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W.P.No.21135 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA  
and  
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.No.21135 of 2022 and WMP.No.20133 of 2022**

I.Pavul Yesu Dhasan

... Petitioner

-VS-

1. The Registrar,  
State Human Rights Commission of Tamil Nadu,  
143, P.S.Kumarasamy Raja Salai,  
Greenways Road, Adyar,  
Chennai-600 028.

2. The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St. George,  
Chennai-600 009.

3. M.Thamizhselvan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order dated 29.06.2022 made in SHRC.No.3680/2020 on the file of the 1<sup>st</sup> respondent and quash the same.



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For Petitioner : Mr.S.Rajendrakumar  
For Respondents : Mr.K.V.Sajeev Kumar,  
Spl.G.P. for R1  
Mr.V.Manoharan,  
AGP for R2

**ORDER**

(Order of the Court was made by **T.RAJA, J.**)

This Writ Petition has been filed assailing the findings and conclusions reached by the State Human Rights Commission, Tamil Nadu dated 29.06.2022 wherein the learned Commission has directed the Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai, to pay a compensation of Rs.2,00,000/- to the complainant Mr.M.Tamizhselvan/3<sup>rd</sup> respondent herein within four weeks from the date of receipt of a copy of that order with a further direction to the Additional Chief Secretary to recover the same from the petitioner herein as per the rules.

2. Learned Counsel appearing for the petitioner would submit that the defacto complainant/3<sup>rd</sup> respondent herein along with his father and mother have come to the Town Police Station, Srivilliputhur on 16.05.2020 to file a complaint against one Mr.Velusamy @ David Anbazhagan and 2 others for cheating and embezzlement of money



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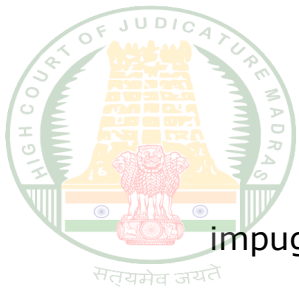
up to Rs.13,00,000/- on the premise that a Government job at Tamil Nadu Newsprint and Paper Limited, Karur District would be secured to him and he has given the money to the tune of Rs.13,00,000/- to the accused in 3 different localities, namely, Rs.2,50,000/- at Chinna Athikulam Village, Rs.2,50,000/- in the year 2018 and the remaining amount through bank transfer. At the relevant point of time, the Sub-Inspector Mr.Karupandian who was alone in the station has advised the complainant that the cause of action for the said crime occurs in 3 different districts, therefore, the Town Police Station, Srivilliputhur was not having jurisdiction and accordingly, the defacto complainant was informed that he cannot file complaint before the Town Police Station, Sriviliputhur. While so, the petitioner, being a Circle Inspector, who was in-charge of other stations, can register an F.I.R. only after physical verification of the complaint. Further, the defacto complainant was also informed that a complaint could be filed only for the transaction of Rs.2,50,000/- which occurred at Chinna Athikulam. But the defacto complainant immediately approached the office of the Deputy Superintendent of Police, Virudhunagar, with a false allegation that their complaint was neglected by the Town Police Station, Srivilliputhur. Based on which an enquiry was also conducted by the Deputy Superintendent of Police and the petitioner has also given his explanation. But the defacto complainant rushed to the 1<sup>st</sup> respondent



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herein, the State Human Rights Commission, Tamil Nadu, lodging a complaint alleging various charges against the petitioner that on receipt of the fresh complaint for the transaction which occurred at Chinna Athikulam, the petitioner issued only CSR.No.149/2020, however, he refused to register the F.I.R.

3. Learned Counsel for the petitioner would further submit that the learned Commission also taking note of the fact that the complainant had suffered financial loss and has approached the police for redressal of his grievance has recorded its findings that it was highly unimaginable that the complainant would lodge a false complaint against the police Inspector, whom he has approached for assistance. It has also recorded its findings against the petitioner herein that the protectors of law became predators of law resulting in complaints such as the above which is highly condemnable and depreciable. Moreover, when the petitioner is having charge of other police stations, he was under the impression that only the Station House Officer, namely, Sub-Inspector of Police has to take up the follow up action and register an F.I.R. Since the said Sub-Inspector of Police has not discharged his legal obligation as it is extracted above, the learned Commission has wrongly fastened the legal responsibility on the petitioner which is highly untenable and unfair. Therefore, the



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impugned order passed by the learned Commission is liable to be set aside.

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4. Arguing further, learned Counsel for the petitioner would submit that the impugned order dated 29.06.2022 passed in SHRC.No.3680/2020 *per se* is arbitrary, illegal, against fair play, equity, justice and good conscience. The 1<sup>st</sup> respondent has erroneously imposed the penalty upon the petitioner, as the same is *ultra vires* and the learned Commission has failed to appreciate Section 18 of the Protection of Human Rights Act, 1993 which permits the Human Rights Commission only to recommend the Government or the authority concerned to make the payment of compensation to the victim or his family. However, in the instant case, the Commission has imposed a penalty of Rs.2,00,000/- upon the petitioner. When the petitioner was holding a post of Circle Inspector at the time of the said occurrence, he was also in-charge of more than 4 police stations at the relevant point of time, therefore, he cannot be held responsible for non-filing of an F.I.R. which is not the direct duty of the petitioner herein. As per Section 156(3) of Cr.P.C., when a complaint is not entertained by the Officer-in-charge of a Police Station, the complainant has every right to approach the appropriate Magistrate for registering such complaint. However, in the present case, the 3<sup>rd</sup>



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respondent has vexatiously approached the office of the Deputy Superintendent of Police on the same day which clearly indicates his intention to get an FIR registered without verifying the truthfulness of the said complaint.

5. Heard Mr.K.V.Sajeevkumar, learned Special Government Pleader appearing for 1<sup>st</sup> respondent and Mr.V.Manoharan, learned Additional Government Pleader appearing for 2<sup>nd</sup> respondent.

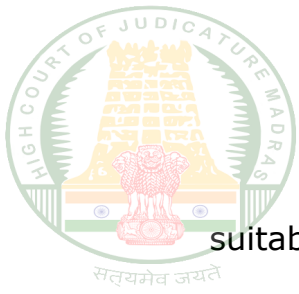
6. At the outset, we do not find any merits on the submissions of the learned Counsel for the petitioner. The reasons being that firstly, after giving a complaint by the defacto complainant/3<sup>rd</sup> respondent herein, if there is any delay or lapse in non-registering the FIR, his argument that the complainant should act as per Section 156(3) of the Cr.P.C. and he should approach the appropriate Magistrate for registering such complaint itself clearly shows that he is still not aware of the legal duty cast upon him when an innocent complainant approaches the police station. Secondly, on receipt of an oral complaint, it has to be reduced in writing and on receipt of the written complaint, he has to take immediate steps to find out the truth of the allegation put in the complaint narrated or reduced into writing. But the learned Commission in paragraph 8 of its order



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has given a finding that the petitioner has not taken up any follow up action based on the complaint of the 3<sup>rd</sup> respondent till date, such as summoning the accused persons for enquiry. Therefore, finding fault with the petitioner, who is admittedly a Circle Inspector, the 1<sup>st</sup> respondent has rightly come to the conclusion that the petitioner should have conducted investigation and registered a case or should have closed by recording a reason that no case is made out.

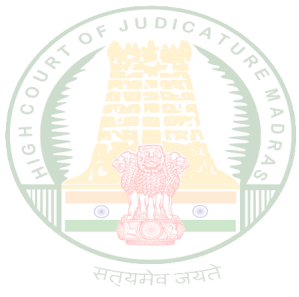
7. Thirdly, to prove the allegations made by the defacto complainant, he examined himself as P.W.1 and has also marked Ex.P.1 to Ex.P.3 while his mother was examined as P.W.2. Thereafter, the Commission also examined the petitioner as R.W.1 and marked Ex.R.1 and Ex.R.2 and gave a finding that when the complainant has suffered a financial loss and was approaching the police for redressal of his grievance, the petitioner should have taken up follow up action based on the complaint which he has not done. Therefore, when the petitioner has not even summoned the accused persons for enquiry that would cause a mental agony and unnecessary harassment in addition to the grievance with which he has come to register a complaint against the accused. Fourthly, when this Court has been everyday passing umpteen orders directing the Inspectors of Police, Superintendents of Police and Director General of Police to issue



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suitable instructions to the respondents to register F.I.Rs. after conducting preliminary enquiry, it is not known why the petitioner having given additional charge as Circle Inspector has not taken any steps for reconsideration of the case. Finally, taking note of the fact that the petitioner who is working as a Circle Inspector has not even taken any action against the accused persons, thereby making them to go scot free and consequently, made the defacto complainant to undergo the ordeal, in our considered opinion, the 1<sup>st</sup> respondent has rightly come to the conclusion that there has been a violation of human rights. Therefore, the learned Commission has directed the Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai, to pay a compensation of Rs.2,00,000/- to the complainant Mr.M.Tamizhselvan/3<sup>rd</sup> respondent herein within four weeks from the date of receipt of a copy of that order with a further direction to the Additional Chief Secretary to recover the same from the petitioner herein as per the rules. In view of all the above, we find no infirmity or illegality in the impugned order passed by the 1<sup>st</sup> respondent herein.



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8. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

**(T.R.J.,)**

**(K.B.J.,)**

17.08.2022

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To

1. The Registrar,  
State Human Rights Commission of Tamil Nadu,  
143, P.S.Kumarasamy Raja Salai,  
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2. The Additional Chief Secretary to Government,  
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**T.RAJA,J.  
AND  
K.KUMARESH BABU, J.  
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