

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Cont.P.No.128 of 2019

Logu Iyyappan

.. Petitioner

Vs.

Babuji
Inspector of Police,
Mudaliarpur Police Station,
Puducherry.

.. Respondent

PRAYER: Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, 1971, to Punish the respondent for the willful disobedience of the orders of this Court passed in CrI.O.P.No.25934 of 2018 dated 09.11.2018 under the provisions of Contempt of Courts Act.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.D.Bharatha Chakravarthy
Public Prosecutor (Puducherry)

ORDER

This contempt petition has been filed on the ground that the directions given by this Court to the respondent police, to complete the investigation and file a final report within a period of one month, has not been complied with by the respondent.

2.The respondent police is present before this Court.

3.The learned Public Prosecutor (Puducherry) appearing for the respondent on instructions submitted that the FIR was registered in the year 2007 and in the year 2009 a final report came to be filed before the concerned Court. The final report contained the names of nearly 92 persons. Since the Court found that the complete particulars of many of the accused persons was not even available in the final report, the report was returned back to the police and direction was given to conduct a proper investigation and file a report.

4.There was no progress in the investigation and in the meantime the petitioner who is added as A8 in the FIR approached this Court seeking for a direction to the respondent police to file a final report and this Court passed an order directing the respondent police to complete the investigation within a period of one month.

5.Only after the order was passed, the respondent police realized the fact that the case diary itself was missing and there were no materials to continue with the investigation. Subsequently, the respondent police were able to trace a copy of the entire materials that were collected in the year 2007-2009, from the office of the Superintendent of Police.

6.The learned Public Prosecutor (Puducherry) therefore submitted that now the respondent police has to virtually start the investigation from the beginning and properly identified the accused persons.

7.Mr.S.Doraisamy, learned counsel appearing on behalf of the petitioner submitted that the incident took place during April 2007 and it was a group clash involving a lot of persons. The learned counsel further submitted that the petitioner who had nothing to do with the offence was added as an accused and was ranked as A8. The learned counsel further submitted that if the investigation has not been completed for the last 12 years, no useful purpose will be served by keeping this case pending and it will be virtually impossible for the respondent police to get hold of the witnesses who may not be available in this case. The learned counsel therefore submitted that this Court in exercise of its jurisdiction under Section 482 of Cr.P.C., can close the entire investigation itself and quash the FIR.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.It is clear from the submissions made by the learned Public Prosecutor (Puducherry) that the case has to be virtually investigated afresh. The question is whether any purpose will be served by starting the investigation at this length of time after

nearly 12 years. It is to be borne in mind that the case involved a group clash and therefore the identity of the accused persons will depend upon the exact details that requires to be provided by the witnesses. At this length of time either the witnesses will not be available or due to passage of time, there will be a loss of memory in identifying the accused persons. In short the entire exercise of conducting the investigation will be futile and waste of time.

10. In the considered view of this Court, no useful purpose will be served in keeping the FIR pending and directing the respondent to start the investigation afresh.

11. In the result, the FIR in Crime No.92 of 2007, pending on the file of the respondent police is hereby quashed. This Contempt Petition is disposed of accordingly.

SD/-

ASSISTANT REGISTRAR (COMM. CASES)

vs

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Smi/29/08/2019

To
Inspector of Police,
Mudaliarpur Police Station,
Puducherry.