

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 26426 of 2018
and
W.M.P.Nos. 30694 & 30696 of 2018
&1415 & 1420 & of 2019

P.Grace Selvarani

..Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai Police,
Vepeary,
Chennai - 07.

2. The Deputy Commissioner of Police,
Central Crime Branch-II,
Greater Chennai Police,
Vepeary,
Chennai - 07.

3. The Assistant Commissioner of Police,
Forgery Wing,
Central Crime Branch,
Greater Chennai Police,
Vepeary,
Chennai -07.

4. Mrs.R.Sumithra

.. Respondents

(R4- Impleaded as per the order of this Court made in WMP.No. 32979 of 2018 in W.P.No.26426 of 2018 dated 05.09.2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to proceedings in PR.No. 517/PR2(1)/2018/u/r/3(b) dated 26.09.2018 and quash the same consequently direct the respondents not to proceed any further with the present disciplinary enquiry on the basis of the charge memo dated 31.08.2018 pending criminal trial on the file of F2, Egmore Police Station in FIR No. 200 of 2018 and CSR No.13 of 2018.

For Petitioner : Mr.Sivakumar

For Respondents : M/s.R.Janaki
Additional Government Pleader
for R1 to R3.
Mr.Madhu Prakash
for R4.

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the proceedings in PR.No. 517/PR2(1)/2018/u/r/3(b) dated 26.09.2018 and quash the same consequently direct the respondents not to proceed any further with the present disciplinary enquiry on the basis of the charge memo dated 31.08.2018, pending criminal trial on the file of the F2, Egmore Police Station in FIR.No. 200 of 2018 and CSR No. 13 of 2018.

2. The case of the petitioner is that the petitioner was working as Head Constable CCTS, Crime Branch, Chennai and was appointed to the post of Head Constable on 15.04.1997 and rendered service for the last 22 years. The 2nd respondent issued a charge memo dated 31.08.2018, on the basis of an incident that took place on 09.01.2018, in the residential quarters, to which elaborate reference is made.

3. On the basis of the said incident, the petitioner has filed a criminal complaint in C.S.R.No. 13/2018 at 5.45 P.M. on 09.11.2018, on the file of F2, Egmore Police Station against one Tmt.Sumithra, and her husband Ragupathy, who are residing at the Quarters. On the basis of the very same incident, the said Tmt.Sumithra also filed a complaint against the petitioner in F.I.R.No. 200/2018 whereas her complaint was not registered and the counter complaint lodged by Tmt.Sumithra got registered at the same police station. Both the complaints are at the stage of investigation. Before the petitioner could proceed further, regarding the present grievance, it is necessary to take note of the incident, which took place on 09.01.2018.

4. On the basis of the complaint and FIR in Cr.No.200 of 2018 registered on the file of F2 Egmore Police Station for the offences under Sections 448, 294, 323, 506(i) IPC, the case has been taken up for investigation and the said charge memo was issued and after the Enquiry Officer was appointed. Challenging the enquiry officer appointment, the petitioner has filed the present writ petition.

5. Considering the above facts and circumstances of the case, the present writ petition is filed challenging the appointment of Enquiry Officer. The Disciplinary Authority appointed Enquiry Officer for the purpose of completing enquiry. Unless the petitioner establish that Enquiry Officer was appointed with malafide intention, bias or in the same rank, the petitioner's grievance cannot be considered in the present writ petition.

6. Accordingly, the present writ petition stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Greater Chennai Police,
Vepeary,
Chennai - 07.

2. The Deputy Commissioner of Police,
Central Crime Branch-II,
Greater Chennai Police,
Vepeary,
Chennai - 07.

3. The Assistant Commissioner of Police,
Forgery Wing,
Central Crime Branch,
Greater Chennai Police,
Vepeary,
Chennai -07.

+3cc to Mr.R.Sivakumar, Advocate SR.No.77431

W.P.No. 26426 of 2018

PP(CO)
GMY(20/09/2019)