

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.08.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN
and

The Honourable Ms.JUSTICE P.T.ASHA

W.A.No.2608 of 2019

and

CMP.No.16758 of 2019

R. Venkatachalam

..Appellant/Petitioner

Vs.

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

2. The Deputy Superintendent of Police,
(Enquiry Officer),
District Crime Records Bureau,
Erode -638 001.

... Respondents/Defendants

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent praying to set aside the order dated 29.05.2019 made in W.P.No.15018 of 2019 passed by this Hon'ble Court by allowed this writ appeal.

Prayer in WP.No.15018/2019 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to defer the departmental proceedings in P.R.No.35/J1/2018 dated 27.11.2018 issued by the 1st respondent till the conclusion of the trial in C.C. Nos. 14 and 28 of 2019 on the file of the learned Judicial Magistrate No.2 Bhavani since the evidences for both the proceedings are one and the same by considering the petitioners representation dated 14.12.2018.

For Appellant : Mr.N. Manoharan

For Respondent : Mrs.A. Srijayanthi,

Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by P.T.ASHA, J)

This intra court appeal arises out of the order in W.P.No.15018 of 2019 in and by which the Writ Petition filed by

the appellant to defer the departmental proceedings till the conclusion of the criminal case was dismissed by the learned Single Judge.

2. The brief facts which are necessary for disposing of the above Writ Appeal are as follows:

By order dated 22.06.2018, the appellant who was employed as a Sub Inspector of Police Prohibition Enforcement Wing, Gobichettipalayam was placed under suspension for the grave charges of kidnapping one Divya Bharathi with an intention to marry her while his first marriage was subsisting and two issues born of the said wedlock. An FIR was also lodged by the father of the girl alleging that the appellant had kidnapped his daughter with an intention to marry her for the second time. The lady who was kidnapped was none other than the cousin sister of the appellant's wife and she was employed as a teacher in the school run by the appellant's family Trust. A final report was given by the Inspector of Police, Andhiyur Police Station on 26.09.2018. In the said report, the appellant was charged of kidnapping the said Divya Bharathi that too in an unregistered Honda City car with an intention to marry her against her consent. The report further states that this act has been done by the appellant who is married and having children. The appellant was also charged with threatening the brother of the said Divya Bharathi that he would finish the family if any complaint was lodged.

3. Thereafter departmental enquiry was initiated with the issuance of the charge memo dated 27.11.2018. The Charge memo contained the following charges:

- (a) kidnapping of Divya Bharathi with intent to marry her when appellant was already married;
- (b) purchase of a Honda City car in the name of his wife without getting permission from the competent authority. Further he was using the same without registering the vehicle and it is this vehicle which was used for kidnapping the lady;
- (c) The appellant was also charged with running a Trust in the name and style of Ramasamy Rathinam Trust without getting prior permission of the Government . In the said Trust the appellant's father and wife are members and the Trust was running a School in the name of Uthaya Matriculation School. It is in this School that the girl who was kidnapped was employed. On 14.12.2018, the appellant had submitted his explanation to the charge memo. Interestingly the explanation does not contain any reasons for kidnapping the said lady or even a denial.

4. The appellant unsuccessfully challenged the suspension order in W.P.No.3738 of 2019. This Court by order dated 08.02.2019 was pleased to direct the respondents to review the suspension order on merits and pass orders. Thereafter by letter

dated 02.03.2019, the appellant had requested the respondent to review the order of suspension as directed in W.P.No.3738 of 2019.

5. Meanwhile the Departmental proceedings had commenced and therefore the appellant had come forward with the Writ Petition, which is the subject matter of this Intra Court appeal seeking a mandamus to the respondents to defer the departmental proceedings till the conclusion of the trial in CC.Nos.14 and 28 of 2019. The learned Single Judge by order dated 29.05.2019 was pleased to dismiss the said Writ Petition. Challenging this order the appellant is before this Court.

6. Heard Mr.N.Monoharan, learned counsel for the appellant and Mrs.A.Srijayanthi. Special Government Pleader for the respondents.

7. A reading of the charge memo would clearly indicate that the issue of kidnapping which is the subject matter of the criminal proceedings is only one of the four charges. Apart from the said charge, there were other charges also which have to be definitely enquired into. The appellant cannot therefore seek to have the entire departmental proceedings deferred till the disposal of the criminal proceedings. We do not find any infirmity in the order passed by the learned Single Judge and consequently the intra court appeal stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Deputy Superintendent of Police,
(Enquiry Officer),
District Crime Records Bureau,
Erode -638 001.

+1 cc to M/s.N.Manokaran, Advocate Sr.No. 66854

+1 cc to The Government Pleader Sr.No.67098

AKM/16.09.19/3P-5C /

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