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W.P.(MD)No.9493 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.9493 of 2017

and

W.M.P.(MD)Nos.7236 and 7237 of 2017

R.Santhi

... Petitioner

vs.

1.The Dean,
Government Rajaji Hospital,
Madurai-625 020.

2.R.Shoba

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned charge memo in e.f.vz;.18176ep4/3/17, dated 02.02.2017, issued by the 1st respondent and to quash the same.

For Petitioner

: Mr.P.Manoharan

For R1

: Mr.P.Thambidurai

Government Advocate (Civil side)

For R2

: No appearance



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ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned charge memo in e.f.vz;.18176ep4/3/17, dated 02.02.2017 issued by the 1st respondent.

2. The brief facts as stated in the affidavit is that the petitioner was working as Hospital Attender in Government Rajaji Hospital from 2008. The petitioner's husband died leaving behind the petitioner and she is surviving in the meager income. The contention of the petitioner is that the 1st respondent initiated domestic enquiry by issuing a charge memo based on the false complaint given by the 2nd respondent and the complaint is without any basis. The petitioner further contended that the 1st respondent had not furnished any details and the copies of documents mentioned in the charge memo. Moreover, the second respondent is influencing the 1st respondent with nexus to some political party to complete the enquiry and dismiss the petitioner without any basis.

3. The petitioner contended that the second respondent was introduced to



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the petitioner by one Anburani. The 2nd respondent's husband was working in the 1st respondent hospital and died due to heart attack. The 2nd respondent is eking her livelihood through tailoring, whenever the 2nd respondent sought any help the petitioner would help her which includes financial assistance also. The 2nd requested Rs.2,00,000/- as loan for repairing her house and the petitioner had helped by handing over a sum of Rs.45,000/- which was borrowed from the petitioner's relatives and has given the sum with the condition that the said amount ought to be repaid on daily basis. The 2nd respondent assured to repay after getting loan from the Bank or leasing out her house after repairing. Thereafter, the petitioner assisted the 2nd respondent to get loan from State Bank of India, Madurai for Rs.1,50,000/-. Since the petitioner is already familiar with District Collector proceedings to obtain "destitute widow certificate", the petitioner has assisted the second respondent to get the said certificate. However, the relationship between the petitioner and the 2nd respondent started souring due to some misunderstanding. Therefore, the 2nd respondent preferred a complaint against the petitioner before the 1st respondent. The 2nd respondent has also filed a police complaint before the Teppakulam Police Station. It is based on such



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complaint the present charge memo was issued. The petitioner has raised various grounds to quash the charge memo and prayed to allow the writ petition.

4. The first respondent has filed a counter affidavit stating that based on the complaint of the 2nd respondent an enquiry committee has been set up, fixing the enquiry date on 14.09.2016. In respect to the enquiry the said Shoba had attended the enquiry and gave written statement narrating how the petitioner had cheated. The 2nd respondent filed a complaint against the petitioner at Teppakulam Police Station in Crime No.460/2016. The petitioner has also given statement at the time of enquiry stating that the second respondent was introduced to the petitioner by one Anburani, who is another hospital worker. The petitioner started helping the 2nd respondent to get money from other sources. Since the second respondent is not aware of operating the ATM card, the petitioner had helped her. Based on the enquiry committee's report, the petitioner was transferred to Government Thoracic Hospital, Thoppur, Madurai. However, the petitioner did not obey the transfer order. Hence, the respondent prayed to dismiss the writ petition.



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5. Heard Mr.P.Manoharan, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the 1st respondent. In spite of court notice, the 2nd respondent did not appear before this Court.

6. The learned Counsel appearing for the petitioner submitted that the charge memo was issued as early as 2017 and until today, there was no enquiry at all. The criminal complaint preferred by the 2nd respondent is closed by the concerned police officials. Since the charge memo is kept pending for all these years without even a single notice for further enquiry and the petitioner is on the verge of retirement, the petitioner prayed to allow the writ petition by quashing the impugned charge memo.

7. The learned Counsel appearing for the 1st respondent submitted that the petitioner did not appear for the enquiry inspite of notice issued to the petitioner. The Learned Counsel further submitted that the 1st respondent had submitted written instructions, wherein it is stated that subsequently the complaint preferred



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by the 2nd respondent before the concerned police station was closed and the parties have amicably settled through compromise.

8. Therefore, this Court is of the considered opinion that since the charge memo is in the year 2017 and the petitioner and the 2nd respondent had amicably settled their disputes, the enquiry would be unnecessary. Moreover, the transaction between the petitioner and the 2nd respondent is absolutely personal and hence the impugned charge memo is liable to be quashed and hence the charge memo is quashed.

9. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

20.09.2022

Internet : Yes

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To

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S.SRIMATHY, J

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Note:

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