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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.9 of 2018
and
W.M.P. (MD) No.8 of 2018

Govindarajan

... Petitioner

-vs-

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

2.The Deputy Superintendent of Police,
Bodi,
Theni District.

3.The Inspector of Police,
Jeyamangalam Police Station,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to defer all further proceedings in PR-92/F1/2017 on the file of the first respondent dated 07.11.2017 till the conclusion of the criminal trial in respect of the crime registered in Crime No.20 of 2017 on the file of the Kurangani Police Station.

For Petitioner
For Respondents

: Mr.R.Venkatesan
: Mr.J.Gunaseelan Muthiah,
Additional Government Pleader.

O R D E R

The petitioner is presently working as a Head Constable in Jeyamangalam Police Station, Theni District. When he was working at Thenkarai Police Station, he and one Virumandi had gone to Kerala in search of an accused. While returning, the vehicle in which the petitioner and the said Virumandi (Head Constable) was travelling, got involved in an accident. The said Virumandi died. Crime.No.20 of 2017, was registered against the petitioner under



Sections 297, 337 and 304 (A) IPC on the file of the Inspector of Police, Kurangani Police Station. The said criminal case is pending investigation. The final report is yet to be filed. In the meanwhile, the first respondent/Superintendent of Police, Theni District, Theni issued the charge memo dated 24.09.2017.

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2. This Court went through the contents of the charge memo as well as the FIR in Crime No.20 of 2017 on the file of Kurangani Police Station.

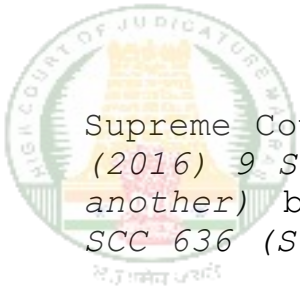
3. The First Information Report was registered based on the information lodged by the wife of the deceased. It is to the effect that the writ petitioner herein had driven the vehicle in a rash and negligent manner and caused the death of her husband Virumandi. The third article of the charge memo also reads that the writ petitioner drove the vehicle in question in a rash and negligent manner. Thus the criminal case as well as the disciplinary action are founded on the same cause of action. Obviously the facts and evidence involved in both the proceedings are common.

4. If the writ petitioner is called upon to face the disciplinary action before the criminal proceedings took off, his right to a fair defence would obviously be prejudiced. Any accused in a criminal case has the fundamental right to a fair trial. Therefore there is a considerable force in the request made by the writ petitioner that the departmental action should be deferred. But this Court cannot lose sight of the fact that the departmental proceedings cannot be indefinitely deferred. Therefore, a balance will have to be necessarily struck.

5. This Court therefore, directs the Sub Inspector of Police, Kurangani Police Station to file the final report in Crime No.20 of 2017, within a period of two months from the date of receipt of a copy of this order. The final report shall be filed before the Jurisdictional Magistrate. The Jurisdictional Magistrate shall conclude the entire trial withing 10 months thereafter. The departmental proceedings initiated against the writ petitioner shall be kept in abeyance for a period of one year from today. The writ petitioner is directed to extend his co-operation to the trial Court for an early disposal of the trial. If the trial is not completed within one year from the date of this order, the disciplinary proceedings against the writ petitioner shall be resumed. The protection given to the writ petitioner to keep the departmental proceedings in abeyance shall then stand vacated automatically on the expiry of the period of one year from the date of the receipt of a copy of this order. If the criminal proceedings get concluded earlier, the disciplinary proceedings shall recommence immediately thereafter.

<https://hcservices.mysirgchcs.org/>

6. This Court took note of the fact that the Hon'ble



Supreme Court adopted such an approach in the decision reported in (2016) 9 SCC 491 (*State Bank of India and others v. Neelam Nag and another*) by following the earlier decision reported in (2014) 3 SCC 636 (*Stanzen Toyotetsu India (P) Ltd., v. Girish V.*).

7. This Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To:

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

2.The Deputy Superintendent of Police,
Bodi,
Theni District.

3.The Inspector of Police,
Jeyamangalam Police Station,
Theni District.

+1cc to M/S.Special Government Pleader,SR. 40820

+1cc to Mr.R.VENKATESAN,Advocate,SR.40703

W.P.(MD) No.9 of 2018
and

W.M.P.(MD) No.8 of 2018
05.01.2017

KMI

KK/SKN RSK/SAR 1/25.01.2018/ 3P- 6C/