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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.33957 OF 2014

S.T.Rajan

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by its Principal Secretary
to the Government
Home Department
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Director of General of Police
Office of Director General of Police
Chennai.
- 3.The Inspector General of Police
West Zone
Coimbatore.
- 4.The Deputy Inspector General of Police
(in charge) cum The Commissioner of Police
Salem,
Salem District.
- 5.The Superintendent of Police
Namakkal District,
Namakkal.
- 6.The Additional Superintendent of Police
Crime
Namakkal District,
Namakkal.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 4th respondent in Charge Memo dated 24.03.2014 in Ta.Pa.No.15/2014 Rule 17(A) and quash the same.



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For Petitioner : Mr.V.Raghavachari
for Mr.G.Rajan

For Respondents : Mr.C.Selvaraj
Government Advocate

O R D E R

This Writ Petition is directed against the charge memo dated 24.03.2014 issued by the fourth respondent.

2.The petitioner while working as Additional Superintendent of Police was issued with a charge memo dated 24.03.2014 for certain misconducts alleged to have been committed by him between 30.11.2012 and 30.09.2013 while he was working as Deputy Superintendent of Police, Rasipuram Sub Division, Namakkal District.

3.The gravamen of the charge is that the petitioner during his service at Rasipuram, between 30.11.2012 and 30.09.2013, in collusion with one Mohanraj, Municipal Councillor, conspired and registered a case in Crime No.90/2013 under Sections 294(b), 324 and 506(ii) IPC and made the defacto complainants to be arrested and produced before the Fast Track Judge (Judicial Magistrate (in-charge) Rasipuram) Tiruchengode, whereas the learned Magistrate refused to remand the said persons on the grounds of improper investigation. When those persons were produced before him, the petitioner unnecessarily detained them upto 11.45 pm and released them on bail by deleting the non-cognizance offence under Section 506(ii) IPC and thereby, committed misconduct of abuse of power and indiscipline.

4.The learned counsel for the petitioner would vehemently contend that the statement imputation of misconduct leading to the charge memo, as well as the basic documents mentioned in Annexure-III does not disclose any misconduct or allegation against the petitioner. The charge is without any material evidence. According to him, the petitioner has joined as Deputy Superintendent of Police, Rasipuram Sub Division on 30.11.2012. Whereas, even before his joining, the defacto complainant lodged various complaints against the Police officials as well as officials of Municipality and against her own brother in respect of a property dispute from the year 2010 onwards. In the complaint filed in the month of December 2010 itself, the defacto complainant has stated that one Ashok, her brother had attempted to demolish the house, in which she was then living. Thereafter, in yet another complaint dated 28.03.2011 also, it is noted that the defacto complainants have



made allegations as to demolition of their properties by the said Ashok, as well as allegations against the Deputy Superintendent of Police and other Police Officials. Likewise, she made several other complaints periodically. The complaints relied on by the respondents in Annexure-III are dated 28.03.2011, 06.06.2011 and 07.09.2012. When those complaints were made, the petitioner was not at all posted at Rasipuram Sub Division and he had taken charge as Deputy Superintendent of Police only on 30.11.2012. Therefore, it is very clear that the issue was subsisting even before the petitioner had taken charge as Deputy Superintendent of Police, Rasipuram Sub Division. Pursuant to the complaints made, the defacto complainant had given statements to the Superintendent of Police, on 18.02.2013, which were found at Page Nos.33 to 47 of the files produced by the learned Government Advocate before this Court.

5.A reading of the statement given by the defacto complainants namely, Lalitha and Parvathi does not disclose any allegation against the petitioner. All it says is that when the defacto complainants were produced before the Magistrate, after refusal of remand on 08.02.2013, they were brought to the Police Station, where the Deputy Superintendent of Police directed them to go home and that the defacto complainants informed the Deputy Superintendent of Police that their house was demolished and it was fenced by vested interests, to which, the Deputy Superintendent of Police, directed the Sub-Inspector to find out the situation and report him. Thereafter, the Sub-Inspector of Police went along with them and informed the Deputy Superintendent of Police that the defacto complainants could not enter the house as it was already been fenced. Therefore, the Deputy Superintendent of Police instructed them to come the next day to the Police Station. From the statement of both the defacto complainants, namely, Lalitha and Parvathi, this Court cannot find any allegation against the petitioner herein, as alleged in the charge memo. The basic document does not disclose any materials leading to the imputation of the misconduct found in the charge memo.

6.On proceeding further, the entire records produced by the learned Government Advocate were perused. It is further noted that on the basis of the above said statement, it appears that the Additional Superintendent of Police, Salem who submitted a report in ADSP(Crime)/NKL/2011 dated 01.03.2013 to her higher officials has implicated the petitioner without any materials. On the basis of that enquiry report, further enquiry was ordered by the Deputy Inspector General of Police. The Superintendent of Police in C.No.40/Camp/2013 dated 18.03.2013 fully relied on the report given by the Additional Superintendent of Police, who recommended action against the petitioner. It is relevant to note that the statement enclosed



along with the report filed by the Additional Superintendent of Police also does not disclose any allegation against the petitioner, as alleged in the charge memo.

7. Based on the recommendation of the Superintendent of Police, dated 18.03.2013, it appears that another enquiry was conducted by the Superintendent of Police, Namakkal. Then statements were recorded against the petitioner, but unfortunately, those police officials who have given statements, have retracted from the same and given a contra statement before the Deputy Inspector General of Police, who conducted a spot enquiry. The fourth respondent / Deputy Inspector General of Police, in his proceedings in C.No.29/DIG-SLM(R)/Camp/2013, dated 11.10.2013, conducted a personal enquiry regarding the allegations against the petitioner on 26.09.2013 and recorded the statements of persons connected to the incident. It is relevant to note that the Police Officials, who retracted from their earlier statement made before the Superintendent of Police, Namakkal were unwilling to express their circumstances for giving such statements.

8. The learned counsel for the petitioner would submit that the Police personnels were compelled to sign in those statements against their volition and contrary to the facts. The Deputy Inspector General of Police, the fourth respondent had given a clean chit to the petitioner and has held that the petitioner was not at all involved in the said alleged incident and given a finding that there are no materials to frame charge memo against the petitioner and therefore, no action is needed. In spite of the same, the charge memo has been framed.

9. A perusal of the materials viz., the statement of the defacto complainant, the findings of the fourth respondent in the personal enquiry conducted by him and his report dated 11.10.2013, it is crystal clear that the charges were framed without any basis and with an vindictive motive to victimise the petitioner. Therefore, the charge memo issued to the petitioner is without any legal evidence actuated by malafides with an ulterior motive and thereby, without jurisdiction.

10. In these circumstances, this Court is inclined to set aside the charge memo dated 24.03.2014 issued by the fourth respondent in Ta.Pa.No.15/2014 Rule 17(A) and accordingly, the same is set aside.

11. The petitioner has attained the age of superannuation on 31.10.2013. However, he was placed under suspension and not allowed to retire in view of the pendency of the disciplinary proceedings. Now that the charge memo itself is quashed and no disciplinary proceedings can ensue. In such



circumstances, there is no necessity to retain him in service beyond the age of his superannuation. Therefore, a direction is given to the respondents to settle all the terminal and retiral benefits to the petitioner, within a period of three months from the date of receipt of copy of this order.

12. In fine, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

TK

To

1. The Principal Secretary to the Government
Government of Tamil Nadu
Home Department
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of General of Police
Office of Director General of Police
Chennai.
3. The Inspector General of Police
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4. The Deputy Inspector General of Police
(in charge) cum The Commissioner of Police
Salem,
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5. The Superintendent of Police
Namakkal District,
Namakkal.
6. The Additional Superintendent of Police
Crime
Namakkal District, Namakkal.

+1cc to Government Pleader SR.No.37371

WP NO.33957 OF 2014

VSN II (CO)
GMY (18/10/2021)