



W.A.(MD) No.1510 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

CORAM:

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

**W.A.(MD) No.1510 of 2023
and
C.M.P.(MD)No.11620 of 2023**

V.Kanaga Prasad

... Appellant/Writ Petitioner

-VS-

- 1.The Accountant General (A&E),
Office of the Accountant General,
361, Anna Salai,
Chennai-18.
- 2.The Director of Collegiate Education,
Office of the Director of Collegiate Education,
College Road, Chennai.
- 3.The Joint Director of Collegiate Education,
Office of the Regional Collegiate Education,
Gandhi Nagar, Tenkasi Road,
Tirunelveli-8.
- 4.The Secretary,
Kamaraj College,
Tiruchendur Road,
Thoothukudi.
- 5.The District Treasury Officer,



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Collectors Campus,
Corampallam, Thoothukudi.

6.The Registrar,
Manonmaniam Sundaranar University,
Abishegapatty, Tirunelveli.

7.Kandasamy ... Respondents/Respondents

PRAYER: Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 21.04.2023 made in W.P.(MD)No.1370 of 2019 on the file of this Court.

For Appellant	: Mr.G.Prabhu Rajadurai for Mr.S.Loganathan
For R1 to R3 & R5	: Mr.D.Sadiq Raja Additional Government Pleader
For R4	: No Appearance
For R6	: Mr.M.Mohaboob Athiff
For R7	: Mr.R.Mathavaselvam

JUDGMENT

[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 21.04.2023 made in W.P.(MD)No.1370 of 2019. In the said writ petition,



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the appellant herein had prayed for issuance of a Writ of Mandamus directing the respondents 1 to 6 to initiate disciplinary action against the seventh respondent and not to allow him to retire and to secure the cheated amount of the petitioner to the tune of Rs.15,00,000/- out of his retiral benefits.

2. The case of the appellant is that the seventh respondent who was working as Associate Professor and Head of Department of Tamil at Kamaraj College, had illegally and falsely promised to secure job to the appellant in any Aided College or University, by misusing his position as a Professor, and had demanded and accepted a sum of Rs.15,00,000/-. The said amount was transferred to the seventh respondent through bank transactions. Even though the appellant paid the said bribe amount, the seventh respondent thereafter cheated the appellant and hence, the writ petition.

3. The learned Single Judge found that as on date when the writ petition came up for hearing, the seventh respondent was already permitted to retire and therefore, leaving it open for the appellant to recover his amount in the manner known to law, the writ petition was dismissed. Aggrieved by the same, the appellant has filed the present appeal.



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4. It is the contention of the learned counsel for the appellant that even though the seventh respondent has retired, his retiral benefits are yet to be paid to him and therefore, the same may be ordered to be withheld and paid to the appellant.

5. *Per contra*, the learned counsel appearing for the seventh respondent would submit that the money was not at all paid to him and that the amount was transferred to the bank account belonging to a third party and the entire allegations were false.

6. In the present proceedings, we cannot decide as to the guilt or otherwise of the seventh respondent. When the appellant pleads that he is a victim of a crime, if only the seventh respondent is found guilty the criminal court can order compensation under Section 357 of Cr.P.C. Similarly if the proceeds of crime has been parked or invested in any bank account or property, the same can be recovered by the investigating officer during the course of investigation. There is no other legal provision for this Court to pass an order attaching the retiral benefits even before the finding of guilt and determination of the liability. If at all the appellant is aggrieved he can only approach the appropriate civil Court for recovery of the money due to the



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appellant and has to take steps to attach the dues that may be payable before the judgment in the manner known to law.

7. In that view of the the matter, in the absence of any rule or enabling provision, we are unable to accede to the claim of the appellant. The prayer of the learned counsel for the appellant is to exercise the extra-ordinary power under Article 226 of the Constitution of India on equitable considerations. But he who seeks equity should have done equity. The Appellant attempted to dishonestly secure a job by paying Rs.15,00,000/-. Therefore, except to treat him as a victim of crime, no other equitable consideration can be shown on the appellant.

8. In that view of the matter, the writ appeal is without any merits and is accordingly dismissed, however, with liberty to take such steps in accordance with law for recovering the amount if any due to the appellant. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
12.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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