

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

**CORAM:
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN**

Contempt Petition Nos.537 & 539 of 2016

Cont.P.No.537 of 2016:

E.Balu

... Petitioner

vs.

1. Anitha Hussain, IPS,
Deputy Inspector General of Police,
Villupuram Range,
Villupuram District.
2. Narendiran Nair, IPS,
Superintendent of Police,
Villupuram District.

... Respondents

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.2705 of 2009 dated 03.09.2013**.

Cont.P.No.539 of 2016:

E.Balu

... Petitioner

vs.

1. Anitha Hussain, IPS,
Deputy Inspector General of Police,
Villupuram Range,
Villupuram District.

2. Narendiran Nair, IPS,
Superintendent of Police,
Villupuram District.

... Respondents

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.2703 of 2009 dated 03.09.2013**.

For Petitioners in both : M/s.Paul & Paul
Contempt Petitions
For Respondents in both : Mr.M.Elumalai,
Contempt Petitions Addl. Government Pleader

COMMON ORDER

These Contempt Petitions are filed alleging willful disobedience of the order dated **03.09.2013** passed by this Court in **W.P.Nos.2703 and 2705 of 2009**, respectively.

2. When the matter is taken up for hearing today, it is represented by the learned Additional Government Pleader appearing for the Respondents that, the orders under contempt are challenged in **W.A.Nos.47 to 51 of 2014, batch of cases** and the same are allowed by a Division Bench of this Court vide judgment dated **30.08.2019**.

3. In view of the submissions of the learned Additional Government Pleader appearing for the Respondents, Contempt will not lie against the order dated 03.09.2013 passed in W.P.Nos.2703 and 2705 of **2009, respectively**.

4. In the case of **Kunhayammed vs. State of Kerala**, reported in **(2000 (6) SCC 359)**, the principle of Doctrine of Merger has been widely discussed. With reference to the three-Judge ruling in **Kunhayammed** case and yet another decision of the Apex Court in the case of **Dineshan, K.K. vs. R.K.Singh** reported in **(2014) 16 SCC 88**, this Court is of the view that, once the order passed in a Writ Petition gets merged with the order of the Writ Appeal, the remedy available to the petitioner is to file a Contempt in the Writ Appeal and not in the Writ Petition, unless and until the Apex Court specifically directs the High Court to decide the issue.

5. Thus, in view of the principle of Doctrine of Merger discussed above, **the present Contempt Petitions cannot be adjudicated and hence, they are closed.** However, it is open to the Petitioner to work out his remedy in the manner known to law.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

aeb/jas

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/05/11/2020

To

1. The Deputy Inspector General of Police,
Villupuram Range,
Villupuram District.
2. The Superintendent of Police,
Villupuram District.



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