



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.06.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.26904 of 2022
and
WMP(MD)No.21072 of 2022**

B.Suresh

... Petitioner

Vs.

1.The Director General of Police (Tamil Nadu),
(Law and Order),
Mylapore, Chennai – 600004.

2....

(The second respondent is deleted
vide order dated 12.06.2023 in WMP(MD)No.
9771 of 2023 in WP(MD)No.26904/2022))

3.The Inspector General of Police,
South Zone, Madurai.

4.The Deputy Inspector General of Police,
Ramanathapuram Range, Ramanathapuram.

5.The Superintendent of Police,
Ramanathapuram District, Ramanathapuram.

6.The Deputy Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.



7.The Inspector of Police, Special Branch,
Office of Superintendent of Police, Ramanathapuram District,
Ramanathapuram.

8.The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District,
Ramanathapuram.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the charge memo in proceeding in F1/Tha.Pa.No.137/2022 dated 02.11.2022 issued by the fifth respondent and quash the same based on the report submitted by the 8th respondent before this Court in Crl OP(MD)No. 16301 of 2022 and the order passed by this Court in Crl OP(MD)No.16301 of 2022 dated 14.10.2022 and to provide the petitioner with all monetary and other service benefits.

For Petitioner : Mr.A.Thirumurthy

For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner challenges the impugned charge memo dated 02.11.2022. The substance of the charge memo is that the petitioner had committed theft of two mobile phones leading to his implication in Crime No. 528 of 2022 on the file of the Kenikkarai Police Station, Ramanathapuram



District. When the petitioner was suspended from service following his implication in the criminal case, he filed WP(MD)No.26750 of 2022. The said writ petition was allowed by me in the following terms :

“2.The writ petitioner is employed as Head Constable in Kenikarai police station, Kanyakumari District. By the impugned order dated 27.07.2022, he was suspended from service. The impugned order reads that the petitioner had committed misconduct which led to implication in Crime No.528 of 2022 registered on the file of Kenikkarai police station for the offence under Section 406 IPC.

3.The learned counsel appearing for the writ petitioner pointed out that the petitioner filed CrI.O.P.(MD) No.16301 of 2022 for quashing the said First Information Report. When the matter was taken up for hearing, the learned Additional Public Prosecutor submitted that after the investigation, the petitioner's name has been removed from the final report. Recording the said submission, the criminal original petition filed by the petitioner was closed. The learned counsel appearing for the petitioner would point out that when such a stand has been taken in the quash petition filed by the petitioner, the impugned suspension ought not to be allowed to continue.

4.I find considerable force in the contention of the learned counsel appearing for the petitioner. The petitioner was suspended as early as on 27.07.2022. More than four months have elapsed. The



stand taken before the Court in quash petition was that the petitioner had not committed the alleged theft.

5.The learned Special Government Pleader would contend that the petitioner was in-charge of the station by the relevant time and that he was guilty of dereliction of duty.

6.I do not want to go into the said contention. Suffice it to say that that was not the basis on which the impugned order of suspension is anchored. The allegation was that the petitioner had committed theft. Since the basis of the impugned suspension has been undermined in view of the stand taken in the criminal original petition, the impugned order is set aside. This writ petition stands allowed. This order will not tie the hands of the concerned authority from taking action in the manner known to law.”

3.It is admitted before me by the respondents that in the final report filed, the name of the petitioner has been deleted. The petitioner is a police Head Constable. The police department after proper investigation has found that the petitioner is not guilty and that is why, his name does not find place in the list of accused in the final report. Therefore, the reasons which led me to quash the suspension order would equally apply to quash the charge memo also. The impugned charge memo is quashed.



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4. This writ petition is allowed. No costs. Connected miscellaneous petition is closed.

12.06.2023

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

SKM

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