



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**CONT P(MD)No.193 of 2016inCrl.O.P.(MD)No.18228 of 2013

Mary : Petitioner

-Vs-

1. M.Vikraman

The Superintendent of Police,
Tirunelveli District.

2. B.Ayyappan,

The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli.

: Respondents

PRAYER: Petition is filed under Section 11 of the Contempt of Court Act 1971, to punish the respondent for the willful disobedience of the order passed by this Court in Crl.O.P.(MD) No.18228 of 2013, dated 07.01.2014.

Prayer in CRL OP(MD). 18228/ 2013 :

To direct the respondent Nos.1 to 3 to withdraw the case in Crime No.15 of 2012 on the file of Respondent No.5 dated 11.02.2012 and entrust the same to Respondent No.4 for investigation of the case by a Competent Officer and file a final report before the jurisdictional Magistrate within the time stipulated by this Honourable Court.

For Petitioner

: Mr.D.Anbarasu

For Respondents

: Mr.A.P.Balasubramani

Government Advocate (Crl.side)

O R D E R

The petitioner's husband Mannar went missing, pursuant to which, on the complaint given by the petitioner, the Inspector of Police, Sivagiri Police Station registered a case in Cr.No.15 of 2012 dated 11.01.2012 for man missing. The petitioner filed H.C.P.(MD)No.190 of 2012 for a direction to the police to produce her husband. In H.C.P.(MD)No.190 of 2012, the Inspector of Police, Sivagiri Police Station was impleaded as seventh respondent. This Court passed the following order in H.C.P.(MD) No.190 of 2012 on 06.11.2012:



"2. It is seen that based on the directions issued by this Court, a Status Report has been filed by the 7th respondent dated 24.07.2012. In the said Status Report, it has been stated that all necessary steps are being taken to trace the detenu. It has also been stated that a special team has been formed to search for the missing person.

3. In such circumstances, this Court finds that no further orders are necessary in the present Habeas Corpus Petition. Accordingly, the Habeas Corpus Petition stands closed. However, it is made clear that 7th respondent shall continue with the investigation and take appropriate steps to trace the detenu, as per law."

2. Thereafter, the petitioner filed Crl.O.P.(MD)No.18228 of 2013 for transfer of investigation in Cr.No.15 of 2012 to the CBCID. In Crl.O.P.(MD)No.18228 of 2013, the petitioner had not impleaded the Inspector of Police, Sivagiri Police Station, but had impleaded the Inspector of Police, Puliangudi Police Station who is not the investigating officer in Cr.No.15 of 2012. In Crl.O.P.(MD)No.18228 of 2013, this Court passed the following order on 07.01.2013:

"3. During the course of argument, the learned Counsel for the petitioner submitted that if the second respondent, Superintendent of Police, Tirunelveli District, monitors the investigation, the petitioner will be satisfied, as the matter is pending for a longer time, without any progress.

4. Heard the learned Government Advocate (Crl.Side), who would oppose to transfer the investigation to CBCID.

5. Taking note of the totality of the circumstances, I direct the second respondent, Superintendent of Police, Tirunelveli District, to monitor the investigation in Cr.No.15 of 2012 on the file of the fifth respondent and complete the entire process and submit a report as expeditiously as possible. No further order is required.

6. With the above direction, this Criminal Original Petition is disposed of accordingly. Consequently, connected M.P.(MD)No.1 of 2013 is closed."

3. The petitioner once again filed Crl.O.P.(MD)No.11957 of 2015 for transferring the investigation in Cr.No.15 of 2012 to the CBCID. In Crl.O.P.(MD)No.11957 of 2015, the petitioner had not impleaded the Inspector of Police, Sivagiri Police Station, but had impleaded the Inspector of Police, Puliangudi Police Station. However, on coming to know of this case, the Inspector of Police, Sivagiri Police Station, filed a status report before this Court in Crl.O.P.(MD)No.11957 of 2015. This Court passed the following order on 17.08.2015 in Crl.O.P.(MD)No.11957 of 2015:

"2. Resisting the same, the learned Government Advocate



(Crl.Side) filed a status report and submitted that the man missing case has been registered on 11.01.2012 and the police officials have also followed the procedures, like, publication in news items through the daily newspaper Dinakaran and it was published on 14.01.2012 and a letter to telecast about the missing person through media has also been sent and pamphlet has been issued, but they have not received any clue and after the receipt of the representation dated 31.01.2012, once again, they have examined the petitioner and other and the officials of the Electricity Board as well as forest officials. They came to know that only the solar electric fencing was made by the Government and it will not cause any danger to both human and animals. Thus, the investigation reveals that he may be eloped with some other person.

3.Considering the facts and circumstances narrated above and also considering the status report filed by the fifth respondent, which shows that the statement given by the petitioner that the body has been buried, does not appear to be true, I do not find any reason for transferring the investigation. Hence, this petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed. However, the fifth respondent is directed to take effective steps to secure the husband of the petitioner viz., Mannar."

4. Now the petitioner has filed the present contempt application against the Inspector of Police, Puliangudi Police Station for alleged violation of the earlier order dated 07.01.2013 passed by this Court in Crl.O.P.(MD)No.18228 of 2013.

5. Mr.Ayyappan, Inspector of Police, Puliyangudi Police Station is present before this Court and has filed an affidavit in which he has stated that he is not at all a necessary party in this contempt application, in as much as the case in Cr.No.15 of 2012 was not registered by Puliyangudi Police Station, but registered by the Sivagiri Police Station. Therefore, on this short ground, this Contempt Petition deserves to be dismissed. However, the fact remains that after the disposal of Crl.O.P.(MD) No.18228 of 2013 on 07.01.2014, the petitioner has again approached this Court by filing Crl.O.P.(MD)No.11957 of 2015 and has obtained an adverse order on 17.08.2015. That apart, in Crl.O.P.(MD)No.18228 of 2013, this Court has not issued any positive directions to the police, but has only stated that the investigation in Cr.No.15 of 2012 should be expeditiously conducted under the supervision of the Superintendent of Police, Tirunelveli District. In a case relating to man missing, the Officer cannot be directed to complete the investigation in a time bound manner. Unless the police get credible information as to whether the man is dead, they will not



close the F.I.R. and they will keep it pending. Therefore, this is not a fit case to issue statutory notice to anyone for the alleged non-compliance of the orders of this Court. Accordingly, this Contempt Petition is dismissed.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Tirunelveli District.
2. The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.D.ANBARASU, Advocate SR.No.50272

CONT P (MD) No.193 of 2016
in
Cr1.O.P. (MD) No.18228 of 2013
03.04.2017

JM/SKN RSK/SAR 2/19.04.2017/4P/5C