



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.268 of 2019  
and  
W.M.P.No.285 of 2019

D. Rajinikumar

.. Petitioner

Vs.

1.The District Collector,  
Tiruvellore District.

2.The Revenue Divisional Officer,  
Tiruttani.

3.The Tahsildar,  
Tiruttani.

.. Respondents

**Prayer:** This Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent vide R.C.No.2031/2018/A3 dated 14.08.2018 and to quash the same and consequently direct the respondents to revoke the order of suspension dated 14.08.2018 and reinstate the petitioner in service with all attendant benefits.



For Petitioner .. Mr. S. Vijayakumar, Senior Counsel

For Respondents .. Mr. T. K. Saravanan, Govt. Advocate.

### ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus seeking records of the 3<sup>rd</sup> respondent, the Tahsildar, Tiruttani and to quash the same and direct the respondents to revoke the order of suspension dated 14.08.2018 and reinstate the petitioner in his service.

2.The petitioner joined the post of Village Assistant in Revenue Department in the year 2009. He was working as Village Assistant in Mamandur Village, Tiruthani Taluk, Tiruvellore District. He was then transferred to Ponpadi Villate, Tiruthani Taluk, Tiruvellore District. At that particular point of time, one U. Mohan, father of Sakthivel, had lodged a complaint with Tiruthani Town Police Station that his son Sakthivel, who apparently had a love affair with one Sandhya had committed suicide.

3.It must be mentioned that, from a fact evident from the order of anticipatory bail granted to the petitioner in CrI.O.P.No.20291 of 2018 that



the said Sandhya is the sister of the petitioner herein. Consequent to the death of suicide of Sakthivel, the FIR which was originally registered on 05.08.2018 under Section 174 Cr.P.C., on his death by suicide, was altered to Section 306 IPC. The petitioner is the 1<sup>st</sup> accused in the said FIR. As seen from the facts, as stated by the learned Single Judge in the order dated 27.08.2018 in CrI.O.P.No.20291 of 2018 while granting anticipatory bail to the petitioner herein, the allegation against the petitioner was that the petitioner and the other accused had kidnapped the deceased and had attacked him and had taken away his mobile and laptop and threatened that, if he continued to torture his sister, they will do away with him. Subsequently, he died by committing suicide.

4. Thereafter, since a FIR had been registered against the petitioner for a cognizable offence, the order of suspension came to be passed by the 3<sup>rd</sup> respondent on 14.08.2018. The present writ petition had been filed even without giving any breathing time to the respondents to proceed further on the suspension order or for the Investigation Agency to proceed further on the basis of the information received, on which basis the FIR was lodged to conduct investigation. The writ petition had been filed, as seen from the records on 02.01.2019.



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5.The learned Senior Counsel asserts that the suspension should not be kept in animated suspension for ever and that the maximum period for which a Government servant could be placed under suspension is only for three months.

6.In this connection, reliance is placed on the judgment of the Hon'ble Supreme in *Civil Appeal No.8427-8428 of 2018 arising out of S.L.P. (Civil) No.12112-12113 of 2017, State of Tamil Nadu Rep. by Secretary to Government (Home) Vs. Promod Kumar IPC & Anr.* The facts in that particular case are certainly distinguishable. It emanated in Coimbatore from what could be called the M/s. Paazee Forex Trading India Private Limited case. The Central Crime Branch at Tirupur had originally registered a case against the Directors of the M/s.Paazee Forex under various provisions of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 and also under Section 420 IPC. While that investigation was pending, one of the directors Kamalavalli Arumugam had submitted a complaint to the Deputy Superintendent of Police, Tirupur, that she had been kidnapped by three police officials and a sum of Rs.3 Crores had been extorted from



her. The investigation was then transferred to CBCID Vellore on 23.03.2010. With respect to the kidnapping of the said director, the case which had been registered was also transferred to CBCID at Vellore.

7. The respondent in that particular case, had questioned the order of suspension before the Central Administrative Tribunal by filing O.A.No.165 of 2016. Even while the matter was pending before the Central Administrative Tribunal, a charge memo had also been issued on 29.10.2013. The Tribunal had revoked the order of suspension, but had not interfered with the charge memo. The observation of the Hon'ble Supreme Court that there was no therefore possibility of the petitioner interfering with the investigation or tampering with evidence, was placed reliance by the learned Senior Counsel, who stated that the suspension should not exceed three months.

8. But in the present case, immediately on conclusion of the period of three months, the petitioner had rushed to the Court. The facts in the case stated are totally distinguishable. The petitioner is an accused and there is a direct possibility of him interfering with investigation, since he was Village



Assistant and his own sister was, according to him, a victim of the nefarious acts of the deceased Sakthivel. Therefore, it was only appropriate that the petitioner was placed under suspension.

9.It is stated that till this date no charge memo had been issued and no final report had been filed. It is understandable that no charge memo had been issued, particularly because this writ petition is pending. The petitioner has been misdirected in filing the writ petition. Merely because, he is a Village Assistant, he cannot take the law in his hands. He should give some time to the respondents to file their charge memo. Necessary report will have to be obtained by the Investigation Agency in that particular FIR. The said Investigation Agency has also not made as party and therefore, this Court is not aware, why there is a delay in filing the final report before the concerned jurisdictional Magistrate Court.

10.But, at any rate, I would hold it justifiable that the respondents had not issued any charge memo owing to the pendency of the writ petition. The entire writ petition is misconceived. The writ petitioner is seeking a right when he has a duty to discharge to uphold the dignity of the public position



held by him. He ought to have awaited filing of the charge memo by the respondents. He cannot rush the Court and claim that he should be protected. He is the first accused and he has to face the charges and has to face disciplinary proceedings. The suspension order had been issued and the correct procedure to have been adopted.

11.The respondents are directed to issue the charge memo within a period of four months from the date of receipt of a copy of this order and proceed further with the disciplinary proceedings. If it is not so issued then the suspension order would stand automatically revoked.

12.With the above observations, this Writ Petition stand dismissed.  
No costs. Consequently, connected Writ Miscellaneous Petition is closed.

30.08.2023

Index:Yes/No  
Internet:Yes/No  
Neutral Citation:Yes/No  
Speaking order: Yes/No  
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**C.V.KARTHIKEYAN,J.**

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To

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Tiruvellore District.
- 2.The Revenue Divisional Officer,  
Tiruttani.
- 3.The Tahsildar,  
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