



W.P(MD)No.11654 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11654 of 2023

and

W.M.P.(MD)No.10116 of 2023

S.Elankumaran

... Petitioner

Vs.

1.The Superintendent of Police,
Virudhunagar District.

2.The Deputy Superintendent of Police,
Law and Order, Office at Sivakasi,
Sivakasi Town, Sivakasi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in impugned proceedings in C.No.F1/PR.No.24/2022 dated 02.06.2022 passed by the 1st respondent and quash the same and the entire evidence recorded in the departmental proceedings and consequently directing the 2nd respondent to conduct enquiry in accordance with law.



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For Petitioner : Mr.S.Srikanth
For M/s.APN Law Associates.

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.T.Villavan Kotahi,
Addl. Government Pleader.

ORDER

Heard the learned counsel for the petitioner and the learned Additional Advocate General assisted by the learned Government Advocate for the respondents.

2.The petitioner is a suspended Head Constable. He has been implicated as an accused in Crime No.105 of 2021 registered on the file Taluk Police Station, Arupukkottai, for the offences under Sections 451 and 397 of IPC. The petitioner has also been parallelly proceeded against departmentally. Charge memo was issued on 02.06.2022. The Enquiry Officer was appointed 30.01.2023. The enquiry was commenced and so far eight witnesses have been examined. The petitioner instead of participating in the enquiry filed the present writ petition.



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3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to allow the writ petition as prayed for.

4.The respondents have filed counter affidavit and the learned Additional Advocate General took me through its contents and pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The case of the petitioner is that he had cross-examined only one witness and the authorities have made it appear as if he had cross-examined the other witnesses also. The learned Additional Advocate General produced the relevant records. The petitioner's signature is not found in the enquiry proceedings in respect of other witnesses.

6.Instead of going into the question as to whether the petitioner had cross-examined the remaining witnesses or not, the issue can be



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resolved by recalling all the witnesses and permitting the petitioner to cross-examine them. It is agreed by the respondents that the enquiry can be held on 11.07.2023 and 12.07.2023. The petitioner will appear in the Camp Office of Deputy Superintendent of Police, Sivakasi at 10.00 am on the said dates. The witnesses shall be produced and the petitioner will be given full opportunity to cross-examine them. The entire proceedings will be duly videographed and audiographed. Since a new enquiry officer has assumed charge and since the petitioner has been given the opportunity to cross-examine all the witnesses, no further order is required in this writ petition.

7.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-
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- 1.The Superintendent of Police,
Virudhunagar District.
- 2.The Deputy Superintendent of Police,
Law and Order, Office at Sivakasi,
Sivakasi Town, Sivakasi.



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G.R.SWAMINATHAN, J.

ias

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