



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.13316 of 2017

and

W.M.P. (MD).No.10390 of 2017

I.Jayaveeranan

...Petitioner

Vs.

1.The commissioner of Police,
Madurai City, Madurai.

2.The Assistant Commissioner of Police /Enquiry Officer,
Office of the Assistant Commissioner of Police,
Prohibition and Enforcement Wing,
Madurai City, Madurai.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to keep the disciplinary proceedings initiated against the petitioner, in pursuance of the Charge Memo issued by the 2nd respondent in his proceedings No.P.R.No..40/2017, under section 3(b) of Tamil Nadu Police Subordinate Services and Discipline and Appeal Rules, dated 30.05.2017, in abeyance, till the disposal of the criminal case pending in Crime No.397 of 2016 on the file of Sellur Police Station, Madurai.

For Petitioner

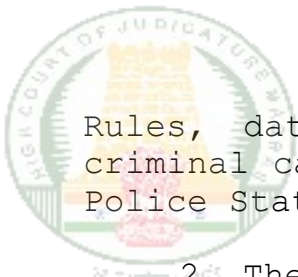
:Mr.C.M.Sankaran
for Mr.F.Deepak

For Respondents

:Mr.M.Muthugeethayan
Special Government Pleader

O R D E R

This writ petition has been filed for a direction to the respondents to keep the disciplinary proceedings initiated against the petitioner, in pursuance of the Charge Memo issued by the 2nd respondent in his proceedings No.P.R.No..40/2017, under section 3(b) of Tamil Nadu Police Subordinate Services and Discipline and Appeal



Rules, dated 30.05.2017, in abeyance, till the disposal of the criminal case pending in Crime No.397 of 2016 on the file of Sellur Police Station, Madurai

2. The case of the petitioner is that he was appointed as Grade I Police Constable in the year 2003. While he was in service, a criminal case was registered against him in Crime No.397 of 2016 for the offences under Sections 294(b), 323, 324 and 506(ii) of I.P.C., on the file of Sellur Police Station, Madurai, on the basis of the complaint given by one Meena. Challenging the said case, the petitioner has filed a petition in CrI.O.P.(MD).No.6202 of 2016 before this Court. In the mean while, the second respondent has issued a charge memo against the petitioner under Rule 3(b) of the Tamil Police Subordinate Service (Discipline and Appeal) Rules, on 30.05.2017. Therefore, the petitioner has made a representation to the second respondent to defer the departmental proceedings issued under P.R.No.40 of 2017. However, the petitioner's representation was not considered and the respondents have fixed the appearance of the petitioner for enquiry on 19.07.2017. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that if the petitioner discloses any defence in the disciplinary proceedings, it will affect the criminal proceedings pending against the petitioner. Hence, till the conclusion of the criminal case, the enquiry into the disciplinary proceedings should be kept in abeyance.

4. Per contra, the learned Special Government Pleader appearing for the respondents would submit that this Court has granted interim stay in CrI.M.P.(MD).No.3087 of 2016, for further proceedings in Crime No.397 of 2016. He would further submit that the issue involved in the present writ petition is no longer *res integra*, in view of the decision of the Hon'ble Apex Court in the case of **Allahabad District Co-operative Bank Limited vs. Vidhya Varidh Mishra** reported in (2004) 6 SCC 482.

5. Considering the facts and circumstances of the case, the grievance of the petitioner is that if the petitioner discloses any defence in the disciplinary proceedings, it will affect the criminal case pending against the petitioner. However, the issue arises for consideration in this writ petition is no longer *res integra* and the Hon'ble Apex Court, in the decision reported in (2004) 6 SCC 482, has given directions that departmental proceedings can also be initiated against the Government servant in connection with the same charges and it is well settled that even if an employee is acquitted in a criminal case, he can be proceeded in the departmental proceedings on the same charge.

6. In view of the above, this Court is not inclined to



interfere with the disciplinary proceedings pending against the petitioner and the relief sought for by the petitioner cannot granted. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 commissioner of Police,
Madurai City, Madurai.
 - 2.The Assistant Commissioner of Police /Enquiry Officer,
Office of the Assistant Commissioner of Police,
Prohibition and Enforcement Wing,
Madurai City, Madurai.
- +1 CC to M/s.F.DEEPAAK, Advocate (SR-11257[F] dated 16/03/2021)
- +1 CC to M/s.SPL GP (SR-11551[F] dated 16/03/2021)

Writ Petition (MD)No.13316 of 2017
15.03.2021

RP (17.05.2021) P 5C