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W.P No.25099 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Writ Petition No.25099 of 2025

and

Writ Miscellaneous Petition No.28278 of 2025

D.Jayakumar

... Petitioner

..Vs..

1.The Deputy Commissioner of Police,
Washermenpet District,
Chennai – 600 021.

2.The Inspector of Police,
H1 Old Washermenpet Police Station,
Chennai – 600 021.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records on the file of the 1st respondent in his proceedings dated 25.03.2025 in R.C.No.252/8717/PR.N(2)/2016 and NZO.203/2025 and quash the same as highly illegal.

For Petitioner : Mr.J.Ashok

For Respondents : Mr.R.Sasikumar,
Government Advocate



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W.P No.25099 of 2025

ORDER

The instant writ petition has been filed with a prayer for Certiorari, to quash the proceedings in R.C.No.252/8717/PR.N(2)/2016 dated 25.03.2025 passed by the 1st respondent.

2. The learned counsel appearing on behalf of the petitioner would submit that the impugned order dated 25.03.2025 has been passed, based upon the conviction imposed against the petitioner in a criminal case in C.C.No.29 of 2013. The learned counsel would further submit that the sentence of the Special Court was subsequently stayed by this Court in Crl.M.P.No.3131 of 2025 on 21.02.2025. However, without taking into consideration of the suspension of sentence, the 1st respondent has passed final order on 25.03.2025, which is illegal in the eyes of law.

3. Per contra, the learned Government Advocate appearing on behalf of the respondents would strongly contend that the conviction passed against the petitioner still subsists and what was stayed is only the sentence, which has no bar in the final order passed against the petitioner. Apart from that, the learned Government Advocate further submits that the petitioner has got an appellate



remedy before the Appellate Forum. Therefore, when the appellate remedy is available, filing of the present writ petition has to be summarily rejected.

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4. I have given my anxious consideration to either side submissions and also perused the materials available on record.

5. As rightly contended by the learned Government Advocate that, this Court has stayed only the sentence and not the conviction passed against the petitioner and therefore, absolutely there is no bar to the respondents to impose punishment against the petitioner. It is the further contention of the learned Government Advocate that there is an appellate remedy available and the petitioner can take all his defence before the Appellate Forum. However, the learned counsel for the petitioner would contend that the order do not reflects about the events, i.e., suspension of sentence and other things therefore, filing of the writ petition is maintainable.

6. Though the learned counsels' submissions appear to be attractive, this Court is not in a position to agree with the submission that, unless the triple test as enunciated under the Judgment of the Hon'ble Supreme Court of



W.P No.25099 of 2025

India in *Whirlpool Corporation vs. Registrar of Marks, reported in (1998) 8*

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SCC 1 is satisfied, the question of filing of writ petition does not arise. Here, the main submission is on the factual aspect, which can only be agitated before the Appellate Authority. Hence, this Court does not find any merits in the present writ petition.

7. In the result, the writ petition is dismissed. However, the petitioner is given liberty to file an appeal before the Appellate Authority within a period of fifteen (15) days from the date of receipt of a copy of this order. On such appeal is filed, the Appellate authority is directed to dispose of the same in accordance with law, as expeditiously as possible, uninfluenced by any of the observations made in the present writ petition. The petitioner is also given liberty to take all the defence, which has been taken before the appellate Forum. No costs. Consequently, the connected miscellaneous petition stands closed.

10.07.2025

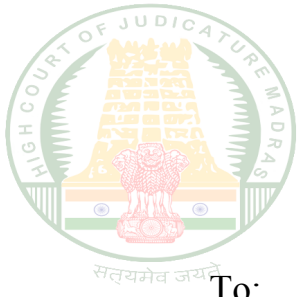
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Index : Yes

Speaking Order : Yes /No

Neutral Citation Case: Yes/No

4/6



W.P No.25099 of 2023

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C. KUMARAPPAN, J.

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