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W.P.No.8647 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.8647 of 2025 and

W.M.P.No.9669 of 2025

L.Pakirisamy,
Special Sub Inspector,
Keevalur Police Station,
O/D at Vallivalam Police Station,
Nagapattinam District.
(Under Suspension)

... Petitioner

Vs.

The State Rep. by its
Superintendent of Police,
Nagapattinam District,
Nagapattinam.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records in respect of charge memo No.Th.Ko.No.23 of 2024, dated 18.12.2024 issued by the respondent and quash the same as illegal.

For Petitioner : Om Sai Ram

For Respondent : Mr.M.Shajahan,
Special Government Pleader



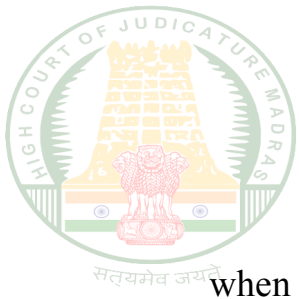
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ORDER

This Writ Petition has been filed in the nature of a Certiorari, seeking records relating to a charge memo in No.Th.Ko.No.23/2024, dated 18.12.2024 issued by the respondent, Superintendent of Police, Nagapattinam and quash the same.

2. The petitioner was leading a very interesting life. He joined duty on 17.01.1986 as a Police Constable (Grade II) and was promoted as Special Sub Inspector of Police. When he was functioning as a Special Sub Inspector of Police in Nagapattinam District, he was handling a criminal case of an accused called Suresh during the year 2013. This accused Suresh and his co accused had absconded during the course of trial and a Non Bailable Warrant had been issued against them. The claim of the petitioner is that he had lent money to the accused person, to enable him to pay the Advocate to file a petition, seeking to recall the Non bailable warrant. The learned counsel states that this is a defence taken by the petitioner during the trial. That statement was not stated by the defacto complaints (accused Suresh) in the examination in chief, but,



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when he was recalled. It is deplorable that a police officer has financial transactions with an accused and more particularly in a case which is handled by the Police Officer. It is a clear case of nexus between an Investigation officer and the accused to enable the accused to file an application to recall the Non Bailable Warrant. The duty of the officer should have been to ensure that the Non Bailable Warrant is executed. It will also indicate that as Police officer, the petitioner had informed the accused about the pendency of the Non bailable Warrant and instead of executing it, had enabled the accused to file an application seeking to recall the Non bailable Warrant. This has defeated the ends of justice.

3. As a matter of fact, a complaint has been given by the very same accused that the petitioner had demanded bribe and a trap was laid. The trap was successful and the petitioner was caught red handed accepting the bribe amount. When recalled, the accused stated that he was returning back a loan obtained from the petitioner herein. That part of evidence may be appreciated by the Court, wherein Special C.C.No.2/2015 in which the petitioner is an accused, is pending at the stage of examining



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the investigating officer.

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4. All these incidents happened in the year 2013 and now during the closing stage of trial, the respondents have initiated their disciplinary proceedings. They have every right to do so.

5. The learned counsel for the petitioner placed reliance on the observations of the Hon'ble Supreme Court in the Judgment reported in ***1990 (Supp) Supreme Court Cases 738 in State of Madhya Pradesh Vs. Bani Singh and anr.*** and placed a specific reference to the following:

"6. The learned counsel for the appellant contended that the non-selection of the respondent for selection grade by the Screening Committee in 1980 should not have been interfered with by the Tribunal. We are unable to agree with this contention of the learned counsel. The Tribunal itself pointed out that the remarks of the Inspector General of Police, above quoted, is general observation of a reviewing officer and that could not have been taken into account. Generally, in relation to this the Tribunal pointed out that the Screening Committee seems to have been weighed in not selecting the respondent on the ground that there were some complaints about integrity and the decision will have to be



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deferred until the decision on such complaints. The Tribunal pointed out that on these complaints not even a preliminary enquiry had been completed and that therefore they should not have weighed with the Screening Committee. This statement of the Tribunal cannot be said to be an incorrect approach. Normally, pendency or contemplated initiation of disciplinary proceedings against a candidate must be considered to have absolutely no impact upon his right to be considered. If the departmental enquiry had reached the stage of framing of charges after a prima facie case has been made out, the normal procedure followed as mentioned by the Tribunal was 'sealed cover' procedure but if the disciplinary proceedings had not reached that stage of framing of the charge after prima facie case is established the consideration for the promotion to a higher or selection grade cannot be withheld merely on the ground of pendency of such disciplinary proceedings. Deferring the consideration in the Screening Committee meeting held on November 26, 1980 on this ground was therefore insupportable. In fact, even in respect of the adverse remarks which has been now quashed the respondent officer had made his own representation and the representation also was pending consideration at that time and it was disposed of only in December 1986. The remark, therefore, should not be taken to have become final so as to enable the



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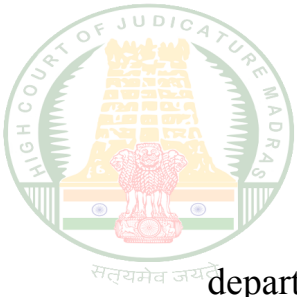


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Committee to take that remark into consideration. The deferring of the consideration in the meeting held on November 26, 1980, therefore, could not be considered as valid.

6. The facts in that particular case was that there was an issue of seniority and promotion and selection was deferred owing to pendency of departmental proceedings. It had been held by the Hon'ble Supreme Court that unless charges are framed and there is initiation of the enquiry, there cannot be a denial of the right to be considered for selection. While examining that particular fact, the Hon'ble Supreme Court had also stated that initiation of a charge memo after much delay calls for interference.

7. However the facts in this case are certainly distinguishable. The petitioner is accused of demanding and receiving bribe from an accused in a case which was handled by the petitioner in his capacity as Special Sub Inspector of Police. By this demand, the petitioner had transferred himself from being a Special Inspector of Police to being an accused before the Court. Naturally the respondent has every right to initiate



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departmental proceedings in a serious charge as above. I am not prepared to interfere with the charge memo issued.

8. With the above observation, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

The Superintendent of Police,
Nagapattinam District,
Nagapattinam.



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