



W.P.(MD).No.13744 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13744 of 2023

and

W.M.P(MD) Nos.11555, 11556, 22479 and 23239 of 2023

P.Marimuthu

... Petitioner

Vs.

1. The Commandant,
VI Battalion,
Tamil Nadu Special Police,
Madurai.

2. The Assistant Commandant – III/
Enquiry Officer,
VI Battalion,
Tamil Nadu Special Police,
Madurai.

... 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 entire records pertaining to the impugned charge memo issued by the respondent in த.பி.எண். 62/2022 dated 25.11.2022 as well as the consequential enquiry report prepared by the 2nd respondent vide his minutes in connection with the தண்டனைப்பட்டி எண். 62/2022 நாள்: 14.05.2023 and quash the same.



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For Petitioner : Mr.R.Anand
For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a Police Constable of the VI Battalion, Tamil Nadu Special Police, Madurai, challenging the charge Memo dated 25.11.2022 and the enquiry report dated 14.05.2023.

2. A perusal of the charge Memo reveals that the first count of charges relate to the allegation that the petitioner has accommodated a non-member of his family in the Police quarters and therefore, the same is in violation of the Tamil Nadu Police Manual. The second count of charge relates to the fact that due to the presence of such non-member in the quarters, the wife of the writ petitioner is said to have picked up quarrel with the writ petitioner and committed suicide on 26.08.2022. In view of the said fact, the petitioner was implicated in a criminal case in Crime No.599 of 2022 under Sections 174(3) of Cr.P.C r/w 498(A) and 304 (B) of IPC, on the file of Thallakulam Police Station, Madurai and he was remanded to judicial custody. Therefore, the petitioner has committed misconduct.



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3. According to the learned counsel appearing for the petitioner, the said non-member, namely, Lakshmi is a relative, who had arranged the marriage of the petitioner with deceased Diviya and she was not permanently residing with him in the official quarters. He further contended that the neighbours of the said official quarters have not been examined to establish the fact that the said Lakshmi was residing permanently with him in the quarters. He further contended that as far as the second count of charges are concerned, charge sheet has already been laid and therefore, the department has to await the outcome of the criminal proceedings.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that as per Annexure 4 of the charge memo, several witnesses have been cited and the witnesses, namely the witness Nos.1, 4, 5 and 6, who are having personal knowledge about the stay of a non-family member in the quarters have deposed as against the writ petitioner. He further contended that the charge memo was earlier challenged before this Court in W.P(MD) No.1049 of 2023, wherein this Court had refused to interfere in the charge memo but issued a direction to the



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respondent to furnish the documents annexed in the charge memo. In such circumstances, the petitioner cannot challenge the charge memo for the second time. He further contended that the petitioner was arrested and he was remanded to judicial custody and therefore, the authorities were right in proceeding with the departmental proceedings. He further pointed out that so far, final orders have not been passed in the departmental proceedings and therefore, the question of challenging the enquiry report does not arise.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. As far as the first count of charge is concerned, the mother-in-law of the petitioner and two neighbours in the official quarters have been cited as the witnesses Nos.4, 5 and 6 in Annexure 4 of the charge memo. All the three of them have given a statement during the departmental proceedings that they are not willing to say anything further. However, the Enquiry Officer has proceeded to rely upon the statements given by them during the RDO proceedings and the statements recorded under Section 161 of Cr.P.C and has proceeded to hold that such a charge has been proved. When none of the



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eyewitness have come forward to give any statement as against the writ petitioner, the Enquiry Officer was not right in relying upon the statement given by them before the RDO or Police Officials.

7. In such circumstances, this Court is of the considered opinion that the finding recorded by the Enquiry Officer to the effect that the charge No.1 stands proved is not legally sustainable, since it is based upon no evidence.

8. As far as the second count of charges in the charge memo are concerned, it is entirely based upon the criminal case in Crime No.599 of 2022. As on today, charge sheet has been laid and the prosecution is yet to commence the case. In such circumstances, the Enquiry Officer could not have arrived at a finding that the petitioner has committed an offence.

9. In view of the above said facts, the respondent authorities are restrained from further proceeding on the basis of the enquiry report, till the criminal case is disposed of. They are at liberty to proceed depending upon the outcome of the criminal proceedings, as far as the second count of charge is concerned.



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10. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

05.12.2024

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

1. The Commandant,
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Madurai.
2. The Assistant Commandant – III/Enquiry Officer,
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