

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.9534 of 2017

P.Balakrishnan .. Petitioner

-vs-

1. The Deputy Inspector General of Police
Coimbatore Range
Coimbatore
2. The Deputy Superintendent of Police/
Enquiry Officer
Departmental proceedings
Periyanaickenpalayam
Coimbatore
3. The State represented by
Inspector of Police
Vigilance and Anti Corruption
Coimbatore .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 26.08.2016 made in Na.Ka.No.14/Ka.Thu.K/2016 passed by the second respondent, quash the same and consequentially stay the departmental proceedings in C.No.J1/PR 01/2016/CBE on the file of the second respondent till the disposal of the criminal prosecution i.e.Spl.S.C.No.1 of 2015 pending on the file of the Spl.Court for Cases under Prevention of Corruption Act, Coimbatore by appreciating the above stated facts and circumstances.

For Petitioner :: Mr.M.Guruprasad

For Respondents:: Mr.T.M.Pappiah
Special Government Pleader

ORDER

The petitioner was arrested on 8.5.2013 at about 12.15 hours in connection with Crime No.7 of 2013/AC/CB for the alleged offence under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and Section 109 of IPC. The allegation put against the petitioner shows that he demanded bribe from the informant who happened to be the owner of the lorry involved in the accident. The Inspector of Police, Vigilance and Anti Corruption, Coimbatore, the third respondent herein also filed a charge sheet before the Special Court, Vigilance and Anti Corruption, Coimbatore on 27.8.2014, which was taken on file in Spl.S.C.No.1 of 2015. In the meanwhile, the petitioner reached the age of superannuation on 31.12.2014. After sometime, the Special Court also took up the first hearing of the case on 9.9.2015. In this background, the grievance of the petitioner is that, till date, when the petitioner has not delayed the criminal proceedings either by way of moving discharge petition or taking frequent adjournments, the respondents ought not to have issued the charge memo on 29.12.2015 belatedly when the incident took place in the year 2013. Pursuant to the charge memo, the respondents are also contemplating to conclude the departmental proceedings compelling the departmental witnesses to appear before the enquiry officer. When the respondents are not taking any steps whatsoever to produce the departmental witnesses before the Special Court in the criminal proceedings, the said approach of the respondents is causing grave prejudice to the rights of the petitioner. Therefore he made a request to the enquiry officer to defer the proceedings till the completion of the criminal proceedings. But ignoring the same, the witnesses in the departmental proceedings are being examined. When the criminal proceedings are pending on the same set of charges, the departmental proceedings cannot be initiated.

2. But this Court is not able to find any merit in the said contentions. Admittedly, the incident is alleged to have taken place in the year 2013 and the petitioner was arrested in connection with Crime No.7 of 2013/AC/CB for the alleged offence under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and Section 109 of IPC. Thereafter, the third respondent has also filed a charge sheet before the Special Court, Vigilance and Anti Corruption, Coimbatore on 27.8.2014 and the same was also taken on file in Spl.S.C.No.1 of 2015. During the pendency of the said proceedings, the petitioner retired from service on 31.12.2014. Therefore a charge memo was issued departmentally on 29.12.2015 which, in my considered opinion, is not a replica of the charge sheet filed before the Special Court. Therefore, I find no impediment for the departmental proceedings to be proceeded with independently, so that the petitioner will be able to know the result of the departmental proceedings, by passing final orders. Hence the

petitioner cannot take a stand before me that the departmental witnesses, who are going to be produced before the Special Court are one and the same, the departmental proceedings should not be proceeded with. For all these reasons, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.Nos.10465 & 10466 of 2017 are also dismissed. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To

1. The Deputy Inspector General of Police
Coimbatore Range
Coimbatore
2. The Deputy Superintendent of Police/
Enquiry Officer
Departmental proceedings
Periyanaickenpalayam
Coimbatore
3. The Inspector of Police
Vigilance and Anti Corruption
Coimbatore

+1cc to Mr.Guruprasad,Advocate sr.23798

+1cc to Government Pleader sr.23842

सत्यमेव जयते

W.P.No.9534 of 2017

mg(co)
ss(5/5/2017)

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