

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.31668 of 2017 and
W.M.P. No.34799 of 2017

Babu Ravichandran

... Petitioner

-vs-

1.The Director General of Police,
Dr. Radhakrishnan Road,
Mylapore, Chennai-600 004.

2.The Deputy Inspector General of Police,
Vellore Range, Vellore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for records and quashing the impugned order of suspension passed by the second respondent vide C.No.B1/008352/2017 R.O.329/2017 dated 26.07.2017 and consequently direct the second respondent to reinstate the petitioner into service in the post of Inspector of Police in any non-sensitive post within time frame.

For Petitioner : Mr.K.Ravi Ananthapadmanaban

For Respondents: Mr.V.Jayaprakash Narayanan,
Special Government Pleader
for R1 and R2

सत्यमेव जयते

O R D E R

Mr.Babu Ravichandran, the petitioner herein, facing the impugned order of suspension dated 26.07.2017 by the Deputy Inspector General of Police, Vellore, has brought this writ petition to quash the same.

2.Mr.K.Ravi Ananthapadmanaban, learned counsel appearing for the petitioner, taking support from the judgment of the Hon'ble Apex Court in the case of Ajay Kumar Choudhary vs Union of India and another reported in 2015 (2) Scale page 432, submitted that in view of the above said case, no government

servant should be kept under prolonged suspension. Learned counsel for the petitioner while canvassing for revocation order of suspension, would submit that the allegation against the petitioner relates to Crime No.140 of 2016 in which the defacto complainant one Mr.Sampath is the first accused and the same has been registered on 12.11.2016 against the said Sampath and four other persons for the offence under Sections 147, 294(b) 323, 506(i) of I.P.C.

3.Learned counsel for the petitioner would further submit that the allegation against the petitioner that he demanded Rs.8,000/- from the said Sampath in order to close his case relating to Crime No.140 of 2016 even before filing the charge sheet and sending it to Court is wholly unacceptable. He would further submit that the said Sampath and four other persons were arrested by another Sub Inspector of Police, namely Chinnathambi and only the said Sub Inspector of Police remanded all the five persons to judicial custody and the petitioner, who is only a Circle Inspector was not even in full charge of the said police station namely Panamadangi. Moreover, the said Chinnathambi, the Sub Inspector of Police had investigated the case and filed the charge sheet by uploading on the website "cctns" of the police department on 29.11.2007 in respect of Crime No.140 of 2016, whereas the complaint was lodged on 21.07.2017 i.e. six months after filing of the charge sheet as if the petitioner demanded money to close the case in July 2017. Therefore, the learned counsel further submitted that once the charge sheet was uploaded, none can change its content except the office of the Director General of Police, as per the prevailing system in the police department, hence, an allegation made against the petitioner charging that he demanded Rs.8,000/- from Mr.Sampath to close his case is wholly an after thought and unsustainable therefore, the suspension should be quashed.

4.Learned counsel appearing for the petitioner submitted the following judgments for revocation of suspension order:

- 1.B.Jayaraj vs. State of Andhra Pradesh reported in (2014) 13 SCC 55;
- 2.Selvaraj vs. State of Karnataka reported in (2015) 10 SCC 230;
- 3.P.Parasurami Reddy vs. State of Andhra Pradesh reported in (2011) 12 SCC 294;
- 4.C.Rajan vs. Union of India and others in W.P. Nos.22373 and 22374 of 2012;
- 5.A.Kailasam vs. The State of Tamil Nadu, Chennai in W.P. No.16878 of 2009;
- 6.Kaliaperumal vs. State, Inspector of Police, Thanjavur District in CrI.A. (MD) No.595 of 2005;
- 7.R.Vivekanandan vs. The Government of Tamil Nadu, Chennai in W.P. (MD) No.14480 of 2011;

8.Sankaralingam vs. Deputy Superintendent of Police, Tirunelveli in CrI.A. (MD) No.82 of 2005;
9.P.Parasurami Reddy vs. State of Andhra Pradesh reported in (2011) 12 SCC 294;

5.Learned Special Government Pleader appearing for the respondents, objecting to the prayer sought for by the petitioner, forcibly contended that the petitioner is not entitled to come to this Court asking for revocation of suspension order as he is facing serious criminal charges for various offences under Prevention of Corruption Act. The demand of money made by the petitioner for closure of criminal case is a serious charge and a charge sheet has also been filed on 29.11.2016, instead of facing the Trial to prove his innocence, the petitioner, who has made phone call to the said Sampath demanding bribe amount, cannot ask for revocation of suspension. Learned Special Government Pleader would further submit that this type of indifferent police officers are correctly identified and has been placed under suspension, hence the impugned order does not call for interference.

6.The submission made by the learned counsel for the petitioner that the allegation against the petitioner is baseless cannot be acceptable by this Court as this crucial point has to be examined by the Trial Court taking into account of other attending circumstances. The serious allegations against the petitioner are that on 21.07.2017 a complaint has been made before the Vigilance and Anti Corruption Department that he has demanded Rs.10,000/- for quickly closing the case in Crime No.140 of 2016. After investigation, a charge sheet has also been filed before the Sub Court, Vellore vide S.C. No.176 of 1998, therefore the petitioner should co-operate with the Trial and prove his innocence.

7.I also find merit on this submission. Moreover, a perusal of the judgment of the Apex Court in the case of B.Jayaraj vs. State of Andhra Pradesh (2014) 13 SCC 55 shows that when the appellant therein, aggrieved by the order of conviction and sentence imposed under Sections 7, 13(1)(d)(i) & (ii) and 20 of the Prevention of Corruption Act, 1988, preferred an appeal before the Hon'ble Apex Court against the judgment of the Trial Court as confirmed by the High Court, the Hon'ble Apex Court, giving the benefit of doubt to the appellant therein, set aside the conviction and sentence imposed by the Trial Court as well as High Court. But, in the present case, till date, the trial of the case has not been commenced. Therefore, the above said judgment is not applicable to the facts of the present case.

8.Secondly, the judgment of the Apex Court in the above said case of Ajay Kumar Choudhary vs Union of India and another

cannot be made applicable to the present case since the Government has already issued a clarificatory order stating that for revocation of suspension the said judgment cannot be made applicable in corruption cases.

9.I also agree with the case of the respondents. If this Court grants the benefit of reinstatement, after revoking the order of suspension, it will send a bad signal to the department. Therefore, this Court, sitting on Article 226 of the Constitution of India, keeping in mind the charge sheet has already been filed on the file of the criminal court, is not inclined to entertain this petition since the entire issue has to be looked into by the Trial Court as to whether the petitioner to get an order of acquittal by proving his innocence by co-operating the prosecution or to get an order of conviction. Therefore, the writ petition fails and the same is dismissed. Consequently, connected W.M.P. is also dismissed. No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

vga

To

1.The Director General of Police,
Dr. Radhakrishnan Road,
Mylapore, Chennai-600 004.

2.The Deputy Inspector General of Police,
Vellore Range, Vellore.

+1cc to Government Pleader SR.No.20508

NRL (CO)
GN(01/06/2018)

W.P. No.31668 of 2017

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