

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.21351 of 2015

R.Suresh

... Petitioner

Vs.

1. The District Fire Officer,
Office of the Fire and Rescue Department,
Tamil Nadu Fire and Rescue Services,
Thiruvannamalai Division, Thiruvannamalai
2. The Director, Office of the Director,
Tamil Nadu Fire and Rescue Services Department,
Egmore, Chennai - 600 008
3. The Deputy Superintendent of Police,
Polur Sub Division, Thiruvannamalai District
(R-3 is suo motu impleaded as per the order,
dated 16.07.2015, by this Court, in
W.P.No.21351 of 2015)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records in Pa.Aa.No.871 of 2011, Na.Ka.No.8866/Aa1/2011, dated 05.09.2011, on the file of the first respondent, quash the same, as illegal, arbitrary and against the law and consequently to direct the respondents to reinstate the petitioner till the disposal of the Criminal Case in FIR No.697 of 2011 on the file of the Inspector of Police, Kalasapakkam Police Station.

For Petitioner : Mr. M.Sunil Kumar
For Respondents : Mr. V.Subbiah, Spl.G.P.,

सत्यमेव जयते
O R D E R

By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

2. The brief facts, which are necessary for the disposal of the above writ petition, are as follows:-

The petitioner joined as Fireman in the services of the Tamil Nadu Fire and Rescue Services Department. Based on a complaint of one Ms.P.Anandi, the Inspector of Police, Kalasapakkam Police Station, Tiruvannamalai District, has registered a First Information Report against the petitioner in Crime No.697 of 2011 for the alleged commission of offence punishable under Sections 147, 417, 376, 323 and 506 (i) IPC read with section 3 (1) (x) of the SC/ST Act, 1989. The jurisdictional Police, after investigation, has filed a positive

final report which was taken on file in PRC No.10 of 2012 on the file of the learned Judicial Magistrate No.I, Thiruvannamalai and the same case was committed to the District and Sessions Court, Thiruvannamalai, which is a Special Court for trial of SC and ST Cases and it was taken on file as S.C.No.170 of 2013.

3. The grievance expressed by the petitioner is that in connection with the said case, he was arrested and was incarcerated for more than 48 years and therefore he was placed under deemed suspension on 05.09.2011 by the first respondent and though nearly four years had lapsed, the order of suspension has not been reviewed and prayed for revocation of the order of suspension and his reinstatement in service.

4. Heard the learned counsel for both sides.

5. The learned counsel for the petitioner would submit that though the petitioner is facing criminal prosecution he cannot be indefinitely kept under suspension and the order of suspension should be reviewed periodically; in this regard, the petitioner has also submitted a representation, dated 18.06.2015 to the first respondent; since no orders have been passed, the petitioner is constrained to approach this court by filing this writ petition.

6. Per contra, the learned Special Government Pleader appearing for the respondents would submit that the petitioner is facing serious charge of the commission of offence (rape) under IPC as well as under the SC & ST Act and therefore he has been rightly placed under suspension and since it is the case of a deemed suspension, it will continue till the revocation of the suspension order by the competent authority and therefore, prays for dismissal of the writ petition.

7. This Court has carefully considered the submissions made by the learned counsel for both sides and perused the materials available on record.

8. This Court, by the order, dated 11.08.2015, has directed the Special Judge, Thiruvannamalai (District/Special Court for trial of SC/ST Cases) to submit the report as to the stage of the case pending against the petitioner herein. In compliance of the same, the learned Principal District and Sessions Judge, Special Court for trial of SC and ST Cases, Thiruvannamalai District, has submitted a report, dated 24.08.2015, stating among other things that the case was taken on file as S.C.No.170 of 2013 for the commission of the offence punishable under Section 376 IPC and Section 3 (2) (v) of the SC/ST (P&A) Act; on 24.08.2015, the accused was present, witness P.W.1 was examined, Ex.P-1 was marked and the case was adjourned to 31.08.2015 for production of further witnesses, as requested by the prosecution.

9. Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstances, especially taking

into consideration the gravity of the charges, is not inclined to interfere with the order of suspension. However, the petitioner is granted liberty to submit a representation to the first respondent within a period of two weeks from the date of receipt of a copy of this order for reviewing the order of suspension. The first respondent, on receipt of the same, is directed to consider the said representation, on merits and in accordance with law, and pass orders within a period of eight weeks thereafter and communicate the decision taken to the petitioner.

10. The Principal District and Sessions Judge, Special Court for trial of SC and ST Cases, Thiruvannamalai District, is directed to expedite the trial in S.C.No.170 of 2013 and complete the same as expeditiously as possible and the Investigating Agency, namely, the Inspector of Police, Kalasapakkam Police Station, Thiruvannamalai District, is hereby directed to extend his maximum cooperation for production of the witnesses so as to enable the trial court to complete the trial and pronounce the verdict at an early date.

11. This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

srk
To

1. The District Fire Officer,
Office of the Fire and Rescue Department,
Tamil Nadu Fire and Rescue Services,
Thiruvannamalai Division, Thiruvannamalai
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3. The Deputy Superintendent of Police,
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4. The Principal District and Sessions Judge,
Special Court for trial of SC and ST Cases,
Thiruvannamalai District
5. The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.

1 cc to Mr. M.Sunil Kumar, Advocate Sr.No.49159
1 cc to Government Pleader.Sr.No.48977

W.P.No.21351 of 2015

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