

W.P.No.17619 of 2021
and W.M.P.No.18752 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.01.2023

DELIVERED ON : 08.02.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.17619 of 2021

&

W.M.P. No.18752 of 2021

Lakshmanan

...Petitioner

Vs.

- 1.The Secretary,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai - 600 028.
- 2.The Secretary to Government,
Home, Prohibition & Excise Department,
Government of Tamil Nadu,
Secretariat, Fort St.George, Chennai - 600 001.
- 3.The Director General of Police,
Mylapore, Chennai.



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4. The Commissioner of Police,
Greater Chennai, Vepery, Chennai.

5. The Joint Commissioner of Police,
North Zone, Tondiarpet,
Chennai - 600 021.

6. G.Ramesh ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Certiorari to call for the records of the order passed by the first respondent in SHRC Case No.852/2019 dated 11.06.2021 and quash the same.

For Petitioner	:	Mr.D.Selvam for Mr.K. Mayurapriyan
For R1	:	Mr.S.Wilson
For R2 to R5	:	Ms.R.L.Karthika Government Advocate
For R6	:	Mr.G.Murugeshkumar

ORDER

(R.HEMALATHA, J.)

This petition is filed against the order dated 11.06.2021 of State Human Rights Commission, Chennai in SHRC Case No.852/2019.



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2. Briefly the facts of the case :

The complainant G.Ramesh before the State Human Rights Commission, Chennai, is the sixth respondent in the present writ petition. The said Ramesh is running a manufacturing unit of silver craft in the name and style of "G.P.Silver Craft" for the past twenty years at Chennai. He had business transaction with one Krishnamurthy doing the same business in the name and style of "Rajammal Silver" and also with one Sumithi Challani running a business in the name and style of "C.R.Jewellers" on N.S.C.Bose Road, Chennai.

2.1. It is alleged that the said Krishnamurthy owed the complainant the amount for silver weighing 111.816 kg and when the same was demanded the said Krishnamurthy reportedly stated that he had supplied the same to Sumithi Challani who in turn was to pay for silver weighing 51.816 kg. It also appears that all the three had a number of transactions which included transfer of land and also other movable properties.

2.2. According to the complainant, he had to approach the police on 11.10.2017 and 07.11.2017 against the said Sumithi Challani



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WEB COPY for the outstanding amount but of no avail. On 18.09.2018, the complainant had alleged that he was taken to the office of the Assistant Commissioner of Police i.e the petitioner where a "Katta Panchayath" was conducted and on 21.09.2018, when the complainant was again made to appear in the office of the Assistant Commissioner, an undertaking letter was forcibly taken from him. Thereafter, on 06.10.2018 the original document and RC book of his Mercedes Benz Car was taken by the petitioner and subsequently, the complainant realised that the petitioner in collusion with Sumithi Challani and others had deceived him. Therefore, he was constrained to file a complaint in SHRC 852/2019 before the State Human Rights Commission, Chennai, against the petitioner.

2.3 The State Human Rights Commission, Chennai, held that the petitioner as a senior police official had violated the Human Rights of the complainant and therefore the complainant was entitled to receive a compensation of Rs.25,000/- from the petitioner and also recommended for departmental action against the petitioner.



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2.4. Aggrieved over this order of the State Human Rights Commission, Chennai, the present petition is filed to quash the same by issuance of Writ of Certiorari.

3. Heard Mr.D.Selvam, learned counsel appearing for the petitioner, Mr.S.Wilson, learned counsel appearing for the first respondent, Ms.R.L.Karthika, learned Government Advocate appearing for the respondents 2 to 5 and Mr.G.Murugeshkumar, learned counsel appearing for the sixth respondent.

4. Mr.D.Selvam, learned counsel for the petitioner putforth his submissions in which he argued that the petitioner was one of the few meritorious officers in the State Police Force having won police medals, cash award and medal from the Central Government for his commendable service. It was also contended that the petitioner had never indulged in any katta panchayath as claimed by the complainant and that he had summoned the complainant for enquiry only on the basis of a complaint dated 17.09.2018 against Ramesh by the said Sumithi Challani



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WEB CO addressed to the Joint Commissioner of Police, North Zone. In the said complaint, he had alleged that the complainant Ramesh had threatened to kill him if he fails to settle the amount due to the latter. It was further contended that the petitioner being a senior police officer was aware that civil matters have to be adjudicated legally only in the Court of law and that he was in no manner involved to settle the money dispute between the parties. All the allegations made against the petitioner were unfounded and baseless and therefore, the order of the State Human Rights Commission, Chennai, is liable to be quashed.

5.Per contra Mr.S.Wilson, learned counsel for the first respondent contended that it was a humiliating experience in which the petitioner acted in an unprofessional manner abusing his powers and helping the said Sumithi Challani by procuring the original papers and RC book of the 6th respondent's Mercedes Benz Car. According to the counsel, this was a clear case of Human Rights Violation and therefore State Human Rights Commission was right in ordering a compensation of Rs.25,000/- to be paid to the 6th respondent/complainant and also to initiate departmental action against the petitioner.



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6. Mr.G.Murugeshkumar, learned counsel appearing for the 6th

respondent contended that though the 6th respondent lodged a complaint with the police against Sumithi Challani, the police did not take action against him and on the other hand, he was taken to the office of the Assistant Commissioner of Police (the petitioner herein), where a "katta panchayath" was conducted and on 21.09.2018, the 6th respondent was once again summoned to the petitioner's office and an undertaking letter was forcibly taken by the petitioner. According to the learned counsel for the 6th respondent, on 06.10.2018, the original documents and RC book of his Mercedes Benz car was taken by the petitioner and thereafter only he realised that the petitioner in collusion with the Sumithi Challani and others had deceived him. He relied on the decision of the Hon'ble Apex Court in *Lalita Kumari vs. Govt. of U.P. & others* reported in (2014) 2 *SCC 1* and contended that the registration of FIR is mandatory under Section 154 Cr.P.C., if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. He further contended that the police without registering any FIR had arbitrarily conducted a "katta Panchayath" and forcibly taken

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the RC book and other records of Mercedes Benz car belonging to the 6th respondent and thus the petitioner had violated his human rights.

7 .The subject of Human Rights Violation is such a sensitive one wherein careful scrutiny and analysis have to be done before holding that there has been an instance of Human Rights Violation. Human Rights Violation includes arbitrary deprivation of life; torture, cruel or degrading treatment or punishment; slavery and forced labour; arbitrary arrest or detention; arbitrary interference with privacy; war propaganda; discrimination ; and advocacy of racial or religious hatred. Keeping in mind these aspects, if we go into the contents of the complaint dated 23.01.2019 by Mr.Ramesh addressed to the State Human Rights Commission it can be easily deciphered that there had been four to five players in a series of transactions involving transactions in cash and in kind. It is true that the complainant Ramesh had supplied silver lamps (Kutthu Vilakku) to C.R.Jewellers owned by Sumithi Challani through one Krishnamurthy and at one point of time since payment got stuck had stopped supplying them. In such circumstances, the complainant Ramesh



had also faced pending payment issue with Krishnamurthy who also used to buy silver lamps from him. It was then the complainant came to know that out of the 111.816 kg silver products procured by the said Krishnamurthy, 51.816 kg was supplied to C.R.Jewellers by the said Krishnamurthy and therefore in lieu of the payment of the remaining 60 kg of silver articles he had offered 55 cents of land in Kolathur in his name through a power of attorney and got it registered. According to the complainant, subsequently, he along with the said Krishnamurthy went to the residence of Sumithi Challani demanding the payment for the remaining 51.816 kg silver when the said Sumithi Challani had promised to settle the dues within three months. Out of this dues 20 kg of silver were recovered in two instalments from Sumithi Challani with the help of one Jayantilal who was the President of Madras Jewellers Association. However, 31.816 kg silver was still outstanding for payment. Having failed to recover the remaining silver the complainant filed a police complaint in G1-Vepery Police Station on 11.10.2017. Again on 07.11.2017 another complaint was given in the Commissioner's office by the complainant. What followed thereafter was the sequence of



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WEB COPY transactions in which Sumithi Challani's father offered his Mercedes Benz

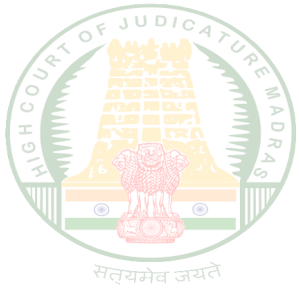
Car for Rs.22 Lakhs to square off the dues for the silver procured by Sumithi Challani and the complainant paid Rs.8,50,000/- as the balance amount after adjusting the dues from Sumithi Challani. The original RC book and other related papers were also given to the complainant who immediately transferred the car in his name. Later, he transferred the same in the name of one M.G.Balaji, his friend, who availed a loan from HDFC Bank, Nelson Manickam Road Branch for Rs.16,00,000/- hypothecating the car. It is also mentioned in the complaint that in January 2018, Sumithi Challani along with the said Krishnamurthy had approached him stating that the Benz Car had much emotional value to him since his grandfather had expired while he was in the car and therefore, was ready to offer 6000 sq.ft. of land in 5 acres layout developed by his father in Pazhayanur, Kancheepuram District awaiting DTCP approval and in lieu of the same wanted the Benz Car to be transferred back to his name. The complainant Ramesh who visited the layout was impressed and willing to re-transfer the car subject to 6000 sq.ft. of land transferred to him following which an agreement dated



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23.01.2018 was executed. On 10.03.2018, when the sale deed execution for the land was enquired about by the complainant, Anandmal, the father of Sumithi Challani cited lack of funds for the delay in DTCP approval and also offered 9600 sq.ft of land in lieu of which he obtained 85 kg of silver bar from the complainant. An agreement for 9600 sq.ft was also signed on 12.03.2018.

8.Subsequently, Krishnamurthy and another Sunil also promised the complainant that they would share the profit in silver business and took 26 kg and 45 kg of silver bars from the complainant for which the said Krishnamurthy executed a loan document for Rs.28,40,000/-. He also offered a Power of Attorney for 27 cents of land in Mathur Village, Thiruvallur District, on 24.04.2018 and got it registered. Further, the father of Sumithi Challani, Anandmal, on 16.05.2018 took Rs.6.5 lakhs cash from the complainant through his manager Sarangapani for the DTCP approval in lieu of which an unregistered deed was executed. In such circumstances, on 18.09.2018 five unidentified persons claiming to be police had taken the complainant



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WEB COPY to the Assistant Commissioner's office stating that there was a complaint from Sumithi Challani against him for having threatened him (Sumithi Challani) with dire consequences. It was further alleged in the complaint that the petitioner in order to help Sumithi Challani and Krishnamurthy took an undertaking in writing that he would wait till 21.09.2018 by which time the amounts due to him would be settled by Sumithi Challani and Krishnamurthy. On 06.10.2018, the RC book and related papers of the Benz Car and other documents was also taken by the petitioner under the promise that the dispute would be settled amicably.

9. The State Human Rights Commission, Chennai, relied on a portion of the report of the Deputy Commissioner of Police, Flower Bazaar District, Chennai who was deputed by the Joint Commissioner of Police to go into the truth of the various allegations in the written complaint made by the complainant G.Ramesh. The State Human Rights Commission, Chennai, relied on the 'warning letter' purportedly issued to the petitioner for indulging in the compromise between the parties along with their advocates in his office. This warning letter (copy of which was



WEB COPY not attached) made the State State Human Rights Commission, Tamil

Nadu, conclude that there was violation of human rights by the petitioner. This was so because money dispute was a civil matter and the petitioner had allegedly got himself into it for resolving the issue. The same report also contains portions which reflect the character of the complainant. It also makes reference to the fact that the complainant suffered from mental ailment. These are relevant because for deciding 'human rights violation' there need to be conclusive proof. There is a very thin line between human rights violation and regular police enquiry. It can be observed that the complainant had the habit of landing himself into financial problems on his own volition by lending money and has been approaching police since 2017 on several occasions. The series of transactions reproduced from his complaint would go to prove the hasty and irrational decisions by the complainant. He also had the habit of approaching different police stations with different advocates and also insisting on registering FIRs. In fact on one earlier occasion CSR 383/2018 was made in Yaanaikavuni Police Station based on his complaint. The relevant extract of the report of the Deputy Commissioner



WEB COPY of Police is reproduced below :

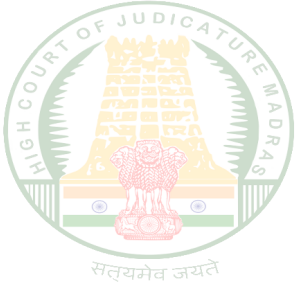
"..... இம்மனு தொடர்பாக மனுதாரர் திரு.இரமேஷ் மற்றும் எதிர்மனுதாரர் திரு.இலட்சுமணன் உதவி ஆணையர் பூக்கடை சரகம் ஆகியவர்களை விசாரணை செய்து வாக்குமூலம் பெறப்பட்டது. மனுதாரர் அவருடைய வாக்குமூலத்தில் மனுவில் உள்ள சாராம்சங்களையே உறுதிச் செய்துத் தெரிவித்தும் அவர் தர்ப்பு ஆவணங்களாக (1) 07.11.2017 தேதியிட்ட காவல் ஆணையர் சென்னை அவர்களுக்கு அளித்த மனுவின் நகல் (2) 18.09.2018 நாளிட்ட மனுதாரர் எதிர்மனுதாரருக்கு எழுதப்பட்ட கடிதத்தின் நகல் (3) 06.10.2018 நாளிட்ட மனுதாரர் எதிர்மனுதாரருக்கு எழுதிய இரு கடிதங்களின் நகல் (4) தகவல் அறியும் உரிமைச் சட்டப்படி 26.06.2019ம் தேதி அளித்த மனுவின் மீதான பதில் கடிதத்தின் நகல் (5) சி2 யானைக்கவுனி காவல் நிலைய சி எஸ் ஆர் 383/2018-ன் நகல் ஆகியவற்றைத் தாக்கல் செய்துள்ளார். எதிர்மனுதாரர் அவருடைய வாக்குமூலத்தில் மனுதாரரின் கூற்றுக்களை மறுத்துள்ளதோடு திரு சுமித்தி சலானி என்பவர் அளித்த 17.09.2018ம் நாளிட்ட புகார் தொடர்பாக மனுதாரரை 18.09.2018 அன்று அழைத்து விசாரணை செய்ததாகவும் அந்த விசாரணையில் மனுதாரருக்கும் திருவாளர்கள் சுமித்தி சலானி மற்றும் கிருஷ்ணமூர்த்தி மற்றும் சிலருடன் இருந்த தொழில் தொடர்பான கொடுக்கல் வாங்கல் பிரச்சனைகளைத் தீர்த்துக் கொள்ள காவல் ஆணையரிடம் ஏற்கனவே புகார் அளித்து அது தொடர்பாக ஜி1 வேப்பேரி காவல் நிலையத்தில் விசாரிக்கப்பட்டதாகத் தெரியவந்ததாகவும் அப்பொழுது இருவருக்கும் இடையிலான தொழில் ரீதியான கொடுக்கல் வாங்கல் பிரச்சனைகளைச் சமரசமாகத் தீர்த்துக்



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கொண்டதாகத் தெரியவந்ததாகவும் திரு.சுமித்தி சலானி மனுதாரரின் மீது மிரட்டியதாக அளித்தப் புகாரின் மீது மேல் நடவடிக்கைத் தேவையில்லை என்றுக் கூறியதன் அடிப்படையில் அவர்களுக்கு இடையில் உள்ள பணப்பிரச்சனைத் தொடர்பாக தகுந்த நீதிமன்றத்தினை அணுகித் தீர்த்துக் கொள்ள அறிவுறுத்தி அந்த மனுவின் மீது மேல் நடவடிக்கை கைவிடப்பட்டது என்றும், இந்நிலையில் மனுதாரர் திரு.இரமேஷ் மற்றும் சுமித்தி சலானி ஆகியவர்கள் அவர்களுக்கு இடையில் உள்ள பணம் கொடுக்கல் வாங்கல் பிரச்சனையை வழக்கறிஞர்களுடன் வைத்து சமரசம் பேசி அதனடிப்படையில் 21.09.2018ம் தேதி பெற்றுக்கொள்வதாகத் தெரிவித்துச் சென்றதாகவும் 21.09.2018 அன்று மனுதாரர் ஆஜராகாமல் இருந்ததால் அவரை தொலைபேசியில் அழைத்ததில் அவர் 06.10.2018 அன்று விசாரணைக்கு வேறொரு வழக்கறிஞருடன் ஆஜராகியதாகவும் அவர்களுக்குள் கலந்து பேசி சமாதானமாகி ஆவணங்களைப் பெற்றுக்கொண்டு அது தொடர்பாக அவரது அலுவலத்தில் எழுத்துமூலம் தெரிவித்துச் சென்றதாகவும் இந்நிலையில் மனுதாரர் மேற்படி சுமித்தி சலானி மீது ப்.பி.6 கொடுங்கையூர் காவல் நிலையத்தில் 2019ம் ஆண்டு ஏப்ரல் மாதம் ஒரு புகாரினை அளித்து அப்புகாரானது திரு கல்வி என்ற உதவி ஆய்வாளரால் விசாரணை செய்யப்பட்டு அதனடிப்படையில் அவர்களுக்குள் பணம் பெற்றுக்கொண்டு சமாதானமாகச் சென்றதாகத் தெரியவந்ததாகவும் அதன் பின்னர் கடந்த ஜூன் மாதம் மனுதாரர் காவல் ஆணையரிடம் அளித்த புகார் தொடர்பாக 24.06.2019 அன்று வழக்கறிஞருடன் ஆஜரான மனுதாரர் திரு.சுமித்தி சலானி என்பவரிடம் சமாதானமாகச் சென்று காருக்கு உண்டான பணம் ரூபாய் 1168808/-த்தில்



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WEB COPY ரூபாய் 988808/-ஐ ஐஓபி வங்கி வரைவோலையாக அவரது அலுவலகத்தில் ஒப்படைத்ததை மனுதாரர் வந்து பெற்றுச் செல்லும்படி பலமுறை அறிவுறுத்தியும் மனுதாரர் உடல்நலம் பாதிக்கப்பட்டு மனநலச் சிகிச்சைக்காக மருத்துவமனையில் இருந்ததாகத் தெரியவந்ததாகவும் பின்னர் 12.07.2019 அன்று மனுதாரர் அவருடைய வழக்கறிஞருடன் வந்து மேற்படி வரைவோலையைப் பெற்றுக் கொண்டுச் சென்றவர் திரும்ப வரவில்லை என்றும் மனுதாரர் அவருக்கும் திரு.சுமித்தி சலானி மற்றும் கிருஷ்ணமூர்த்தி மற்றும் சிலருடன் உள்ள தொழில் தொடர்பான பணம் கொடுக்கல் வாங்கல் பிரச்சனையைத் தீர்த்துக் கொள்ளப் பல காவல் நிலையங்களில் புகார் அளித்து வழக்கறிஞர்களுடன் சென்று சமரசம் செய்து கெள்ளும் வழக்கம் உள்ளவர் என்றும் மனுதாரருக்குத் தரவேண்டிய பணப்பரிவர்த்தனைகள் அனைத்தும் முறையாகக் கொடுக்கப்பட்டுவிட்டது என்றும் அவருக்குச் சேரவேண்டிய பணம் மற்றும் வெள்ளி அனைத்தும் அவருக்குப் பெற்றுத் தரப்பட்டுவிட்டது என்றும் இவர் வேண்டுமென்றே இவ்வாறு உண்மைக்கு மாறானப் புகாரினை அளித்து வருவதாகவும் தெரிவித்துள்ளார். இம்மனுவின் மீது விசாரணை மேற்கொண்டதில் மனுதாரருக்கும் திரு.சுமித்தி சலானி, கிருஷ்ணமூர்த்தி மற்றும் சிலருக்கும் இடையில் தொழில் ரீதியான பணம் கொடுக்கல் வாங்கல் சம்பந்தமாகப் பிரச்சனைகள் இருந்து வந்துள்ளதும் இதனை உரிய நீதிமன்றம் மூலம் அணுகித் தீர்க்காமல் பல்வேறு காவல் நிலையங்களிலும் காவல் ஆணையர் அலுவலத்திலும் மனுதாரர் புகார் அளித்து அதனடிப்படையில் காவல்துறையினர் மூலம் விசாரணை செய்யப்பட்டுத் தீர்ப்பதற்கு மனுதாரர் முயற்சிச் செய்துள்ளார் என்பதும் அதனால் திரு.சுமித்தி சலானி என்பவரும் காவல் உதவி ஆணையர்



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WEB COPY பூக்கடை சரகத்தினை அணுகி மேற்படி பிரச்சனையைத் தீர்க்கக் கோரியதன் அடிப்படையில் மனுதாரர் விசாரணைக்கு அழைக்கப்பட்டு அதன் அடிப்படையில் விசாரணையின் முடிவில் இருவரும் சமாதானமாகச் செல்லுவதாக முடிவு செய்யப்பட்டு மனுதாரர் 18.09.2018 மற்றும் 06.10.2018 ஆகிய நாட்களில் காவல் உதவி ஆணையருக்கு கடிதங்கள் அளித்துள்ளார். ஆனால் அதில் கூறியபடி அவர்களுக்கு இடையிலான பணப்பரிவர்த்தனைகள் முழுமையாகத் தீர்க்கப்படாததால் மனுதாரர் பலமுறை காவல் உதவி ஆணையரை அணுகிக் கேட்டும் அவரது பணம் தொடர்பான பிரச்சனைத் தீர்க்கப்படாததால் காவல் உதவி ஆணையர் மீது இவ்வாறு மனு அளித்துள்ளதுத் தெரியவருகிறது. "

10. It is clear from the contents of the report that the complainant was not a victim of human rights violation. He was neither detained illegally nor subjected to any mental harassment or torture. He, even otherwise, had the habit of going to police stations with such complaints. It is also evident from the contents of his own complaint that his debtors never disputed the amount due or refused to repay the loans. It can also be easily inferred as to who would have threatened whom and whether the complaint dated 17.09.2018 by Sumithi Challani against Ramesh was true. Public visit police stations even for trivial issues of civil



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WEB COPY nature and at times truce is arrived at the stations. Therefore, without any allegations of harassment or threat by the police, such conclusions regarding human rights violations as concluded by the State Human Rights Commission, Chennai, would put the entire police force on defence mode. The petitioner is not accused of any coercive method. The complainant's grievances have been resolved ultimately. He was only the creditor and the amounts due to him were settled. In such circumstances, the decision in *Lalita Kumari vs. Govt. of U.P. and Ors (cited supra)*, may not apply to the facts of the present case.

11.This does not mean that there are no instances of human rights violation in police stations. There are instances. But every instance of a casual police enquiry cannot be termed as human rights violation. The awareness amongst public is also lacking. They do not differentiate between civil and criminal matters. More sensitisation of the police force in such matter is required. Police force play a vital role in maintaining law and order. Though they need to exercise caution while handling such cases, they cannot be accused of human rights violation at the drop of a



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WEB COPY hat. It may turn out to be a demoralising factor to the entire police force.

Therefore, the present case is not one which can be classified as a human rights violation.

12. In the result, the Writ Petition is allowed and consequently the orders dated 11.06.2021, of the State Human Rights Commission, Chennai, in SHRC Case No.852/2019, is quashed as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

(V.M.V.,J.) (R.H.,J.)
08.02.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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To

1. The Secretary,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai - 600 028.
2. The Secretary to Government,
Home, Prohibition & Excise Department,
Government of Tamil Nadu,
Secretariat, Fort St.George, Chennai - 600 001.
3. The Director General of Police,
Mylapore, Chennai.
4. The Commissioner of Police,
Greater Chennai, Vepery, Chennai.
5. The Joint Commissioner of Police,
North Zone, Tondiarpet,
Chennai - 600 021.



WEB COPY

VERDICTUM.IN



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V.M.VELUMANI, J.
and
R. HEMALATHA, J.
mtl

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08.02.2023