

M.Veerakandan Vs. State

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SooperKanoon Citation : sooperkanoon.com/1167498

Court : Chennai

Decided On : Jul-22-2013

Judge : D.Hariparanthaman

Appellant : M.Veerakandan

Respondent : State

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED :

22. 07.2013 CORAM THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN W.P.No.13730 of 2013 & M.P.No.1 of 2013 M.Veerakandan .. Petitioner Vs. 1.State Rep. By The Secretary, Commercial Taxes and Registration Department, Secretariat, Chennai -9. 2.Inspector General of Registration, No.100, Santhome High Road, Chennai 28. 3.District Registrar, Registration Department, West Shanmugapuram, Villupuram Town, Villupuram District. .. Respondents Writ petition is filed under Article 226 of the Constitution of India praying for a writ of Certiorari, calling for the records of the 2nd respondent in his Charge Memo No.16008/V1/2010-2 dated 08.03.2013 and to quash the same. For Petitioner : Mr.V.Krishnamoorthy For Respondents : Mr.V.Jayaprakash Narayanan, Special Govt. Pleader

ORDER

The petitioner is a night Watchman in the Sub-Registrar Office, Santhiamangalam, Gingee Taluk. Subsequently, he was transferred to serve in the same capacity of night watchman in the Sub-Registrar office at Anandapuram.

2. In the year 1992, he was promoted as Office Assistant and transferred to Sub-Registrar Office at Tiruvannamalai. He served as Office Assistant in Sub-Registrar Office in Valavanam and thereafter, he was transferred to Kandamangalam.

3. While so, he was issued with a charge memo dated 08.03.2013 under Rule 17(b) of Tamil Nadu Subordinate Service Rules. The allegation against the petitioner is that he willfully turned hostile and made a statement in favour of Mrs.N.Jayalakshmi, Sub-Registrar and Mr.K.Arumugam (Retired Sub-Registrar), with a view to save them from being prosecuted. The petitioner has filed this writ petition to quash the aforesaid charge memo dated 08.03.2013.

4. The learned counsel for the petitioner has submitted that the petitioner has already submitted his explanation dated 09.04.2013 stating that he did not make any statement to save the higher officials. He prayed that the charge memo has to be quashed.

5. On the other hand, the learned Special Government Pleader has submitted that after having submitted his explanation, the petitioner should have waited for further proceedings from the authority. Instead, the petitioner has rushed to this Court and has filed the present writ petition. The learned Special Government Pleader further submitted that it is pre-matured to challenge the charge memo even before the authority concerned considered the explanation and decide as to whether enquiry is necessary or not. In support of his contention, the learned Special Government Pleader relied on a decision of the Supreme Court in the case of Union of India vs. Kunisetty Satyanarayana reported in (2006) 12 SCC28 6. As rightly contended by the learned Special Government Pleader, the petitioner has rushed to this Court after submitting his explanation to the charge memo without even waiting for the decision to be taken by the authority.

7. At this juncture, it is relevant to refer to the judgment of the Supreme Court in Union of India vs. Kunisetty Satyanarayana reported in (2006) 12 SCC28 relied on

by the learned Special Government Pleader. In paragraphs, 13 to 16, the Supreme Court 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 v. Ramesh Kumar Singh, Special Director v. Mohd.Ghulam Ghouse, Ulagappa v. Divisional Commr., Mysore, State of U.P. V. Brahm Datt Sharma 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 Petition lies when some right of any party is infringed. A mere show cause notice or charge sheet does not infringe the right of anyone. 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. For the aforesaid reasons, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions stand closed. svki To
1.The Secretary, State Commercial Taxes and Registration Department, Secretariat, Chennai -9. 2.Inspector General of Registration, No.100, Santhome High Road, Chennai 28. 3.District Registrar, Registration Department, West Shanmugapuram, Villupuram Town, Villupuram District

