

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Contempt Petition No.253 of 2016

O.V.Nambiar,
Managing Director,
Chemical Construction Company Pvt. Ltd.,
956/57, Thiruvottiur High Road,
Chennai - 600 019. Petitioner

Vs

1.Kalidoss
2.Suresh Solomon
3.Balraj

4.Mrs.Nagajothi
Superintendent of Police,
CBCID, Government Estate,
Chennai.

5.Shri Prakash
Inspector of Police,
H-8, Thiruvottiur Police Station,
Thiruvottiur,
Chennai - 600 019. Respondents

Contempt Petition filed under Section 11 of the
Contempt of Courts Act to punish respondents for willfully
disobeying the order passed by this Court in CrI.OP
No.19563 of 2014 dated 20.07.2015.

For Petitioner : Mr.R.Rabu Manohar
For Respondent : Mr.S.Shanmugavelayudham
Public Prosecutor

O R D E R

This Contempt Petition has been filed on the
ground that the respondents herein have violated the order
dated 20.07.2015, passed by this Court in CrI.OP.No.19563
of 2014.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. This Court does not want to repeat the entire circumstances, resulting in the passing of the order dated 20.07.2015, as that would be superfluous. Suffice it to extract the operative portion of the order, which is said to have been violated by the alleged contemnors:

"10. In the result, this quash petition is dismissed and the Inspector of Police, H8, Thiruvottiyur Police Station is directed to provide sufficient security for the defacto complainant to peacefully possess the property until evicted by legal means. Consequently, connected Miscellaneous Petitions are closed."

4. On notice, Mr.T.Prakash, Inspector of Police, H8, Thiruvottiyur Police Station, (Law & Order), is present and has filed a counter affidavit refuting the allegations of the petitioner and has stated as follows :

"13.

Court, Madras was pleased to pass the following order:-

"In the result, this quash petition is dismissed and the Inspector of Police, H-8, Thiruvottiyur Police Station is directed to provide sufficient security for the defacto complainant to peacefully possess the property until evicted by legal means. Consequently, connected Miscellaneous Petitions are closed."

14. I submit that due to the dismissal of the quash petition, after completion of investigation, charge sheet was laid by the then investigation officer before the jurisdictional court in accordance with law.

15. I further submit that on 23.1.2016, the fifth respondent police received the complaint of the petitioner by post, wherein it has been stated that during Pongal holidays, the respondents 1 to 3 & others had trespassed into the factory premises and had erected barricade diving the property and preventing the petitioner to use one portion of the property.

<https://hcservices.ecourts.gov.in/hcservices/> 16. I further submit that based on the above complaint, a CSR No.75/2015

was issued by me on 23.1.2016 and I took up the enquiry. I examined Tr.Ganesan, HC 10388 who was on duty at the factory premises on the date of the alleged occurrence. He has stated that no such occurrence took place as alleged by the petitioner. Further, I also examined the Security Guards working in the factory premises, appointed by the petitioner, they have also stated that there was no such occurrence as alleged by the petitioner. Further, the allegation of the petitioner that barricades were erected during Pongal holidays, is totally and baseless, since the said barricades were erected two years ago and not during Pongal Holidays. The allegations of the petitioner are thus far from truth.

17. I further submit that it is pertinent to mention here that in obedience to the order of the Hon'ble High Court, Madras, vide CrI.OP.No.19563 of 2014, dated 20.7.2015, police protection was given to the factory premises of the petitioner regularly by the fifth respondent police. Thus, the fifth respondent police complied the direction of this Hon'ble High Court, Madras, scrupulously without any lapse. Hence, the petition filed by the petitioner, making allegations as against the fifth respondent are all false, baseless and incorrect. Hence,

the Contempt Petition filed by the petitioner is not maintainable."

4. Mr.S.Shanmugavelayudham, learned Public Prosecutor appearing for the State would submit that this petitioner gave a complaint alleging that respondents 2 and 3 have constructed a barricade in the property in question, which was not prevented by the police. On the complaint given by the petitioner, petition enquiry was conducted in CSR.No.75 of 2016 on 23.01.2016 and several persons have been examined by the Police. Mr.S.Shanmugavelayudham further brought to the notice of this Court that even in the plaint in O.S.No.85 of 2013 filed before the District Munsif Court, Thiruvottiyur by M.A.C.Basheer Ali against O.V.Nambiar and 3 others (O.V.Nambiar is the petitioner in Contempt Petition), there is a clear averment in paragraph No.20 of the plaint which reads as follows :

"20. The plaintiff submits that consequent upon obtaining vacant possession from the defendants as aforesaid on 06.04.2013, the plaintiff has made arrangements to put up a pucca compound wall and with that view in mind, he had also divided the Schedule 'C' property and the Schedule 'B' property by a barricade. However, in the meantime, the first defendant resisted withdrawal of the police compliant pending against him at the

instance of the plaintiff even before the production of the confirmation letter."

4. Apart from that, the learned Public Prosecutor also brought to the notice of this Court, the report of the Commissioner, who was appointed by the National Green Tribunal, in which also the barricade has been shown. The learned Public Prosecutor also submitted that police protection is continuing in that area and that law and order is being maintained.

5. In view of the above, this Court is of the view that there is no *prima facie* materials to issue statutory notice against the alleged contemnors. Hence, this Contempt Petition is closed with a direction to the respondent Police to comply with the order passed by this Court in CrI.OP.No.19563 of 2014.

SD/
JOINT REGISTRAR(OS)

ds

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

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SMI/CO/20/07/2016

To:

- 1.The Superintendent of Police,
CBCID, Government Estate,
Chennai.
- 2.Mr.T.Prakash,
Inspector of Police,
H-8, Thiruvottiyur Police Station,
Thiruvottiyur, Chennai - 600 019.
- 3.The Public Prosecutor,
High Court, Madras.

One CC to Mr.B.Rabu Manohar, Advocate, SR.8149/2016



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