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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.05.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P (MD) No. 12453 of 2019

and

W.M.P. (MD) No. 9287 of 2019

Periyaraj

... Petitioner

Vs.

1. The Superintendent of Police,
O/o. District Police Office,
Tirunelveli,
Tirunelveli District.

2. The Assistant Superintendent of Police,
Cheranmahadevi Sub Division,
Cheranmahadevi,
Tirunelveli District.

3. The Inspector of Police,
District Crime Branch,
Tirunelveli,
Tirunelveli District.
(R3 suo-motu impleaded by this Court
order dated 29.05.2019.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to defer the Departmental proceedings in P.R.No.79 of 2018 till the conclusion of the Criminal case in Crime No.36 of 2018 on the file of the Inspector of Police, District Crime branch, Tirunelveli.

For Petitioner	: Mr.A.Thiruvadikumar
For Respondents	: Mr.M.Rajarajan Government Advocate

O R D E R

The Inspector of Police, District Crime Branch, Tirunelveli, Tirunelveli District, is suo motu impleaded as third respondent.

2. Mr.M.Rajarajan, learned Government Advocate, takes notice for the respondents.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.



4. The writ petitioner is holding the rank of Grade-I Police Constable. It is alleged that he committed mis-appropriation of spot fine amount to the tune of Rs.60,300/-. In this regard, Crime No.36 of 2018 has been registered on the file of the third respondent / Inspector of Police, District Crime Branch, Tirunelveli, Tirunelveli District for the offences under Sections 406, 409, 467, 468, 471 and 420 IPC. The said First Information Report was registered on 01.11.2018. The petitioner has also been issued a charge memo dated, 14.10.2018. The disciplinary enquiry is about to commence.

5. This Court went through the contents of the First Information Report as well the charge memo. It is obvious that the cause of action of both the proceedings is one and the same. The petitioner's contention is that if he is allowed to face the disciplinary proceedings first, his defence will be exposed and his right to fair trial under Article 21 of the Constitution of India will be totally prejudiced.

6. Though this contention is sound, this Court is of the view that the disciplinary action cannot be directed to be kept pending indefinitely. A balance has to be struck. This is because, the criminal case can get prolonged at the first instance of the accused. The Hon'ble Supreme Court in the decision reported in **2016 (9) SCC 491 (State Bank of India and Others Vs. Neelam Nag and another)** took the view that the departmental action can be stayed for a period of one year and that the criminal Court can be directed to conclude the criminal trial in the meanwhile. If the criminal trial does not conclude within a period of one year, the departmental action shall resume.

7. I am of the view that the same course of action can be adopted in the present case also. Respectfully, following the aforesaid direction of the Hon'ble Supreme Court, the newly impleaded respondent viz., third respondent is directed to conclude the investigation within a period of three months from the date of receipt of a copy of this order and file the final report. The jurisdictional Criminal Court shall take the final report on file and conclude the trial within a period of eight months, thereafter. The Investigating Officer as well as the Jurisdictional Criminal Court shall strictly adhere to the time-line mentioned herein. If for certain reasons, the case cannot be concluded within one year, the departmental proceedings shall resume. This Court has stayed the departmental proceedings only for a period of one year. It is made clear that under no circumstances, the said period will be extended. If well before the period, the Criminal case is over, the departmental action shall resume.

8. The petitioner through his counsel undertakes that he will not apply for any modification of the order and when the Departmental proceedings resume, the petitioner will extend his



fullest co-operation for the speedy conclusion of the disciplinary proceedings.

9. This Writ Petition is allowed on the said terms. No costs. Consequently, connected Miscellaneous Petition is closed.

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sd/
Assistant Registrar(crl.side)/
Vacation Officer

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
O/o. District Police Office,
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Tirunelveli District.
2. The Assistant Superintendent of Police,
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+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-66359[F] dated
30/05/2019)

+1 CC to SPL GP (SR-66477[F] dated 30/05/2019)

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ls/trp
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