

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.18171 of 2020

&

W.M.P.No.22581 of 2020

A.Prabhakaran

...Petitioner

Vs.

1.The Superintendent of Police,
Office of Superintendent of Police,
Erode District.

2.The Inspector of Police,
Vellithiruppur Police Station,
Erode District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to defer all further proceedings pursuant to the charge memo in Tha.Pa.No.37/J.1/2020 dated 15.09.2020 on the file of the first respondent pending criminal proceedings in FIR No.15 of 2020 on the file of the second respondent by considering the petitioner's explanation dated 30.09.2020 to the charge memo.

For Petitioner ..

Mr.R.Marudhachalamurthy

For Respondents ..

Mr.J.Pothiraj, Spl.G.P

ORDER

This Writ Petition is filed seeking a direction to the first respondent to defer all disciplinary proceedings initiated against the petitioner pursuant to the charge memo dated 15.09.2020 pending criminal proceedings in FIR No.15 of 2020 on the file of the Inspector of Police, Vellithiruppur Police Station, Erode District.

2. The facts in brief are that the petitioner is a Constable, working in the Tamilnadu Police force. He joined as Constable and subsequently, he was promoted as Head Constable in the year 2018. The allegation against the petitioner was that he was involved in a murder case and on the basis of confession of the other accused, his name was included in the FIR. Because

of his name finding place in the FIR, he was placed under suspension on 19.02.2020 by proceedings of the first respondent.

3. Thereafter, a charge memo was issued on 15.09.2020 under Section 3(b) of the Tamilnadu Police Subordinate Services (Discipline & Appeal) Rules 1955 charging him for acting in violation of Section 24(1) of the TamilNadu Subordinate Police Officers Conduct Rules 1964.

4. The challenge to the charge memo is only on the basis of the pending FIR and according to the petitioner, the Hon'ble Supreme Court in its decision reported in "AIR 1999 SC 1416 (M.Paul Anthony versus Bharat Gold Mines Ltd. and another)" has held that the departmental proceedings need to be deferred when both the criminal and disciplinary proceedings arise out of the same set of facts and circumstances.

5. The learned counsel for the petitioner would also cite few other cases in support of his legal challenge. The learned counsel reiterated the same, but this Court is unable to persuade itself to accept the plea of deferring or issuing any direction stalling the disciplinary proceedings initiated against the petitioner. The ratio laid down by the Hon'ble Supreme Court on the subject matter cannot be applied mechanically across the Board regardless of the fact situation. In this case, the criminal case is only at FIR stage and it is not known whether the petitioner would be ultimately implicated in the charge memo and who are the witnesses to be examined and what are the documents relied on by the prosecution in support of the criminal charges. That being the case, it is too premature to foresee anything against the petitioner and to defer the disciplinary proceedings for indefinite period of time. In any event, the departmental charges have a different character, namely, that alleged mis-conduct of the petitioner which can be established independent of the criminal charge, because, an FIR is pending which cannot be the basis for giving a blanket direction to the first respondent to defer all departmental action against the petitioner pursuant to the charge memo dated 15.09.2020.

6. In any case, this Court finds that it is still pre-mature to entertain the Writ Petition. Therefore, the Writ Petition stands dismissed as being devoid of legal merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

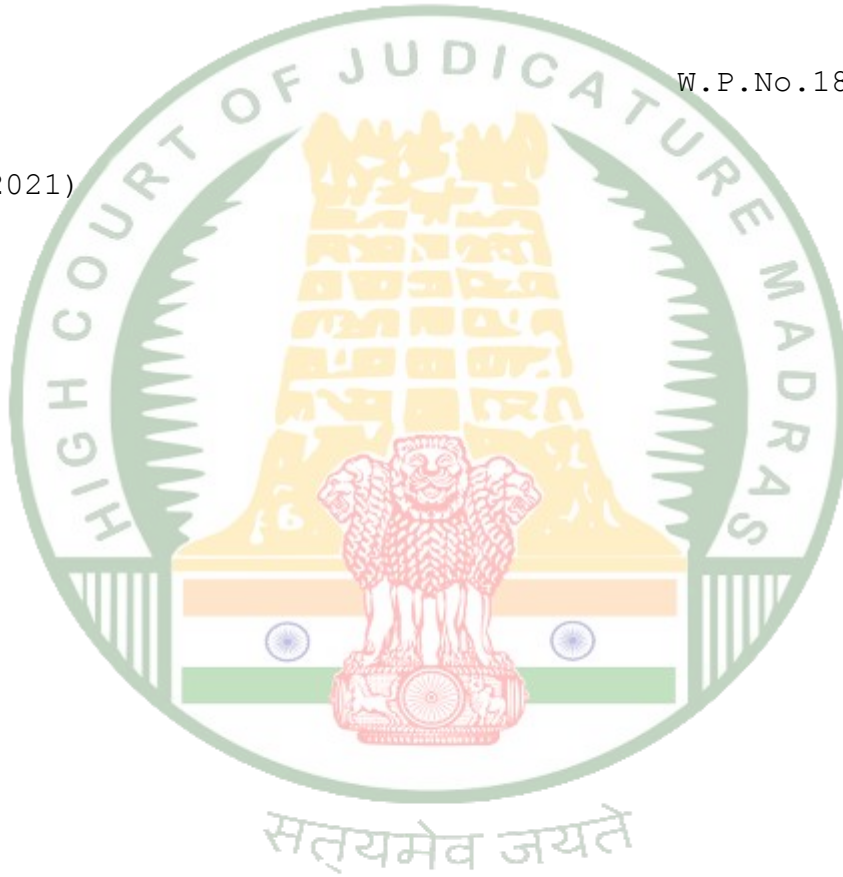
1.The Superintendent of Police,
Office of Superintendent of Police,
Erode District.

2.The Inspector of Police,
Vellithiruppur Police Station,
Erode District.

+lcc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.42540

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pvs (CO)
rv(02/02/2021)



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