



W.P.(MD)No.23863 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 30.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)No.23863 of 2019
and
W.M.P(MD).No.20488 of 2019

C.Shanmugam

... Petitioner

Vs

1.The Inspector General of Police (Crime),
O/o., The Inspector General of Police (Crime),
Old Commissioner of Police Office,
Panthean Road, Egmore, Chennai 600 008.

2.The Superintendent of Police,
O/o., The Superintendent of Police,
NIB CID, Chennai -8.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the order passed by the second respondent in his proceedings in Sl.No.02/2019 in P.R.No.01/2018 dated 28.02.2019 and consequential rejection order passed by the first respondent in his proceedings in RC.No.A3/PR.01/Crime/2018 dated 01.08.2019 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.A.K.Manikkam
Special Government Pleader



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ORDER

Heard the learned counsel on either side.

2.The writ petitioner is working as Head Constable in the Police Department. When he was working in NIB CID, Trichy, in the year 2017, he was issued with a charge memo dated 04.04.2018. It contained five articles of charge. The petitioner offered his explanation. Not satisfied with the same, an enquiry was ordered. The Enquiry Officer submitted his report holding that the charge Nos.1, 3 and 4 alone are proved, while charge Nos.2 and 5 are not proved. Copy of the enquiry report was served on the petitioner and his explanation was sought. The petitioner submitted his further explanation. After considering the materials on record, the Disciplinary Authority, namely the Superintendent of Police, NIB CID, Chennai, passed an order, dated 28.02.2019, levying punishment of postponement of increment for three years, which shall operate to postpone his future increments. Aggrieved by the same, the petitioner filed an appeal before the first respondent. The first respondent, by the impugned order dated 01.08.2019, partly allowed the appeal by modifying the period of punishment from three



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years to two years. Challenging the aforesaid orders, the present writ petition has been filed.

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set-out in the affidavit filed in support of this writ petition and contended that the petitioner had clearly demonstrated that the charges are inherently improbable. The core charge against the writ petitioner is that on 08.11.2017, the petitioner, without getting proper permission from his Superior Officer, had gone to Andrapradesh and during an ordinary vehicle check up, seized Honda City Car bearing Registration No.TS 10 AU 8576, which belonged to Sirajudeen and Bablu of Mumbai and brought the same to his quarters. Without informing his Superior Officers, he also handed over the same to the representatives of the vehicle owner on his own. These allegations have been split and made into five articles of charge.

4.The petitioner's counsel would contend that a mere reading of evidence adduced during enquiry would show that the petitioner did not leave Trichy City Limits on 08.11.2017 and that he never stepped into Andrapradesh territory during the relevant time. He pointed out that the



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distance between Trichy and the place, where the vehicle was supposed to have been seized, is about 1027 kms and that it is physically not possible and that the allegation made by the disciplinary authority has been termed to be physically impossible of occurring. Once the petitioner had demonstrated that he was very much in Trichy and he had not gone to Andrapradesh, the entire allegation goes. The learned counsel for the petitioner took me through the evidence of P.W.1 and other witnesses. He also referred to the telephonic conversation and called upon this Court to set aside the orders impugned in this writ petition.

5.Per contra, the learned Special Government Pleader contended that the impugned order does not call for any interference.

6.I carefully considered the rival contentions and went through the materials on records. As already pointed out, five articles of charge were framed against the writ petitioner and charge Nos.2 and 5 were found to be not proved.

7.I consciously refrain from focussing on charge Nos.1 and 3. I



would instead take up charge No.4 for discussion. Charge No.4 reads that the petitioner had handed over the vehicle in question to one Sathishkumar and Jayapal on 17.11.2017. Both these witnesses were examined as P.W.5 and P.W.6. They stated that the Car in question belongs to a Car Rentable Company, namely, AVIS Mercury Rental Private Ltd., and that GPRS had also been installed on the vehicle. Only through the same, they came to know the exact location of the Car. When they came down to Trichy and made an enquiry. They were informed that the Car was parked in the campus of Police quarters by the writ petitioner herein. Thereupon, they approached the writ petitioner and he handed over the vehicle to them after ascertaining their credentials. They however made it clear that the writ petitioner did not make any demand of payment of any illegal gratification. They also reiterated that they did not pay any bribe amount to the writ petitioner.

8.I went through the cross-examination of the said witnesses. The writ petitioner had not challenged the testimony of the said witnesses, which was to the effect that it was the writ petitioner, who handed over the vehicle in question to them. Instead he posed some other question, which was quite not *germane*. If the writ petitioner had nothing to do



with the Car in question, the question of writ petitioner handing over the same does not arise at all. The writ petitioner did not even put a suggestion to the said witnesses that he had nothing to do with the Car in question. Since the testimony of the said witnesses made during chief examination that the writ petitioner handed over the Car in question to them remained unchallenged, the enquiry officer rightly came to the conclusion that charge No.4 was proved.

9.From proof of charge No.4, one can inferentially come to the conclusion that there is merit in the charge Nos.1 and 3 also. The enquiry officer after considering the materials on record, came to the conclusion that the charges against the writ petitioner were partly proved. This was accepted by the disciplinary authority as well as the appellate authority. In exercising the jurisdiction under Article 226 of the Constitution of India, it is not necessary for this Court to re-appreciate the entire evidence. In any event, I took up charge No.4 for re-appreciation and the discussion made above clearly indicates that Charge No.4 was proved beyond reasonable doubt. The punishment imposed on the petitioner cannot be said to be disproportionate. The appellate authority had taken a lenient view and



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reduced the period of punishment from three years to two years. No case for interference has been made out. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Internet : Yes/No

Rmk

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