IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 4th OF MARCH, 2025

WRIT PETITION No. 39694 of 2024

GOKUL SINGH MANDOT
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:
Shri Manoj Manav - advocate for the petitioner.
Shri Bhuwan Deshmukh -GA appearing on behalf of Advocate General.

ORDER

1. This petition has been filed by the petitioner under Article 226 of the constitution of India seeking following relief:-

> *"7.1 That this Hon'b;e Court may be pleased to issue appropriate writ/order/direction to quash the order dated 30.5.2024 and 20.11.2024 (P/1& P/2) passed by the respondent no.3 and 3.*
> *7.2 That this Hon'ble Court may further please to direct that respondent to reinstate the petitioner in service and grant all consequential benefits including the monitory benefits.*
> *7.3. That allow the petition with cost.*
> *7.4 That any other relied this Hon'ble Court may think fit may grant."*

2. The petitioner is aggrieved by the orders dated 30.5.2024 and 20.11.2024, passed by the respondent no.4 and 3 respectively. Vide order dated 30.5.2024, the order of termination has been passed by the respondent no.4/Deputy Inspector General of Police, District Ujjain, whereas, vide order dated 20.11.2024, the appeal preferred by the

appellant has also been rejected by respondent no.3/Inspector General of Police, District Ujjain.

3. The petitioner's case is that he was posted as Sub Inspector of Police, at Bhatpachlana, Ujjain wherein, on 30.6.2020, an FIR was registered against the petitioner u/ss. 376,376(2)(n), 605 and 323 of IPC (Annexure P-3) by a female constable pursuant to which a charge sheet was also issued to him on 8.5.2020. Whereas a charge sheet was also issued against him in the departmental enquiry, alleging minor misconduct that the petitioner had kept in contact with the victim and had also assaulted her, which has tarnished the reputation of police department in the public domain.

4. Since both the cases had arisen out of the same set of facts, with a view to stay the proceedings before the department, the petitioner also filed W.P.No. 19417/2020 (Annexure P-5) which was disposed of by the coordinate Bench of this Court on 27.2.2023, directing the petitioner to file an application for stay of the departmental proceeding before the respondent and observing that in case such an application is filed by the petitioner, then, before proceeding further for recording of evidence, the application be decided by passing a reasoned and speaking order. However, the said application was rejected by the department on 6.4.2023 and continued with the enquiry which led the petitioner to file another writ petition No.14575/2024 challenging the aforesaid order. However, since the enquiry report was already prepared, the coordinate Bench of this Court, in W.P.No.14575/2024 vide order dated 31.5.2024,by way of interim measure, directed that no final order shall be passed in the

departmental enquiry. However, according to the petitioner the final order was already passed on 30.5.2024, and subsequently, W.P.No.14575/2024 was dismissed as withdrawn on 15.7.2024 with liberty to the petitioner to challenge the order dated 30/5/2024 in accordance with law.

5. The aforesaid final order dated 30.5.2024 was challenged in an appeal dated 24.7.2024,which was dismissed by the respondent no.3 Inspector General vide its order dated *20.11.2024,* which is also challenged before this Court.

6. Counsel for the petitioner has submitted that during pendency of the appeal, the criminal case which was registered under Section 376 of IPC was also decided vide judgment dated 23.10.2024, whereby, the petitioner was acquitted of all the charges on merits, and the order of acquittal was also filed before the appellate authority on 6.11.2024, regarding which no observations were made by the appellate authority, and even the reference of which has not been made.

7. Counsel for the petitioner has also submitted that the appellant Authority has erred in not taking into account the fact that in both the cases viz., the departmental enquiry as also the criminal case which was filed in the criminal Court, has arisen out of the same set of facts which led to the incident, however, in the departmental enquiry regarding minor *misdemeanor* was alleged against the petitioner whereas in the criminal case the story of prosecution was exaggerated, and section 376 of IPC which is an offence of rape, was also added. However, the learned judge of the trial Court has acquitted the petitioner after appreciating the evidence of the

prosecutrix/victim and has come to a conclusion that she has made false allegation against the petitioner.

8. Counsel for the petitioner has drawn the attention of this Court to paragraphs no.29 to 32 of the judgment of the acquittal passed by the trial Court on 23.10.2024.

9. Counsel for the petitioner has also submitted that so far as the departmental enquiry is concerned, three witnesses were common, including victim, her father and a police officer, whereas other 14 witnesses were not examined in the criminal case, as in all 11 witnesses were examined in the criminal case whereas 25 witnesses were cited. Whereas in the departmental enquiry as many as 10 witnesses have been examined.

10. It is further submitted that in the criminal case, the star witness was victim only and whose deposition had been minutely dealt with by the criminal court to arrive at a conclusion that her version of story cannot be treated to be true, and although the petitioner has been acquitted on the ground of benefit of doubt, in fact he has been acquitted on merits after appreciating the evidence of the victim. Whereas, in the departmental enquiry, the statement of other witnesses as also the victim has been considered for awarding the punishment/dismissal of the petitioner despite the fact that for the reasons best known to the prosecution, the other witnesses who were examined in the departmental enquiry were not examined in the criminal Court.

11. Counsel for the petitioner has also relied upon the decisions rendered by the Supreme Court in the case of **G.M.Tank Vs. State of**

Gujarat reported as (2006) 5 SCC 446, Ramlal Vs. State of Rajasthan reported as (2024) 1 SCC 175.

12. Counsel for the petitioner has also submitted that excessive punishment has been awarded to the petitioner of dismissal from service despite the fact that minor allegations were made in the departmental enquiry of contacting the victim and the assault on her whereas no evidence of assault is enviable on record and only the oral evidence of victim has been considered. In support of his submission that the punishment is excessive, counsel for the petitioner has relied upon a decision rendered by the division Bench of this Court in the case of **Hemant Verma Vs. Home Department and others passed in W.P.No. 4488/2015 dated 5.9.2024** wherein also the petitioner was a police constable.

13. Counsel for the petitioner has also submitted that even in the departmental enquiry, the petitioner was not given proper opportunity to adduce evidence in his favour whereas the petitioner had sought time by submitting medical papers but the same were not taken into consideration.

14. On the other hand, Shri Bhuwan Deshmukh, learned counsel for the respondent/State has vehemently opposed the prayer, and it is submitted that no case for interference is made out as the departmental enquiry and the criminal trial have proceeded in two different spheres and apart from that, in the departmental enquiry, the witnesses were different and the charges were also different, in such circumstances, the petitioner cannot take any benefit of acquittal in the criminal trial.

15. Counsel for the respondent/State has further submitted that the petitioner was an acquaintance of the father of the victim and has taken undue advantage of his position, and thus, no leniency should be shown to the petitioner.

16. Heard learned counsel for the parties and perused the record.

17. From the record, it is found that so far as the charge8.5.2020 (Annexure P-4),framed in the departmental enquiry are concerned, the same read as under:-

आरोप

जिला बल उज्जैन की तैनाती के दौरान मेघा राणा—(महिला आरक्षक देवास) से वर्ष २०१४ से लगातार सम्पर्क बनाये रखते हुए उसे धमकी दी जाकर मारपीट करना । इस प्रकार उपरोक्त कृत्य कर पुलिस की छबि को धुमिल करना ।

18. Whereas, in the criminal trial S.T.No.122/2023,the charges were framed under Sections 376,376(2)(n) and 506 of IPC which were denied by the petitioner. Whereas the learned judge of the trial Court has formulated the following questions which required consideration of the Court :-

" 09. प्रकरण के निराकरण हेतु इस न्यायालय के समक्ष निम्नलिखित प्रश्न विचारणीय है:-

01. क्या अभियुक्त गोकुल ने दिनांक 01.01.2015 से 25.12.2019 के मध्य कानीपुरा, उज्जैन तथा भाटपचलाना सरकारी क्वार्टर में अंतर्गत थाना चिमनगंजमण्डी, उज्जैन में अभियोक्त्री / पीड़िता के साथ उसकी वास्तविक इच्छा और सहमति के बिना उसके साथ एक से अधिक बार लैंगिक संभोग कर बलात्संग किया ?

02. क्या अभियुक्त गोकुल ने उक्त दिनांक, समय व स्थान पर अभियोक्त्री / पीड़िता के साथ स्वेच्छया मारपीट कर साधारण उपहति कारित की ?

03. क्या अभियुक्त गोकुल ने उक्त दिनांक, समय व स्थान पर

अभियोक्त्री/पीड़िता को संत्रास कारित करने के आशय से जान से मारने की धमकी देकर आपराधिक अभित्रास कारित किया ?"

19. The perusal of the aforesaid question posed by the trial Court and *vis-a-vis* the charges framed in the departmental enquiry, it is found that the trial Court has also taken into account the allegation levelled against the petitioner of threat and assault, and after a detailed examination of evidence, has acquitted the petitioner. The relevant paragraphs 29 to 33 of the judgment are relevant which read as under:-

"29. यहां सर्वप्रथम उल्लेखनीय यह है कि अभियोक्त्री वर्ष 2025 में जब आरोपी ने उसके साथ बलात्संग किया, उस समय अभियोक्त्री उच्च शिक्षित होकर 24-25 वर्ष की वयस्क स्त्री थी। आरोपी ने अभियोक्त्री के साथ कानीपुरा स्थित मकान में एक से डेढ़ घण्टे रूककर बलात्संग किया, परंतु अभियोक्त्री के द्वारा यह नहीं बताया कि किस दिनांक व महीने में आरोपी के द्वारा उसके साथ बलात्संग किया गया। चूंकि बलात्संग की घटना किसी महिला को जीवन की ऐसी त्रासदीजनक घटना होती है, जिसका दिन, दिनांक, समय व सन् सब याद रहता है। अभिोक्त्री के द्वारा घटना का दिनांक व समय न बताया जाना अस्वभाविक प्रतीत हेता है। अभियोक्त्री के द्वारा सामान्य रूप से कथन किया कि आरोपी उसके साथ कानीपुरा के मकान में बलात्संग किया, परंतु अभियोक्त्री के द्वारा मुख्यपरीक्षण में इस आशय का लेशमात्र का कथन नहीं किया कि उसने बलात्संग के दौरान आरोपी के द्वारा किये जा रहे कृत्य का प्रतिरोध किया जाता तो आरोपी एवं अभियोक्त्री के शरीर पर चोट होना स्वाभाविक थी, पंरतु अभियोक्त्री के द्वारा इस आशय का कोई कथन नहीं किया कि उसके द्वारा आरोपी ने भरपूर प्रतिरोध करने के दौरान उसे या आरोपी को कहां-कहां चोट आई थी। यहां तक कि अभियोक्त्री ने यह तक नहीं बताया कि उसके द्वारा आरोपी के कृत्य का प्रतिरोध किया भी गया या नहीं किया गया और यदि प्रतिरोध नहीं किया गया तो क्यों नहीं किया गया, क्योंकि अभियोक्त्री (अ.सा.-03) के कथानानुसार आरोपी ने उसे उसके पिता व भाई को जान से मारने की धमकी, जब बलात्संग के बाद आरोपी उसे कार से छोड़ने जा रहा था, तब दी थी अभियोक्त्री आरोपी के साथ एक कमरे में एक से

डेढ़ धण्टे तक रही, परंतु अभियोक्त्री के द्वारा स्वयं के बचाव के लिए किसी को आवाज लगई गई है, ऐसा उसके द्वारा कथन नहीं किया गया। फिर अभियोक्त्री के बलात्संग पश्चात् आरोपी से यह कहना कि उसे वापस छोड़ दो भी अस्वाभाविक प्रतीत होता है।

30. आरोपी के द्वारा अभियोक्त्री को देवास गेट बस स्टेण्ड पर छोड़ा गया, जहां पर देवास गेट थाना भी था, परत् अभियोक्त्री के द्वारा घटना के तत्काल पश्चात घटना की रिपोर्ट न किया जाना भी अभियोक्त्री के कथनों को संदेहास्पद बनाता है। अभियोक्त्री के द्वारा दिया गया मात्र यह स्पष्टीकरण कि आरोपी ने उसके पिता और भाई को मारने की धमकी दी थी. इस कारण उसके द्वारा रिपोर्ट नहीं की गई, परंतु वर्ष 2015 से लगातार आरोपी के द्वारा दूसरी बार बलात्संग किये जाने वाले वर्ष 2019 के लगभग 4 साल के लम्बे समय अंतराल के दौरान भी आरोपी के द्वारा अभियोक्त्री के पिता व भाई को कोई चोट पहुंचाई गई हो या मारने का प्रयास किया गया, ऐसा अभियोक्त्री का कोई कथन नहीं है, तब भी अभियोक्त्री के द्वारा 4 साल तक भी आरोपी के विरुद्ध कोई रिपोर्ट न लिखाई जाना अभियोक्त्री के कथनों को संदेहास्पद बनता है।

31. अभियोक्त्री के द्वारा अपने कथन में बताया कि उसका विवाह दिसम्बर 2019 में हो गया था। वर्ष 2017 में उसकी पुलिस में जॉब लगी थी। एक साल ट्रेनिंग के बाद वर्ष 2018 में आरक्षक के पद पर पदस्थ रही। फिर दिसम्बर 2019 में उसकी शादी हो गई। शादी के बाद उसकी पोस्टिंग देवास-कन्नोज में होने के कारण वह ट्रांसफर का आवेदन देने देवास जा रही थी तो आरोपी उसके घर आ गया और उसके पापा से बोला वह देवास जा रहा है तो अभियोक्त्री को देवास छोड़ देगा तो आरोपी उसके पर रो कार में बैठकर देवास न ले जाते भाटपचलाना ले गया, जहां पर थाने के पास ही क्वार्टर है, उसमें ले जाकर आरोपी ने उसके साथ रात भर वहीं रहा और वहां आरोपी ने उसके साथ बलात्संग किया। प्रतिपरीक्षण की कण्डिका 31 में अभियोक्त्री ने स्वीकार किया कि दिनांक 12.12.2019 को उसकी शादी होने के बाद वह आरोपी के सम्पर्क में 24.12.2019 की अवधि तक थी और उस दौरान उसकी आरोपी से फोन से बातचीत होकर वॉट्सप पर चेट होती थी। कण्डिका 32 में अभियोक्त्री ने यह स्वीकार किया कि दिनांक 23.12.2019 को समय 11:41 बजे दोपहर में आरोपी ने उसे फोन किया था तो उसने आरोपी को वॉट्सप पर मैसेज लिखकर जवाब दिया था कि मैं ठीक हूं आप अपना ध्यान रखना मेरी टेंसन मत लेना। अभियोक्त्री ने इसी कण्डिका में यह भी स्वीकार किया कि

29.12.2019 को वह ससुराल जा रही थी आरोपी ने उसे फोन करके पूछा था कि वह कहां जा रही है तो उसने बताया था कि ससुराल जा रही है, तब आरोपी बार-बार फोन लगाकर पूछ रहा था, कब निकलोगी, निकल गई या नहीं तो उसने मैसेज में जवाब दिया था। अभियोक्त्री ने प्रतिपरीक्षण की कण्डिका 33 में यह भी स्वीकार किया कि दिनांक 24.12.2019 की कथित घटना के बाद भी उसकी आरोपी से दिनांक 29.12.2019 को बातचीत होकर टेस्ट?? मैसेज किये गये तथा आरोपी को वीडिया कॉल भी की गई। कण्डिका 34 में अभियोक्त्री ने यह स्वीकार किया कि प्रदर्श डी-3 के मैसेज के अनुसार आरोपी से उक्त मोबाइल नम्बर पर उसकी दिनांक 23.12.2019 से 31.12. 2019 के मध्य फोन पर लगातार बातचीत होकर एक दूसरे को टेस्ट?? मैसेज भेजे गये। बचाव पक्ष के द्वारा अभियोक्त्री एवं आरोपी के द्वारा मोबाइल पर की गई बातचीत, चैटिंग एवं वीडियो कॉल के प्रिंट प्रदर्श डी-03 दिखाये जाने पर अभियोक्त्री ने उक्त दस्तावेज की सत्यता को चुनैती नहीं दी, अपितु स्वीकार किया है।

32. इस प्रकार एक तरफ अभियोक्त्री यह कथन करती है कि दिनांक 24.12.2019 को आरोपी उसके साथ थाना भाटपचलाना के पास बने सरकारी क्वाटर उसे रात भर रखकर उसके साथ बलात्संग किया, वहीं दूसरी तरफ आरोपी 24.12.2019 से लगातार 31.12.2019 तक मोबाइल फोन से बातचीत भी करती है तथा चैटिंग भी करती है एवं वीडियो कॉल भी करती है। अभियोक्त्री ने प्रदर्श डी-03 की चैटिंग के अनुसार आरोपी के साथ फोन में वॉट्सप पर चैटिंग करना स्वीकार किया है, जिसमे अभियोक्त्री के मोबाइल नम्बर पर आरोपी के द्वारा दिनाक 23.12.2019 शाम 04:16 से लेकर लगातार 31.12.2019 तक वॉट्सप चैटिंग की गई तथा फोन पर बातचीत भी हुई। उक्त वॉट्सप चैटिंग के अवलोकन से यह दर्शित होता है कि अभियोक्त्री द्वारा आरोपी से दिनाक 23.12.2019 को पूछा गया कि "आप कहा हो'' जिराके जवाब में आरोपी के द्वारा बताया गया कि "वह रूनिजा में है। अभियोक्त्री के द्वारा नॉर्मल तरीके से आगे भी चैटिंग करते हुए पूछा गया कि- "कोई है क्या साथ में बेटू आपके"। इसके बाद जब आरोपी के द्वारा यह पूछा गया कि "में कितने बजे आऊ तुझे लेने'', तब अभियोक्त्री के द्वारा जवाब दिया गया कि "घर जाकर बताती हूँ. बेटू"। आरोपी के द्वारा यह भी मैसेज किया गया कि "पूरी तैयारी से आना, बोल देता हूं 10 दिन रहना है गेरे पास", जिसके जवाब में अभियोक्त्री के द्वारा "ओके" लेख किया गया। आगे भी अभियोक्त्री के द्वारा आरोपी को "सोना" और "बेटू" के नाम से संबोधित किया गया तथा नॉर्मल तरीके से चेटिंग की गई एवं अपनी लोकेशन, घर से निकलने का टाइम बगैरह बताया गया। उक्त चैटिंग से यह लेशमात्र दर्शित नहीं होता है कि अभियोक्त्री आरोपी से डरी हुई थी और आरोपी के डर के कारण उसके द्वारा उक्त मैसेज किये गये तथा यह मान भी लिया जाये कि आरोपी बार-बार फोन करके अभियोक्त्री रो पूछ रहा था कि कहां हो निकली की नहीं, तब मी अभियोक्त्री के द्वारा आरोपी को "सोना" और "बेटू जैसे शब्दों से सम्बोधन से बात करने से यह दर्शित नहीं होता कि अभियोक्त्री दबाव में चैटिंग कर रही थी, अपितु उक्त शब्दों से सम्बोधिन से सामान्यतः यही दर्शित हो रहा है कि अभियोक्त्री स्वयं आरोपी के साथ स्वेच्छा से वॉट्सप चैटिंग कर रही थी। ऐसी स्थिति में अभियोक्त्री का यह कथन कि आरोपी उसके घर आकर उसे जबरदस्ती ले गया और उसके साथ बलात्संग किया कतई विश्वसनीय दर्शित नहीं होता है।

33. यहां सर्वाधिक उल्लेखनीय तथ्य यह भी है कि घटना के समय आरोपी पुलिस विभाग में पदस्थ होते हुए थाना भाटपचलाना, तहसील महीदपुर, जिला उज्जैन का प्रभारी था. तब थाना प्रभारी स्वयं पुलिस विभाग में नौकरी

करते हुए आरोपी अभियोक्त्री को थाने के पास बने क्वाटर में ले जाकर बलात्संग करे, यह कतई विश्वसनीय तथ्य नहीं है कि कोई भी पुलिस वाला किसी स्त्री के साथ बलात्संग किये जाते समय इस बात का विशेष ध्यान रखेग कि स्त्री के द्वारा विरोध किये जाने पर आसपास के लोगों को घटना के बारे में पता नहीं चले, परंतु आरोपी के द्वारा जो कि स्वयं घटना के समय थाना भाटपचलाना का थाना प्रभारी होना बताया उसके द्वारा थाने के अंदर बने पुलिस क्वाटर्स में अभियोक्त्री को जबरदस्ती एक रात रखा जाना एवं बलात्संग किया जाना विश्वसनीय नहीं है, बल्कि अत्यन्त अस्वभादिक है।"

20. So far as the judgment relied upon by the counsel for the petitioner in the case of **GM Tank (supra) is concerned, the relevant paras of the same read as under :-**

> **"31.** In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in *Paul Anthony case* [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.
>
> **32.** In the instant case, the appellant joined the respondent in the year 1953. He was suspended from service on 8-2-1979 and got subsistence allowance of Rs 700 p.m. i.e. 50% of the salary. On 15-10-1982 dismissal order was passed. The appellant had put in 26 years of service with the respondent i.e. from 1953-1979. The appellant would now superannuate in February 1986. On the basis of the same charges and the evidence, the department passed an order of dismissal on 21-10-1982 whereas the criminal court acquitted him on 30-1-2002. However, as the criminal court acquitted the appellant on 30-1-2002 and until such acquittal, there was no reason or ground to hold the dismissal to be erroneous, any relief monetarily can be only w.e.f. 30-1-2002. But by then, the appellant had retired, therefore, we deem it proper to set aside the order of dismissal without back wages. The appellant would be entitled to pension.
>
> **33.** For the foregoing reasons, we set aside the judgment and order dated 28-1-2002 passed by the learned Single Judge in Special Civil Application No. 948 of 1983 as affirmed by the Division Bench in LPA No. 1085 of 2002 and allow this appeal. However, there shall be no order as to costs."

21. Whereas in the case of ***Ram Lal (supra)*** the relevant paras read as:-

> **"28.** Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.
>
> **29.** We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" — in fact the charge even stood "disproved" by the very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be "not proved" when it is neither "proved" nor "disproved"
>
> **30.** We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in *G.M. Tank* [*G.M. Tank* v. *State of Gujarat*, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] .
>
> **xxxxxxxx**
>
> **33.** In view of the above, we declare that the order of termination dated 31-3-2004; the order of the appellate authority dated 8-10-2004; the orders dated 29-3-2008 and 25-6-2008 refusing to reconsider and review the penalty respectively, are all illegal and untenable.
>
> **34.** Accordingly, we set aside the judgment of DB Special Appeal (Writ) No. 484 of 2011 dated 5-9-2018 [*Ram Lal Choudhary* v. *State of Rajasthan*, 2018 SCC OnLine Raj 3031] . We direct that the appellant shall be reinstated with all

> consequential benefits including seniority, notional promotions, fitment of salary and all other benefits. As far as back wages are concerned, we are inclined to award the appellant 50% of the back wages. The directions be complied with within a period of four weeks from today."
>
> (***emphasis supplied)***

22. On perusal of the findings recorded by the trial Court in S.T.No. 122/2023 dated 23/10/2024, and the decision rendered by the Supreme Court in the cases of **GM Tank (supra) and Ramlal (Supra**), this Court finds that not only that the prosecution in the present case has miserably failed to bring home the guilt of the petitioner, but the trial Court has also found the deposition of the prosecutrix untrustworthy.

23. In such circumstances, when the charges in the departmental enquiry against the petitioner were only of keeping in touch with the complainant, and also of assault, whereas, the charge of assault was also framed against the petitioner in the criminal trial and was found to be false, this Court is of the considered opinion that any penalty much less the penalty of dismissal from service was totally uncalled for, and although it is true that the petitioner is in police service and it is expected of him to behave as per the ethics of police service, however, the criminal trial has brought out the falsity of the charges levelled against him.

24. In view of the same, the impugned orders dated *dated 30.5.2024 and 20.11.2024 (P/1 & P/2) are* hereby quashed, and the writ petition stands allowed. The respondents are directed to reinstate the petitioner in service and grant all the consequential benefits including the monitory benefits. Let the aforesaid exercise be completed within a further period of three months.

25. Accordingly, the writ petition stands **allowed.**

(SUBODH ABHYANKAR)
JUDGE

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