

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cont.P.No.1327 of 2015

P.M.Sebastian

..

Petitioner

Vs

State by
Mr.Sivakumar
The Inspector of Police,
K-10, Koyambedu Police Station,
Chennai - 600 092.

..

Respondent

Prayer:- Contempt Petition filed under Section 11 of the Contempt of Court Act r/w. Article 215 of the Constitution of India, praying to punish the respondents for willfully disobeying the order made in Crl.OP.No.7419 of 2015 dated 25.03.2015 of this Hon'ble Court.

For Petitioner :Mr.V.K.Sathiamurthy

for Respondent :Mr.C.Emalias

Additional Public Prosecutor

ORDER

Heard Mr.V.K.Sathiamurthy, the learned counsel appearing for the petitioner and Mr.C.Emalias, the learned Additional Public Prosecutor appearing for the respondent.

2.This Contempt Petition has been filed by the petitioner against the respondent herein, for willful disobedience of the order of this Court dated 25.03.2015 made in Crl.OP.No.7419 of 2015. The operative portion of the order

"3.Considering the allegations made in the complaint and in view of the dictum laid down by the Hon'ble Apex Court in the Lalita Kumari Vs. Govt. of U.P. & others reported in [2013 (4) Crimes 243 (SC)] which has to be followed in letter and spirit viz., that if a cognizable offence is made out, the respondent-Police is duty bound to register a case, this Criminal Original Petition is disposed of, by directing the respondent police to register the case on the basis of the petitioner's complaint, dated 13.03.2015 in C.S.R.No.135 of 2015 and investigate the same in accordance with law.

3. Mr.S.Sivakumar, presently working as Inspector of Police, High Court Security-II, Chennai, formerly Inspector of Police, K-10, Koyambedu Police Station, Chennai, has filed a counter affidavit wherein in paragraph No.11, he has stated as follows :

"11. I further submit that based on the above direction of this Hon'ble High Court, Madras, a case in K-10 Koyambedu P.S. Crime No.643/2015 under Sections 427, 448 & 506 (ii) IPC was registered on 3.7.2015 at 12:00 hours and took up the investigation of the case. In that case, the accused - Tr.Gnanasekaran was arrested and remanded to judicial custody and the case is still under investigation."

4. Mr.V.K.Sathiamurthy, the learned counsel appearing for the petitioner has submitted that the averments in paragraph 9 of the counter affidavit filed by the Inspector of Police is factually incorrect. Paragraph 9 of the counter affidavit states as follows :

"9. I further submit that in the meantime, the CMDA authorities were addressed in this regard and obtained a reply from him that as per the order of the Hon'ble High Court, Madras in W.P.No.4733 of 2012 to maintain status quo, the shop was de-sealed and handed over to Tr.Gnanasekaran and allowed to continue his business."

5. On a perusal of the order dated 27.04.2012 passed in W.P.No.4733 of 2012 by Hon'ble Mr.Justice Vinod K. Sharma, shows that the averments in paragraph No.9 of the counter affidavit, that status quo was ordered and the shop was de-sealed and handed over to Tr.Gnanasekaran and he was allowed to continue his business, is not factually correct. May be the Inspector of Police has misunderstood the reply given by the CMDA authorities.

6. Except, recording the above factual error, nothing survives in the contempt petition, inasmuch as the respondent-Police have registered a case in Crime No.643 of 2015 on 03.07.2015 for the offences under Sections 427, 448, 506 (ii) IPC., against Gnanasekaran.

7.The said Inspector of Police has also tendered his unconditional apology in paragraph 17 of the counter affidavit, which is extracted as below:

"17. I further submit that I once again submit my unconditional apology before this Honourable Court for any wrong doing on the part of the third respondent. I respectfully submit that I am having

highest regard for the Hon'ble High Court and the Court directions. I am always obeying and complying the directions of this Honourable Court scrupulously."

8. In view of the above, nothing survives in the contempt petition and the same is closed.

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SD/-

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2014.

COURT OFFICER (O.S.)

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SS/CO/20/08/2015

Three CCs to Mr.C.Rajan, Advocate, SR.10056.

1.Mr.Sivakumar
The Inspector of Police,
K-10, Koyambedu Police Station,
Chennai - 600 092.

2.The Public Prosecutor
High Court, Madras.

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