

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH  
and  
THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.A.No.2545 of 2013  
& M.P.No.1 of 2013

The Commandant,  
Tamil Nadu Special Police,  
IV Battalion, Kovaipudur,  
Coimbatore-641 042.

... Appellant

Vs.

P.Sakthivelayuthasamy

... Respondent

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 22.04.2013 made in W.P.No.20298 of 2006 filed under Article 226 of the constitution of India, seeking an order in the nature, or Writ of Certiorari or Mandamus, calling for the records of the Respondent in E3/PR-16/04 dated 06.8.2004 and quash the same and consequently reinstate the petitioner into service with back wages and attendant benefits.

For Appellant : Mrs.A.Srijayanthi,  
Special Government Pleader

For respondent : Mr.K.Venkataramani, S.C., for  
Mr.T.Ayngaraprabhu

JUDGMENT

(Judgment of the Court was made by M.M.SUNDRESH, J.)

The respondent herein joined the services of the appellant in the year 1999. He got married in the year 2003. The wife of the respondent viz., Kavitha, has committed suicide at her parental house. A case has been registered against the respondent for the offence under Sections 498(A), 304(B) and 506 of Indian Penal Code and Section 4 of the Dowry Prohibition Act. After the trial, the respondent was acquitted honourably. In the meanwhile, departmental charges were framed against the respondent on the ground that he had bad reputation and he has not intimated the anticipatory bail obtained from this Court

and thirdly, not intimated about the enquiry conducted by the Revenue Divisional Officer pertaining to the alleged dowry death. The learned single Judge was pleased to allow the writ petition on the ground that as the criminal case itself had ended in honourable acquittal, he is entitled for the entire relief. Incidentally, it has been held that there is absolutely no material to substantiate the charges especially when the criminal case is no longer in existence. Challenging the same, the present writ appeal has been filed.

2. Pending appeal, the order of the learned single Judge was given effect to. We do not find any merit in this appeal. Admittedly, the respondent has been honourably acquitted of all the charges, which were culminated out of a criminal case registered against the respondent wherein he has been acquitted on the ground that the occurrence was not during the course of the employment. Therefore, we are not inclined to agree with the reasoning of the learned single Judge. Non-intimation of the anticipatory bail order and the participation in the proceeding before the Revenue Divisional Officer would not per se attract any violation of the rule warranting action. In any case, such an action cannot be extended to dismissal. Similarly, bringing disreputation also gives an impression against the respondent when the criminal case has ended in acquittal. The registration of the case against the accused is not in his hands. Thus, looking from any perspective, we do not find any merit in this appeal and the writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-  
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

raa

To

The Commandant, Tamil Nadu Special Police,  
IV Battalion, Kovaipudur,  
Coimbatore-641 042.

+1cc to Mr.M.Muthappan, Advocate, S.R.No. 87286  
+1cc to the Government Pleader, S.R.No. 86669

W.A.No.2545 of 2013

SS(CO)  
GN(11/02/2019)