



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Cont.P. (MD) .No.1609 of 2019
in
Cr1.O.P. (MD) .No.14624 of 2012

P.Suresh

...Petitioner/1st Petitioner

Vs.

A.M.Sarasu

...Contemnor/2nd Respondent

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, to punish the contemnor / 2nd respondent / wife for categorically overreaching, circumventing and maneuvering the order passed by the Hon'ble High Court of Madras Madurai Bench in Cr1.O.P.Nos.14624 of 2012, dated 18.02.2019 and confirmed by the Hon'ble Supreme Court in SLP (Cr1).Nos.4843 and 4846 of 2019, dated 22.07.2019 and by constantly not complying to the above order of the Hon'ble High Court and contumaciously pleading before the Courts below that the above orders are not direct, not binding on the Court's below and are just mere observations and not directions and the order of the Hon'ble High Court leads to miscarriage of justice and thus making the Courts below to conduct an enquiry and pass orders as the Hon'ble High Court failed to consider many aspects before passing the above direction, dated 18.02.2019 in Cr1.O.P.No.14624 of 2012.

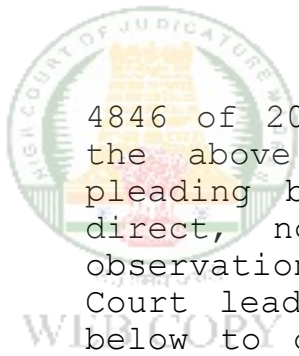
Prayer in CRL OP(MD). 14624/ 2012 :

The Petition filed under Section 482 of Cr.P.C. to call for the records in DVP No. 16 of 2012 on the file of the Judicial Magistrate I, Karur and quash the same as against the petitioners herein.

For Petitioner : Mr.Shankar M.V.

O R D E R

This contempt petition has been filed to punish the contemnor / 2nd respondent / wife for categorically overreaching, circumventing and maneuvering the order passed by the Hon'ble High Court of Madras Madurai Bench in Cr1.O.P.Nos.14624 of 2012, dated 18.02.2019 and confirmed by the Hon'ble Supreme Court in SLP (Cr1).Nos.4843 and



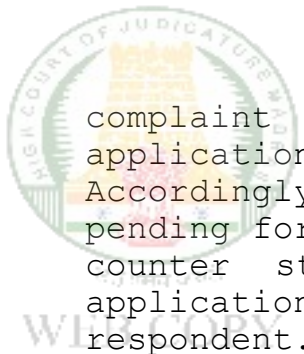
4846 of 2019, dated 22.07.2019 and by constantly not complying to the above order of the Hon'ble High Court and contumaciously pleading before the Courts below that the above orders are not direct, not binding on the Court's below and are just mere observations and not directions and the order of the Hon'ble High Court leads to miscarriage of justice and thus making the Courts below to conduct an enquiry and pass orders as the Hon'ble High Court failed to consider many aspects before passing the above direction, dated 18.02.2019 in CrI.O.P.No.14624 of 2012.

2. While dismissing the quash petition filed by the petitioner dated 18.02.2019, this Court passed the following order:

'As regards the petitioners in CrI.O.P(MD)No.14624 of 2012 namely, P.Suresh, his mother P.Saraswathi, his brother P.Prabakaran and his sister-in-law M.Gowri, there are prima facie materials as against them. Hence, D.V.O.P.No.16 of 2012 against them cannot be quashed. However, liberty is granted to P.Suresh to file an application for conduction DNA profiling of A.M.Sarasu and her child before the Judicial Magistrate No.1, Karur in D.V.P.No.16 of 2012 and also in H.M.O.P.No.152 of 2018 on the file of the Family Court, Karur. If A.M.Sarasu does not come forward for DNA profiling, the Courts can draw adverse inference in favour of P.Suresh. The presence of P.Saraswathi, P.Prabakaran and M.Gowri in D.V.O.P.No.16 of 2012 before the Judicial Magistrate No.I, Karur is dispensed with pending final orders in the said case on them entering appearance through and advocate and giving an undertaking that they will not dispute their identity and they will not adopt any dilatory tactics.'

3. The learned counsel for the petitioner would submit that on the liberty given by this Court, the petitioner filed a petition for directing the respondents for DNA profile test. While pending the said application the petitioner herein filed a petition to recall the order and the same was also dismissed by this Court by order in CrI.O.P(MD)N0.14624 of 2012, dated 26.02.2019. The respondent is also preferred Special Leave Petition before the Hon'ble Supreme Court of India and the same was also dismissed on 07.05.2019. Now, she filed a counter in the DNA profile test filed by the petitioner.....that this Court never liberty to the petitioner to file a petition for DNA profile test. Therefore, the respondent committed condemn of the order passed by this Court.

4. It is seen from the order passed by this Court, while dismissing the quash petition to quash the domestic violence



complaint observed that the petitioner is at liberty to file a application for conducting DNA profile test before the trial Court. Accordingly, the petitioner is now filed a petition and it is pending for enquiry. In the said application, the respondent filed a counter stating that the petitioner has not ...to make the application to DNA test. It is only a counter filed by the respondent. After enquiry, the trial Court has to pass order on merits on the application filed by the petitioner. It would not amount to contemn of any order passed by this Court.

5. In the result, this Contempt Petition is devoid of merits and it is dismissed. However, the trial Court is directed to pass orders on the application filed before the DNA test on merits in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

vsd

To

1.The Judicial Magistrate No.I, Karur.

2.The Judge, Mahila Court, Karur.

3.The Judge, Family Court, Karur.

+1 CC to M/s.M.V. SHANKAR, Advocate (SR-95619[F] dated 01/11/2019)

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JMN(19.11.2019) 3P : 5C