

W.A.(MD)No.533 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 26.03.2025

PRONOUNCED ON: 28.04.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.533 of 2025
and
C.M.P.(MD)No.4131 of 2025**

The Director General of Police,
Tamil Nadu,
Chennai-600 004.

... Appellant

Vs.

C.Michael David

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.18971 of 2016, dated 10.10.2023.

For Appellant	:Mr.M.Sarangan Additional Government Pleader
For Respondent	:Mr.Mahaboob Athiff for M/s.G.Mohan Kumar



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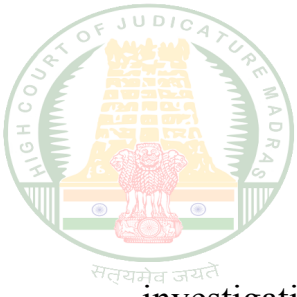
JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is preferred against the order dated 10.10.2023 passed in W.P.(MD)No.18971 of 2016.

2. The writ petition was filed for issuance of a Writ of Certiorari, to quash the order dated 30.11.2015, passed by the respondent in Rc.No. 154478/Con.V(1)/2011.

3. The brief facts are that the writ petitioner is working as Head Constable in Control Room, Dindigul and previously was working as the Head Constable-cum-Writer at the office of the Superintendent of Police, Civil Supplies CID, Madurai. While so, the officials from the Vigilance and Anti-Corruption, Madurai, conducted a surprise raid at about 04.00 pm on 03.07.2009 at the office of the Superintendent of Police, Civil Supplies CID, Madurai, stating that they had received a complaint that the writ petitioner was involved in collecting money from the police officials who attended the monthly meeting conducted at the said office and seized a sum of Rs.72,000/- from the rest room of the said office. The



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investigation was transferred due to administrative reasons to Vigilance and Anti-Corruption Cell, Sivagangai. The writ petitioner was issued with a charge memo containing two charges alleging that on 03.07.2009, he had collected money to the tune of Rs.56,482/- from the police personnel serving in CSCID and the second charge was that he had demanded and expected a specific amount of money from four officials. The writ petitioner had denied the said charges, an enquiry was conducted in TDP Case No.25 of 2011 and the report stated that the first charge is proved and the second charge is not proved. The contention of the petitioner is that he gave his further explanation, the same was not considered by the Enquiry Officer in a proper prospective and his request for dropping the first charge was denied. The Enquiry Officer failed to see that the complaint said to have been received, on the basis of which the Vigilance and Anti-Corruption Cell, Madurai, conducted a surprise raid on 03.07.2009 was neither produced nor marked during the enquiry. On the side of the respondent totally 14 witnesses were examined, 2 exhibits and one material object were marked. P.W.3, P.W.4, P.W.5, P.W.6, P.W.8, P.W.11 and P.W.12 have all turned hostile and had not supported the charge. P.W. 7 and P.W.9 had deposed that Rs.21,000/-, which was seized, was the money allotted for diesel to the vehicle of the Superintendent of Police, Civil Supplies CID, Madurai. Further, P.W.10 had also not supported the case of the respondent



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and had stated that he had not paid any money to anybody. P.W.1, one Velusamy, retired Tahsildar, who assisted the team, which conducted the raid on 03.07.2009, had deposed that when they went for the raid, three persons were sleeping in bunian and lungi and when the officials asked who is Michael David, one among the three came out, he was told that a complaint is received against him stating that he had taken bribe, when he was asked to tell the truth, the petitioner admitted and went to the rest room and took covers from the pant which contain Rs.72,000/-. Ex.P.1 is the report of the Inspection Team and Ex.P.2 is the alleged confession statement, P.W.2 had contradicted the statement made by P.W.1 and deposed that when the officials questioned the petitioner, he had denied the same and later the officials went to the rest room and brought Rs. 72,000/-. P.W.13, the 1st Investigating Officer had stated that the amount was not recovered from the petitioner. The money was seized from the shirt and pant hanging in the rest room. It was not enquired or established during enquiry as to whom the shirt and pant belong. No enquiry was made as to who had kept the money in the said clothes. In a predetermined manner, the petitioner was charged. Further, P.W.12, the 2nd Investigating Officer had also stated that none of the officials who had attended the meeting had stated that the petitioner had demanded money from them. When all the police officials who were examined as witnesses had stated that they had

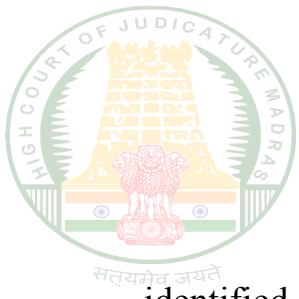


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not paid any money to him and when the money is not recovered from him, the finding of the Enquiry Officer that the first charge is proved is a perverse finding. However, the respondent passed an order, dated 30.11.2015, concurring with the finding of the Commissioner for Disciplinary Proceedings, Madurai, without considering any of the issues raised by the petitioner and imposed a punishment of postponement of next increment for a period of 2 years with cumulative effect. Aggrieved by the said order, the writ petition has been filed.

4. The respondent has filed counter affidavit denying the averments stated in the writ affidavit and stated on 03.07.2009 at 04.00 pm, while the officials from the Vigilance and Anti-Corruption, Madurai conducted a surprise raid at the office of the Superintendent of Police, Civil Supplies CID, Madurai, the writ petitioner was sleeping along with two others in bunian and lungi. They have recovered a sum of Rs.72,000/- with 7 covers from a pant and shirt pockets, which were hanged in that room, the petitioner told that Rs.21,000/- was given for diesel to the vehicle of the Superintendent of Police. Thereafter, the officials of the Vigilance and Anti-Corruption, Madurai, prepared a mahazar in front of P.W.1, P.W.2 and other witnesses and signed in the confession statement given by the petitioner, which was also marked as Ex.P.2 and the recovered amount was

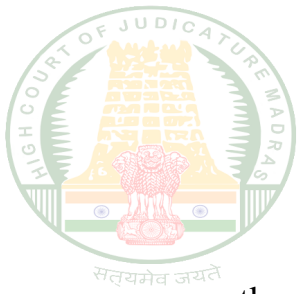


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identified by the witnesses as MO1 series. P.W.7, who is working as Head Constable had deposed that he was working as a Driver and he had given the diesel amount of Rs.21,338/- on 01.07.2009 to the Superintendent of Police, who asked him to give the amount to the petitioner, accordingly had given the amount to the petitioner. The monthly crime meeting was held on the same day i.e., 03.07.2009 and the petitioner has not explained the necessity for having covers in his pocket with currency, which is also one of the circumstances in favour of the prosecution. Further, the petitioner has not given any reasonable explanation about the amount recovered from him, hence disciplinary proceedings were conducted and two counts of charges were levelled against the writ petitioner, the first charge was held to be proved and the second charge not proved and punishment of postponement of next increment for the period of two years with cumulative effect on 30.11.2015 was imposed vide impugned order.

5. After considering the rival submissions, the Writ Court held that when no money was seized from the pocket of the petitioner, he is not responsible for the said amount, which was recovered from a hanging shirt and pant in the rest room where there is access to several persons. Therefore, the Writ Court quashed the order, dated 30.11.2015 and allowed the writ petition. Aggrieved over the



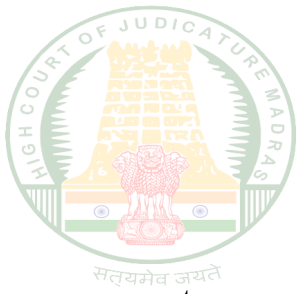
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same, the present writ appeal is preferred by the respondent in the writ petition.

6. Heard Mr.M.Sarangan, Learned Additional Government Pleader appearing for the appellant and Mr.Mahaboob Athiff, Learned Counsel appearing for the respondent and perused the records.

7. The primary contention of the appellant is that the petitioner had given a confession statement that Rs.21,338/- was given to him for diesel and Rs. 15,820/- belongs to him. If that is so then the balance amount ought to be treated it belongs to the petitioner, when the money was recovered from the pant and shirt. This Court is of the considered opinion that the confession is only for Rs. 21,338/- (diesel) and Rs.15,820/- (personal) and not for the balance amount. In such circumstances, further evidence is necessary to prove the balance belongs to the petitioner and he collected the said money from the persons attended the meeting.

8. The prosecution tried to prove the case by producing witnesses PW1 to PW14 and marked 2 exhibits and one material object. Out of 14 witnesses P.W. 3, P.W.4, P.W.5, P.W.6, P.W.8, P.W.11 and P.W.12 have all turned hostile and had

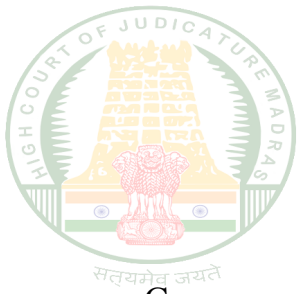


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not supported the charge. P.W.7 and P.W.9 had deposed that Rs.21,000/- is diesel money. P.W.10 had stated that he had not paid any money to anybody.

9. Then the left out is only PW1, PW2, PW13 and PW 14. As far as P.W. 1 retired Tahsildar, who assisted the raid team had deposed that the petitioner admitted and went to the rest room and took covers from the pant which contain Rs.72,000/-. But P.W.2 had contradicted the statement of P.W.1 wherein he had deposed that when the officials questioned the petitioner, he had denied the same and later the officials went to the rest room and brought Rs. 72,000/-. P.W.13, the 1st Investigating Officer had stated that the amount was not recovered from the petitioner and the money was seized from the shirt and pant hanging in the rest room. P.W.14 had also stated that none of the officials who had attended the meeting had stated that they had paid money to the petitioner.

10. From the above, it is evident that there is no evidence to prove that the petitioner demanded money and the money belongs to the petitioner. Even though the appellant need not prove like criminal case, but atleast some evidence is necessary even for preponderance of probability. When none of the witness had stated in favour of the prosecution, then it has to be the case was not proved.



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Consequently, the imposition of punishment of postponement of next increment for a period of 2 years with cumulative effect cannot be imposed.

11.The Writ Court had rightly come to the conclusion that the imposition of the punishment is erroneous when the prosecution had failed to prove and the Writ Appeal is liable to be dismissed and accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
28.04.2025

Index : Yes / No

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To

The Director General of Police,
Tamil Nadu,
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