

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.423 of 2018

A.Alexander Joseph

.. Petitioner

-vs-

Thalavai

Thalavai Office

Tamil Nadu Special Police 13th BN

Poonamallee

Chennai-56

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records in A4/Tha.Pa.No.41/2017 dated 07.09.2017 pending on the file of the respondent and quash the same.

For Petitioner

:: Mr.T.V.G.Kartheeban

For Respondent

:: Mr.V.Kathirvelu

Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned charge memo and the departmental proceedings initiated against the petitioner under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules.

2. The petitioner was initially appointed in the youth Police wing at Tiruvannamalai and subsequently promoted as Grade II Police Constable. Presently, he is working under the respondent. According to the petitioner, he was having friendship with one Prema Gandhi, who is known to him from 2016, while travelling together in buses from his village. After some discussions, the said Prema Gandhi expressed her love with the petitioner, which was not even accepted by the petitioner. However, she was continuously expressing her inclination to have love affairs with him and all of a sudden, she also lodged a false complaint against the petitioner before the Inspector of Police, All Women Police Station, Tiruvannamalai. One of the allegations shows that he had forcible sexual intercourse with her on the false promise of marrying her and the occurrence is alleged to have taken place on 9.2.2016 at his house and subsequent dates. When the petitioner was on traffic duty at Tiruvannamalai bus stand on the said date, the allegation made by the de-facto complainant against the petitioner that he had

forcible sexual intercourse, was out of question. Subsequently, her complaint also was registered in Crime No.22 of 2017 for an offence under Sections 376 & 417 of IPC. Pursuant thereto, the petitioner has also been prosecuted departmentally with the issuance of the impugned charge memo on 7.9.2017. Although the petitioner denied the charges and submitted a detailed explanation, the disciplinary authority, disagreeing with the explanation, appointed an enquiry officer, who also, on completion of the enquiry, submitted his report on 15.11.2017 holding that the charges levelled against the petitioner are proved. In the meanwhile, the petitioner moved CrI.O.P.No.1511 of 2017 and got an order of anticipatory bail on 31.7.2017. In this background, he has been advised to approach this Court for postponing the departmental proceedings, on the ground that during the pendency of the criminal case, if the departmental proceeding is permitted to go ahead, he will be deprived of taking a suitable defence before the criminal Court.

3. In my considered opinion, the petitioner has lost that stage. If the petitioner is aggrieved, on receipt of the charge memo, before initiation of the departmental proceedings, after giving his explanation, even before the appointment of the enquiry officer or at least after the appointment of the enquiry officer, he should have taken appropriate legal steps, which he has forgotten to do so. Finally, having subjected himself before the departmental proceedings and also invited a final report at the hands of the enquiry officer, after knowing the report of the enquiry officer, the petitioner cannot come to this Court. Therefore, this Court is not inclined to entertain the writ petition. Moreover, it is a well settled legal position that when the enquiry officer has made his report ready, no Court shall entertain any writ petition to interfere with the departmental proceedings. Now the disciplinary authority has to consider the report of the enquiry officer and to pass appropriate orders. At this stage, this Court, sitting under Article 226, cannot entertain the writ petition. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.476 of 2018 is also dismissed. No costs.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1. The Thalavai/Commandant

Thalavai Office

Tamil Nadu Special Police 13th BN

Poonamallee, Chennai 600 056

+1 cc to Government pleader SR.NO. 2986

W.P.No.423 of 2018

gj[co]

RD 03/02/2018