



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD) No.6521 of 2018 and  
W.M.P. (MD) Nos.6338 and 6339 of 2018

K.Chandrasekar

... Petitioner

**-Vs-**

The Superintendent of Police,  
Madurai District, Madurai.

...Respondent

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of Rc.No.F1/PR.78/2000, dated 12.02.2018 passed by the respondent and quash the same.

For Petitioner : Mr.R.Murugappan

For Respondent : Mr.J.Gunaseelanmuthiah

Additional Government Pleader.

**ORDER**

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

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

3.The petitioner is working as an Assistant in the office of the respondent. He was implicated in a criminal case. Departmental enquiry was also initiated against him. Therefore, the petitioner moved the Tamil Nadu Administrative Tribunal (TAT) by filing O.A.Nos.4917 and 6411/2000. The Tamil Nadu Administrative Tribunal directed stay of the departmental enquiry till the disposal of the criminal case.

4.However, while so ordering, the Tribunal erroneously observed that the result of the departmental enquiry also will have to abide by the decision of the criminal court. This is a wrong statement of law. It is open to the disciplinary authority to come to a contrary conclusion and he can differ from the decision of the criminal case. This is because the standard of proof in both the proceedings are different. Even if the Criminal Court acquits, the employer can find the employee guilty of the charges framed against him. Therefore, this part of the finding given by the Tribunal is



clarified by this Court.

5. However, the learned counsel appearing for the petitioner submitted that the criminal prosecution initiated against the petitioner is still pending. Therefore, he would submit that the direction of the respondent to continue the disciplinary enquiry is in violation of the Tribunal's order.

6. This Court finds force in the said submission of the learned counsel for the petitioner. The impugned order is put on hold till the criminal prosecution framed against the petitioner got concluded. But, the matter cannot rest there. It is seen that C.C.No.70/2001 and 610/2002 are pending before the Judicial Magistrate Court No.1, Madurai. This Court put a specific question to the learned counsel for the petitioner as to why there is a long delay. The learned counsel for the petitioner submitted that some of the Sri Lankan Nationals and few others were absconding and therefore the prosecution could not be continued. Be that as it may, the Criminal Court can very well split the case and proceed with the prosecution in respect of the remaining accused.

7. Therefore, direction is given to the learned Judicial Magistrate No.1, Madurai to conclude the criminal case in which the petitioner herein is an accused, within a period of three months from the date of receipt of a copy of this order. Registry is directed to communicate the copy of this order to the Trial Court concerned. The Trial Court shall also send a compliance report to the Registry of this Court indicating that the direction given by this Court has been complied with at the end of the above said period.

8. With this direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

**To**

1. The Judicial Magistrate Court No.1, Madurai.
2. -do- through The Chief Judicial Magistrate, Madurai.
3. The Superintendent of Police,  
Madurai District, Madurai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 58985  
+ 1 CC TO Mr.R.MURUGAPPAN, ADVOCATE IN SR No. 4931

TSG

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

TE/SV-MMS/SAR-3 : 12/06/2018 : 2P/5C

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