



W.P(MD)No.14911 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14911 of 2023

and

W.M.P.(MD)No.12582 of 2023

I.Devadoss

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Tirunelveli Region, Tirunelveli.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned charge memo issued by the 1st respondent in Tha.Pa.No.24/2023 signed on 24.04.2023 under Section 3(b) of the Tamil Nadu Police Sub Ordinate Service (Discipline and Appeal) Rules 1955 and quash the same.

For Petitioner : Mr.R.Anand

For Respondents : Mr.G.Suriyananth,

Addl. Government Pleader.



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ORDER

Heard the learned counsel on either side.

2.The petitioner is holding the rank of Inspector of Police. He was implicated in a vigilance case. Crime No.1 of 2015 was registered on the file of Vigilance and Anti-Corruption, Kanyakumari Detachment under the provisions of Prevention of Corruption Act, 1988. Investigation was conducted and final report was filed. Cognizance was taken in Special Case No.4 of 2015 on the file of Chief Judicial Magistrate cum Special Judge, Kanyakumari District at Nagercoil. The criminal case is pending and ten witnesses have been examined so far. At this stage, the disciplinary authority had issued the impugned charge memo. Challenging the same, the present writ petition has been filed.

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 set aside the charge memo and grant relief as



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prayed for. In the alternative, he pleaded that the departmental proceedings can be kept in abeyance till the conclusion of the criminal case. His prime contention is that there has been a paradigm shift in the matter of proving the charge of acceptance of illegal gratification. Earlier mere recovery of the tainted money would not be sufficient. The prosecution should independently establish demand also. The Hon'ble Apex Court had recently held that demand can be presumed. Admittedly, the case registered against the petitioner is grave in nature. It also involves complicated questions of law. If the petitioner is compelled to get along with the departmental enquiry, his defence will be thoroughly exposed and that will cause prejudice to his defence in the criminal case. He called upon this Court to consider deferring the impugned proceedings. He also relied on quite a few earlier orders of this Court wherein similar relief had been given to the delinquent officials.

4.I am not persuaded by the submission of the learned counsel for the petitioner. The charge memo obviously cannot be quashed. At best, this Court could consider the request for keeping the proceedings in abeyance. But in this case, I am not inclined to grant such relief also.



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The criminal case was registered way back in the year 2015. The case was taken cognizance and taken on file in the year 2015. We are now in 2023. The petitioner is under suspension. The petitioner had crossed the age of superannuation. He was getting 75% of salary as subsistence allowance till he reached the age of superannuation. Now he must be getting provisional pension. As far as vigilance cases are concerned, there is absolutely no bar for the department to parallelly conduct proceedings. The Madras High Court has recently directed the Government to take a policy decision not to wait till the criminal proceedings are concluded to initiate departmental action. Pursuant to the said direction, the Government had also issued government order. The impugned charge memo is consistent with the recent policy of the Government. The said policy is absolutely reasonable.

5. That apart, it has been fairly submitted before me that as many as ten witnesses have already been examined. The question of exposing the petitioner's defence does not arise at. If the charge memo has been issued in the wake of registration of criminal case, then this Court would have



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considered the request for keeping the proceedings on hold for a period of one year. But charge memo has been issued after a gap of eight years.

I do not find any ground to interfere. The writ petition is dismissed. I make it clear that dismissal of this writ petition will not in any way cast any cloud or aspersion on the defence of the petitioner. In fact, the learned counsel for the petitioner drew my attention to the fact that the defacto complainant is a shady character and that he has been convicted vide judgment dated 22.05.2018 in C.C.No.206 of 2011 on the file of Judicial Magistrate, Valliyoor. The petitioner may probably have quite a few defences. All his defences are left open. When the petitioner has to face the departmental proceedings, he is entitled to call upon the disciplinary authority to furnish documents that are required for his defence. If any such request is made, it shall be complied with by the department. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To:-

- 1.The Deputy Inspector General of Police,
Tirunelveli Region, Tirunelveli.
- 2.The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil, Kanyakumari District.

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