



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :18.03.2019
CORAM:
THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No. 6000 of 2017
and
W.M.P. (MD) Nos. 4732 and 9508 of 2017

N.Sivagurunathan

... Petitioner

Vs.

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

2.The Superintendent of Police,
Dindigul District, Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to keep in abeyance of all further proceedings on the 17(b) charge memo in P.R.No.13 of 2017, dated 06.02.2017, passed by the first respondent till the final disposal of the Criminal Case in Cr.No.7 of 2013 u/s 120(b), 406, 409, 420 and 13 (2) r/w 13(1)(c) of Prevention of Corruption Act, 1988 pending before the Chief Judicial Magistrate (Special Judge), Dindigul.

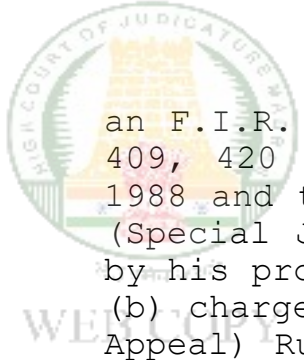
For Petitioner : Mr.A.Thirumurthy
For Respondents : Mr.V.Anand
Government Advocate

ORDER

The Writ Petition is filed seeking a direction to the the first respondent to keep in abeyance of all further proceedings on the 17(b) charge memo in P.R.No.13 of 2017, dated 06.02.2017, passed by the first respondent till the final disposal of the Criminal Case in Cr.No.7 of 2013 u/s 120(b), 406, 409, 420 I.P.C., and 13(2) r/w 13(1)(c) of Prevention of Corruption Act, 1988 pending before the Chief Judicial Magistrate (Special Judge), Dindigul.

2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. The case of the petitioner is that he was working as Office Superintendent (Stores) in District Police Office, Dindigul between 08.06.2006 to 26.09.2011. While so, he was placed under suspension on 14.06.2012 by the second respondent by his proceedings dated 14.06.2012 regarding misappropriation of Government money. Further,



an F.I.R. has been registered in Cr.No. 7 of 2013 u/s 120(b), 406, 409, 420 and 13(2) r/w 13(1)(c) of Prevention of Corruption Act, 1988 and the trial is pending before the Chief Judicial Magistrate (Special Judge), Dindigul. In the meantime, the first respondent, by his proceedings in P.R.No.13 of 2017, dated 06.02.2017 issued 17 (b) charge memo under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. The petitioner also submitted his explanation for the above said charge memo. Subsequently, he gave a representation dated 07.03.2017 to the first respondent to keep in abeyance the charge memo, till the outcome of the criminal case. Since the same is pending without any consideration, the petitioner is before this Court by filing this writ petition.

4. The learned Counsel appearing for the petitioner submitted that the issue involved herein is squarely covered by the decision of the Honourable Supreme Court in **State Bank of India and Others Vs. Neelam Nag**, reported in (2016) 9 SCC 491, wherein in paragraph No.21, the Honorable Apex Court has held as follows:

"21. Accordingly, we exercise discretion in favour of the respondent of staying the ongoing disciplinary proceedings until the closure of recording of evidence of prosecution witnesses cited in the criminal trial, as directed by the Division Bench of the High Court and do not consider it fit to vacate that arrangement straightway. Instead, in our opinion, interests of justice would be sufficiently served by directing the criminal case pending against the respondent to be decided expeditiously but not later than one year from the date of this order. The trial Court shall take effective steps to ensure that the witnesses are served, appear and are examined on day-to-day basis. In case any adjournment becomes inevitable, it should not be for more than a fortnight when necessary."

5. The above said stand has been followed by the Division Bench of this Court in W.A.(MD)No.916 of 2017, dated 20.07.2017, wherein in paragraph No.7, it is stated as follows:

"7. Now the question is whether the departmental proceedings can be indefinitely stayed. We are informed that the second accused Sivakumar is absconding. We direct the police to conclude the investigation expeditiously and file the final report within three months from the date of receipt of a copy of this order. If the accused is not available, it is always open to the investigating officer to file an absconding charge sheet. If the police file the final report including the writ petitioner herein as an accused, the criminal Court shall complete the trial within a period of 12 months from the date of taking cognizance of the criminal case. If need be, the criminal Court should split the case and proceed



against the writ petitioner/accused alone. The writ petitioner/accused shall extend full co-operation to the trial Court for an early disposal of the case. If the trial is not completed within the stipulated period, despite the steps, which the trial Court has been directed to take, disciplinary proceedings against the respondent/writ petitioner, shall be resumed by the enquiry officer. The direction given in favour of the writ petitioner/respondent for keeping the disciplinary proceedings in abeyance shall stand vacated forthwith upon the expiry of the said period of 15 months. The trial Court shall take effective steps to ensure that the witnesses are served and are examined without delay. In case, any adjournment becomes inevitable, it should not be for more than a fortnight when necessary. We have adopted the course of action mentioned above in view of the decision of the Hon'ble Supreme Court of India reported in **2016(9) SCC 491 S.B.I and Others Vs. Neelam Nag.** "

Thus, the learned Counsel prayed that the case of the petitioner may be considered in the same lines as done by the Division Bench as well as the Honourable Supreme Court in the decisions cited supra, for which, the learned Government Advocate appearing for the respondents has no serious objection.

6. Following the above said decision of the Honourable Division Bench of this Court as well as the Honourable Supreme Court, this Writ Petition is also disposed of on the above terms, by granting six months time from the date of receipt of a copy of this order to the trial Court to complete the criminal proceedings pending against the petitioner herein. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

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



2. The Superintendent of Police,
Dindigul District, Dindigul.

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+1CC TO MR.A.THIRUMURTHY, Advocate Sr. No. 54925

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 55316

ORDER MADE IN
WP (MD) No. 6000 of 2017
18.03.2019

SCR (CO)

TR (02.05.2019) 4P 5C