

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2017

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THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE G.JAYACHANDRAN

W.A.No.810 of 2017
and
C.M.P.No.11321 of 2017

1. The Director General of Police,
Mylapore, Chennai-600 004.
2. The Inspector General of Police,
North Zone, Chennai-600 016.
3. The Deputy Inspector General of Police,
Vellore Range, Vellore.
4. The Superintendent of Police,
Vellore District, Vellore. Appellants

Vs.

C.Martin Premraj ... Respondent

Appeal filed under Clause 15 of Letters Patent, against the order dated 18.11.2016 passed by this Court in W.P.No.4454 of 2016.

W.P.No.4454 of 2016 : Writ Petition filed under Article 226 of the Constitution of India, praying the issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the suspension order C.No.B2/008307/2015; R.O.No.220/2015, dated 28.06.2015 passed by the 3rd respondent herein and the order of rejection C.No.H1(2)030577/2015 dated 08.01.2016 passed by the 4th respondent therein and quash the same consequently direct the respondents to revoke suspension in the light of the order passed by the Honourable Supreme Court in Ajay Kumar Choudhary(2015(3) CTC 119) case and pass orders.

For Appellants : Mr.R.Prathapkumar,
Additional Government Pleader

For Respondent : Mr.R.Sampathkumar

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G.RAMESH, J.)

This appeal has been filed against the order passed by the learned single Judge of this Court in W.P.No.4454 of 2016 dated 18.11.2016, wherein the prayer of the respondent herein was allowed and the appellants were directed to post the respondent in any non-sensitive post where the Department feels that the respondent can be accommodated and pass appropriate orders within a period of six weeks from the date of receipt of a copy of the order. Challenging the same, the appellants, who were the respondents before this Court in the writ proceedings, have come up with this appeal.

2.The case of the respondent is that he was enlisted in the Police Department as Sub-Inspector of Police on 02.06.1997 and promoted to the post of Inspector of Police in the year 2008. When he was working in Pallikonda Police Station, he was posted on special duty for sub-divisional crime which covered Ambur Town Police Station, Ambur Taluk Police Station, Umarabath Police Station, Pallikonda Police Station and Veppanguppam Police Station. Pursuant to a murder which occurred on 27.05.2015 within the limit of Ambur Town Police Station, a case was registered in Crime No.208 of 2015 under Section 302 IPC on the file of the Ambur Taluk Police Station, and the respondent was posted as one of the team leaders to investigate into the said murder. The said team arrested an accused, who gave a confessional statement before the special team that one DSP Thangavel, PEW Vellore was directly involved in the red sander wood smuggling. While so, one Palani lodged a complaint before the Pallikonda Police Station on 24.05.2015 that his wife by name Pavithra was missing from 24.05.2015 and one Shameel Basha might be behind the missing of his wife. The respondent has seen the said Shameel Basha in his Police Station on 19.06.2015. On humanitarian ground, due to Ramzan fasting, the respondent gave instructions to the Police to send him after obtaining proper statement from him. Subsequently, the respondent was transferred to the PEW, Vaniyambadi and he reported duty to the transferred place on 26.06.2015. After relieving from the Pallikonda Police Station, a criminal complaint was lodged against the respondent and others, stating that the said Shameel Basha was tortured by the respondent and his team members and caused his death. Due to the above, the respondent was suspended from service on 28.06.2015, but the others were not suspended. The respondent was arrested and the CBCID police were investigating the matter. Since there was no progress in the investigation, the writ petition in W.P.No.4454 of 2016 was filed before this Court and this Court allowed the writ petition as stated supra.

3.The learned Additional Government Pleader appearing for the appellants submitted that the suspension order dated 28.06.2015 passed by the third appellant was based on public interest and hence it cannot be challenged by the respondent.

Further, it is submitted that the suspension order was extended by the fourth appellant in consultation with the third appellant for the reason that the respondent trespassed into the reserve forest with deadly weapons and he was arrested by the forest officials along with seven others in under Section 9 of the Wild Life Protection Act 1972 and a case relating to that incident, is pending in O.R.No.122 of 2015 of Alagiyapandipuram, Kanniyakumari District to that effect. Stating so, the learned Additional Government Pleader, prayed for allowing this appeal.

4.A counter affidavit has been filed by the respondent in which it is stated that a criminal case filed against the respondent relating to the incident of Shameel Basha, in respect of Crime No.158 of 2015 on the file of the Pallikonda Police Station, which was subsequently transferred to CBCID Crime Branch, is now pending before the Judicial Magistrate-III, Vellore and charge sheet has been filed by deleting Section 302 of IPC, and that the CBCID Crime Branch has submitted their charge sheet under Sections 147, 342, 323, 304(II) r/w 149 IPC in CBCID Crime No.5 of 2015. With regard to the case in Crime No.150 of 2015 pending before the Special Court in O.R.No.112 of 2015, on the complaint made under Section 200 of Cr.PC by the Forest Department, the respondent states that the complaint is not having any specific allegation / overt act against him. Reiterating the submissions made in the counter, the learned counsel for the respondent prayed for dismissal of the appeal.

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

6.It is seen that a criminal case filed against the respondent relating to the incident of Shameel Basha, in respect of Crime No.158 of 2015 on the file of the Pallikonda Police Station, which was subsequently transferred to CBCID Crime Branch is now pending before the Judicial Magistrate-III, Vellore, for which charge sheet has been filed by the CBCID Crime Branch in Crime No.5 of 2015. The learned Judicial Magistrate-III, Vellore is directed to take up the said case relating to CBCID Crime No.5 of 2015 in respect of the respondent herein, and dispose of the same, within a period of three months from the date of receipt of a copy of this judgment. In respect of the case pending before the Special Court in O.R.No.112 of 2015, on the complaint made under Section 200 of Cr.PC by the Forest Department, the respondent states that the complaint is not having any specific allegation / overt act against him. The learned Special Court, Alagiyapandipuram in Kanniyakumari District, shall dispose of the case in O.R.No.112 of 2015 within a period of three months from the date of receipt of a copy of this judgment. If the above cases are not disposed of within the stipulated time frame, the respondent shall be placed in any non-sensitive post ie., any writing work in the Commissioner's Office or the Office of the Director General of Police, shall be given to him.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Director General of Police,
Mylapore, Chennai-600 004.
2. The Inspector General of Police,
North Zone, Chennai-600 016.
3. The Deputy Inspector General of Police,
Vellore Range, Vellore.
4. The Superintendent of Police,
Vellore District, Vellore.
5. The Judicial Magistrate III,
Vellore.
6. The Special Court,
Alagiyapandipuram,
Kanniyakumari District.

+2cc's to Mr.R.Sampath Kumar, Advocate, S.R.No.52138
+1cc to the Government Pleader, S.R.No.52719

W.A.No.810 of 2017
and

C.M.P.No.11321 of 2017

MV(CO)
CA(21/08/2017)

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