

P.R.No:086

Date: 12.01.2022

STATE HUMAN RIGHTS COMMISSION, TAMIL NADU

“Thiruvaramam”

No. 143, P.S. Kumarasamy Raja Salai
(Greenways Road), Chennai 600 028
(Law Division)

Wednesday, the 12th day of January 2022

PRESENT

HON’BLE DR. A. CHITTARANJAN MOHANDOSS, I.A.S. (RETD.), MEMBER

SHRC Case No. 4135 of 2012

Mrs. Soundari ... Complainant

-Vs.-

- (1) Mr. Mayilsamy
Inspector of Police
- (2) Mr. Anguswamy
Special Sub-Inspector of Police
- (3) Mr. R. Venkateshwaran
Sub-Inspector of Police
- (4) Mr. S. Bhaskar
Head Constable-884
- (5) Mr. P. Kannan
Head Constable-542
- (6) Mr. N. Jayaraman
Head Constable-708
*(All were working at Perambalur Police Station
at the relevant point of time)*
- (7) Mr. P. Nagarajan, Head Constable-727
Maruvathur Police Station
(at the relevant point of time)
- (8) Mr. A. Muruganandam,
Grade-I Police Constable-1353
Prohibition Enforcement Wing, Perambalur
(at the relevant point of time)

... Respondents

ORDER:

This Commission received a complaint from Mrs. Soundari on 20th March 2012 stating that she is residing at Vadakku Madhavi Road, Perambalur Taluk, Perambalur District and that she has a son named Shanthakumar who is aged 21 years and she also has a daughter. She is earning her livelihood by doing coolie work and she is also a Member in the Women Self Help Group. Her son is holding a driver's license and whenever he is called, he would go and work as a driver. Whenever there is no work he works in a tea shop at Athur, Perambalur. 15 days prior to the date of complaint, one Karunanidhi, who was running an Idly shop at Vadakku Madhavi Road was murdered. On the night of the said murder, the 1st, 2nd, 5th and 7th Respondents along with two other policemen came to her house and she states that all of them abused the complainant and her family using filthy language and they took her son Shanthakumar. She states that she went to the police station where she was once again abused and driven out. However, on the next day by 2 PM in the Afternoon, her son was released. She states that again on 10.03.2012 by 10 PM in the night, the Respondents took her son to the police station by stating that he is required for an enquiry in another case. While picking up her son, the Respondents abused her daughter in a foul and bad language. Apart from that the Respondents ransacked her house and also abused her and her family. The police also picked up her brother's son one Prabakaran who is studying B.B.A., at Omalur. She claims that her son was tortured at the police station. When the complainant went to the police station and begged for the release of her son and her brother's son she was once again abused. Later her brother's son was released by 9 PM in the night. Her son was forced to confess that he is involved in the said murder. Since her son did not yield to the force, the police obtained

a false complaint from one Periyasamy, claiming he had committed robbery and remanded him to judicial custody. That the police obtained her signatures in some papers. She states that the Respondents further threatened her saying that if she lodges any complaint against them they would foist a prostitution case against her and her daughter and drove her away.

2. This Commission received another complaint on 18th May 2012. Once again a complaint was preferred by the complainant wherein she states that her son had been complying with the bail conditions that had been imposed by the Court twice daily appearing at the Police Station and that the Respondents had asked him to bring his mother. It is further alleged that the Respondents had stated they cannot be shaken and any complaint given at any forum would only land with them in more trouble and they had further asked him to withdraw the complaint given in the Human Rights Commission failing which further two or three more false cases would be filed against him and that he would be imprisoned. The petitioner states that because of this, her son consumed poison on 16.05.2012 and has been admitted in the Government Hospital for treatment. That prior to consuming poison he had written a suicide note that the reason for his committing suicide is the harassment of police and hence requested action against the police.

3. Upon receipt of this complaint, it was felt that the veracity of the same had to be verified and hence the complaint was sent to the Director General of Police, Investigation Wing of this Commission and a report has been received in this regard.

4. That the Respondents on receipt of summons filed a common counter on

31.7.2018 wherein they have absolutely denied the allegations raised against them. It is stated that the complainant's son Shanthakumar along with one Hari brandished a knife and threatened one auto rickshaw driver Periyasamy and demanded money. That based upon his complaint a case was in Cr.No.327/2012u/s.392 IPC and that he was arrested and remanded. Because of this the petitioner had given a false complaint against the Respondents and as such the same has to be dismissed. However, the Respondents are silent about the second complaint.

5. Points for Consideration:

- (1) Whether the respondents had foisted a false case against the Petitioner's son which had led to his consuming poison with the aim of committing suicide and whether they had behaved in a manner violating the rights of the Complainant.
- (2) If the respondent had acted in a biased manner causing violations of human rights of the complainant, to what relief the Complainant is entitled?

POINT: 1

6. The Petitioner's case as stated above is that she is residing at Vadakku Madhavi Road, Perambalur Taluk & District and that she has a son named Shanthakumar who is aged 21 years and she also has a daughter. She is earning her livelihood by doing coolie work and she is also a member in the Women Self Help Group. Her son is holding a driver's license and whenever he is called he would go and work as a driver. Whenever there is no work he works in a tea shop at Athur, Perambalur. That some 15 days back one Karunanidhi who was running an Idly shop at Vadakku Madhavi Road was murdered. That on

the night of the said murder, the 1st, 2nd, 5th and 7th Respondents along with two other policemen came to her house and that they abused the complainant and her family and took her son Shanthakumar. She went to the police station where she was once again abused and driven out. However, on the next day by 2 PM in the afternoon, her son was released. Again on 10.03.2012 by 10 PM in the night, the Respondents took her son to the police station by stating that he is required for an enquiry in another case. While picking up her son, the Respondents abused her daughter in a foul and bad language. Apart from that the Respondents ransacked her house and also abused her and her family. The police also picked up her brother's son one Prabakaran who is studying B.B.A., at Omalur. She states that her son was tortured at the police station. When the complainant went to the police station and begged for the release of her son and her brother's son she was once again abused. Later her brother's son was released by 9 PM in the night, the next day. But her son was forced to confess that he was involved in the said murder. Since her son did not yield to the force, the police obtained a false complaint from one Periyasamy, claiming that he had committed robbery and remanded him to judicial custody. That the police obtained her signatures in some papers. She states that the Respondents further threatened that if she lodged any complaint against them they would foist a prostitution case against her and her daughter and drove her away.

7. The Commission received another complaint on 18th May 2012 once again a complaint was preferred by the complainant, wherein she states that her son had been complying with the bail conditions that had been imposed by the Court and that the Respondents had asked him to bring his mother. It is further alleged that the Respondents had stated that they cannot be shaken and any complaint given at any forum and that it would only land them in more trouble

and further asked him to withdraw the complaint given in the Human Rights Commission failing which further two or three more false cases would be filed against him and that he would be imprisoned. Because of this her son had consumed poison on 16.05.2012 and has been admitted in the Government Hospital for treatment. That prior to consuming poison he had written a suicide note that the reason for his committing suicide is the harassment of police and hence the complainant requested that action be taken against the police.

8. In this case the Respondents had categorically denied the allegations of the complainant. Now it is the responsibility of the prosecutor to prove her case and as such the complainant was asked to produce her side oral and documentary evidence.

9. In an attempt to prove her complaint, the complainant had entered into the witness box and examined herself as PW1. Apart from the complainant, her son one Shanthakumar had examined himself as PW2. However no documents have been filed as evidence on the side of the complainant but the complainant has filed a set of documents along with her complaint dated 17.05.2012 which are the medical records pertaining to PW2. On the side of the Respondents, the 1st Respondent examined himself as RW1, the 3rd Respondent examined himself as RW2, the 4th Respondent examined himself as RW3, the 5th Respondent examined himself as RW4, the 6th Respondent examined himself as RW5, the 7th Respondent examined himself as RW6, the 2nd Respondent examined himself as RW7 and have marked Exhibits R-1 to R-11, as evidence on their side, RW2 and RW5 have filed additional proof affidavits.

10. The complainant and her son were cross examined at length. However in the cross-examination of both the prosecution witnesses, no attempt was made to destroy the allegation that PW2 consumed poison only because of the torture and harassment meted out to him by the Respondents.

11. The Respondents were also cross examined. All the Respondents agreed that there was no need to apprehend PW2 in the murder case of one Karunanidhi as 8 other persons were found to be the accused and named in the FIR. However RW1 admits that under the column "accused" the names of 8 persons have been written and also "and others" have been written. When the FIR states under the accused column "and others" it makes room for random arrests with or without any evidence. And as such, it is inferred that there is every possibility that the Respondents would have gone in search of PW2 in that case also, as alleged by the complainant.

12. The case of the complainant is that her son was taken into custody by the Respondents on 10.03.2012 and was forced to admit and accept that he is also involved in the murder of the said Karunanidhi. Since the same was not conceded, the Respondents obtained a false complaint from one Periyasamy as if, the son of the complainant had committed robbery on 11.03.2012 and the police arrested him and remanded him to judicial custody.

13. It is seen that an affidavit has been received by this Commission through the complainant on 15.05.2012 wherein it is deposed by the said Periyasamy that he was also taken into custody by the Respondents and was forced to admit the murder of the said Karunanidhi. However, since he did not accept the same, the Respondents obtained his signatures in blank papers and had sent him. The said Periyasamy specifically states that he has not lodged such a complaint and prays that action should be taken against the perpetrators.

14. A perusal of the FIR in Cr.No.327/2012 u/s.392 IPC reveals that it has all the characteristics for detaining the accused under Act XIV of 1982 which is a preventive detention act. In fact the said case had ended in acquittal since the said Periyasamy had turned hostile by stating that he had not lodged any complaint against PW2. From this it is seen that all efforts were taken by the 1st Respondent to implicate PW2 in a heinous crime and later to arrest him under sec 392 IPC. The intention appears to be to keep him under incarceration for a period of one year by foisting a false case.

15. Now a perusal of the medical records shows that PW2 was admitted in the Government Hospital on 16.05.2012 at 2.00 PM and that the diagnosis states that the patient has consumed rat killer poison. The Doctors have also obtained the signature of the complainant recording that she knows that her son is in a very serious condition. In fact even in the Accident Register it has been clearly recorded that the poison has been consumed by the victim due to police filing a false case. A letter purported to have been written by PW2 on 16.05.2012 also states the names of the Respondents and a reading of the same reveals to what extent PW2 has suffered in the hands of the Respondent Police.

16. It is to be seen that even though the above consumption of poison is medico-legal case and that the doctors have informed the police, the Respondents, especially the 1st Respondent had not taken any initiative to obtain a complaint from the victim and register a case against the perpetrators. This is more than indicative that the 1st Respondent was aware that he and his subordinates had caused the victim to take this drastic step.

17. The report submitted by the Investigation wing of this Commission states that PW2 Shanthakumar on 16.5.2012 attempted to commit suicide by consuming rat poison at his home. And that he was rushed to the Government Hospital, Perambalur and admitted as an inpatient. He was discharged on 20.05.2012. Even though the said information was given to the police, the 1st Respondent had not registered a case. This shows gross dereliction of duty on the part of the 1st Respondent. It can only be inferred that on coming to know that the son of the complainant attempted to commit suicide only because of the harassment of the police, the 1st Respondent had maintained silence. The Inspector of Police of the Investigation Wing had recorded the statements of the Doctors who treated PW2. The said 3 Doctors had clearly stated that PW2 was admitted as an inpatient in Govt. Hospital, Perambalur, for consuming rat poison and that he attempted to commit suicide only because of the harassment of the police. The Hospital authorities also informed the police about the same. The report further concludes that PW2 was being forced to withdraw the complaint given to this Commission by his mother when he appeared before the Police to comply with the bail conditions.

18. Now from the oral and documentary evidences placed before this Commission it could be inferred that the Respondents have harassed and tortured PW1 and PW2, resulting in the attempted suicide by PW2, although he is a very young person. It is fortunate that PW2 had miraculously escaped from the clutches of death, due to the timely medical intervention given to him by the Doctors of the Government Hospital, Perambalur. It is therefore concluded that the Respondents had committed gross human rights violation of the children of the complainant and they have to be necessarily compensated.

POINT NO. 2

19. As the Point No.1 has been held against the Respondents that they have violated the human rights of the complainant, this Commission will decide the nature of relief the victim is entitled to. The duties of the Respondents as police officials are to maintain law and order and tranquility in the society. To this end, they have to ensure that no innocent person, from the vulnerable section of society is brutally victimized.

20. Hence this Commission is of the view that the respondents, have to be awarded a deterrent punishment so as to ensure that such violations are not repeated by them in the future. Hence in the facts and circumstances of the case, this Commission is of the view that the Complainant is entitled to get a compensation of a sum of Rs.4,50,000/- from the respondent.

21. In the result, this Commission recommends the follows:-

RECOMMENDATIONS

- (a) **The Additional Chief Secretary to Government, Home Department, Secretariat, Chennai shall pay a compensation of Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand only) to the complainant Tmt. Soundari, W/o. Selvaraj residing at Netaji Nagar, Vadakku Madhavi Road, Perambalur Post, Perambalur Taluk & District within 8 weeks from the date of receipt of this order.**
- (b) **After making such payment, the Additional Chief Secretary to Government, Home Department, Secretariat, Chennai may recover a sum of Rs.1,00,000/- (Rupees One Lakh only) from the 1st Respondent and a sum of Rs.50,000/- (Rupees Fifty Thousand Only) each from the Respondents 2 to 8.**

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