



**W.P(MD)No.31570 of 2024**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**WEB COPY**

**DATED: 27.12.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.P(MD)No.31570 of 2024**

**and**

**W.M.P(MD)No.26431 of 2024**

**S.Balakrishnan**

**... Petitioner**

**Vs.**

**1.The Superintendent of Police,  
Tirunelveli District,  
Tirunelveli.**

**2.The Deputy Superintendent of Police,  
Nanguneri Sub Division,  
Tirunelveli District.**

**3.The Inspector of Police,  
Vijayanarayanam Police Station,  
Tirunelveli District.**

**4.The Inspector of Police,  
Thandikudi Police Station,  
Dindigul District.**

**... Respondents**

**Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to for the records relating to the charge memo issued by the first respondent herein in Tha.Pa.No.95/2024 dated 30.08.2024 quash the same.**



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For Petitioner : Mr.D.Siva Raman  
For Respondents : Mr.R.Baskaran  
Additional Government Pleader

### **ORDER**

This Writ Petition has been filed challenging the charge memo issued by the first respondent herein in Tha.Pa.No.95/2024, dated 30.08.2024

2.Mr.A.Baskaran, learned Additional Government Pleader takes notice for the respondents.

3.With the consent of the learned counsel appearing for the petitioner and the learned Additional Government Pleader, this Writ Petition is taken up for final disposal at the time of admission itself.

4.The brief facts of the case, which are necessary for disposal of this Writ Petition, are as follows:

The petitioner was selected to the post of Grade II Police Constable in Tamil Nadu Uniform Service Recruitment Board in the year 2003 and posted at Battalion No.VII. In the year 2021, the petitioner was



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transferred to Vijayanarayanam Police Station, Tirunelveli District.

Presently, the petitioner is working as Head Constable under the fourth respondent.

(ii) The first respondent issued charge memo dated 30.08.2024 consisting of two charges, viz., the petitioner received for a sum Rs. 10,000/- from one Sudalaimuthu, who was an accused in Crime No.101 of 2022 under Sections 291(b), 353, 332 and 506(ii) of IPC, not to take action against him under Goondas Act and further the petitioner demanded Rs.2,000/- from one Muthuraman and received Rs.1,000/- in the Parappadi Petrol Bunk as per his instructions. (ii) The above actions contravene Rule 24 of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1954.

(iii) A mere reading of the statement of the witnesses and the audio conversation referred to in the annexure exhibit, it is clear that the petitioner has not committed any misconduct as alleged in the charge memo. The impugned charge memo is nothing but an outcome of an non-application of mind, non-consideration of relevant materials, initiated at the instance the persons having mala-fide intention against the petitioner and also is a selective in nature. Hence, this writ petition.



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5.The learned counsel appearing on behalf of the petitioner would submit that the impugned charge memo is liable to be quashed on the sole ground that the first respondent does not have authority to initiate disciplinary proceedings. A mere reading of the statement of the witnesses and audio clips do not disclose any misconduct committed by the petitioner. The bare perusal of the statement of witnesses and audio clips would have made it clear to the first respondent that the petitioner was not involved any misconduct as alleged in the charge memo. He would submit that both the charges are vague in nature. The impugned charge memo against the petitioner is liable to be quashed on the ground of colourable exercise of power and selective in nature. The said Sudalaimuthu in his statement and in the audio clip has categorically mentioned that it was only on behalf of Naga Kumari one Anthony Prabhu had received bribe from him. Without initiating any disciplinary proceedings against the said Naga Kumari, charge memo has been issued against the petitioner. The petitioner could have been added only as an witness but has been made a delinquent and forced to face ordeal by the disciplinary proceedings for no fault committed by the petitioner. In support of his contention, the learned counsel for the petitioner relied on



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a judgment of Hon'ble Supreme Court in the decision reported in (2009)

**12 SCC 78 (Union of India & Others Vs Gyan Chand Chattar).**

6.Per contra, the learned Additional Government Pleader on behalf of the respondents would submit that the impugned charge memo has been issued only on 30.08.2024 and the petitioner had chosen to give reply dated 05.12.2024. Disciplinary authority has also appointed an enquiry officer and the petitioner has also appeared before the enquiry officer and the departmental proceedings is under way. He would submit that the petitioner can very well take his defence, during the enquiry proceedings. Charge memo cannot be quashed at this stage.

7.It is not in dispute that the first respondent has issued charge memo dated 30.08.2024 consisting of two charges, viz., the petitioner received for a sum Rs.10,000/- from one Sudalaimuthu, who was an accused in Crime No.101 of 2022 under Sections 291(b), 353, 332 and 506(ii) of IPC, not to take action against him under Goondas Act and further the petitioner demanded Rs.2,000/- from one Muthuraman and received Rs.1,000/- in the Parappadi Petrol Bunk as per his instructions.

(ii) The above actions contravene Rule 24 of the Tamil Nadu Subordinate



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Police Officers Conduct Rules, 1954. At this juncture, it is relevant to cite that the judgment of Hon'ble Supreme Court reported in (2006) 12

**Supreme Court Cases 28** in the case of **Union of India and another vs.**

**Kunisetty Satyanarayana**, wherein it has been held as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdesh Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another AIR 2004 SC 1467, Ulagappa and others vs. Divisional Commissioner, Mysore and others 2001(10) SCC 639, State of U.P. vs. Brahm Datt Sharma and another AIR 1987 SC 943 etc.*

*14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not*



*established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.*

*15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.*

*16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.*

8. By applying the ratio laid down in the judgment cited supra, in the case on hand, it is an admitted fact that the petitioner had submitted his representation to the charge memo and the first respondent has appointed Deputy Superintendent of Police (AR), Tirunelveli as an enquiry officer. The writ petitioner herein has also appeared before the enquiry officer on 19.12.2024 and the enquiry was adjourned to 24.12.2024. When the petitioner had participated in the enquiry



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proceedings, does not give rise any cause of action. The petitioner very well defend in case before the enquiry officer. It is quite possible, after holding an enquiry the authority concern may drop the proceedings/ or hold that the charges are not established. Hence, there is no merit in this petition and the same is liable to be dismissed. The respondents are directed to expedite the enquiry proceedings in accordance with law.

9. In the result, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**27.12.2024**

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

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**M.JOTHIRAMAN, J.**

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