



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.4823 of 2017

and

W.M.P (MD)No.3846 & 3847 of 2017

and

W.M.P (MD)No.10165 of 2017

and

W.P (MD)No.1973 of 2017

and

W.M.P (MD)No.1634 of 2017

W.P (MD)No.4823 of 2017

A.Kalidass

... Petitioner

Vs.

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

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

3.The Deputy Superintendent of Police/Enquiry Officer,
DCRB,
Ramanathapuram District,
Ramanthapuram.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order, dated 21.02.2017 in C.No.F1/P.R.No.04/2017 issued by the second respondent and quash the same and consequently direct the respondents to defer the holding of enquiry in respect of the impugned charge memo bearing Na.Ka.No.B1/9918/2014, PR.No.4/2017 dated 05.01.2017 by the first respondent till the conclusion of S.C.No.86 of 2015 on the file of Principal District and Sessions Judge, Ramanathapuram.

W.P (MD)No.1973 of 2017

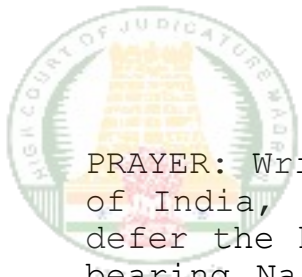
A.Kalidass

... Petitioner

Vs.

The Deputy Inspector General of Police,
Ramanthapuram Range,
Ramanthapuram.

... Respondent



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to defer the holding of enquiry in respect of the impugned charge memo bearing Na.Ka.No.B1/9918/2014, PR.No.4/2017 dated 05.01.2017 by the respondent till the conclusion of S.C.No.86 of 2015, on the file of Principal District and Sessions Judge, Ramanathapuram.

For Petitioner : Mr.T.Antony Arul Raj
For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader

COMMON ORDER

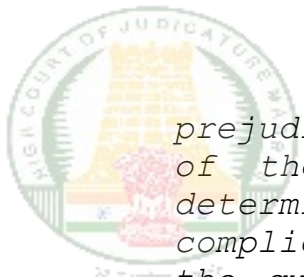
The petitioner in both the writ petitions is one and the same and the issue in both the writ petitions are interlinked and therefore, both the writ petitions are disposed of by this common order.

2. The petitioner while working as Sub Inspector of Police, a chargememo was issued alleging that he has caused death to one Syed Mohammed, who was arrested in connection with Cr.No.90 of 2014 for the offences under Sections 294(b), 427 and 307 of IPC, while interacting with said person.

3. The petitioner was suspended from service and a criminal complaint was lodged against him by the concerned police in Cr.No.91 of 2014, for the offences under Sections 302, 323 and 342 of IPC and the same is pending for trial. The respondents initiated disciplinary proceedings and by the impugned order, dated 21.02.2017, the second respondent directed the third respondent to complete the enquiry within one month. Therefore, the petitioner has come out with the present two writ petitions for the aforesaid relief.

4. The learned counsel appearing for the petitioner contended that if both the criminal trial and the disciplinary proceedings proceeded simultaneously, the petitioner will be prejudiced great, as his defence in criminal case would be revealed in the disciplinary proceedings, as complicated question of facts are involving. The learned counsel for the petitioner relied on the judgment in case of Stanzen Toyotetsu India (P) Ltd., Vs. Girish V. reported in (2014) 3 Supreme Court Cases 636 and paragraph-16 of the said judgment is extracted hereunder:-

"16. Suffice it to say that while there is no legal bar to the holding of the disciplinary proceedings and the criminal trial simultaneously, stay of disciplinary proceedings may be an advisable course in cases where the criminal charge against the employee is grave and continuance of the disciplinary proceedings is likely to



prejudice their defence before the criminal court. Gravity of the charge is, however, not by itself enough to determine the question unless the charge involves complicated question of law and fact. The court examining the question must also keep in mind that criminal trials get prolonged indefinitely especially where the number of accused arraigned for trial is large as is the case at hand and so are the number of witnesses cited by the prosecution. The Court, therefore, has to draw a balance between the need for a fair trial to the accused on the one hand and the competing demand for an expeditious conclusion of the ongoing disciplinary proceedings on the other. An early conclusion of the disciplinary proceedings has itself been seen by this Court to be in the interest of the employees."

Therefore, he prayed for deferring the disciplinary proceedings till the disposal of the criminal case.

5. The learned Special Government Pleader appearing for the respondents contended that the criminal proceedings and the disciplinary proceedings can be proceeded simultaneously. No complicated question of facts or law involved in the criminal case. In the present case, the trial is over and the criminal case is posted for arguments and therefore, there is no prejudice to the petitioner's case.

6. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

7. The petitioner is seeking the relief for deferring the disciplinary proceedings till the disposal of the criminal case on the ground that complicated question of facts and law involved in the criminal case and if the disciplinary proceedings are proceeded with pending criminal case, his defence will be exposed to his prejudice. The said contention is without merit. It is well settled that both the criminal proceedings and the disciplinary proceedings can be proceeded simultaneously and both are independent against each other. In the judgment relied on by the learned counsel for the petitioner, the Hon'ble Apex Court held that both the criminal proceedings and the disciplinary proceedings can be proceeded simultaneously and in exceptional case, a direction may be issued for speedy trial of the criminal case. In the present case, the petitioner except stating that the criminal case involves complicated question of fact and law, has not made out any case for deferring the disciplinary proceedings. Further, the criminal trial is completed and posted for arguments and therefore, no prejudice will be caused to the petitioner in put-forth his defence in the departmental proceedings.



8. With the above observation, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar (CS)

am
To

1. The Deputy Inspector General of Police,
Ramanthapuram Range,
Ramanthapuram.
 2. The Superintendent of Police,
Ramanthapuram District,
Ramanthapuram.
 3. The Deputy Superintendent of Police/Enquiry Officer,
DCRB,
Ramanathapuram District,
Ramanthapuram.
- +1 cc Mr. T.ANTONY ARUL RAJ ,Advocate, SR.No.86876
+1cc to M/s.Special Government Pleader, SR.No.86914

W.P. (MD)Nos.4823 and 1973 of 2017

13.09.2019

_KK/SAR/01.10.2019/4P-6C/