

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.30219 of 2004 and
W.P.M.P.No.36675 of 2004

A.Ramanathan

... Petitioner

vs.

Joint Commissioner of Police (North),
Office of the Commissioner of Police,
Egmore, Chennai-8.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the order passed by the respondent in Proceedings No.Rc.No.882/116208/PR.II(2)/2003 dated 24.12.2003 as amended by the order of the respondent in Rc.No.882/116208/PR.II(2)/03 dated 13.01.2004, quash the same.

For petitioner : No appearance
For respondent : Mr.M.Elumalai,
Government Advocate

O R D E R

The prayer in the Writ Petition is to issue a Writ of Certiorari, calling for the records relating to the order passed by the respondent in Proceedings No.Rc.No.882/116208/PR.II(2)/2003 dated 24.12.2003 as amended by the order of the respondent in Rc.No.882/116208/PR.II(2)/03 dated 13.01.2004 and to quash the same.

2. Learned Counsel for the petitioner called absent. Heard the learned Government Advocate appearing for the respondent.

3. The facts of the case are as follows. The petitioner was employed in the Police Department as a Police Constable. He joined in the year 1993 and subsequently, he was posted in Armed Reserve Headquarters in the year 2001. There is a civil dispute between the petitioner and one T.N.Kamakshi, who is also employed in the Police Department. The mother of the said

Kamatchi, namely, T.N.Rajalakshmi, against the petitioner's alleged illegal action, made a complaint before the Central Crime Branch, Chennai and based on the same, the Central Crime Branch has registered a case in Crime No.1023 of 2003 dated 10.12.2003 under Sections 406 and 420 of IPC against the petitioner. Immediately thereafter, the petitioner was arrested and remanded for a period of 15 days, however, the petitioner was granted bail after 5 days in prison.

4. The petitioner was placed under suspension invoking sub rule (e) (1) (ii) of Rule 3 of Tamil Nadu Police Subordinate Service (D&A) Rules, 1955. The rule contemplates placing an employee under suspension, he was retained in custody for more than 48 hours. Further, the petitioner is a Police Constable and Uniform Service in the Armed Reserve, Headquarters, Chennai. He has to maintain sincere and discipline in the loyal enforcing agency.

5. It is stated in the suspension order that the public interest requires placing the petitioner under suspension with immediate effect by invoking the said rules.

6. It is useful to extract the judgment rendered by the Hon'ble Supreme Court in the case of (1997) 4 Supreme Court Cases I (Allahabad Bank and Another Vs.Deepak Kumar Bhola), wherein the Hon'ble Supreme Court has held as follows:

"9.This Court in Pawan Kumar v. State of Haryana¹ (SCC at p. 21) dealt with the question as to what is the meaning of the expression "moral turpitude"and it was observed as follows:

'Moral turpitude' is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity."

This expression has been more elaborately explained in Baleshwar Singh v. Distt. Magistrate and Collector² where it was observed as follows:

'The expression 'moral turpitude' is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be

moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general. If therefore the individual charges with a certain conduct owes a duty either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man."

10. In our opinion the aforesaid observations correctly spell out the true meaning of the expression "moral turpitude". Applying the aforesaid test, if that he had committed an offence involving moral turpitude and, therefore, the appellant had the jurisdiction to suspend him under the aforesaid clause 19.3. The High Court observed that there was nothing on record to suggest that the management had formed an opinion objectively on the consideration of all relevant material available against the petitioner that in the circumstances of the case the criminal acts attributed to the petitioner implied depravity and vileness of character and are such as would involve moral turpitude. It did not regard entering into a criminal conspiracy to commit the aforesaid offences as being an offence involving moral turpitude. We are, to say the least, surprised at the conclusion which has been arrived at by the Allahabad High Court. There was material on record before the appellant, in the form of the report of the CBI/SPE, which clearly indicated the acts of commission and omission, amounting to "moral turpitude" alleged to have been committed by the respondent. Furthermore the respondent has been charged with various offences allegedly committed while he was working in the Bank and punishment for which could extend up to ten years' imprisonment (in case the respondent is convicted under Section 467 IPC)."

7. The action of the respondent cannot be blamed as it is not in violation of any rules or against the principles of natural justice. Whoever the Government servant inside the

prison for 48 hours, automatically, deemed suspension will operate as per the above said rules.

8. In the result, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

tsi/ah

To

Joint Commissioner of Police (North),
Office of the Commissioner of Police,
Egmore, Chennai-8.

+1cc to Government Pleader, Sr. 59927

W.P.No.30219 of 2004

AR(V)
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