



WEB COPY

W.P.(MD) No.18276 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.18276 of 2021

and

W.M.P. (MD) Nos. 15108 & 18856 of 2021

K.Ravichandran

... Petitioner

vs.

1.The Superintendent of Police
Sivagangai District, Sivagangai

2.The Sub Divisional Magistrate cum
Revenue Divisional Officer
Devakottai, Sivagangai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records pertaining to the Impugned Charge Memo passed by the 1st respondent vide his Proceedings in Tha.Pa.No.47/2021, dated 24.09.2021 and quash the same as illegal.

For Petitioner : Mr.Mayil Vahana Rajendran.C.

For Respondents : Mr.A.K.Manikkam

Special Government Pleader

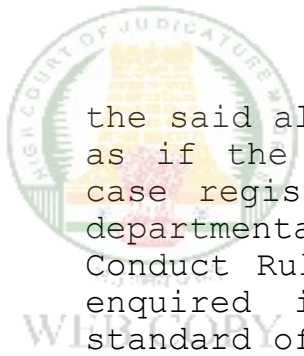
O R D E R

The charge memo, dated 24.09.2021 issued by the first respondent, is under challenge in this writ petition.

2. The petitioner is working as Head Constable and a criminal case was registered against him in Crime No.293 of 2020, on the file of the Devakottai Town Police Station, under Sections 177, 209, 218, 219, 419 and 420 I.P.C.

3. The learned counsel for the petitioner made a submission that the issues between the petitioner and his neighbour were settled and the criminal case was also quashed by this Court.

4. This Court is of the considered opinion that mere quashing of a criminal case would not be a ground to exonerate the public servant from departmental disciplinary proceedings initiated against him. The very charge against the petitioner is that registration of a criminal case against the petitioner and causing
disreputation to the Uniformed Services is a misconduct. Therefore,

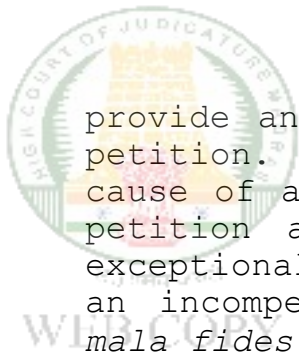


the said allegation of misconduct is to be enquired into. It is not as if the issues between the parties are resolved. The criminal case registered under the penal laws cannot be compared with the departmental disciplinary proceedings initiated. The scope of the Conduct Rules are entirely different and the misconducts are to be enquired into by the Competent Authority independently. The standard of proof required for a criminal case is entirely different and the procedures to be adopted for the disciplinary proceedings are different. Preponderance of probabilities is enough to punish an employee. However, strict proof is required to convict a person under the criminal law. Therefore, mere quashing of a criminal case is not a bar for the Disciplinary Authority to continue the disciplinary proceedings as the departmental disciplinary proceedings are standing in a different footing. In the present case, the allegation of misconduct against the petitioner is to be enquired into. However, the petitioner shall submit all the records, including the order passed in the criminal proceedings, before the Competent Authority in order to establish his innocence or otherwise. High Court cannot conduct an enquiry in respect of such allegation of misconduct by the public servant.

5. This Court is of the considered opinion that charge *per se* would not constitute a cause for moving a writ petition. It remains only as an allegation and such allegations are to be enquired into by affording opportunity to the delinquent officials.

6. 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.

7. 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 may be entertained 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.

8. In view of the facts and circumstances of the case, the petitioner is at liberty to defend his case by submitting his explanation / objection along with the relevant documents.

9. The respondents are directed to continue the disciplinary proceedings and conclude the same as expeditiously as possible.

10. The petitioner is directed to cooperate for early disposal of the disciplinary proceedings and in the event of non-cooperation, the same shall be recorded in the proceedings itself and in such circumstances, the petitioner is not entitled for any relief on the ground of delay in disposal of the disciplinary proceedings.

11. With these observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-)

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/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Superintendent of Police,
Sivagangai District, Sivagangai.

2.The Sub Divisional Magistrate-cum-
Revenue Divisional Officer,
Devakottai, Sivagangai District.



W.P.(MD) No.18276 of 2021

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-14360[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14337[F] dated 24/03/2022)

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nsn(CO)

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