



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P. (MD) No.18219 of 2018

and

W.M.P. (MD) Nos.16126 & 16127 of 2018

C.Kamaraj

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Trichy Range,
Trichy.

2.The Enquiry Officer /
Additional Superintendent of Police,
Prohibition Enforcement Wing,
Trichy District.

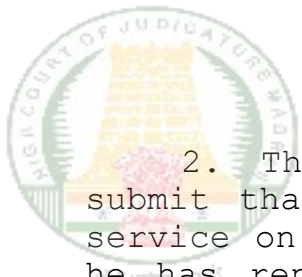
... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of 2nd respondent in connection with the impugned order passed by him in Na.Ka.03/ku.ka.thu.ka/maviaprivu / Trichy / 2018, dated 20.06.2018 and the subsequent order passed by the 1st respondent in Na.Ka.No.B1/2025/2018, dated 06.07.2018 and to quash the same and further direct the respondents not to proceed the disciplinary proceedings in P.R.No.H2/17/2018, dated 22.03.2018 U/r 3(b) of TNPSS (D&A) against the petitioner till the conclusion of the criminal case in Cr.No.08 of 2018 on the file of Boiler Plant PS, Trichy.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.K.Mu.Muthu,
Addl.Govt.Pleader**ORDER**

The petitioner has come forward with this Writ Petition for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the 2nd respondent, dated 20.06.2018 and the subsequent order passed by the 1st respondent, dated 06.07.2018, and further direct the respondents not to proceed the disciplinary proceedings in P.R.No.H2/17/2018, dated 22.03.2018 under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, against the petitioner till the conclusion of the criminal case in Crime No.08 of 2018, on the file of Boiler Plant Police Station, Trichy.

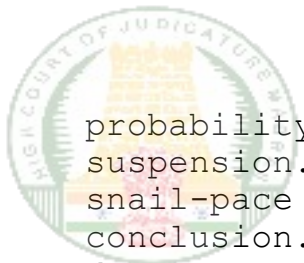


2. The learned counsel appearing for the petitioner would submit that the petitioner is a direct recruitee and joined the service on 02.06.1997, as Sub-Inspector of Police (Category-II) and he has rendered 21 years of unblemished service. The allegation against the petitioner is that, while the petitioner was serving as Inspector of Police, Thuvakudi Traffic, Trichy District, on 07.03.2018, the petitioner has chased the complainant in Honda Activa Scooter and that kicked and pushed the complainant down and thereby causing serious injuries on the complainant and also it led to death of complainant's wife. Based on the complaint, a case in Crime No.08 of 2018 has been registered against the petitioner on the file of Boiler Plant Police Station, Trichy, for the alleged offences punishable under Sections 304(ii) and 336 of IPC., and the petitioner was arrested and remanded to judicial custody and latter, he was released on bail. Pursuant to the involvement in the criminal case, the petitioner was placed under suspension by the 1st respondent. The investigation in the above criminal case had already been over and that the charge sheet is likely to be filed before the competent Court. He would further contend that the complainant has violated the traffic rules and regulations and that on his own motion, he fell down and the petitioner did not kick him and not chased the two wheeler, as contended by the prosecution. The instant criminal case and the charge memo contains three allegations, which are related and interconnected with the subject matter of the criminal case and for the same set of allegations, the criminal case and departmental proceedings cannot go on simultaneously.

3. Mr.K.Mu.Muthu, the learned Additional Government Pleader, appearing for the respondents would submit that while the petitioner was on duty on 07.03.2018, he chased the complainant in a scooter, kicked him, pushed him down and thereby caused serious injuries and therefore, a criminal has been registered against him and the same has been completed and the chargesheet is likely to be filed before the competent Court. Insofar as the contention of the petitioner that departmental proceedings shall be kept in abeyance till the criminal case is over is concerned, the purpose of departmental inquiry and prosecution is to put a distinct aspect and there would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case. In support of his contention, the learned Additional Government Pleader relied on a Judgment of the Hon'ble Apex Court in State Bank of India and Others Vs. R.S.Sharma, reported in (2004 (7) SCC 27).

4. I have heard the submissions made on either side and perused the materials available on record.

5. As rightly contended by the learned Additional Government Pleader appearing for the respondents, in the criminal case, the prosecution will have to establish the case beyond reasonable doubt whereas, in the departmental proceedings preponderance of



probability is sufficient. The petitioner is already under suspension. Everyone is aware that Court proceedings moving in a snail-pace and in that process no proceedings will come to a conclusion. If the case of the petitioner is accepted that the departmental proceedings shall not go on, after the charge sheet, the petitioner may approach the criminal court by means of filing a petition under Section 482 of Cr.P.C., and try to obtain an interim order and thereby stalling the criminal proceedings.

6. The intention of the supreme Court in the aforesaid Judgment reported in (2004 (7) SCC 27) (cited supra) is very clear that both criminal case as well as departmental proceedings can go on simultaneously. Staying the departmental proceedings will cause serious prejudice not only to the petitioner, but also to the respondents. Hence, taking note of the observation of the Apex Court in the aforesaid decision, I am of the view that the departmental proceedings cannot be stayed on the ground that criminal case is pending. If the petitioner's contention is accepted that he has not chased the two wheeler, not kicked the rider and caused the death of the pillion rider, it is for the prosecution / department to establish the same and the petitioner shall also take such other defences that are available to him in accordance with law. Hence, I am of the view that departmental proceedings shall go on, on day-to-day basis without same being adjourned beyond 7 working days at any cost so as to bring the same to a logical conclusion. The relief sought for by the petitioner cannot be granted.

7. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions also stand dismissed.

8. To avoid such incident to recur, the police, who are entrusted to regulate the traffic must be equipped with required devices, such as, camera, breath analyser etc., so as to watch over riders / vehicles violating traffic rules.

Sd/-

Assistant Registrar (CS-I)

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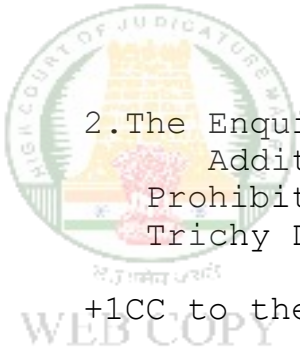
Sub Assistant Registrar (CS-I)

To

1. The Deputy Inspector General of Police,
Trichy Range,

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

Trichy.



2.The Enquiry Officer /
Additional Superintendent of Police,
Prohibition Enforcement Wing,
Trichy District.

+1CC to the Special Government Pleader SR.No. 79678

W.P. (MD) No.18219 of 2018
21.08.2018

MPK
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