

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM:

THE HONOURABLE Mr.JUSTICE **P.N.PRAKASH**

Cont.P.No.1062 of 2015

Shastri Bhavan Staff House Site  
& Welfare Society,  
Represented by its Founder,  
President and Special Convener,  
V.K.Bagavaty,  
No.5, Ram Street, Nelvoyal Nagar,  
Perambur, Chennai – 600 011. ... Petitioner

Balulullah,  
Deputy Superintendent of Police,  
Economic Offences Wing,  
CB-CID Police, Anna Nagar,  
Chennai – 40. ... Respondent

Vs.

Contempt Petition filed under Section 11 of Contempt of Courts

Act, 1971, to punish the respondent for his wilful disobedience of the order  
dated 21.10.2013 passed by this Court in Crl.O.P.No.22665 of 2013.

For Petitioner : Mrs.M.Udaya Bhanu

For Respondent : Mrs.P.Kritika Kamal  
Government Advocate  
(Crl.Side)

## ORDER

This contempt petition has been filed seeking to punish the respondent for his wilful disobedience of the order dated 21.10.2013 passed by this Court in Crl.O.P.No.22665 of 2013.

2. In Crl.O.P.No.22665 of 2013, this Court passed the following order on 21.10.2013:

*“6. In the circumstances, the second respondent, namely, the Inspector of Police, Anti Land Grabbing Cell, Commissioner of Police Campus, Egmore, Chennai, is directed to forward the complaint to the Deputy Superintendent of Police, Economic Offences wing, Chennai, who on receipt of the case records will enquire the complaint of Bagavathy dated 26.02.2013 and proceed further in accordance with law.”*

*7. With this directions, the Criminal Original Petition is disposed of.”*

3. Alleging non-compliance with the above order, the petitioner has filed the present contempt petition.

4. After notice was issued to the respondent, one Mohammed Balulullah, Deputy Superintendent of Police, Thiruvarur District, filed a counter affidavit dated 16.06.2015, wherein, in paragraph no.8, he has stated as follows:

*“8. I further submit that on complete perusal of the entire records available at that time and also as per the oral discussions I had with the legal officers concerned, it reveals that no criminal case has been made out and further with the available records, the respondent police could not able to come to the conclusion with that insufficient of documents/records. Further, the Counsel for the petitioner, Tr.Prem Anandan appeared and stated that he will bring some more relevant vital documents pertaining to the above petition within a short period of time. But, he failed to do so.”*

5. Apart from the above extract in the counter, the said Mohammed Balulullah has stated in paragraph no.9 that, he went on medical leave from 19.12.2014, for a period of two months and thereafter, he was transferred to District Crime Branch (DCB), Thiruvarur District.

6. R.Krishnasamy, Deputy Superintendent of Police, EOW II Headquarters, Chennai, filed a status report dated 22.06.2015, wherein, in paragraph nos.5 and 6, he has stated as follows:

*“5. It is further submitted that after perusing all the relevant records and statements of both the parties the enquiry officer came to the conclusion that no criminal case is made out.*

*6. It is submitted that a copy of the enquiry report prepared by Mr.T.AR.Mohamed Balulullah, DSP, EOW II, Chennai, was sent to the petitioner through registered post on 22.06.2015.”*

7. The petitioner was not satisfied with the status report and therefore, the said Krishnasamy filed a further enquiry report dated 17.07.2015 running to nine pages, setting out the enquiry conducted on the complaint of the petitioner and ultimately arriving at the opinion that the complaint did not disclose the commission of cognizable offence.

8. In response to the further enquiry report dated 17.07.2015 filed by Krishnasamy, the petitioner filed a reply statement dated 25.04.2016 attacking the averments made by Krishnasamy.

9. At the outset, it is made clear that contempt jurisdiction is a matter between the Court and the alleged contemnor, where the petitioner can only bring to the notice of this Court that there has been a violation of this Court's order, and thereafter, the role of the petitioner ceases and the matter completely vests in the hands of the Court.

10. In the order dated 21.10.2013 passed by this Court in Crl.O.P.No.22665 of 2013, which has been extracted above, this Court had directed the police to conduct an enquiry on the complaint of Bagavathy dated 26.02.2013 and proceed further in accordance with law. This Court has not stated that the police should register an FIR and prosecute the persons named by Bagavathy in his complaint, because, such a direction cannot be given by the Court to the police in view of the settled position of law beginning from *King Emperor Vs. Khwaja Nazir Ahmed*<sup>1</sup> to *P.Chidambaram Vs. Directorate of Enforcement*<sup>2</sup>. Therefore, neither under Section 482 Cr.P.C. nor while exercising the powers under the Contempt of Courts Act, 1971, in a case of this nature, this Court can give any direction to the police to register an FIR on the complaint of the petitioner and prosecute the persons named therein.

<sup>1</sup> AIR 1945 PC 18

<sup>2</sup> <https://hcservices.ecourts.gov.in/hcservices/> 2019 SCC Online SC 1143

11. In this case, the police have conducted an enquiry on the compliant given by Bagavathy as directed by this Court *vide* order dated 21.10.2013 and thereby, they have complied with the order. Therefore, no statutory notice is warranted in this case. It is always open to the petitioner to work out his remedy in accordance with law, if he is not satisfied with the enquiry conducted by the police on his complaint.

In the result, this contempt petition is closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

nsd

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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

SMI/30/12/2020

To

1.The Deputy Superintendent of Police,  
Economic Offences Wing,  
CB-CID Police, Anna Nagar,  
Chennai – 40.

2.The Public Prosecutor  
Madras High Court  
Chennai – 600 104.