



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD)No.21749 of 2016

A.Paneer Selvam

... Petitioner

Vs.

1.The Commissioner of Police,
Law and Order,
Commissioner of Office Campus,
Trichy,

2.The Deputy Commissioner of Police,
Law and Order,
Commissioner of Office Campus,
Trichy,

3.The Inspector of Police,
All Women Police Station,
Cantonment Area,
Trichy.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st Respondent vide his proceedings in CPO No:513/2016 C.No.H1/17796/2016 dated 18.07.2016 and quash the same as illegal and also direct the 1st Respondent to consider the period of suspension of the petitioner as duty period and granting monetary benefits.

For Petitioner : Mr.M.Siddharthan

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

The order of suspension issued by the first respondent dated 18.07.2016 is under challenge in this Writ Petition.

2.Heard the learned counsel for the petitioner and the Special Government Pleader, who takes notice for the respondents. By consent, the Writ Petition itself is taken up for

final disposal at the stage of admission.

3.The petitioner is a Head Constable, serving nearly for 15 years under the respondents. Based on the complaint given by his wife before the third respondent that the petitioner is demanding dowry and harassing her along with his relatives, a complaint came to be registered in Crime No.19 of 2016 under Sections 498(A), 406, 294, 506(ii) and 323 IPC.

4.The learned counsel for the petitioner would submit that already in respect of the alleged conduct, departmental enquiry has been ordered and punishment has been imposed against the petitioner. Against which, the appeal preferred by the petitioner is pending consideration. Seeking a direction to the appellate authority to dispose of the Appeal, the petitioner has filed this Writ petition. It is also contended that the double jeopardy given to the petitioner, for no fault of him him would cause serious prejudice in discharging his duties and therefore, the order of suspension should be revoked.

5.The learned counsel also relied upon the order passed by this Court in WP(MD)No.14949 of 2014 dated 11.06.2014, in which, the view expressed by the Court with regard to circumstances under which suspension has to be ordered, is extracted hereunder for the reference of the authorities concerned:

4.At the outset, in this regard, I have to state that suspension from service cannot be made in a mechanical fashion. In this case, suspension was made for valid reason, namely, he was arrested and detained in judicial custody. But after having done so, the suspension order cannot be allowed to remain in force for ever. It should be considered by the first respondent as to whether such continued suspension is absolutely necessary in public interest. I find justification in the submission of the learned counsel for the petitioner that there is no such public interest involved at all requiring continued suspension of the petitioner. The dispute is domestic in nature ie., between the husband and wife, which has resulted in the criminal case being registered against the petitioner. The petitioner's service may be required to teach the students in the school. The crime said to have been committed by the petitioner has got nothing to do with the petitioner to discharge of his official duties. In such view of the matter, in my considered opinion, it would be appropriate for the first respondent to consider the representation of the

<https://hcservices.ecourts.gov.in/hcservices/>

and to revoke the order of suspension."

6.Under such circumstances, the first respondent is



directed to consider the representation of the petitioner dated 01.09.2016 in the light of the orders passed by this Court in WP (MD)No.14949 of 2014 and to pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

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7.The Writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.15553 of 2016 is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

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To

1.The Commissioner of Police,
Law and Order,
Commissioner of Office Campus,
Trichy,

2.The Deputy Commissioner of Police,
Law and Order,
Commissioner of Office Campus,
Trichy,

3.The Inspector of Police,
All Women Police Station,
Cantonment Area, Trichy.

+1cc to Mr.M.Siddharthan Advocate Sr.No. 69054

+1cc to Spl.Government Pleader Sr.No. 69284

JAM/07.12.16/SS 2 /3p-6c

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