

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.25570 of 2016
and
W.M.P.No.21927 of 2016

V.Senthilkumar .. Petitioner

-vs-

- 1.The Superintendent of Police,
Coimbatore.
- 2.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Coimbatore. .. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus directing the respondents to defer all further proceedings in relating to the charge memo issued in Na.Ka. No.J1/Ta.Pa.No.05/2016 & Vidhi. 3 (Aa), dated 11.01.2016 on the file of the first respondent pending criminal proceedings in Crime No.541 of 2015 on the file of the Veerapandi Police Station, Tiruppur.

For Petitioner :: Mr.R.Ezhilarasan

For Respondents:: Mr.Digvijaypandian,
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondents to defer all further proceedings in relating to the charge memo issued in Na.Ka.No.J1/Ta.Pa.No.05/2016 & Vidhi. 3(Aa), dated 11.01.2016 on the file of the first respondent pending criminal proceedings in Crime No.541 of 2015 on the file of the Veerapandi Police Station, Tiruppur.

2.According to the petitioner, the criminal trial as well as the departmental enquiry pertains to the very same charge and the evidence to be recorded in both the criminal trial and departmental enquiry are one and the same. He further submits that if he is compelled to go with the departmental enquiry, it will affect his criminal trial as the evidence which are to be dealt with, will be cutting across the evidence to be done at the time of trial. Further, the petitioner is already kept under

suspension. The criminal trial is only in the stage of charge sheet. No further enquiry has taken place. In these circumstances, the learned counsel for the petitioner relies on a judgment of this Court in K.Annadurai vs. The Deputy Inspector General of Police, Armed Police, Trichy & Others, reported in CDJ 2015 MHC 6611, and submits that the departmental enquiry has got to be stopped.

3.The learned Additional Government Pleader appearing for the respondents would contend that the departmental enquiry and the criminal case are two different aspects and they will run concurrently and absolutely there is no embargo for the departmental enquiry to be proceeded with. Therefore, the learned Additional Government Pleader would only contend that permission may be given to complete the very departmental enquiry itself de hors the criminal case, within a period of three months.

4.Heard the learned counsel on either side and perused the materials available on record.

5.I have perused the judgment of this Court in K.Annadurai vs. The Deputy Inspector General of Police, Armed Police, Trichy & Others, reported in CDJ 2015 MHC 6611, which has been relied on by the learned counsel for the petitioner, in which, this Court came to the conclusion that pendency of the criminal case is not a bar to the departmental proceedings. In the event the criminal case is not enquired in the near future, automatically the departmental procedure would go on. The petitioner in the present case has to cooperate for it, which he has not done so. The relevant paragraph of the judgment in Annadurai's case (cited supra) is extracted hereunder:

"13.There cannot be any doubt that the Rules 1965 are a self contained code and the order of suspension can be examined in the light of the statutory provisions to determine as to whether the suspension order was justified. Undoubtedly, the delinquent cannot be considered to be any better off after the charge sheet has been filed against him in the Court on conclusion of the investigation than his position during the investigation of the case itself (Vide: Union of India and Ors. v. Udai Narain MANU/SC/1061/1998: (1998) 5 SCC 535)."

6.The petitioner is directed to cooperate with the departmental enquiry proceedings since he has already been suspended. In respect of the criminal case pending, it is expedient that the very enquiry proceedings has to be completed by the respondents. Therefore, the respondents are directed to dispose of the very enquiry proceedings within a period of three months from the date of receipt of a copy of this order, in accordance with the judgment of the Hon'ble Supreme Court in

Ajay Kumar Choudhary v. Union of India, reported in (2015) 7 SCC 291, after giving sufficient opportunity to the petitioner.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Superintendent of Police,
Coimbatore.
- 2.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Coimbatore.

+1cc to M/s. R. Ezhilarasan, Advocate, S.R.No.41742
+1cc to the Government Pleader, S.R.No.41944

RP(CO)
EU(12/08/2016)

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