. The complaint against the 1st Respondent is dismissed. This Point is answered accordingly.”

The Commission directed the Government of Tamil Nadu to pay compensation of Rs.25,000/- to the complainant. It was directed that this amount should be recovered from the petitioner herein. Aggrieved by the said direction, this writ petition came to be filed.



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3. While the learned counsel appearing for the petitioner would contend that the impugned order is without jurisdiction, the learned counsel for the respondents submitted that the impugned order is eminently sustainable.

4. We carefully considered the rival contentions and went through the materials on record.

5. Even going by the complainant's version, the only fault attributed to the writ petitioner is that he did not respond immediately to the information lodged by the first respondent herein and that there was inordinate delay on his part in even reaching the place of occurrence. The petitioner is also said to have failed to register the FIR under the relevant provisions of law.

6. The State Human Rights Commission would have had the jurisdiction to entertain the complaint of the first respondent only if the first respondent's human right had been breached or violated by the writ petitioner. The question that then falls for consideration is whether the omission on the part of the writ petitioner to register an



FIR immediately on the lodging of information by the complainant would constitute a violation of the complainant's human right.

7. To answer the above question, one may have to briefly explore the contours of the concept of human rights. The freedoms, immunities, and benefits that, according to modern values, all human beings should be able to claim as a matter of right in the society in which they live would fall within the purview of human rights (Black's Law Dictionary). Human rights are the basic, inherent, immutable and inalienable rights to which a person is entitled simply by virtue of his being born a human. They are such rights which are to be made available as a matter of right (***Ram Deo Chauhan Vs. Bani Kanta Das (2010) 14 SCC 209***). Not all rights would qualify to be human rights within the meaning of Section 2(d) of the Protection of Human Rights Act, 1993. Section 2(1)(d) of the Protection of Human Rights Act, 1993 defines “human rights” as follows:-

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) ...

(b) ...

(c) ...



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(d) “Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India;”

“International Covenants” means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify;” (Section 2(f)). Merely because a right has been recognized or set out in an international covenant, that by itself will not constitute human right for the purpose of the present statute. Two further conditions have to be satisfied. Those rights will have to relate to equality, life, liberty, or dignity and they must be enforceable by Indian Courts.

8. There is a direct decision to sustain the stand of the complainant. The High Court of Andhra Pradesh reported in **2010 SCC OnLine AP 605 (Uppalapati Nirupa Rani Vs. Koganti**



Lakshmi) held that the non-registration of a crime is violation of

human right. The Andhra Pradesh High Court was swayed by the fact that Article 8 of UDHR, 1948 and Articles 2(3)(a) and (c) of ICCPR, 1966 hold that every one has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the Constitution or by law. The complainant has only shown that her right to seek registration of an FIR immediately on lodging of information was not honoured. We fail to understand as to how this omission has any bearing on the complainant's right to life, liberty, equality or dignity. It is not enough to show that a right embodied in an international covenant has been breached. That must relate to the four categories catalogued above. Let us take the case of ***Pavul Yesu Dhasan Vs. Registrar, State Human Rights Commission of Tamil Nadu (2025) SCC OnLine SC 1168***. A careful study of the facts would show that the complainant therein was ill treated by the station house officer who employed abusive language and thus violated the complainant's right to dignity. The Hon'ble Supreme Court did not lay down any proposition that non-registration or belated registration of an FIR is actionable under the Protection of Human Rights Act, 1993. Hence, we are unable to



agree with the ratio laid down by the Hon'ble Andhra Pradesh High Court in the above case.

9. A Division Bench of this Court while granting interim order in ***W.M.P.(MD)No.7595 of 2022 in W.P.(MD)No.10488 of 2022 (G.Nagarajan Vs. The State of Tamil Nadu)*** reasoned as follows:-

“Assuming that an FIR has not been immediately filed or registered, other remedies open to the complainant are that he or she can move the Superintendent of Police and thereafter, to the concerned Magistrate Court having jurisdiction under Section 156(3) of the Code of Criminal Procedure. Without exhausting these remedies, it cannot be straightaway stated that the alleged non-filing of the FIR is a human rights violation. On the alleged reason, the compensation, which was imposed or ordered by the respondent/Human Rights Commission through the impugned order, in the considered opinion of this Court, prima-facie may not be justifiable.”

10. There is yet another reason why we take the view that delayed registration or non-registration of an FIR by itself would not



amount to violation of one's human right. Lalita Kumari as well as the

provisions of BNSS, 2023 mandate that when a complaint disclosing commission of a cognizable offence is made, FIR should be registered.

But even in certain categories of cases, preliminary enquiry may be warranted. If the station house officer does not register an FIR, law provides adequate remedies. One can go before the superior officer.

One can move the jurisdictional Magistrate. The inherent jurisdiction of the High Court can also be invoked. The question as to whether the

averments in the complaint make out a case for immediate registration of an FIR cannot be left to the decision of the human

rights commission. It is relevant to note that the Hon'ble Supreme Court in a recent decision reported in **2026 INSC 442 (Sujal Vishwas**

Attavar Vs. State of Maharashtra) held that the jurisdiction of the

High Court cannot be invoked in the first instance and that the sequential statutory remedies available under BNSS should first be

exhausted. Unless the violation has an adverse bearing on the complainant's right to life, liberty, equality or dignity, the same

cannot become the subject matter of a complaint before the Human Rights Commission. We reiterate that non-registration or belated

registration of an FIR by itself will not ordinarily affect one's right to



the aforementioned four categories. The complaint must contain a specific averment as to how one of the aforementioned rights has been affected.

11. In ***Lalita Kumari Vs. Government of Uttar Pradesh (2014) 2 SCC 1***, it was observed that the right of the accused under Article 21 of the Constitution is protected, if the FIR is registered first and then the investigation is conducted in accordance with the provisions of law. Thus, the approach was more from the perspective of the accused. The Hon'ble Supreme Court observed that when large number of FIRs are not registered every year, it is a clear violation of the rights of the victims of such a large number of crimes. It is relevant to note that the Hon'ble Supreme Court did not opine that the human rights of the victims have been breached nor it invoked Article 21 in that context.

12. Crime No.92 of 2015 registered at the complainant's instance. Later, the investigation was transferred to the file of Velayuthampalayam police station and sections were altered. Final report was filed and it was taken on file by the Judicial Magistrate No.II, Karur in C.C.No.159 of 2015. But the trial ended in acquittal vide judgment dated 10.01.2017. The Commission took note of this



development and yet found the petitioner herein guilty. When the criminal case lodged at the complainant's instance itself had ended in acquittal and delayed registration of the FIR was not the reason therefor, the impugned order of the Commission becomes unsustainable.

13. It is necessary to note that the complainant was the tenant and she had serious disputes with her landlord. Complaints and counter complaints were lodged. The writ petitioner had registered as many as three FIRs against the landlord and two FIRs against the tenant /the complainant herein. We have been repeatedly cautioning the police not to interfere in civil disputes. Rule 9(vii) of the National Human Rights Commission (Procedure) Regulations, 1994 states the matters which are civil in nature ought not to be enquired into by the Human Rights Commission. By a clever drafting, a person having a civil dispute with the opposite party might lodge a complaint as if cognizable offences have been committed and in such cases, the police cannot be faulted if they see through the game. That is why, such matters are better left to be decided by the superior officers of the Criminal Courts. The Human Rights Commission may not be the right agency to consider such cases in the first instance. Before the



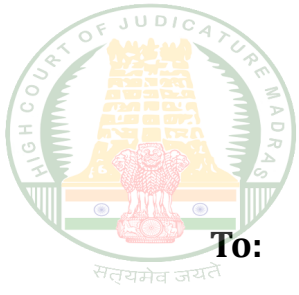
Human Rights Commission, the contest takes place between the complainant on the one hand and the state officials on the other. The accused is nowhere in the picture. If the Commission were to render a finding that the accused has committed cognizable offence and the jurisdictional police have not taken prompt action and thus breached the complainant's human rights, that would be a clear violation of principles of natural justice. An adverse finding cannot be rendered behind the back of the accused. This is one more reason as to why we hold that delayed or non-registration of an FIR cannot by itself furnish cause of action for lodging a complaint before the Human Rights Commission.

14. In this view of the matter, the impugned order is set aside and this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R.POORNIMA, J.)
01st June 2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

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Home, Prohibition and Excise Department,
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