



W.A.(MD) No.964 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.964 of 2023
and
C.M.P.(MD) No.7604 of 2023**

The Commissioner
Madurai Municipal Corporation
Madurai-625 002

... Appellant

-vs-

A.Mathuram

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 01.03.2021, passed in W.P.(MD) No.4277 of 2016, on the file of this Court.

For Appellant : Mr.T.S.Mohamed Mohideen

For Respondent : Mr.B.Saravanan, Senior Counsel
assisted by Mr.D.Kirubakaran



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J U D G M E N T

[Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 01.03.2021, passed in W.P.(MD) No.4277 of 2016, in and by which, the writ petition filed by the respondent / writ petitioner to quash the charge memorandum dated 02.07.2015 was allowed, after considering the case of the parties *inter alia*, on the ground that there is an unexplained delay of eleven years in issuing the charge memorandum.

2. It is not in dispute that the allegations relate to the year 2003 – 2004 and that the charge memorandum was issued only on 02.07.2015.

3. Learned counsel for the appellant would submit that in this case, it cannot be said that the entire period of eleven years is unexplained as the matter was unearthed by the vigilance enquiry and the same came into light only in the year 2009. Further, the learned Single Judge has also gone into the merits of the case and has given a clean chit to the respondent, who is facing other proceedings also.



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4. We have heard the learned counsel on either side and perused the materials available on record.

5. It cannot be said that the learned Single Judge has given findings on merits. For the purpose of holding whether the Court can quash the charge memorandum on the ground of delay or not, the learned Single Judge adverted to the charges to hold that that the charges framed against the respondent do not relate to misappropriation and relate to negligence. Only to that effect, the learned Single Judge has gone into the merits of the case. There is a delay of eleven years in issuing the charge memorandum. Even according to the learned counsel for the appellant, the delinquency came into light after the vigilance enquiry in the year 2009 and even then there is a delay of five years. Interestingly, when the learned Single Judge allowed the writ petition on 01.03.2021, the writ appeal was filed only on 05.08.2022. Hence, considering all the facts and circumstances, especially when the respondent is said to have attained the age of superannuation, we do not find any ground to interfere with the orders passed by the learned Single Judge. Suffice to say, if there are other proceedings against the respondent, the same may continue in accordance with law.



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6. Accordingly, this writ appeal fails and it is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[S.V.N., J.]

[D.B.C., J.]

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NCC : Yes / No

Index : Yes / No

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