

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.10.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31172/2015 & MP.Nos.1&2/2015

Mr.N.Paramasivam

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Petitioner

Versus

1.The Secretary to Govt. of TamilNadu(Home Dept.)
Fort St George, Chennai 600 009.

2.The Deputy Commissioner of Police,
South Law and Order,
Sale City.

3.The Inspector of Police,
South Law and Order,
Salem City.

4.N.Vasuki

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus to call for the records for the impugned letter Tha.Pa.No.18/H1/2015, dated 05.03.2015 issued by the 2nd respondent and thereby quash the same as invalid and illegal, consequently direct the respondents 1,2, and 3 not to take any action against the petitioner for filing a false complaint by the 4th respondent.

For Petitioner : Mr.M.Velmurugan

For RR 1 to 3 : Mr.V.Subbiah, Spl.GP

ORDER

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

2 The petitioner is a Grade-I Police Constable attached to the police Outpost of the Government Mohan Kumaramangalam Medical College Hospital, Salem City and according to him, he got married to one K.Vijaya on 07.11.1994 and out of the wedlock, he got 2 children-a male and a female and after 10 years of matrimonial life, difference of opinion arouse between them, which resulted in filing of

FCOP.No.14/2003 before the Family Court, Salem, u/s.13[2] of the Hindu Marriage Act, 1955 and a decree for divorce was granted on 24.02.2004 and his children are in the custody of his first wife. It is further stated by the petitioner that as his mother has fallen down and became bedridden, the petitioner was searching for a proper servant-maid to take care of his mother and came across the 4th respondent in the course of his discharge of his official duty and the 4th respondent promised him to take care of his mother, the petitioner engaged the services of the 4th respondent and taking advantage of the said position, the 4th respondent, has stolen some articles and to get over the same, she has lodged a false complaint against the petitioner and in order to get peace, the petitioner has settled her with certain amount and relieve out of the said false case, the 4th respondent also started claiming that she is the lawfully wedded wife of the petitioner and believing the same, the impugned charge memo came to be issued against the petitioner.

3 Learned counsel for the petitioner would submit that admittedly, the charge memo did not contain the list of witnesses and not even the name of the 4th respondent. The allegations are per se false and concocted and the petitioner, in this regard, has also filed a civil suit in OS.No.249/2015 on the file of the Court of District Munsif, Salem to declare that 4th respondent is not his lawfully wedded wife and prayed for permanent injunction restraining her from claiming to be legally wedded wife and till the pendency of the suit, the departmental proceedings initiated against the petitioner, may be deferred.

4 Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 3 would contend that admittedly the said suit has been filed after the issuance of the charge memo and the points urged by the learned counsel for the petitioner cannot be adjudicated by this Court in the exercise of its jurisdiction under Article 226 of the Constitution of India and prays for dismissal of this writ petition.

5 This Court heard the rival submissions made on either side and also perused the materials placed before it.

6 Though the petitioner has sought for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected either by the petitioner or by the respondents 1 to 3, directs the 2nd respondent to conduct the disciplinary proceedings initiated against the petitioner in accordance with law and conclude the same within a period of three months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7 The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

1.The Secretary to Govt. of TamilNadu (Home Dept.)
Fort St George, Chennai 600 009.

2.The Deputy Commissioner of Police,
South Law and Order,
Sale City.

3.The Inspector of Police,
South Law and Order,
Salem City.

+1 cc to Mr.Velmurugan Advocate sr.53778
+1 cc to Government Pleader sr.54053

W.P.No.31172/2015

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