

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

Contempt Petition No.1474 of 2018

B.Satish
Proprietor of "Shivaay Restaurant",
No.29/15, Millers Road,
Kilpauk, Chennai - 600 010. Petitioner

Vs.

1. Mr.S.Rajendran,
Deputy Commissioner of Police,
Kilpauk Police Station, Kilpauk Range,
Poonamallee High Road, Chennai - 600 010.
2. Mr.Arnold Easter,
Assistant Commissioner of Police,
Kilpauk Police Station, Kilpauk Range,
Poonamallee High Road, Chennai - 600 010.
3. Mr.Balan,
Inspector of Police, Kilpauk Police Station,
Poonamallee High Road, Chennai - 600 010.

... Respondents

Contempt Petition filed under Section 11 of Contempt of Courts Act, praying to punish the respondents 1 to 3 for wilfully disobeying the order passed in W.M.P.No.9999 of 2018 in W.P.No.8027 of 2018 dated 09.04.2018.

For Petitioner : Mrs.Nalini
Chidambaram, Senior Counsel
for M/s.L.P.Maurya

For Respondents : Mr.R.Venkatesh,
Government Advocate

O R D E R

Mrs.Nalini Chidambaram, learned senior counsel appearing for the petitioner submitted that the interim order passed by this Court on 09.04.2018 in W.M.P.No.9999 of 2018 in W.P.No.8027 of 2018, giving direction to the respondents not to disturb the petitioner till the disposal of the Writ Petition, has been violated.

2.The learned senior counsel further submitted that in the guise of inspection, on 11.05.2018 at about 10.30 pm, the Police Officer viz., the 3rd respondent along with other Police Officers had entered into the petitioner's restaurant viz., Shivaay Restaurant, based on the orders of the respondents 1 & 2 and assaulted the customers by dragging them out of the restaurant and also threatened them not to visit the petitioner's restaurant again.

3.Adding further, the learned senior counsel has stated that the CCTV data was also forcibly taken by the 3rd respondent to erase the evidence of the unlawful raid in the petitioner's restaurant and the assault made on the customers. Some of the equipments from the petitioner's restaurant were also seized by the 3rd respondent, which is bad in law. To support their case, they have also

under various provisions of the Indian Penal Code, Cigarettes and other Tobacco Products Act 2003 and Prohibition of Smoking and Spitting Act, 2003. However, the petitioner is prepared to face the criminal case registered against him.

4. In the meanwhile, when there is a specific direction issued by this Court that till the disposal of the pending Writ Petition, the respondents shall not disturb the petitioner, the above action taken by the respondents are wholly uncalled for. Therefore, a direction be issued not to repeat the same.

5. A detailed counter affidavit has been filed by the 3rd respondent denying the submissions made by the learned senior counsel for the petitioner.

6. Mr. R. Venkatesh, learned Government Advocate appearing for the respondents submitted that when the 3rd respondent was on rounds at about 22.00 hours on 12.05.2018, he got information from reliable sources that banned Tobacco products were being sold to school and college students near Motcham Theatre, Millers Road, Kilpauk. Immediately, the 3rd respondent had rushed to the spot and found nearly four youngsters, who looked like school students, running away from the entrance of the petitioner's restaurant, creating suspicion to the 3rd

respondent. Hence, he entered into the premises of the petitioner's restaurant with his police team and found that many youngsters were sitting in the table, consuming Hookah and Hans. As a responsible Police officer, he questioned the Manager of the petitioner's restaurant one Jerry Thapa about the activities being carried out in their restaurant. But he threatened the 3rd respondent and his subordinates stating the restaurant belongs to one Aryan, therefore, they cannot disturb their business. The 3rd respondent had seized 3 Simili, 3 Inhaler Tubes, 3 Smoking Cool Box and 4 Hans Packet from the premises and registered a criminal case in Crime No.229 of 2018 on 12.05.2018 against the Manager Jerry Thapa and the owner of the restaurant Aryan for the offences punishable under Section 294(b), 353, 506(i) of IPC, Section 24 of Cigarette and other Tobacco Products Act, 2003 and Section 4(3) of Tamil Nadu Prohibition of Smoking and Spitting Rules, 2017 and remanded the Manager to judicial custody and the owner had absconded. Now, the case is under investigation.

7. Since the criminal case registered against the owner of the petitioner's restaurant is under investigation, the petitioner is at liberty to face the criminal case. In the meanwhile, the respondents are directed not to disturb as the petitioner alleges that they unnecessarily disturbed their business for the reason that they have obtained orders from this Court on 09.04.2018, wherein this Court

has granted liberty to the respondent police to take necessary action, including raid as and when necessary, if the petitioner violates any rules or regulations. Based on the said observation, it appears that the aforementioned raid has taken place.

8.The learned senior counsel appearing for the petitioner submitted that without any evidence whatsoever, the raid has been conducted under the guise of inspection, which should be avoided, otherwise the petitioner will not be in a position to run their business, which is their livelihood.

9.I also find some merit in the submission and hence, I direct the respondents to abide by the order passed by this Court. However, if there is any situation warranting further inspection, they should also videograph the violation, if any committed by the petitioner, so that the petitioner cannot make any bald allegations.

10.The learned senior counsel submitted that they have not violated any provisions of the Act and they are running the restaurant as per the conditions mentioned in the license.

11. In such view of the matter, the respondents, if necessary, should take videograph of the incidents while undertaking inspection.

12. With the above direction, the Contempt Petition is closed.

SD/
ASSISTANT REGISTRAR (Comm. Cases)
va

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)
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TM/CO/13/07/2018.

One CC to Government Pleader, SR.8975.

To

1. The Deputy Commissioner of Police,
Kilpauk Police Station, Kilpauk Range,
Poonamallee High Road, Chennai - 600 010.
2. The Assistant Commissioner of Police,
Kilpauk Police Station, Kilpauk Range,
Poonamallee High Road, Chennai - 600 010.
3. The Inspector of Police, Kilpauk Police Station,
Poonamallee High Road, Chennai - 600 010.