



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.573 of 2018
and
W.M.P. (MD) .No.573 of 2018

K.Arumugakumar .. Petitioner

Vs.

1.The Superintendent of Police,
Thoothukudi District.
Thoothukudi.

2.The Superintendent of Police,
Sivagangai,
Sivagangai District.

3.The Assistant Superintendent of Police,
Thoothukudi Town Sub Division,
Thoothukudi.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, restraining the first respondent from passing the final order in P.R.84/17 till the disposal of the criminal case in Crime No.367/16 on the file of the Ilayangudi Police Station which is now pending as P.R.C.No.35/17 on the file of the Judicial Magistrate, Ilayangudi.

For petitioner : Mr.P.Senthurpandian

For respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

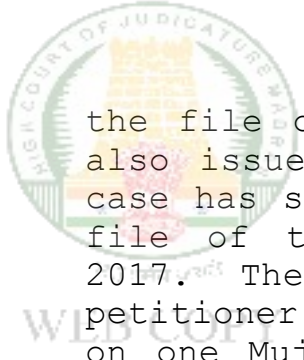
O R D E R

Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader, takes notice for the respondents.

2.By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3. Heard Mr.P.Senthurpandian, learned Counsel appearing for the petitioner and Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader, appearing for the respondents.

4. The writ petitioner is a Grade-II Police Constable. He has been implicated in a criminal case in Crime No.367 of 2016 on



the file of Ilayangudi Police Station. The writ petitioner was also issued with a charge memo, dated 16.08.2017. The criminal case has since been charge sheeted and the same is pending on the file of the Judicial Magistrate, Ilayangudi in P.R.C.No.35 of 2017. The final report filed by the police alleges that the writ petitioner and others conspired together and indulged in robbery on one Mujibur Rahman on 15.12.2016. The charge memo issued by the disciplinary authority is also to the same effect. The said Mujibur Rahman figures as the first witness in the list of witnesses enclosed with the charge memo.

5. I have gone through the contents of the final report as well as the charge memo. It is seen that both are founded on the same set of facts. If the disciplinary proceedings are allowed to proceed even before the trial in the criminal case commences, the right of the writ petitioner would obviously be infringed. The writ petitioner is entitled to a fair trial. At the same time, considering the number of accused and the witnesses, the criminal case will go on indefinitely. The departmental proceeding cannot be kept in abeyance till then. A balance must be struck. The Hon'ble Supreme Court in the decision reported in (2016) 9 SCC 491 (*S.B.I & Ors vs. Neelam Nag & Anr*), granted stay of the departmental proceedings for a period of one year. It was made clear that if the criminal case does not get concluded by them, the order staying the departmental proceedings would automatically stand vacated.

6. This Court adopts the same course of action in the present case also. The Judicial Magistrate, Ilayankudi is directed to conclude the committal proceedings as early as possible and commit the same to the file of the Principal District and Sessions Court, Sivagangai. The trial court shall endeavour to conclude the criminal proceedings speedily. The disciplinary proceedings shall be kept in abeyance for a period of one year. If the criminal proceedings do not get concluded within a period of one year, the disciplinary proceedings shall be resumed.

7. This Writ petition is allowed, on these terms. No costs. Consequently, W.M.P.(MD).No.573 of 2018 is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To:

1.The Superintendent of Police, Thoothukudi District, Thoothukudi.

2.The Superintendent of Police, Sivagangai, Sivagangai District.

3.The Assistant Commissioner of Police, Thoothukudi Town Sub Division, Thoothukudi.

+One cc to Mr.P.Senthurpandian, Advocate, SR.No.42101



+One cc to The Special Government Pleader, SR.No.42316
kmi
RL/6C/2P/SV/MMS/SAR1/2/2/2018

ORDER MADE IN
W.P. (MD) No.573 of 2018
11.01.2018

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