



W.P.NO.6272 OF 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.6272 OF 2025

AND

WMP NOS.6890 AND 6891 OF 2025

P.Irulappan
Sub Inspector of Police
(Under Suspension)
Coimbatore City Police
Coimbatore.

... Petitioner

Vs.

The Commissioner of Police
Coimbatore City
Coimbatore.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records connected with the charge memo issued in C.No.F1/PR.No.124/2023 dated 26.06.2023 passed by the respondent and quash the same.

For Petitioner	:	Mr.S.Ilamvaludhi
For Respondent	:	Mr.M.Suresh Kumar
		Additional Advocate General
		Assisted by Mr.Yogesh Kannadasan
		Special Government Pleader



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ORDER

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This Writ Petition has been filed in the nature of a Certiorari, seeking records relating to a Charge Memo issued in C.No.F1/PR.No.124/2023 dated 26.06.2023 by the respondent, Commissioner of Police, Coimbatore City, Coimbatore and to quash the same.

2.In the affidavit filed in support of the writ petition, the petitioner, who was working as a Sub Inspector of Police and is now under suspension in the Coimbatore City Police, contended that a complaint was lodged by one Iyyappan, the petitioner had warned him not to engage in the business of selling wastage oil without a license and that a Head Constable T. Rajkumar had demanded a bribe of Rs. 2,000/- and a monthly "mamool" of Rs.1,000/- to be paid to the Sub Inspector of Police, the petitioner herein, for the petitioner to allow him to continue his business. The petitioner who is actually called as Irulappan was termed as Santhosh in the complaint. It had been stated that consequent to the complaint lodged, FIR in Crime No.17/2021/AC/CB had been registered under the Prevention of Corruption Act, on 24.08.2021. It is further submitted that the petitioner was arrested on 27.08.2021 and subsequently, released on



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bail. But however, the petitioner had been placed under suspension and a Charge Memo was issued to him on 26.06.2023, which is now impugned in the present writ petition.

3.The learned counsel for the petitioner brought to the notice of this Court the Charge Memo, specifically highlighting the annexures attached to it. These annexures included a list of documents to be relied upon by the department during the course of the investigation, as well as a list of statements and witnesses. The learned counsel for the petitioner contended that the list of witnesses, the list of documents, and the nature of the charges are identical to the statements and allegations made in the FIR, on the basis of which, and following further investigation, charges would be framed by the Criminal Court. It had been contended that allowing both proceedings to continue simultaneously would cause serious prejudice to the petitioner. The learned counsel further submitted that if the disciplinary proceedings are permitted to proceed alongside the criminal proceedings, based on the same set of evidence both oral and documentary any findings in the disciplinary proceedings could influence the outcome of the criminal trial. Therefore, it was contended that the



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further proceedings in the Charge Memo should be kept in abeyance until the conclusion of the criminal trial.

4.In this connection, learned counsel for the petitioner placed reliance on the ruling of the Hon'ble Supreme Court in ***Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd., & Another reported in AIR 1999 SCC 1416*** and a further judgment of a Division Bench of this Court in ***S.Kathhiravan Vs. Commandant, Office of the DIGP, Group Center, CRPF, Chennai & Others***, reported in ***2017 (6) CTC 252***.

5.More specifically, learned counsel for the petitioner stated that the aforementioned two judgments had been examined by a learned Single Judge of this Court in ***W.P.No.24148 of 2024 dated 24.09.2024 [K.Kumar, Village Administrative Officer, Vellanaipatti Village, Annur Taluk, Coimbatore District Vs. The Revenue Divisinal Officer, Coimbatore North, Coimbatore and Another]*** wherein the Hon'ble Single had held as follows:

“10.In the instant case, on a careful reading of the charge memo that has been issued against the petitioner, it is seen that the departmental proceedings is purely based on the



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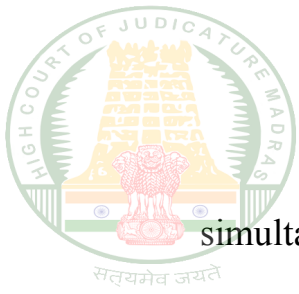
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same facts for which the petitioner is facing criminal charges. In fact, the list of witnesses as found in Annexure~IV are those witnesses, who are going to speak in the Court during the criminal proceedings. Therefore, if the departmental proceedings are permitted to continue, it will cause grave prejudice to the petitioner and it will severely affect the defence of the petitioner in the criminal case. Hence, on the facts of the present case, the continuation of departmental proceedings till the criminal case reaches its finality will cause prejudice to the petitioner. Consequently, the disciplinary proceedings will have to be kept in abeyance.

11. In the light of the above discussion, the disciplinary proceedings initiated against the petitioner through the proceedings dated 07.11.2023 issued by the first respondent and the consequential proceedings of the second respondent dated 05.08.2024 will have to be kept in abeyance till the criminal case reaches its logical conclusion.

In the result, this writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.”

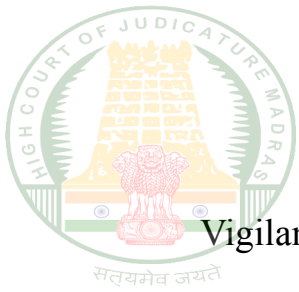
6.A counter affidavit had been filed on behalf of the respondent wherein it had been stated that the petitioner has no right to comment on the legal knowledge or efficiency or experience in dealing with disciplinary proceedings and also that in accordance with Police Standing Order No.81(3) of Vol.1, there is no bar to proceed



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simultaneously with both departmental proceedings and also with the criminal case. It had been stated that care should be taken to ensure there is no violation of any order of this Court. In the absence of any such order, the Disciplinary Authority is at liberty to proceed with the departmental enquiry. It had been further stated that on the same date of the Charge Memo, now challenged in the writ petition, another charge memo was issued to the petitioner and the petitioner did not raise any grievance regarding the service of any of the annexures, the list of witnesses, or the list of documents. It was contended that the petitioner is attempting to delay the proceedings by seeking to keep the departmental enquiry in abeyance.

7.The petitioner, who is alternatively was called as Santhosh and working as Sub Inspector of Police along with the Head Constable Raj Kumar is said to have demanded a bribe amount of Rs.2,000/- from the defacto complainant Iyyappan in order to ensure that Iyyappan continues to involve in selling of wastage oil. The demand was also for monthly payment of Rs.1,000/-. In this connection, on a complaint given by Iyyappan, FIR in Crime No.17/2021/AC/CB had been registered by the



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Vigilance and Anti Corruption Department at Coimbatore on 24.08.2021

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for the alleged offence punishable under Section 7(a) of the Prevention of Corruption Act, 1988. It is seen that subsequently, the petitioner had been remanded to judicial custody on 27.08.2021. It is the specific case of the respondent that the petitioner had alternatively referred to himself as Santhosh, and the Head Constable Raj Kumar had also addressed the petitioner as Santhosh. However, both the names refer to the same individual, namely the petitioner herein, who has filed the writ petition under the name Irulappan and was serving as a Sub Inspector of Police.

8.It is a moot question whether the Court can direct the State to keep the departmental proceedings in abeyance pending the disposal of the criminal proceedings. There is no guarantee that the criminal case will conclude within a reasonable period, and even if it does, there is a possibility of an appeal being filed, which could protract the proceedings for a considerable number of years. Even in the order of the learned Single Judge referred supra in ***W.P.No.24148 of 2024 dated 24.09.2024 [K.Kumar Vs. The Revenue Divisional Officer]*** the learned Single Judge had stated that as a general rule, there is no bar to proceed further with the departmental proceedings even though the criminal case is pending against



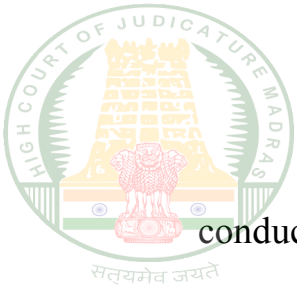
a delinquent employee. In fact, the learned Single Judge has observed as

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'As a general rule, there is no bar to proceed further with the disciplinary proceedings even when a criminal case is pending against the delinquent employee. The scope of the criminal proceedings and the disciplinary proceedings is different and therefore, the employer can always proceed with the disciplinary proceedings independently. However, there is one exception to this rule where the criminal proceedings and the departmental proceedings are based on the same set of facts and they are identical. The Court, in such cases, must see as to whether the departmental proceedings will severely prejudice the delinquent in the criminal trial and if so, the departmental proceedings must be directed to be kept in abeyance. The law on this issue was settled by the Apex Court in Capt.M. Paul Anthony vs Bharat Gold Mines Ltd. & Anr [AIR 1999 SCC 1416]. This judgment was subsequently followed by the Division Bench of this Court in S. Kathhiravan Versus The Commandant, Office of the DIGP, Group Center, CRPF, Chennai & Others [2017(6) CTC 252]. It was held that there is no straight jacket formula while deciding cases of this nature. The Court must only see as to whether the departmental enquiry will severely prejudice the delinquent in the criminal trial and if so, the departmental proceedings must be kept in abeyance. It is always a question of fact and a decision must be taken on the facts of each case.'

9.Thus, each case must be considered based on its own facts.

The object of the departmental proceedings is to determine whether the



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conduct of demanding a bribe is unbecoming of a Police Officer. It is also concerned with the reputation of the department and its ability to inspire confidence in the public. The goal is to ensure that the image of the department is not tarnished by the corrupt actions of a delinquent employee. In the criminal case, the objective is to determine whether there has actually been a demand and acceptance of a bribe, and whether such actions constitute an offence punishable under the provisions of the Prevention of Corruption Act or, for that matter, any relevant penal law.

10.The petitioner has a duty to protect the image of the department wherein he served. The petitioner, as a public servant and Sub Inspector of Police, should have upheld better conduct in service and should not have allowed charges to be issued against him. He was complicit with the Head Constable in demanding money to allow the de facto complainant to continue in the business of selling waste oil. The business was unlawful and illegal, and it was the petitioner's responsibility to ensure that such activities were not allowed. The petitioner should not have permitted the continuation of such a business and stipulate that permission could be granted after on receipt of illegal gratification. The petitioner should not have indulged in such activities.



11.The question whether the same set of evidence would be utilized by the respondents or not is again, a moot point. While the evidence could be the same, the issue lies in how that particular evidence is appreciated in a criminal case. It is for the trial judge, who conducts the criminal trial, to determine whether the evidence establishes the charge beyond reasonable doubt. On the other hand, the same set of evidence may be appreciated from a different viewpoint in the departmental proceedings to determine whether the charges had been established on the preponderance of probabilities. Therefore, the nature and scope of examination of the same set of evidence differ between a criminal trial and departmental proceedings. While both proceedings may be related, it is important that both the learned Judge in the criminal trial and the Enquiry Officer in the departmental proceedings are given necessary freedom to examine witnesses in accordance with their respective guidelines, without one being influenced merely by the pendency of the other. The facts may be the same, and the evidence could be similar, but the evidence need not be identical and could be appreciated differently by both parties.

12.The criminal trial must proceed independently, with evidence to be adduced and appreciated based on its own merits, and not



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on the findings of the disciplinary authority. The findings in the criminal trial are not predetermined by the outcome of the departmental proceedings. It may be that the charges in the departmental proceedings have been held established, but that would not automatically imply that the Criminal Court should render a finding of guilt. The Criminal Court must examine the evidence presented before it in accordance with the law, the rules, regulations, and the statute governing the offence.

13.I do not agree with the contention that the departmental proceedings should be kept in abeyance, as there is no specific law stating that departmental proceedings must be kept in abeyance. It is a matter of convenience, and the order to be passed depends on the convenience of the litigant, the counsel, and the Court. It should not be based by merely following an earlier order. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

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Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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C.V.KARTHIKEYAN, J.

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To

The Commissioner of Police
Coimbatore City
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