

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)**

WEDNESDAY, THE TWENTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 26777 OF 2024



Between:

Kumari Shaik Shameem, D/o. ShaikShasha Age 35 years, Occ Mahila Police (WMSK), Sachivalayam, No-12, 1 Town Police Station Kurnool, Kurnool District.

...PETITIONER

AND

1. The State of Andhra Pradesh, Represented By Its Principal Secretary, Home Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The Superintendent of Police, Kurnool District.
3. The Inspector of Police, 1 Town Police station Kurnool, Kurnool District.
4. The D.S.P., DishaMahila Police Station Kurnool, Kurnool District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Order more in the nature of Mandamus, to declare the action of the 2nd and 4th respondent, in proceeding with the departmental enquiry against the petitioner by issuing Charge Memo PR.No A6/2115/2023 dated 20.09.2023, for the same set facts of facts for which Criminal Case CC No 1668/2023, pending trial before the Court of Hon'ble 1st Additional Judicial Magistrate of First Class, Kurnool, is pending as illegal, arbitrary, unjust, violative of principles of natural justice, and

consequently direct the respondents not to proceed with the departmental enquiry against the petitioner arising out of the Charge Memo PR.No/A6//2023 dated 20.09.2023, till the conclusion of trial for the same set facts of in Criminal case CC No 1668 /2023, pending trial before the Court of 1st Additional Judicial Magistrate of First Class Court, Kurnool as well as the AP Police Standing Orders.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the departmental enquiry against the petitioner arising out of the PR.No. A6/2115/2023 dated: 20.09.2023, issued by the 2nd respondent for the same set of facts for which Criminal case CC No: 1668 /2023, pending trial before the Court of Hon'ble 1st Additional Judicial Magistrate of First Class Kurnool is pending.

Counsel for the Petitioner: SRI I.RAVINDRA BABU

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following: ORDER



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3331]

WEDNESDAY, THE TWENTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 26777/2024

Between:

1. KUMARI SHAIK SHAMEEM, SHAMEEM, D/O. SHAIKSHASHA AGE 35 YEARS, OCC MAHILA POLICE (WMSK), SACHIVALAYAM, NO-12, 1 TOWN POLICE STATION KURNOOL, KURNOOL DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, HOME DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT
2. THE SUPERINTENDENT OF POLICE, KURNOOL DISTRICT.
3. THE INSPECTOR OF POLICE, 1 TOWN POLICE STATION KURNOOL, KURNOOL DISTRICT.
4. THE D S P, DISHAMAHILA POLICE STATION KURNOOL, KURNOOL DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Order more in the nature of Mandamus, to declare the action of the 2nd and 4th respondent, in proceeding with the departmental

enquiry against the petitioner by issuing Charge Memo PR.No A6/2115/2023 dated 20.09.2023, for the same set facts of facts for which Criminal Case C.C.No 1668 /2023, pending trial before the Court Of Hon'ble 1st Additional Judicial Magistrate of First Class, Kurnool, is pending as illegal, arbitrary, unjust, violative of principles of natural justice, and consequentially direct the respondents not to proceed with the departmental enquiry against the petitioner arising out of the Charge Memo PR.No/A6//2023 dated 20.09.2023, till the conclusion of trail for the same set facts of in Criminal case C C No 1668 /2023, pending trial before the Court Of 1ST Additional Judicial Magistrate of First Class Court, Kurnool as well as the AP Police Standing Orders and pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to STAY the departmental enquiry against the petitioner arising out of the PR.No. A6/2115/2023 dated: 20.09.2023, issued by the 2nd respondent for the same set of facts for which Criminal case CC No: 1668 /2023, pending trial before the Court Of Honorable 1st Additional Judicial Magistrate of First Class Kurnool is pending and pass

Counsel for the Petitioner:

1. I RAVINDRA BABU

Counsel for the Respondent(S):

1. GP FOR SERVICES I

The Court made the following ORDER:

The petitioner, Mahila Police (WMSK), Sachivalayam, No.12, I Town Police Station, Kurnool, filed the above writ petition to declare the action of the respondents 2 and 4 in proceeding with the departmental inquiry issued Memorandum of charge *vide* PR.No.A6/2115/2023, dated 20.09.2023 pending criminal case *vide* C.C.No.1668 of 2023 on the file of the 1st Additional Judicial Magistrate of First Class, Kurnool, as illegal and arbitrary.

2. Heard Sri I.Ravindra Babu, learned counsel for the petitioner and Sri S.Raju, learned Assistant Government Pleader for Services for the respondents.

3. Learned counsel for the petitioner would submit that a case in Crime No.34 of 2023 for the offences punishable under Sections 498-A IPC r/w 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act was registered against the petitioner and others. Later, a charge sheet was filed on the file of the 1st Additional Judicial Magistrate of First Class, Kurnool and the same was numbered C.C.No.1668 of 2023. The 2nd respondent issued a charge memo *vide* PR.No.A6/2115/2023, dated 20.09.2023. Articles of charges would disclose that the petitioner along with family members harassed her sister-in-law and thereby violated Rule 3 of APCS (Conduct) Rules, 1964 and also violated Order No.112 (D)(1) & (7) of AP Police Manual (Volume-1).

4. Learned counsel would submit that the witnesses in Annexure II and the list of witnesses in the charge sheet are similar. Learned counsel would submit that if the petitioner discloses the defence by cross-examining the witness in the disciplinary proceeding it will cause prejudice to the petitioner. Learned counsel relied upon the judgment in **Capt. Paul Anthony vs. Bharath Gold Mines Limited and Another**¹ wherein, the Hon'ble Apex Court observed as follows;

"The conclusions which are deducible from various decisions of this Court referred to above are :

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

¹ 1999 (3) SCC 679

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest."

5. Learned Assistant Government Pleader for Services, on the other hand, would submit that the trial in criminal cases will take considerable time.

6. Thus, as seen from the material available on record, the criminal case and departmental proceedings were initiated against the petitioner on the

ground that the petitioner along with her family harassed her sister-in-law. Based upon the said allegations, a case in Crime No.34 of 2023 was registered for the offences punishable under Sections 498-A r/w 34 of IPC and Sections 3 & 4 of Dowry Prohibition Act by of Disha Police Station, Kurnool.

As rightly pointed out by learned counsel for the petitioner, the list of witnesses mentioned in Annexure-II and the witnesses in the criminal case were identical. If the petitioner discloses the defence and cross-examine the witnesses in the departmental inquiry, it will cause prejudice to the petitioner.

7. In **State Bank of India and Others v. Neelam Nag and Anr**², the Hon'ble Apex Court issued directions to the Sessions Court to complete the Criminal Trial as expeditiously as possible, not later than one year from the date of the order.

8. Given the facts and circumstances, as discussed *supra*, this Court deems it appropriate to stay the departmental proceedings, for one year.

9. Accordingly, the departmental proceedings initiated against the petitioner shall remain stayed for one year. The learned 1st Additional Judicial Magistrate of First Class, Kurnool shall complete the trial in C.C.No.1668 of 2023 as expeditiously as possible, preferably within one (01) year, since the departmental proceedings initiated against the petitioner are stayed, pending disposal of the criminal case. It is needless to mention, the petitioner shall cooperate during the trial of the criminal case without asking for adjournments.

The petitioner shall file a copy of this order before the concerned Court for expeditious disposal of the criminal case.

² (2016) 9 SCC 491

If the petitioner fails to cooperate with the trial of the criminal case, the disciplinary authority shall take recourse to guideline (v) in **Captain Paul Anthony's** case.

10. With the above observations, the Writ Petition is disposed of at the admission stage with the consent of learned counsel on either side. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Sd/- K. TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

12/8 SECTION OFFICER

To,

1. The Principal Secretary, Home Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District
2. The Superintendent of Police, Kurnool District.
3. The Inspector of Police, 1 Town Police station Kurnool, Kurnool District.
4. The D.S.P., DishaMahila Police Station Kurnool, Kurnool District.
5. One CC to Sri I Ravindra Babu Advocate [OPUC]
6. Two CCs to GP for Services I, High Court of Andhra Pradesh. [OUT]
7. Three CD Copies

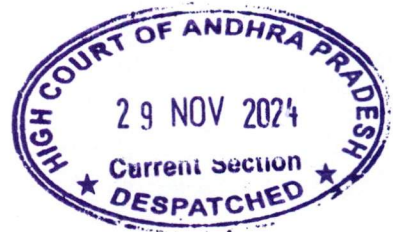
TF

HIGH COURT

DATED:20/11/2024

ORDER

WP.No.26777 of 2024



**DISPOSING OF THE W.P. AT THE ADMISSION
STAGE, WITHOUT COSTS**