

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2018

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

CONT.P.No.1550 of 2018

1. VARAAKI

...Petitioner

-Vs-

1.Mr.Janakiraman,
Inspector of Police,
Central Crime Branch,
Edf -1, Team - 2,
Vepery, Chennai.

... Respondent

PRAYER: Petition filed under Section 11 of the contempt of courts Act, 1971, to punish the respondent for willful disobedience of the order passed by this Hon'ble Court in W.P.No. 34188 of 2017 dated 05.01.2018.

For petitioner : No appearance

For respondents: Mr.K.Ravikumar, Additional
Government Pleader

ORDER

Contempt Petition was filed alleging, that the respondent has wilfully disobeyed the order of this court dated 05.01.2018 made in W.P.No.34188 of 2017.

2.When the case is called today, no one is appearing for the petitioner. However, Mr.K.RaviKumar, learned Additional Government Pleader appeared for the respondent and has filed the type set of documents as well as the affidavit of the respondent and submitted that the order of this court referred to above has been fully complied with.

3. In fact, the petitioner moved the said writ petition i.e. W.P.No.34188 of 2017 seeking for Writ of Mandamus directing the second respondent, i.e the respondent herein, to prevent the office bearers of the South Indian Artists Association from conducting a Star Night and cultural programme which was proposed to be held on 06.01.2018 in the Bukit Jalil National Stadium, Kuala Lumpur, Malaysia till the investigation is completed in respect of the petitioner's complaint dated 01.10.2016 in compliance of the order passed by this court in CrI.O.P.No.20152 of 2017 dated 22.09.2017.

4. After hearing the said writ petition, this court has passed an order dated 05.01.2018 which reads thus:-

"However, in the interest of justice, this writ petition is disposed of with the following directions:-

(i) that the respondent police shall issue a fresh summon to the petitioner fixing the date and time for the appearance, with relevant documents before the respondent police. The petitioner on receipt of such summon shall appear before the respondent police with all available materials and documents in respect of the complaint and produce the same to the respondent police and also give a statement that those are all the only documents available with him and no further documents are available with the petitioner.

(ii) On receipt of such documents from the petitioner, the respondent police shall proceed further to complete the investigation within a period of two months from such receipt of documents from the petitioner. In the process of investigation, if the respondent Police wants to summon any office bearer of the said Association, they can be summoned by issuing a notice or summons and at any

rate, investigation shall be completed within a period of two months, as indicated above.

It is further made clear that, once the respondent police come out with a conclusion after the investigation, the parties should abide by the same and respondents can proceed in accordance with law. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

5. Pursuant to the said order passed by this court, it is the claim of the petitioner that, even though the petitioner had appeared before the respondent, the petitioner was not entertained and the office bearers of the Artists Association had not been summoned or enquired. Thereafter, it was claimed by the petitioner, i.e on 03.04.2018, he had sent a request by registered post to the respondent as well as the Commissioner of Police, Greater Chennai, stating that the order of this court has not been complied with and therefore if the said order dated 05.01.2018 made in W.P.No.34188 of 2017 was not complied with, he would be constrained to initiate contempt proceedings.

6. In the circumstances, the petitioner has filed this contempt petition. Today, when the case was taken up for hearing, Mr.K.Ravikumar, learned Additional Government Pleader has filed a type set of documents with and
 In the said type set of documents, the respondent has produced the copy of the notices/summons

issued to the petitioner on 05.12.2017,14.12.2017 and also the notice sent by the respondent to the petitioner after the order of this court, on 20.01.2018,27.01.2018,02.03.2018. All those notices has been sent by register post. However, it is the claim of the respondent that, in spite of repeated notices/summons, the petitioner has not turned up as directed by this court to make out his case before the respondent.

7.It is further submitted by the learned Additional Government Pleader that, thereafter on 27.02.2018 the respondent had issued notice to the South Indian Artists Association. In response to the notice the Manager of the Association one Mr.V.Balamurugan with authorisation letter dated 02.03.2018, issued by M.Nasser, President South Indian Artists Association, appeared before the respondent and had given a detailed statement which have been recorded by the respondent and the said statement given by the Manager of the said association on 08.03.2018 has also been filed before this court in the type set of documents.

8.In this regard, the respondent has also filed a detailed affidavit wherein he has stated the following:-

"I respectfully submit that the Hon'ble High Court of Madras on 05.01.2018 was pleased to pass the following order against the respondent:

"that the respondent police shall issue a fresh summon to the petitioner by fixing date and time for the appearance and the petitioner shall appear before the police with relevant document. If

police wants to summon any office bearer of the said association they can be summoned and complete the investigation within a period of two months."

"Further, the Hon'ble Court ordered that once the respondent police come out with a conclusion after the investigation, the parties should abide by the same and respondents can proceed in accordance with law and disposed the Writ Petitions."

I respectfully submit that in accordance with the order passed by this Hon'ble High Court of Madras in W.P.No.34188/2017, I summoned the petitioner/petitioner through police notice dated 12.01.2018 requesting to appear for enquiry on 19.01.2018, the petitioner received the summon but did not appear for enquiry. Therefore, the petitioner was again summoned through notices dated 20.01.2018, 27.01.2018 and 02.03.2018 requesting to appear for enquiry on 25.01.2018, 01.02.2018 and 05.03.2018 respectively. Despite of notices, the petitioner did not appear for enquiry.

I respectfully submit that I summoned the South India Artists Association through notice dated 27.02.2018 requesting to appear for enquiry on 05.03.2018. On receipt of summon by the said South India Artists Association, the General Manager Tr.V.Balamurugan was appeared for enquiry on 05.03.2018 with authorisation letters dated 02.03.2018 issued by Tr.M.Nasser, President, South Indian Artistes Association and Nadigar Sangam Charitable Trust.

I respectfully submit that the said Tr.V.Balamurugan, General Manger, South Indian Artistes Association and Nadiagar Sangam Charitable Trust was enquired and his statement was recorded, in which he stated that on approval of the association members telecasting rights was given to Sun TV and received Rs.9 crores in favour of above said association and filed auditing

report for the year 2016-2017 before the Registrar of Societies, South Chennai District. Further, he stated that the petitioner Tr.Varaagi filed civil case against the association before the Hon'ble Xvi City Civil Court, Chennai in O.s.No.31/2018 and the same is pending.

I respectfully submit that the preliminary enquiry reveals that the disputes are relating to the affairs of the society issue and the Registrar of Societies is competent authority to enquiry the matter and the complaint lodged by the petitioner did not disclose a cognizable offence. Hence, the complaint of the petitioner was treated as closed on 08.03.2018 and the intimation was sent to the petitioner/petitioner through speed post on 08.03.2018.

I respectfully submit that no cognizable offence being disclosed during preliminary enquiry conducted as directed by this Hon'ble Court and hence the complaint lodged by the petitioner was treated as closed on 08.03.2018."

9.On perusal of the aforesaid documents filed and referred to by the respondents and also after having gone through the averments made in the affidavit filed by the respondent as extracted above, this court feels that, pursuant to the order of this court, repeated summons have been issued to the petitioner, but it seems that the petitioner have not turned up.

10.However, the Artists Association was summoned by the respondent Police and in response to the summon, on behalf of the Artists Association, the Manager had appeared who was authorised to do so before the respondent and he had given statement, based on which the respondent has concluded the preliminary enquiry and has come to a

conclusion that there had been no cognizable offence made out against them and therefore the complaint given by the petitioner was treated as closed on 08.03.2018.

11. In view of the said facts, as has been reflected through the documents filed before this court and the supporting affidavit filed by the respondent and there is no contra statement and evidence produced by the petitioner, accepting the said documents and the averments made in the affidavit filed by the respondent, this court is of the view that, the order of this court made in W.P.No. 34188 of 2017 dated 05.01.2018 has been complied with. In the result, this Contempt Petition does not require any further adjudication, hence, the same is closed.

SD/
ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

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CO/03/10/2018

One CC to Government Pleader, SR.12561

To

1. Mr. Janakiraman,
Inspector of Police,
Central Crime Branch,
Edf - 1, Team - 2,
Vepery, Chennai.