



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 24.03.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.(MD) No.9460 of 2021

W.M.P(MD).Nos.7184 & 7185 of 2021

R.Dhayanithi

... Petitioner

Vs.

1.The Deputy Inspector General of Police,  
Dindigul Circle,  
Dindigul.

2.The Superintendent of Police,  
Dindigul District.

3.The Deputy Superintendent of Police,  
Dindigul Rural Division,  
Dindigul

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned charge memo issued by the first respondent in Tha.Pa.No.10/2021 dated 22.01.2021 and quash the same.

For Petitioner : Mr.K.Navaneetharaja

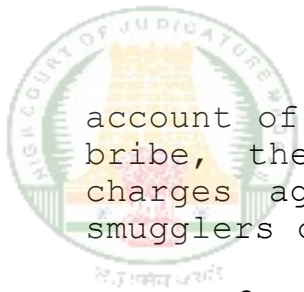
For Respondent : Mr.N.Satheesh Kumar  
Additional Government Pleader

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O R D E R

The charge memo dated 22.01.2021 issued under Rule 3(Aa) of the Tamil Nadu Police Sub-ordinate Services (Discipline and Appeal) Rules is under challenge in the present writ petition.

2. The petitioner is working as Sub-Inspector of Police. On  
<https://hcservices.ecourts.gov.in/hcservices/>



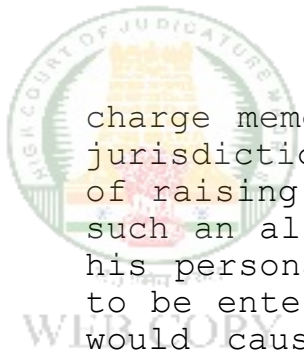
account of certain serious allegations of demand and acceptance of bribe, the charge memo was issued against the petitioner. The charges against the petitioner are that he colluded with sand smugglers on extraneous consideration, demanded and accepted bribe.

3. A perusal of the charges reveals that the allegations are serious in nature. Annexure-II provides statement of allegations and imputation of misconducts. Annexure-III provides the list of documents. Pertinently, twenty two documents are relied upon. Annexure-IV denotes the list of witnesses to be examined and 15 witnesses are cited. Thus, there is no infirmity as such in respect of the charge memo issued to the petitioner.

4. The petitioner claims that he acted in accordance with the procedures and he has not committed any illegality. The petitioner pleads the innocence by stating certain merits of the case. This Court is of the considered opinion that the merits raised in the writ petition cannot be adjudicated by this Court in the present Writ Proceedings. All such defences are to be submitted before the Competent Authority while conducting enquiry. The charge memo can be challenged only on certain limited grounds.

5. A charge memo is not liable to be quashed as does not adversely affect the rights of an employee and does not give rise to any cause of action. A writ lies only when some rights of a person are infringed. The charge memo does not infringe the rights of a person / employee. It is only when a final order imposing punishment or otherwise is passed, it may give a cause of action. Thus, the writ petition challenging the charge memo by itself is not maintainable.

6. Let us now consider the situations where an employee is issued with a charge memo. On initiation of disciplinary proceedings, charge memo is the first step taken by the Authority concerned to frame certain charges against the employee concerned. Mere framing of charges would not cause any prejudice to the Government employee. He is duty bound to establish his innocence or otherwise with reference to the documents and evidences available. Contrarily, if the disciplinary proceedings are quashed at the budding stage, the rights of the Departments will be prejudiced. Under the Tamil Nadu Government Servants Conduct Rules, a Government servant is bound to maintain a good conduct and integrity throughout his service both inside and outside the office. While so, certain allegations are brought to the notice of the competent Authorities. They are initiating action under the Rules and they are framing charges. Such framing of charges would not cause any prejudice nor provide any cause of action for the purpose of instituting a writ petition. Therefore, framing of charges itself would not provide a cause of action for entertaining a writ petition. However, a writ petition against the charge memo is maintainable on certain exceptional circumstances, where the



charge memo has been issued by an incompetent Authority having no jurisdiction or allegation of mala fides is raised. Even in case of raising an allegation of mala fides, the Authority against whom such an allegation raised must be impleaded as party respondent in his personal capacity. Except these circumstances, no writ needs to be entertained against the charge memo and such an entertaining would cause prejudice to the Department and the likelihood of causing prejudice is also to be considered by the Court, while entertaining a writ petition.

7. In view of the principles, High Court cannot entertain a writ petition against the charge memo in a routine manner. The petitioner made an attempt to adjudicate the merits as well as defence taken by him which cannot be considered by this Court in the present case.

8. As far as the allegations are concerned, the Hon'ble Division Bench of the High Court of Madras in H.C.P.No.188 of 2018 dated 08.05.2018 held as follows:-

15. In conclusion, we direct the Principal Secretary to Government, Home (Police) Department, Fort St. George, Chennai-9, the Director General of Police, Mylapore, Chennai-4 and the Director, Vigilance and Anti-Corruption Department, Greenways Road, Chennai-28, to issue consolidated circulars/instructions to all the law enforcing authorities, including the police stations and other revenue officials across the State, clearly stating that the public servants, who all are abating the commission of the offence of "sand smugglings" will be punished under The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982. Such consolidated instructions/circulars should contain that the public officials are liable to face both the departmental disciplinary proceedings as well as the penal provisions under the provisions of Tamil Nadu Act 14 of 1982. Such instructions/circulars are directed to be issued within a period of twelve weeks from the date of receipt of a copy of this order.

16. The Registry of the Madras High Court is directed to communicate the copy of this order to (1) The Principal Secretary to Government, Home (Police) Department, Fort St. George, Chennai-9, (2) The Director General of Police, Mylapore, Chennai-4 and (3) The Director, Vigilance and Anti-Corruption Department, Greenways Road, Chennai-28.



9. The Government also issued the order in G.O.Ms.No.62, Home, Prohibition and Excise (XVI) Department dated 01.10.2018 implementing the judgment of the Division Bench of the High Court of Madras and wherever there is an allegation of corruption, abetment etc., on the part of the police and Revenue Officials, those officials must be prosecuted under the criminal law.

10. In the present case, the learned Additional Government Pleader reiterated that there was a lapse of time on account of COVID-19 Pandemic and furthermore, the complaint itself was belated. Therefore, the petitioner was not prosecuted under criminal law. However, the disciplinary proceedings are initiated.

11. But, it is made clear that in future, the Department should ensure that wherever such allegation of corrupt or abetment of crime or collusion is identified, the officials must be prosecuted with the accused persons under criminal law. As such, charges are criminal offences.

12. The learned Additional Government Pleader brought to the notice of this Court that the enquiry has already been commenced and the petitioner participated in the enquiry and defended his case. In view of the fact that the enquiry has already been commenced and in progress, there is no reason whatsoever to interfere with the charge memo and the petitioner has not established any acceptable legal ground.

13. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

ssb

To

1. The Deputy Inspector General of Police,  
Dindigul Circle,

Dindigul

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Superintendent of Police,  
Dindigul District.

3.The Deputy Superintendent of Police,  
Dindigul Rural Division,  
Dindigul.

4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.SPL GP ( SR-14515[F] dated 25/03/2022 )

+1 CC to M/s.NIRANJAN S KUMAR, Advocate ( SR-14157[F] dated  
24/03/2022 )

W.P. (MD) No.9460 of 2021

24.03.2022

ARK(CO)

KP(04.04.2022) 5P 7C