

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cont.P.No.400 of 2016

K.Palani

... Petitioner

Vs

Sardar

The Inspector of Police,
C-1, Uthukottai Police Station,
Thiruvallur District - 602 026.

... Respondent

Prayer:- Contempt Petition filed under Section 11 of Contempt of Courts Act, to initiate contempt proceedings against the respondent for the willful disobedience and not implementing the direction with letter and spirit of the directions issued by this Court in Crl.O.P.No.8359 of 2015 dated 01.04.2015.

For Petitioner : Mr.D.Bharathy

For Respondent : Mr.C. Emalias
Additional Public Prosecutor

ORDER

This contempt petition has been filed to initiate contempt proceedings against the respondent for the willful disobedience and not implementing the direction with letter and spirit of the directions issued by this Court in Crl.O.P.No.8359 of 2015 dated 01.04.2015.

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

3. Today, Mr.S.E.Sardar, (former Inspector of Police) and Mr.N.Paranthaman, (present Inspector of

Police), Uthukottai Circle, Tiruvallur District, are present before this Court.

4. It is the case of the petitioner that he gave a complaint dated 16.02.2013 alleging that he had purchased three cents of land on 21.03.1989 in Kakkavakkam village and he had built a hut in that land and was living there. He has further alleged that he went to Chennai for employment and that, he will come once in a month to the said house.

5. It is further alleged that on 15.02.2013, when he visited his house, the same was demolished and things worth about Rs.50,000/- had been taken away from the said house by his brother, K.Gajendran and he gave a complaint to the respondent police. Since the police did not take any action, he filed Crl.O.P.No.8359 of 2015 to direct the police to take appropriate action to register the FIR on the complaint dated 16.02.2013 and investigate the same. This Court, by an order dated 01.04.2015, passed a routine direction, directing the respondent police to conduct enquiry and take action as per the law laid down by the Hon'ble Supreme Court in **Lalita Kumari v. Government of Uttarpradesh and Others** reported in in (2014) 2 SCC 1.

6. At that time of hearing, Crl.O.P.No.8359 of 2015, the learned Additional Public Prosecutor did not tell the court as to whether the police had actually received the complaint. Therefore, this Court proceeded to pass the order on 01.04.2015 on the premise that the complaint dated

16.02.2013 was available with the police. While so, the petitioner lodged a second complaint dated 28.06.2015 making similar allegations against his brother, K.Gajendran. Since the police did not take action on the complaint dated 28.06.2015, the petitioner filed CrI.O.P.No.25356 of 2015 for a direction to the police to register a case on the complaint dated 28.06.2015. This Court passed the following order :

" 3. It is represented by the learned Additional Public Prosecutor that petition enquiry was conducted and the same was closed on 02.09.2015.

4. Recording the submission made by the learned Additional Public Prosecutor, the respondent police is directed to send a copy of the Closure Report to the petitioner within a period of two weeks.

5. In view of the above, this petition is closed, with liberty to the petitioner to work out his remedies in the manner known to law."

7. Aggrieved by the same, the petitioner filed a contempt petition in Cont.P.No.613 of 2016 alleging that the police have not complied with the order passed by this Court in CrI.O.P.No.25356 of 2015, and that, they have not conducted enquiry on the complaint dated 28.06.2015.

When the contempt petition No.613 of 2016 came up for hearing, the learned Additional Public Prosecutor submitted

that enquiry was conducted on the complaint dated 28.06.2015 and the same was closed on 02.09.2015 and a copy of the closure report was also furnished to the learned counsel for the petitioner across the bar. Recording the same, the Contempt Petition No.613 of 2016 was closed by this Court on 03.07.2016.

8. Now, the present contempt petition has been filed on the ground that the respondent police have not complied with the order dated 01.04.2015 passed by this Court in Cr1.O.P.No.8359 of 2015, alleging that the respondent police did not conduct enquiry on the complaint dated 16.02.2013, that is said to have been given by the petitioner.

9. The learned Additional Public Prosecutor submitted that the police have not received the complaint dated 16.02.2013. But it was unfortunately not brought to the notice of this Court and the final order was passed in Cr1.O.P.No.8359 of 2015. However, for the same allegations, the petitioner had given subsequent complaint dated 28.06.2015 and had followed it up by filing Cr1.O.P.No.25356 of 2015 and further followed it up by filing contempt petition in Cont.P.No.613 of 2016. This Court read both the complaints dated 28.06.2015 and 16.02.2013 given in the typed set of papers. In both the complaints, the allegations are almost same, inasmuch as it is alleged by the petitioner that his brother K.Gajendran had used JCB to demolish his house. The only difference is

that they were given in two different dates.

10. On a conspectus of the facts in both the cases, it is clear that there appears to be a dispute between the petitioner and his brother K.Gajendran on account of which the said allegations have been made. Since already the respondent police have conducted enquiry on the complaint dated 28.06.2015 given by the petitioner and the same has been closed on 02.09.2015, it is not necessary to conduct any further enquiry on the alleged complaint dated 16.02.2013.

Recording the same, this contempt petition is closed with liberty to the petitioner to workout his remedy in the manner known to law.

gv

SD/
JOINT REGISTRAR (OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

सत्यमेव जयते

COURT OFFICER(O.S.)

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CO/06/09/2016

To

1.Sardar
The Inspector of Police,
C-1, Uthukottai Police Station,
Thiruvallur District - 602 026.

2. The Additional Public Prosecutor,
High Court, Chennai.