

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25927 of 2015

And

M.P.No.1 of 2015

R.Gopalakrishnan

... Petitioner

Vs.

1 The State
Rep. by Director General of Police
Chennai.

2 The Superintendent of Police
Coimbatore District.

3 The Commissioner of Police
Coimbatore City.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent in his District Order/496/15, Na.Ka.No.G1/43305/2011 dated 14.06.2015 and quash the same as illegal.

For Petitioner : Mr.A.Thiyagarajan

For Respondents: Mr.V.Subbiah

Special Government Pleader

O R D E R
सत्यमेव जयते

By consent, the writ petition is taken up for final disposal.

2.One Thiru Anantheeswaran, Advocate alleging that he was assaulted by the Police Personnel when he went to the Police Station on 07.10.2011 has filed W.P.No.25420 of 2011 and this Court vide order dated 15.11.2011 has directed the concerned Authority to pay compensation of Rs.1,00,000/- to the said Advocate and accordingly it was paid. Thereafter, the second respondent has initiated recovery proceedings against the petitioner herein and passed the impugned order dated 14.06.2015 ordering recovery of Rs.50,000/- to be recoverable in monthly installment at the rate of Rs.2,000/- and challenging the legality of the same, the present writ petition is filed.

3.The learned counsel appearing for the petitioner has drawn the attention of this Court to the impugned order and would submit that the order of recovery vitiate the petitioner with civil consequences and admittedly, he was not put on notice before passing the impugned order and prays for interference.

4.This Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents and also perused the materials placed before it.

5.As rightly pointed out by the learned counsel appearing for the petitioner, before passing the impugned order of recovery, the petitioner was not afforded with any opportunity of personal hearing whatsoever and he was not put on notice.

6.It is pertinent to point out at this juncture that the order of recovery vitiates the petitioner with civil consequences and with all fairness, he should be put on notice, but it was not done. Hence, on the sole ground the impugned order warrants interference.

7.In the result, the writ petition is partly allowed and the impugned order is set aside. The matter is once again remanded to the second respondent who shall issue notice to the petitioner herein giving out the reasons for effecting recovery within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to submit his explanation within a period of two weeks thereafter and the second respondent on receipt of the explanation is directed to consider the same on merits and in accordance with law within a period of four weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

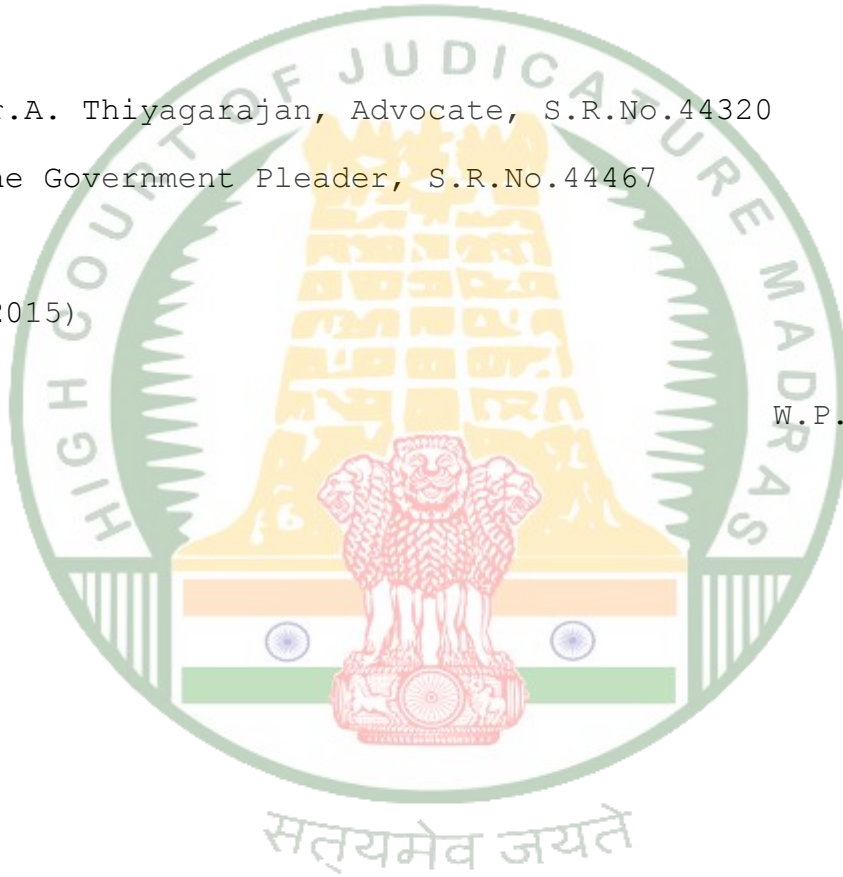
- 1 The State
Rep. by Director General of Police Chennai.
- 2 The Superintendent of Police
Coimbatore District.
- 3 The Commissioner of Police
Coimbatore City.

+1cc to Mr.A. Thiyagarajan, Advocate, S.R.No.44320

+1cc to the Government Pleader, S.R.No.44467

CTK(CO)

EU(08/09/2015)



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