



WA(MD).No.608 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A.(MD)No.608 of 2021

G.Anand

.... Appellant/ Petitioner

vs.

1.The Deputy Inspector General
of Police,
Armed Police, Kilpauk,
Chennai – 600 010.

2.The Commandant,
TSP-II Battalion,
Avadi, Chennai – 600 054.

....Respondents/Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order passed by this Court in WP(MD)No.5332 of 2015 dated 01.12.2020 and thus render justice.

For Appellant : Mr.G.Thalaimutharasu

For Respondents : Mr.M.Sidharthan,

Additional Government Pleader



WA(MD).No.608 of 2021

JUDGMENT

(Judgment of this Court was delivered by G.R.Swaminathan, J.)

The appellant herein joined the police department as Grade-II Police Constable on 15.12.2009. He came to be arrested in connection with registration of Crime No.23 of 2012 on the file of the All Women Police Station, Aruppukottai. Following his implication in the criminal case, charge memo under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Disciplinary and Appeal) Rules in PR No.35 of 2012 was issued by the disciplinary authority on 24.12.2012. Enquiry was conducted. The enquiry officer held that the charges framed against the appellant stood proved. Show cause notice was issued on 20.01.2013. Finally, vide order dated 04.04.2013, punishment of removal from service came to be passed. Aggrieved by the same, the petitioner filed appeal before the first respondent. The first respondent vide order dated 24.06.2013, dismissed the appeal. Challenging the same, the appellant filed WP(MD)No.5332 of 2015. The learned Single Judge vide order dated 01.12.2020 dismissed the writ petition. Challenging the dismissal of the writ petition, this writ appeal came to be filed.



WA(MD).No.608 of 2021

2.The learned counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds of appeal. He pointed out that the order of the appellate authority is non-speaking. He further submitted that the implication of an employee in a criminal case cannot be the basis for framing a charge in a disciplinary proceeding. This is all the more so because the appellant's misconduct has nothing to do with the discharge of his official duties. He submitted that the criminal case was eventually compounded. He added that the appellant comes from a very economically and socially weaker section and that his entire future will be ruined if an indulgent view is not taken. The writ appellant through his counsel submitted that he would not make any claim for backwages. He called upon this Court to set aside the impugned orders and allow this writ appeal.

3.Per contra, the learned Additional Government Pleader submitted that the impugned order is well reasoned and that they do not warrant any interference.

4.We carefully considered the rival contentions and went through the materials on record.



WA(MD).No.608 of 2021

5.The charge against the appellant was that he got involved in Crime No.23 of 2012 on the file of the AWPS, Aruppukottai registered for the offences under Sections 496, 406, 418 of IPC and Section 4 of Tamil Nadu Women Harassment Act and thus he had committed an act involving moral turpitude. Charge memo bearing P.R No.35/2012 dated 24.12.2012 was issued by the second respondent. During enquiry, the S.I of Police, AWPS, Aruppukottai was examined. She testified that on 26.10.2012, one Mariappan S/o.Karuppasamy lodged a written complaint. According to the complaint, Mariappan had registered his daughter's name, Shobana in a matrimonial centre. The parents of the appellant after getting to know of the same, contacted Mariappan during August 2012 stating that they are also looking for an alliance for their son. On 28.06.2012, the appellant and his family members visited the house of the said Mariappan to see the prospective bride (Shobana). The talks were fruitful and Mariappan decided to give his daughter in marriage to the appellant. Confirmative function (poochoodal) was also held on 02.08.2012. Mariappan had spent close to Rs.1.00 lakh for the said function. The appellant's parents sought dowry to the tune of 35 sovereigns of gold and Rs.2.00 lakhs. Mariappan claimed to have paid the dowry amount to the appellant's family. On the request of the appellant's family, Shobana resigned her job. On 27.10.2012, betrothal



WA(MD).No.608 of 2021

was to be held and the marriage was to be solemnised on the next day.

At that stage, Mariappan received a call from one Divya on 24.10.2012.

She told Mariappan that the appellant had married her on 02.01.2012 and that it was registered on the file of the SRO, Rayapuram on 21.09.2012. She further informed Mariappan that she was living with the appellant in the police quarters at Avadi as husband and wife. Divya probed the reason and came to know that the appellant herein intended to marry Shobana D/o. Mariappan. After Mariappan got confirmation that what he heard from Divya was true, he cancelled the proposed marriage between his daughter and the appellant. He then lodged the complaint which was registered as Crime No.23 of 2012 on 26.10.2012. Based on the said criminal case, the appellant was arrested on the same day. Investigation was conducted and final report was filed. It was taken on file in C.C No.91 of 2013 on the file of the Judicial Magistrate, Aruppukottai.

6.The defence of the appellant was that he had nothing to do with Divya and that he was a victim of circumstances. He sought to put the blame on his room mates. He also added that he had filed O.S No.29 of 2013 on the file of the Principal District Munsif Court, Madurai for obtaining declaration that the marriage said to have been solemnised



WA(MD).No.608 of 2021

with Divya was null and void. The enquiry officer had however returned a finding of guilt and held that the charges framed against the appellant stood proved.

7.In the affidavit filed in support of the writ petition, the appellant had admitted that he was earlier served with a charge memo dated 01.10.2012 and that he was inflicted with a punishment of censure. Copy of the charge memo has been enclosed in the typed set of papers. The charges levelled against the appellant were a) he failed to intimate his battalion office about his marriage b) the marriage itself was performed in an irregular manner and c) he failed to register the marriage. The appellant has claimed before the writ court that one Havildar Thirumurugan and Chinnadurai were sharing his quarters and that in his absence, one of his room mates had brought his girl friend to his room and that when this became known, he projected as if that person was the appellant's wife. The appellant maintains that he never married the said Divya.

8.The appellant's defence is on a shaky ground. In the counter affidavit, it had been clearly asserted that the appellant in his written statement dated 22.08.2012 admitted having married Divya on



WA(MD).No.608 of 2021

12.02.2012. It is beyond dispute that there has been a registration of the marriage between one Anand and one Divya on the file of SRO, Rayapuram. One can take judicial notice of the fact that marriage registration is a formal affair and that proof of identity is must. If the appellant was not a party to the registration, there was no need for him to have instituted a civil suit for declaration that the marriage between him and Divya was null and void. The materials on record clearly point to a relationship between the appellant and the said Divya. Since the appellant owned up the said relationship, the disciplinary proceedings earlier initiated against the appellant ended with mere censure. It is improbable that the appellant admitted the girlfriend of his roommate as his wife. Without getting a declaration that Divya was not his wife, the appellant could not have contracted a second marriage. It is true that the appellant did not actually marry Shobana. He did not marry for the second time. But then he came very close to that. But for Divya's phone call to Mariappan, the appellant would have married Shobana. Thus, the acts of the appellant involve moral turpitude.

9.The acts of the appellant might not have anything to do with official duties but a member of an uniformed force has to conduct in a manner consistent with dignity of his post at all times. It is not mere



WA(MD).No.608 of 2021

implication in a criminal case that constitutes misconduct. The steps taken by the appellant to marry Shobana cannot be condoned. He had tried to cheat Shobana. The acts committed by the appellant cannot be lightly taken. The appellant who was a police constable was himself arrested. It is not as if he was honorably exonerated or acquitted in the criminal case. The offence was eventually compounded.

10.The finding of guilt rests on solid material. Only if the finding of the enquiry officer is based on no evidence or it is perverse, the court can intervene and not otherwise. It is true that the appellate authority has not passed a detailed order. But the appellant cannot take advantage of the same. The original authority has dealt with all the aspects and concurred with the findings of the enquiry officer. The learned Single Judge has declined to interfere with the punishment imposed on the appellant. There has been no violation of the principles of natural justice. The appellant was given adequate opportunity to put forth his defence in the enquiry. We are more than satisfied that the appellant was rightly found guilty. Interference with the impugned orders is not warranted.



WA(MD).No.608 of 2021

WEB COPY 11.The writ appeal is dismissed. No costs.

(G.R.S., J.) & (R.P., J.)
22.11.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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WA(MD).No.608 of 2021

To

WEB COPY

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WA(MD).No.608 of 2021

G.R.SWAMINATHAN, J.
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W.A.(MD)No.608 of 2021

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