



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 28.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD).No.783 of 2011
and M.P.Nos.1 and 2 of 2011

Melvin Jayarajan

... Appellant/ Petitioner

Vs.

1.The District Superintending Officer,
Kanyakumari District
Nagercoil.

2.The Inspector of Police,
Thuckalay Police Station
Thuckalay
Kanyakumari District

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause XV of Letters Patent, against the order of this Court dated 04.08.2011 made in W.P.(MD) No.8678/2011.

Prayer in WP(MD). 8678/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for records from the 1st respondent pertaining to the charge memo dated 15.04.2011 in P.R.No.54 of 2011 and quash the same and consequently revokes the suspension order dated 06.09.2010.

For Appellant : Mr.T.Selvakumaran

For R1 & R2 : Mr.D.Muruganandham

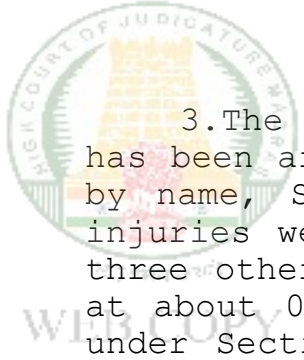
Addl. Government Pleader

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.T.Selvakumaran, learned counsel appearing for the appellant and Mr.D.Muruganandham, learned Additional Government Pleader appearing for the respondents.

2.The writ petitioner has filed this appeal challenging the order dated 04.08.2011. The said writ petition was filed challenging the charge memo dated 15.04.2011 in PR.No.54 of 2011 and to revoke the order of suspension dated 06.09.2010.



3.The writ petitioner was involved in a criminal case and he has been arrayed as Accused No.4. The allegation is that one person by name, Stalin Jones, was assaulted on his stomach and internal injuries were caused and apart from the writ petitioner, there are three others involved and the said Stalin Jones died on 13.11.2008 at about 05.30 a.m., and pursuant to which, a case was registered under Section 174 Cr.P.C @ 302 IPC @ Section 304 I.P.C., in Crime No.716 of 2008 on the file of the Thukalay Police Station against the petitioner and others. There is one another policeman, who is also involved and arrayed as an accused, by name, Lucas. The petitioner challenged the charge memo on the ground that the criminal trial is pending and if the departmental enquiry is proceeded, it amounts to compelling him to disclose his defence.

4.The learned Single Judge, after elaborately considering the factual matrix, rightly took note of the various decisions of the Hon'ble Supreme Court as to when and under what circumstances the departmental proceedings have to be initiated, rejected the prayer sought for by the writ petitioner.

5.We find that there are no grounds made out by the appellant to overcome the findings recorded by the writ Court. Consequently, we are not inclined to interfere with the order passed by the Writ Court.

6.The learned Additional Government Pleader appearing for the respondents submitted that the trial of the criminal case is in advanced stage and 42 out of 44 witnesses have been examined.

7.Considering the said submission, we are of the view that the criminal trial will be concluded shortly, probably within a period of three months, provided, that the petitioner and the other accused cooperate in the disposal.

8.For the above reasons, no grounds have been made out by the petitioner to interfere with the order of the writ Court. Accordingly, the writ appeal fails and stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. However, the appellant is granted four weeks time from the date of receipt of a copy of this order to submit his reply to the charge memo.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To

1.The District Superintending Officer,
Kanyakumari District
Nagercoil.



2.The Inspector of Police,
Thuckalay Police Station
Thuckalay
Kanyakumari District

+1cc to M/S.T.Selvakumaran, Advocate SR.No. 52083

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and M.P.Nos.1 and 2 of 2011
28.02.2018

ns

JM/SV MMS/SAR 4/19.03.2018/3P/4C