



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CONT P(MD)No.684 of 2016
in
Crl.O.P.(MD)No.2195 of 2016

C.Nethaji : Petitioner/Petitioner
-Vs-

Mr.Perumal,
Inspector of Police,
Surandai Police Station,
Tirunelveli District. : Contemnor/ Respondent

PRAYER: Petition is filed under Section 11 of the Contempt of Court Act 1971, to punish the contemnor for his willful disobedience of the order passed by this Court made in Crl.O.P.(MD)No.2195 of 2016, dated 08.02.2016.

Prayer in CRL OP(MD). 2195/ 2016 :

To issue a direction to the second respondent herein to register a case against all the proposed accused based upon the petitioners complaint dated 01.02.2016, made before the 1st respondent herein which was forwarded to him, investigate the same, and to file final report against all the proposed accused in accordance with law.

For Petitioner : Mr.B.Brijesh Kishore

For Respondent : Mr.A.P.Balasubramani
Government Advocate (Crl.side)

O R D E R

It is a case of Nethaji that he had given a complaint dated 28.01.2016 to the Inspector of Police, Surandai Police Station making allegations against one M.K.Sundar and Nagapullarao and since the police refused to accept the complaint, he had sent it by a registered post on 29.01.2016. According to Nethaji, the cover was refused by the police and it was returned. Therefore, Nethaji sent another complaint dated 01.02.2016 by a registered post with acknowledgement due to the Superintendent of Police and

<https://hdservicescourts.gov.in/hdservices/> Crl.O.P.(MD)No.2195 of 2016 for a direction to the respondent police to register a F.I.R. on his complaint dated 01.02.2016.



2. In CrI.O.P.(MD)No.2195 of 2016, this Court passed the following order on 08.02.2016:

"3. The learned Government Advocate (Criminal Side) has submitted that on the basis of the complaint given by the petitioner, petition enquiry is pending.

4. In view of the above submission, the petitioner is directed to appear before the respondent police with relevant materials in support of case and the second respondent is directed to expedite the enquiry and complete the same within a period of one month from the date of receipt of a copy of this order. During the course of enquiry, if any cognizable offence is made out, the respondent police shall take action in accordance with law laid down by the Hon'ble Apex Court in **Lalitha Kumari Vs. Govt. of U.P. & Others**, reported in **(2013(4) Crimes 243 (SC))**. In case of closure of the complaint, a copy of the closure report be furnished to the petitioner within a week of such closure. On receipt of the same, it is open to the petitioner to work out his remedy in the manner known to law.

5. With the above direction, this Criminal Original Petition is disposed of."

3. Since no action was taken by the police, he has filed the present contempt application alleging that the police have not taken any action on his complaint dated 01.02.2016.

4. Today, Mr.N.Kaja Mohideen, Sub-Inspector of Surandai Police Station is present before this Court. On instructions, the learned Government Advocate (CrI.Side) submitted that Nethaji had given a written complaint dated 25.02.2016, which was received by the Inspector of Police, Surandai Police Station and a case in Cr.No.39 of 2016 was registered for the offences under Sections 341, 294(b) and 506(ii) I.P.C., on 25.02.2016 against the said M.K.Sundar and Nagapullarao.

5. It is the grievance of Nethaji that the police had failed to comply with the order dated 08.02.2016 passed by this Court in CrI.O.P.(MD)No.2195 of 2016 by taking appropriate action on his complaint dated 01.02.2016 and hence, it is his contention that the police have committed the act of contempt of Court.

6. Heard Mr.B.Brijesh Kishore, learned Counsel for the petitioner and the learned Government Advocate (CrI.Side) appearing for the respondent and perused the materials available on record.

7. Mr.B.Brijesh Kishore, learned Counsel for the petitioner contended that even in the printed F.I.R., the police have referred to CrI.O.P.(MD)No.2195 of 2016, but in the body of F.I.R., they have not incorporated the complaint dated 01.02.2016.



8. In the opinion of this Court, even according to the petitioner, he had first sent a complaint dated 28.01.2016 by RPAD on 29.01.2016 to the Inspector of Police, Surandai Police Station, but the cover had been returned unserved. Thereafter, the petitioner had sent the same complaint by RPAD on 01.02.2016 to the Superintendent of Police, Tirunelveli District and based on that he had filed CrI.O.P.(MD)No.2195 of 2016 and had obtained an order dated 08.02.2016.

9. In the considered opinion of this Court, the Superintendent of Police is not a Station House Officer under Section 154 Cr.P.C. This Court had over looked this aspect while passing the order dated 08.02.2016 in CrI.O.P.(MD)No.2195 of 2016. However, on the subsequent written complaint given by the petitioner, the police have registered the case in Cr.NO.39 of 2016 as stated above. This itself it is apparent that the Inspector of Police, Surandai Police Station did not have before him a copy of the complaint dated 01.02.2016, because even according to the petitioner it was sent only to the Superintendent of Police. Just because, the F.I.R. in Cr.No.39 of 2016, there is a reference to CrI.O.P.(MD) NO.2195 of 2016, it cannot be stated that the police had committed the act of contempt. It is apparent from the case diary that the petitioner himself has given a written complaint dated 25.02.2016 and his signature in the said complaint matches with the signature in the complaint dated 01.02.2016 which was sent by RPAD to the Superintendent of Police. Therefore, the petitioner cannot have any grievance against the police in this regard.

10. It is further represented that the offences in Cr.No.39 of 2016 have been altered from Sections 341, 294(b) and 506(i) I.P.C. to Sections 294(b), 352, 307, 506(ii) and 109 I.P.C.

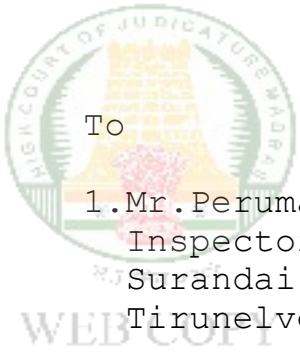
11. In the opinion of this Court, the pendency of this Contempt Application, fearing action by this Court in the contempt application, the police must have altered the offences. Therefore, this Court directs the respondent police to thoroughly investigate the case in an unbiased manner. If it is shown that the accused are innocents, it is needless to state that the prosecution against them should be dropped.

12. In view of the above, this Court does not find any merit in this Contempt Petition. Accordingly, the same is dismissed.

Sd/-
Assistant Registrar(co)

/True copy/

Sub Assistant Registrar



To

1.Mr.Perumal,
Inspector of Police,
Surandai Police Station,
Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Ssl

MAS/SV-MMS:24.04.2017:4P-3C

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