

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2016

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Contempt Petition No.2461 of 2015

G.Subramani Petitioner

Vs

Natarajan,
Inspector of Police,
Thusi Police Station,
Thiruvannamalai District. Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for Contempt of Court under Contempt of Courts Act 1971 for disobeying and flouting the orders of this Hon'ble Court dated 14.07.2015 passed in Crl.OP.No.15381 of 2014.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.C.Emalias, APP

ORDER

This petition has been filed alleging that the order of this Court dated 14.07.2015 made in Crl.OP.No.15381 of 2014 has not been complied with.

2. In respect of an accident which is said to have

been taken place on 31.05.2012, a complaint was given by the petitioner on 01.06.2012, based on which, a case in Crime

No.330 of 2012 for offences under Section 279 and 337 IPC altered to 279 and 338 IPC was registered by the respondent Police and investigation was in progress. As the driver of the alleged offending vehicle was not traceable, the FIR was sent to the jurisdictional Magistrate, namely, the Judicial Magistrate, Cheyyar. While so, on 23.11.2013, in the Mega Lok Adalat, the case in Crime No.330 of 2012 appears to have been closed under Section 468 r/w 476 Cr.P.C. It is stated that neither the petitioner nor the Police were aware of this.

3. The petitioner filed CrI.OP.No.15381 of 2014 to transfer the investigation of the case in Crime No.330 of 2012 from the file of Thusi Police Station, Tiruvannamalai to any other investigating agency. On 14.07.2014, this Court passed the following order in CrI.OP.No.15381 of 2014 :

"3. As the complaint is of the year 2012, this Court issues a direction to the respondent Police to complete the investigation and to file final report as expeditiously as possible, not later than three months from the date of receipt of a copy of this order. This petition is accordingly disposed of."

4. In other words, the prayer for transfer was rejected and a direction was issued by this Court to complete the investigation in Crime No.330 of 2012 within three months from the date of receipt of a copy of this order. It may be necessary to state here that, this Court

was not informed either by the petitioner or by the Police, that the case in Crime No.330 of 2012 has been closed as early as on 23.11.2013 in the Mega Lok Adalat.

5. Pursuant to the order passed by this Court, the respondent Police completed the investigation and filed a Closure Report on 14.11.2014 before the Judicial Magistrate, Cheyyar, after service of RCS notice No.13 of 2014 on 13.11.2014 on the petitioner. In the normal circumstances, the petitioner should have filed protest application before the Judicial Magistrate, Cheyyar. But whereas, he has filed the present contempt petition.

6. Today, when the matter was taken up for hearing, Mr.D.Nadarajan, former Inspector of Police, Thusi Police Station and Mr.K.Saravanan, present Inspector of Police, Thusi Police Station are present.

7. Learned Additional Public Prosecutor produced the Closure Report which has been returned by the Judicial Magistrate, Cheyyar on 13.07.2016, on the ground that the case in Crime No.330 of 2012 was closed as early as on 23.11.2013.

8. In the considered opinion of this Court, an opportunity should be given to the de facto complainant to file protest application. Therefore, the order dated

23.11.2013 in CMP.No.7226 of 2013 is hereby set aside and the respondent Police is directed to re-present the closure report before the Judicial Magistrate, Cheyyar within one month from the date of receipt of a copy of this order. The learned Judicial Magistrate, Cheyyar is directed to give an opportunity to the petitioner to file protest application and deal with the same, in accordance with law as laid down by the Hon'ble Supreme Court in *Vinay Tyagi Vs Irshad Ali* reported in 2013 [5] SCC 762. While re-presenting the final report, the respondent Police is directed to submit a typed copy of the final report [closure report] and a copy of the same may be served on the petitioner.

With the above direction, the Contempt Petition is closed.

gya

SD/
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)
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DP/CO/18/08/2016

One CC to M/s.R.Nalliyappan, Advocate, SR.9436/2016

To

1.The Judicial Magistrate,
Cheyyar.

<https://hcservices.ecourts.gov.in/hcservices/>
2.The Inspector of Police,
Thusi Police Station,
Thiruvannamalai District.