



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2017

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THE HONOURABLE MR. JUSTICE T. RAJAW.P (MD) No.14136 of 2017
and WMP No.11046 of 2017

Karthiga

... Petitioner

-vs-1. The Superintendent of Police,
Pudukottai District, Pudukottai.2. The Deputy Superintendent of Police
Alangudi Sub Division,
Pudukottai District

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus to direct the 1st respondent to defer the charge memo against petitioner vide proceedings in கே1/த.எண்:24/2017 dated 08.05.2017 till the disposal of the criminal case by considering her representation dated 30.06.2017.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.K.Guru
Addl. Government Pleader

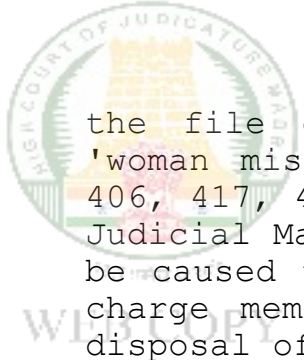
ORDER

By consent of both sides, the writ petition itself is taken up for final disposal at the time of admission itself.

2. The petitioner has come to this Court seeking a direction to the 1st respondent to defer the charge memo dated 08.05.2017, in and by which, the petitioner was charged under rule 3(b) of the Tamilnadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 (hereinafter referred to as 'the Rules') on the ground that the petitioner is facing both departmental as well as criminal proceedings and both the charges are one and the same. Therefore, the petitioner is compelled to face the departmental proceeding and that she will be forced to disclose her evidence and prayed for a direction to keep the charge memo and also the departmental proceedings in abeyance till the disposal of the criminal case.

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

3. The learned counsel for the petitioner would submit that an FIR was filed on 13.02.2017, at 2.30 hours, in Crime No.105/2017, on



the file of the Sivagangai Town Police Station, Sivagangai for 'woman missing' and thereafter, it was altered to under Sections 406, 417, 494 and 497 IPC and the same is pending on the file of the Judicial Magistrate, NO.I, Sivagangai. Therefore, no prejudice would be caused to the respondents, if a direction is issued to keep the charge memo and the disciplinary proceeding in abeyance till the disposal of the criminal case.

4. Heard Mr.K.Guru, Additional Government Pleader, accepts notice for the respondents.

5. But, this Court is unable to find any merits in the writ petition to grant the aforementioned prayer. The charge memo alleges serious charges against the petitioner, who is working as a Police Constable. When she got married with the de-facto complainant, in the year 2011, the de-facto complainant/husband of the petitioner filed a criminal case stating that his wife is missing from 12.02.2017 at about 12.40 hrs. In the said complaint, it has been stated that on 12.02.2017, at about 12.40 hours, while they were in the train at the Sivaganga Railway Station, the petitioner pretending that she had to attend the nature's call, left the train. But, thereafter, she refused to come back to the train. Therefore, the de-facto complainant has given the said complaint stating that the petitioner was found missing from 12.02.2017 at about 12.45 hours. But, later on, it was found that the petitioner, during the subsistence of the first marriage with the de-facto complainant, married one Ilayaraja, S/o.Ramu of Keelapasalai Village, Manamadurai, Sivagangai District, without getting divorce from her husband Ramanathan and also lavishly spent a sum of Rs.3 lakhs of her husband's earning.

6. In view of the registration of the FIR, the petitioner was arrested on 14.02.2017 at 21 hours and the case is under investigation. Followed by her arrest, she was placed under suspension under Sub Rule 3(e)(1) (ii) of the Rules from service with immediate effect until further orders on 20.02.2017. In view of the serious allegation made against the petitioner, a charge memo has been issued under Rule 3(b) of the Rules. When the FIR was also registered on 13.02.2017 and when the charge sheet has not been filed on the file of the Judicial Magistrate, NO.I, Sivaganga, this Court is unable to entertain the writ petition because no one knows whether the charges being one and the same before the disciplinary proceeding and the criminal Court.

7. Since the chargesheet has not been filed till date on the file of the Judicial Magistrate, the petitioner being a police constable, when she is refuting the allegations mentioned in the FIR and also the charge memo, it is for her to vindicate her innocence by appearing before the disciplinary authority and that would not amount to disclosing her evidence before the criminal Court. Therefore, this Court is not inclined to grant the relief as sought for by the petitioner.



8. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Pudukottai District,
Pudukottai.
2. The Deputy Superintendent of Police
Alangudi Sub Division,
Pudukottai District.

+ 1 CC TO Mr.M.S.JEYAKARTHIK, ADVOCATE IN SR No. 69225
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 69369

RR
TE/KK/SAR-II : 11/09/2017 : 3P/5C

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