

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2016

CORAM

THE HONOURABLE MR. JUSTICE **R. SUDHAKAR**

AND

THE HONOURABLE MR. JUSTICE **S. VAIDYANATHAN**

Contempt Petition No.340 of 2015

S.SATHIA CHANDRAN
ADVOCATE
NO 300 /183 II FLOOR
THAMBU CHETTY ST
CHENNAI 600 001

[PETITIONER]

Vs

1 K.VAIDIANATHAN
THE EDITOR
DINAMANI TAMIL DAILY EXPRESS
GARDENS NO 29 SECOND MAIN ROAD
AMBATTUR INDUSTRIAL ESTATE
CHENNAI 600 058

2 R.K.JHUNJHUNWALA
PRINTER & THE PUBLISHER
DINAMANI DAILY EXPRESS GARDENS
NO 29 SECOND MAIN ROAD
AMBATTUR INDUSTRIAL ESTATE
CHENNAI 600 058.

[RESPONDENTS]

Prayer: This Contempt Petition filed under Section 15 of the Contempt of Courts Act against to initiate proceedings against the respondents for having committed criminal contempt by publishing the Editorial on 13.07.2013 and punish them accordingly.

For Petitioner :: Mr.S.Sathia Chandran
(Party in person)

For Respondents :: Mr.S.Vijayaraghavan

O R D E R

(Order of the Court was made by **R. SUDHAKAR, J**)

This contempt arises in relation to the decision rendered by a Division Bench of this Court in H.C.P.No.1265 of 2013. Referring to the said judgment, an article was written by the Contemnors as an editorial in the Newspaper Dhinamani. According to Sathiya Chandran, Advocate, the said editorial has crossed the boundary of fair criticism, as it casts aspersions on the Hon'ble Judges of the High Court who heard the case and gives a communal colour. He pleaded before the Division Bench to take suo-motu contempt proceedings against the contemnors herein. On 15.07.2013, the Division Bench directed him to seek leave of the learned Advocate General in terms of Section 15 of the Contempt of Courts Act, 1971. On the motion made by Mr.Sathiya Chandran, Advocate in Contempt Petition No.06 of 2013 to the learned Advocate General, opined that prima facie the article published was contemptuous, as it tends to scandalize and lower the authority of the Court. Hence, permission was granted and the following order was passed by the learned Advocate General on 31.01.2014:-

" As I have arrived at the prima facie finding that the words admittedly published by the respondents would tend to scandalize and lower the authority of

the Hon'ble Madras High Court, I think that the leave should be granted in the present case".

Hence, with the permission of the Hon'ble Chief Justice, the matter was directed to be listed before the Division Bench headed by Hon'ble Satish K.Agnihotri. Accordingly, when the matter was posted on 09.03.2015, the Bench recused by stating as follows:-

"The Registry is directed to list this matter before some other Division Bench consisting of Judges conversant in Tamil, after obtaining necessary orders from the Hon'ble Chief Justice".

Thereafter, the matter was directed to be listed before another Division Bench, headed by Justice V.Ramasubramaniam, after getting appropriate orders from the Hon'ble Chief Justice. The learned Judge re-cused himself by stating as follows:-

"Since one of the parties to the contempt petition is known to me personally, the matter may kindly be posted before a Bench, of which I am not a member".

Therefore, the matter was placed before us.

2. On 06.01.2016, when the matter was taken up for hearing, statutory notice was issued to the respondents and pursuant thereto, both the contemnors appeared on 03.02.2016 and the future appearance of the contemnors was dispensed with for the present by the said order dated 03.02.2016.

3. Today, when the matter is taken up for hearing, an affidavit dated 20.02.2016 is filed by both the contemnors by stating that the editorial written in the newspaper was in good faith and there was no intention to lower the dignity or majesty of the Court. We have gone through the said affidavit filed by the contemnors.

4. The relevant portion of the affidavit reads as follows :-

"2. At the outset we and the newspaper, 'Dinamani' of which we are the editor, publisher and printer have the greatest respect, regard and reference for our judiciary in general and for the Hon'ble Judges in particular. We will not be party to any act causing even inadvertent disrepute, demeaning or loss of prestige to the Hon'ble Judges and the judiciary. We have been under the

bonafide impression that the editorial dated 13.07.2013 has been written within the boundaries of fair comment on a judgment of importance without any intention to lower the dignity of the Hon'ble Court or its majesty and hereby tender our unconditional unqualified apology if even inadvertently we have exceeded the limits of fair comment. Even the further traverse below is not in any justification but only as a background to our genuine understanding that we were only acting within the boundaries of comment and certainly not any intended contempt".

5. We have perused the order passed by the learned Advocate General and we have also considered the editorial in issue and the affidavit filed by the contemnors. In the affidavit, the contemnors have stated that what has been set out in the editorial is within the boundaries of fair comment on a judgment of importance. Besides the same, the contemnors have also expressed their unconditional and unqualified apology if they had inadvertently exceeded the limits of fair comment. On a consideration of the entire matter, this Court accepts the unconditional and unqualified apology tendered by the contemnors, as stated in the affidavit recorded above, and we choose not to pursue the matter any further.

6. Accordingly, this contempt petition is closed.

SD/-
DEPUTY REGISTRAR(OS)

rg/GLN

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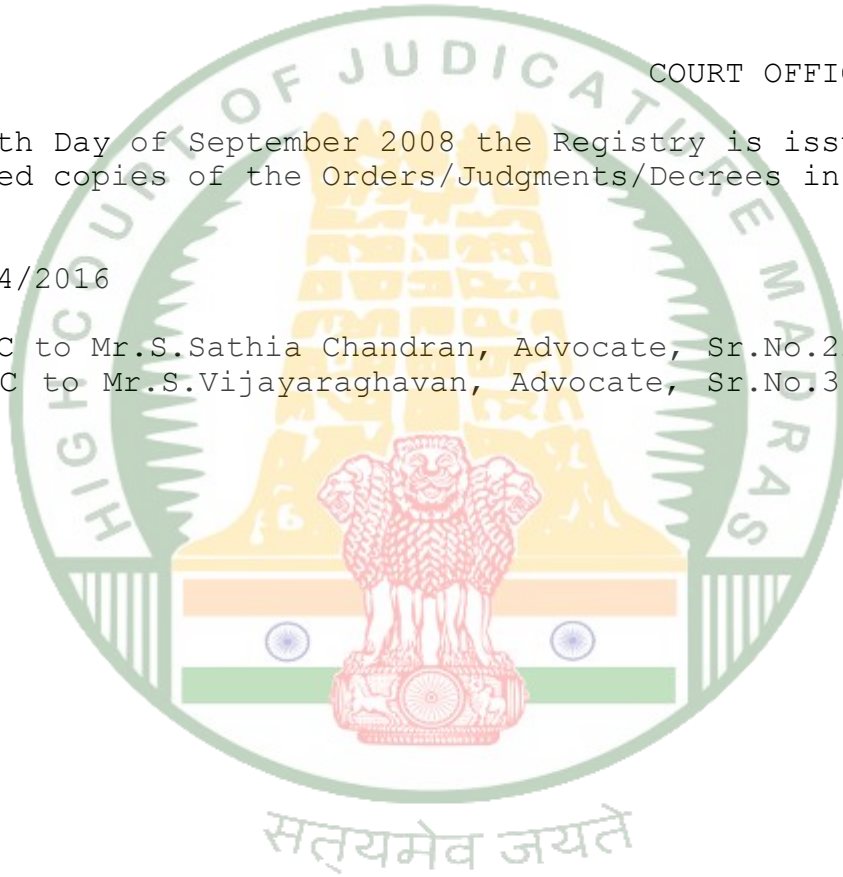
Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

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CO/26/04/2016

- 1.One CC to Mr.S.Sathia Chandran, Advocate, Sr.No.2285/2016.
- 2.One CC to Mr.S.Vijayaraghavan, Advocate, Sr.No.3756/2016.



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