



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2021

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

W.P.(MD)No.5757 of 2019

and

W.M.P.(MD)No.4539 of 2019

Gunasekaran, S/o.Chokkalingam

... Petitioner

Vs.

1.The Superintendent of Police,
Surveyor Colony,
Madurai.

2.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking a Writ of Mandamus, forbearing the second respondent from conducting departmental proceedings, based on the charge memo issued by the first respondent, in F1/Tha.Pa.No.01/2019, dated 07.01.2019, till the conclusion of pending criminal trial in C.C.No.4 of 2015, on the file of the Special Court for Prevention of Corruption Act, Madurai.

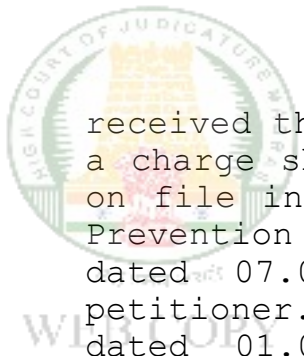
For Petitioner : Mr.M.Subash Babu

For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

The petitioner has filed the present Writ Petition seeking a Writ of Mandamus, forbearing the second respondent from conducting departmental proceedings, based on the charge memo issued by the first respondent, in F1/Tha.Pa.No.01/2019, dated 07.01.2019, till the conclusion of pending criminal trial in C.C.No.4 of 2015, on the file of the Special Court for Prevention of Corruption Act, Madurai.

2.According to the petitioner, he was appointed as a Constable on 17.01.1986. After periodical promotions, on 01.02.2011 he was promoted as Special Sub-Inspector of Police and lastly, he was working in Nagamalai Pudukottai Police Station. While so, based on a false complaint given by one Manivannan, a case in Crime No.7 of 2014 has been registered against the petitioner, for the offence punishable under Section 7 of Prevention of Corruption Act, 1988, alleging that the petitioner demanded Rs.3,000/- as illegal gratification for the purpose of releasing the accused on his own bail and for making arrangement to send the two wheeler to the R.D.O. Office for vehicle inspection and on the request of accused, the bribe amount was reduced to Rs.1,500/- and the petitioner



received the same on 08.10.2014. After completion of investigation, a charge sheet has been filed on 14.09.2015 and the same was taken on file in C.C.No.4 of 2015, on the file of the Special Court for Prevention of Corruption Act, Madurai. While so, a charge memo, dated 07.01.2019, containing two charges, was issued to the petitioner. Further, the first respondent, vide his proceedings dated 01.02.2019, appointed the second respondent as Enquiry Officer. Both the prosecution witnesses in the criminal case and the witnesses in the charge memo are one and the same. Further, if the departmental proceedings and the criminal case are proceeded simultaneously, it would affect the petitioner's defence in criminal trial and the petitioner will be put to irreparable loss and hardship. Hence, the petitioner has come out with the present Writ Petition for the relief stated supra.

3.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

4.Today, when the Writ Petition came up for hearing, the learned Special Government Pleader produced a copy of the letter dated 01.03.2019, received from the Inspector of Police, Vigilance and Anti-Corruption, Madurai, addressed to the second respondent herein, along with the letter, dated 02.04.2019, addressed to Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader by the second respondent and submitted that the Inspector of Police, Vigilance and Anti-Corruption, Madurai, requested the second respondent herein not to conduct departmental proceedings till the completion of trial in the criminal case. On receipt of the said letter, the second respondent has addressed a letter, dated 02.04.2019, to the Additional Government Pleader stating that the second respondent has not conducted departmental proceedings against the petitioner and the same is pending.

5.Recording the above said letters dated 01.03.2019 and 02.04.2019 and the submission of the learned Special Government Pleader, this Writ Petition is disposed of directing the second respondent not to proceed with the departmental proceedings based on the charge memo issued against the petitioner till the conclusion of the criminal trial in C.C.No.4 of 2015, on the file of the Special Court for Prevention of Corruption Act, Madurai. No costs. Consequently, connected Miscellaneous Petition is closed.

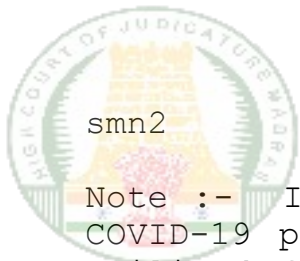
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Note :- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Superintendent of Police,
Surveyor Colony,
Madurai.

2.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Madurai.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-18208[F] dated 30/04/2021)

+1 CC to M/s.GP (SR-18414[F] dated 03/05/2021)

W.P. (MD)No.5757 of 2019

30.04.2021

RK(11.05.2021) 3P 5C