

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4029 of 2017

U.Shanmugaraja

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
Armed Reserve 1, Chennai City Police,
Chennai.

2.The Commissioner of Police,
Armed Reserve 1, Chennai City Police,
Veppery, Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records in proceedings in Na.Ka.En.02/1232 Tha.P.2(2)/2017 of suspension order dated 05.01.2017 on the file of the 2nd respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service with consequential benefits.

For Petitioner : Mrs.R.Varalakshmi

For Respondents: Mr.R.A.S.Senthilvel,
Additional Government Pleader

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2.The petitioner, in the affidavit filed in support of the petition, would aver among other things that he was enlisted as Police Constable in the Police Armed Reserve 1, Chennai on 01.02.2011 and he got married to one Duraiarasi on 15.11.2015 and on account of the complaint given by her alleging harassment on account of demand of dowry, All Women Police Station, Sivagangai has registered as case in Crime No.16/2016 on 28.11.2016 against the petitioner and six others (in-laws) for the alleged commission of offences under Sections 294(b), 354, 406, 498(A) and 506 (i) of the IPC and Section 4 of the Dowry

Prohibition Act. The Deputy Commissioner, AR-I, Chennai City Police, Chennai, on receipt of the complaint, has placed the petitioner under suspension, vide order dated 05.01.2017 and challenging the legality of the same, the petitioner came forward to file this Writ Petition.

3. The learned counsel for the petitioner would submit that the complaint given by the wife of the petitioner is false and concocted only with a view to harass the petitioner and would add that with regard to non furnishing of the details of marriage in the relevant bio-data, cannot be considered as willful and it was unintentional and since the petitioner is having a long period of service, his suspension may be ordered to be revoked and prays for appropriate orders.

4. Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader would submit that the petitioner being in Uniform Service is expected to maintain discipline and dignity and admittedly, criminal case has been registered against him and considering all the relevant facts and circumstances, he has been rightly placed under suspension.

5. This Court heard the rival submissions and perused the materials placed before it.

6. The Hon'ble Supreme Court in the Ajay Kumar Choudary Vs. Union of India through its Secretary and another [(2015) 7 Supreme Court Cases 291] has given a direction that the currency of a Suspension Order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension and the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him.

7. Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a representation to the 1st respondent praying for revoking/reviewing the order of suspension within a period of two weeks from the date of receipt of a copy of this order and the 1st respondent, upon receipt of the same, is directed to consider the said representation in the light of the ratio laid down in the above cited judgment and also on merits and in accordance with law and pass appropriate orders, within a further period of six weeks thereafter and communicate the decision taken, to the petitioner.

8.The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner of Police,
Armed Reserve 1, Chennai City Police,
Chennai.

2.The Commissioner of Police,
Armed Reserve 1, Chennai City Police,
Veppery, Chennai.

+1cc to Mrs.R.Varalakshmi, Advocate Sr.10412

+1cc to the Government Pleader Sr.10738

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