



W.P(MD)No.25442 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.25442 of 2022

and

W.M.P(MD)No.23788 of 2023

V.Iyyappan

... Petitioner

Vs.

1.The Director General of Police,
Head of Police Force,
Chennai, Tamil Nadu.

2.The Deputy Inspector General of Police,
Office of the Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli District.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Tenkasi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the 1st respondent by his proceedings Rc.No. 2752075/APII (1)/2022, dated 06.08.2022 confirming the order of the 2nd respondent in his proceedings Na.Ka.No.C4/Mae.Mu.48/2021, dated 10.11.2021 confirming the order of the 3rd respondent in his proceedings old Tha.Pa.No.4/2019, new Tha.Pa.No.6/2021, dated 30.04.2021 and to quash the



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same and consequentially direct to the respondents to pay the increment due on 01.01.2022.

For Petitioner : M/s.Jessi Jeeva Priya

For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

The present writ petition has been filed to call for the impugned order passed by the 1st respondent by his proceedings Rc.No.2752075/APII (1)/2022, dated 06.08.2022 confirming the order of the 2nd respondent in his proceedings Na.Ka.No.C4/Mae.Mu.48/2021, dated 10.11.2021 confirming the order of the 3rd respondent in his proceedings old Tha.Pa.No.4/2019, new Tha.Pa.No. 6/2021, dated 30.04.2021 and to quash the same and consequentially direct to the respondents to pay the increment due on 01.01.2022.

2. The petitioner is presently working as Grade 1 Police Constable at Udumalai Police Station in Tenkasi District. When the petitioner was working in Prohibition Enforcement Wing, Alangulam in the integrated Tirunelveli and Tenkasi districts, a complaint was received from one S.Yesupatham, son of Sundaraj, Aaralvaimozhi, Kanyakumari District, at Kulachal, All Women



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Police Station, Kanyakumari District on 18-06-2018, complaining that the de-facto complainant's elder minor daughter one Y.Flower Bella was missing from 15-06-2018 from the de-facto complainant's mother in law's house where the minor girl was sent for vacation. Based on the complaint of S. Yesupatham, an FIR was registered in Colachel All Women Police Station in Crime No.4 of 2018 under Section 366 (A) IPC on 18-06-2018. After investigation, it was revealed with evidence such as phone calls and statement of the minor girl that the minor girl, Y.Flower Bella had eloped to Alangulam to meet the petitioner, since the minor girl had been in love with the petitioner. Hence, the crime in FIR No.4/2017 was altered from Section 366 (A) to 5 (a) (4), 5(1), 6 of the POCSO Act 2012. In consequence to the same, the petitioner was suspended on 09.07.2018 by the Superintendent of Police, Tirunelveli. Simultaneous departmental action was also initiated by the Superintendent of Police, Tirunelveli District and the petitioner was visited with a charge memo on 11.02.2019. The petitioner moved an anticipatory bail application in CrI.O.PMDNo.13006 of 2018, wherein, on the basis of an undertaking given by him that he would marry the victim girl on her attaining the age of majority if she is willing, Anticipatory Bail was granted to the petitioner by this court on 03.08.2018.



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3. Thereafter, the petitioner married the victim girl on her attaining majority and registered the same on 23.04.2019 before the Registrar, Venkateshwarapuram, Tirunelveli. Meanwhile, final report dated 24.11.2018 was filed before the Mahila Court, Nagercoil, following which the petitioner's suspension order was revoked by the third respondent vide order, dated 13.02.2019. As far as the charge memo issued on him, he submitted a detailed reply with all the subsequent events pursuant to the registration of FIR as against him. The Superintendent of Police Tirunelveli, Rural Sub-Division was appointed as Enquiry Officer and after detailed inquiry, the Enquiry Officer submitted his minutes dated 07.11.2020 as charges proved calling for the petitioner's further representation. He submitted his detailed representation on 08.12.2020. Thereafter, the third respondent issued the punishment order, dated 30-04-2021 granting punishment of postponement of increment for one year without cumulative effect.

4. As against the same, the petitioner preferred an appeal before the second respondent and the same was rejected vide proceedings, dated 10.11.2021. The petitioner further preferred review petition dated 16.12.2021 before the first respondent and the same was also rejected by the first



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respondent vide proceedings dated 06.08.2022. Challenging the order of punishment and the impugned orders, dated 06.08.2022, 10.11.2021 and 30.04.2021, this petition came to be filed.

5. The learned counsel for the petitioner submitted that the respondents ought to have seen that the petitioner fell in love with one Y. Flower Bella and presently she is his wife and he duly married her on her attaining the age of majority. The criminal case registered against the petitioner in Crime No.4 of 2018 has been quashed as settled out of Court based on the compromise memo filed by the petitioner and his wife. She insisted upon that the respondents ought to have seen that the petitioner had filed an undertaking in the anticipatory bail application in CrI.O.P No.13006 of 2018 on the file of this Court, on the basis of which, he had duly complied his undertaking given to this court by marrying the victim girl on her attaining the age of majority and on that basis pressed for interfering with the impugned orders of punishment and allowing the writ petition.



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6. Per contra, the third respondent has filed a counter and the learned Special Government Pleader submitted that a charge memo was served on the petitioner on 11.02.2019 for the following counts.

(i) The petitioner spoke with a bad intention to one minor girl Y. Flower Bella, Aralvaimozhi of kanyakumari District through cell phone in the name of love by the conduct he got, when he went for bando bust duty to Kanniyakumari District thus the petitioner tarnish the image of the Police Department among the Public.

ii) On 15.08.2018 he influenced the minor girl Y. Flower Bella to come over to his house at Alangulam in Tirunelveli District and had sexual intercourse with the minor girl in the name of love and with the words that he would marry her thus the petitioner tarnish the image of the Police Department among the Public.

iii) At the outcome of the above acts, the petitioner was charged as an accused in Colachel AWPS, Cr.No.04/2018 u/s 366 (A) IPC @ 5(a) (4) 5(1), 6 of POCSO Act, 2012 and a charge sheet was filed in Court.

iv) Availed 25 days unauthorized medical leave from 21.06.2018 to 08.07.20 18.



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v) *With an intention not to marry the minor girl Y. Flower Bella the petitioner registered a complaint in AWPS, Alangulam, Tirunelveli by assassinating the character of the minor girl and her father.*

vi) *Violated the rule 24 (1) of the Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964."*

7. He further submitted that though the petitioner married Y.Flower Bella on 23.04.2019, after she attained her majority on 30.03.2019 and thereafter filed CrI.O.P MDNo.11626 of 2019 and CrI.M.P(MD)No.2311 of 2010 to quash the proceedings in Special S.C.No.31 of 2019 on the file of the Mahila Court, Nagercoil, Kanyakumari District, this Court on the basis of a compromise affidavit together filed by the petitioner along with his victim/wife, quashed the criminal case along with the order directing the petitioner to pay an amount of Rs.5000 as cost to the credit of the Chief Justice Relief Fund within a period of one week from the date of receipt of the order. He contended that as per G.O(Ms)No.66, Human Resources Management (N) Department, dated 06.07.2022, a simultaneous departmental disciplinary proceeding can always be taken against Government servants who are involved in criminal cases and disciplinary proceedings may be initiated on probability even though



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the criminal case ended in acquittal. On that basis, he pressed for dismissal of the writ petition.

8. Heard the learned counsel on either side and carefully perused the materials available on record.

9. It is needless to state that the victim in POCSO Special S.C.No.31 of 2019 on the file of Mahila Court, Nagercoil, Kanyakumari District is the wife of the petitioner as on date. It is also a matter on record that the Special S.C.No. 31 of 2019 on the file of Mahila Court, Nagercoil, Kanyakumari District has already been quashed by the order of this court. The Deputy Superintendent of Police, Alangulam Subdivision who conducted the enquiry in the disciplinary proceedings conducted an oral enquiry by enquiring 7 witnesses and 32 documental evidences mentioned in the charge memo of the departmental disciplinary proceedings. After completing the oral enquiry, the officer submitted his findings that all the 6 charges in the charge memo were proved in his minute, dated 24.08.2020. After scrutinizing all the documents thoroughly, the Superintendent of Police, Tenkasi District passed final order that a lenient punishment of postponement of increment for one year which



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shall not operate to postpone his future increments, on 30-04-2021. The appeal petition submitted by the petitioner to the Deputy Inspector General of Police, Tirunelveli Range, Tirunelveli was also rejected vide proceedings dated 10.11.2021 and the review petition/mercy petition submitted by the petitioner to the Director General of Police, Head of Police Force, Tamil Nadu, Chennai was also rejected vide proceedings, dated 06.08.2022. It is not out of place to mention that the departmental disciplinary proceedings is entirely separate from the criminal case. Working in the disciplined police department which is meant for enforcement of law and order in the society, which is a part of the law enforcement agency of the society, he himself could not violate the law by indulging in activities which are against the established procedure of law. The petitioner's activity of involving in a love affair with a minor girl thereby exploiting her by having sexual intercourse in the name of love and marriage need to be condemned unconditionally. Certainly, the activity of the petitioner would tarnish the image of the police department among the public. The damage caused by the petitioner to the integrity of the Police department could be restored only by taking necessary strict disciplinary action as against the petitioner. Though the petitioner has ratified and rectified his criminal antecedent by marrying the victim girl on her attaining the age of majority, his



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criminal activity can never be condoned in any manner by the department in its disciplinary proceedings and this Court is of the considered view that the punishment inflicted on him is not shockingly disproportionate.

10. As a part of the police force which warrants utmost propriety, integrity and discipline, the petitioner had indulged in an activity attracting offenses under the POCSO Act, which culminated in the Special Case in Special S.C.No.31 of 2019 on the file of the Mahila Court, Nagercoil, Kanyakumari District, which was later though quashed by this Court in CrI.O.P(MD)No.11626 of 2019, I place on record that this court also directed the petitioner to pay Rs.5000 as cost to the credit of the Chief Justice Relief Fund. In view of the same, I am not inclined to interfere with the impugned orders of punishment.

11. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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L.VICTORIA GOWRI, J.

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