

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(CONTEMPT JURISDICTION)

FRIDAY0, THE 23rd DAY OF NOVEMBER, 2018

THE HON'BLE MR.JUSTICE T.RAJA

SUB.APPLICATION No.674 OF 2018

IN

CONTEMPT PETITION NO.1446 OF 2018

1 S.RAMASAMY PROPRIETOR
PALS RESTAURANT NO. 3/306 NEHRU STREET
MADIPAKKAM CHENNAI 600 091.
...PETITIONER/PETITIONER/WRIT PETITIONER

Vs

1 A.K. VISWANATHAN IPS,
THE COMMISSIONER OF POLICE, CITY POLICE
OFFICE, VEPERY, CHENNAI-600 007.

2 SELVA NAGARATHINAM ,
THE DEPUTY COMMISSIONER OF POLICE ADMIN
TRIPPLICANE DISTRICT, F1, CHINDADARIPET
POLICE STATION , 2ND FLOOR , CHENNAI- 600 002.

3 VETRI CHEZIAN,
THE ASSISTANT COMMISSIONER OF POLICE
TRIPPLICANE RANGE, CHENNAI- 600 005.

4 MOHANDOSS ,
THE INSPECTOR OF POLICE , D-1, TRIPPLICANE
POLICE STATION, CHENNAI-600 005.
...RESPONDENTS/RESPONDENTS/RESPONDENTS

Sub Application filed under Section 151 of CPC praying
this Court may graciously be pleased to reopen the above
Contempt Petition No.1446 of 2018 which was closed on
26.06.2018.

The above Sub Application coming on this day before this Court for hearing in the presence of Mr.M.Vijay Anand for Mr.N.Naganathan Counsel for the Petitioner herein; and of Mr.S.R.Rajagopal, Additional Advocate General assisted by Mrs.P.Rajalakshmi, Additional Government Pleader for R1 to R4 herein; and upon reading the Application and affidavit of S.Ramaswamy filed herein ; the Court made the following order:-

"Learned Additional Advocate General appearing for the respondents submitted that the allegation made against the respondents that an oral direction was issued by the respondents on 12.11.2018 to close down the petitioner's business immediately, otherwise, they would initiate prostitution case against the petitioner, needs to be verified by the higher officials. Although the petitioner averred in paragraph-13 of the affidavit that they have closed down their business on 12.11.2018 from 7.00 P.M. onwards and also sent a letter on 13.11.2018 to the respondents pointing out the repeated violations made by the respondents, it has to be verified. To verify and report before the Court, some more reasonable time may be granted to the respondents. The learned Additional Advocate General also submitted that the Commissioner of Police will personally look into the matter and if the complaint made by the petitioner is found to be true, suitable action also will be taken.

2. This Court, accepting the said request, grants two weeks time for filing reply by the respondents.

3. Admittedly, the writ petitioner is the proprietor of Pal's Restaurant organising Indian cultural dance show for nearly 50 years. Facing certain hindrance from the respondent police department, he filed W.P.No.328 of 2014 challenging the show cause notice dated 1.12.2013 issued by the Commissioner

of Police, Vepery, Chennai, quash the same with a consequential direction to the Commissioner of Police to grant renewal of licence to conduct the Indian cultural dance. Along with the writ petition, he has also prayed for an order of interim injunction restraining the respondents from preventing or interfering with the conduct of Indian cultural dance by the petitioner in the premises of Pal's restaurant. After hearing the parties, this Court, by order dated 11.4.2014 in M.P.No.1 of 2014 in W.P.No.328 of 2014 granted an order of interim injunction as prayed for till the disposal of the writ petition. However, on the interference of the respondent police officials from conducting the Indian cultural dance in Pal's restaurant, the petitioner came to this Court with Contempt Petition No.2058 of 2014 seeking to take appropriate action against the respondents 1 to 4 for wilfully disobeying the order of this Court dated 11.4.2014 passed in M.P.No.1 of 2014 in W.P.No.328 of 2014. On the statement made by the learned Additional Advocate General that the respondents are not in any way obstructing the petitioner, this Court closed the contempt petition on 31.7.2014.

4. Again another Sub Application No.439 of 2015 was filed to reopen the contempt petition No.2058 of 2014, inasmuch as the respondent police have interfered with the affairs of the business conducted by the petitioner in the licensed premises. Again the learned Additional Advocate General for the respondents, on instructions, reiterated that the respondents have not in any manner interfered with the conduct of the dance programme by the petitioner. Accepting the same, Sub Application No.439 of 2015 was closed by order dated 3.7.2015.

5. For the third time, the petitioner filed Contempt Petition No.2989 of 2016 with a grievance that the respondent police have wantonly and intentionally, despite the order, interfering with his business by way of oral threat asking them to close down the restaurant. This Court, by order dated 15.12.2016, again recording the undertaking given by the respondents that they are not in any way obstructing the petitioner to run the restaurant, closed the contempt petition.

6. For the fourth time, the petitioner filed Sub Application No.259 of 2018 to re-open the contempt petition No.2989 of 2016 on the same ground that when the petitioner is running the restaurant as per the order of this Court dated 11.4.2014, the respondent officials came to the petitioner once in a week and whenever they think fit for inspection and started interfering with the conduct of the Indian cultural dance without any valid reasons and also threatened the petitioner to close down the business immediately with effect from 3.6.2015. Again when the said application was taken up, a letter was given by Mr.Mohan Dass, Inspector of Police, D-1, Triplicane Police Station dated 27.4.2018 mentioning that the respondent police never disturbed the petitioner's business at any time. Recording the same, the said sub application was closed on 27.4.2018. Even after the undertaking of the respondents that they would not unnecessarily interfere with the conduct of the programme by the petitioner, once again the police registered FIR against the petitioner and also seized the musical instruments. Hence, the petitioner for the fifth time filed Contempt Petition No.1446 of 2018 and this Court, accepting the unconditional apology tendered by the Inspector of Police, D-1 Triplicane Police Station, closed the contempt petition with a direction to the respondents to follow the order passed by this Court on 11.4.2014.

7. Again the petitioner was disturbed by the respondent police on oral instructions that if they do not close down the restaurant, they will file prostitution case against the petitioner. Hence, he has filed the present Sub Application No.674 of 2018 to reopen the contempt petition No.1446 of 2018. The learned counsel for the petitioner submitted that now the petitioner has closed down the restaurant in spite of the order of injunction granted and the undertaking given by the police department. That shows that the five time undertaking given by the respondent police before this Court for closing the sub applications to reopen the contempt petitions amounts to hide and seek play enacted by the respondent police. Secondly, on five occasions, the valuable and precious time of the Court has also been wasted for the same cause. Now the statement made by the writ petitioner that they have closed down the restaurant

in spite of the order passed by this Court, needs a proper and thorough investigation by the higher officials into the conduct of the Inspector of Police, D1 Triplicane Police Station.

8. As this Court had heard the matter on five occasions and this is the sixth time, the first respondent-Commissioner of Police, Chennai is directed to look into the matter seriously and file appropriate reply. It is made clear that if the allegation made by the petitioner is proved to be correct, appropriate action also be taken against the concerned officer.

9. Since this Court has already granted an interim order in the writ petition, the petitioner is permitted to re-open the restaurant and carry on the lawful business. Post the matter on 14.12.2018."

WITNESS THE HON'BLE SHRIMATI. JUSTICE VIJAYA KAMLESH TAHILRAMANI, THE CHIEF JUSTICE OF HIGH COURT AT MADRAS, AS AFORESAID, THIS THE 23rd DAY OF NOVEMBER 2018.

सत्यमेव जयते

SD/-
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

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RA/04/12/2018

SUB APPLICATION NO.674 OF 2018

IN

CONTEMPT PETITION NO.1446 OF

2018

THE HON'BLE MR.JUSTICE T.RAJA

ORDER

DATED :23/11/2018

FOR APPROVAL :04/12/2018

APPROVED ON :04/12/2018

To:

1.A.K. VISWANATHAN IPS,
THE COMMISSIONER OF POLICE, CITY
POLICE OFFICE, VEPERY,
CHENNAI-600 007.

2.SELVA NAGARATHINAM ,
THE DEPUTY COMMISSIONER OF POLICE
ADMIN TRIPPLICANE DISTRICT, F1,
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