



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.01.2021

PRONOUNCED ON: 29.01.2021

CORAM

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

Cont.P.No.314 of 2020

Mr.Palanivel,
No.47, Mariamman Koil Street,
Karuvadikuppam, Lawspet,
Puducherry-605 008

.. Petitioner/Petitioner

Vs.

Mr.Keerthi,
Sub Inspector of Police,
Lawspet Police Station, Lawspet,
Puducherry-605 008

.. Respondent/Respondent

PRAYER: Petition filed under Section 11 of Contempt of Courts Act to punish the respondent for contempt of Court in willfully disobeying the order dated 18.09.2019 passed by this Hon'ble Court in CrI.O.P.No. 23623 of 2019 and CrI.M.P.No. 12839 of 2019.

For Petitioner	..	Mr. Prakash Adiapadam
For Respondent	..	Mr.Bharatha Chakravathy
		Public Prosecutor
		Pondicherry



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ORDER

This Contempt Petition has been filed by the petitioner for alleged violation of the Order of the Court in CrI.O.P.No. 23623 of 2019 dated 18.09.2019.

2. CrI.O.P.No. 23623 of 2019 had been filed by Mrs.Shanthi Meena, the first accused, in Cr.No. 65 of 2019 on the file of the Sub Inspector of Police, Lawspet Police Station, Pondicherry – 605 008, seeking anticipatory bail under Section 438 Cr.P.C. While examining this Contempt Petition, it may not be appropriate to traverse into the necessity for the filing of Cr.No. 65 of 2019 or the reasons advanced seeking anticipatory bail.

3. When that petition came up for consideration, this Court had passed an order on 18.08.2019 on hearing the learned counsel for the petitioner and the learned Government Advocate, Pondicherry, and also the learned counsel for the intervenor/counsel for the contempt petitioner herein directing the respondent police to issue notice under Section 41A of the Criminal Procedure Code following the procedures therein. The first accused was directed to appear before the respondent police. It was also stated that the respondent police may decide the issue and if it is



required, arrest the petitioner in accordance with the guidelines given in said provision, but they should record the reasons in writing.

4. It is the grievance of the present petitioner that the respondent police neither issued notice under Section 41A of Cr.P.C., to the first accused, nor have they arrested her.

5. It was stated that an advocate notice was issued on 31.01.2020 and thereafter, the present Contempt Petition has been filed.

6. The Contempt Petition has come up for hearing and a status report had been filed by the Investigating Officer stating that summons to the accused was sent to the address shown in the accused's affidavit on 07.09.2019, with directions to appear before the respondent on 10.09.2019. The accused did not appear. A second summons was sent on 12.09.2019 with directions to appear on 17.09.2019. The summons issued by speed post was returned back without being delivered. It was stated that the accused did not appear before the respondent police. It was stated that the respondent attempted to arrest the accused in the third week of November 2019 and again in second week of November 2019 at the addresses given at Devakottai and at Chennai, but the accused was not present at the addresses. The mobile phone was continuously switched off. Again an attempt was made in the third week of February 2020.

Again, the accused was not available. The complainant had given three



mobile numbers and it was stated that they were all continuously switched off.

7. The learned counsel for the petitioner stated that the police are deliberately not taking any steps to arrest the accused. This has been countered by Mr. Bharatha Chakravathy, learned Public Prosecutor, Pondicherry, stating that the complainant himself had accompanied the police party to the various addresses given by the complainant but still the accused was not available and therefore, it was not possible to either issue notice under Section 41A Cr.P.C., or to arrest the accused.

8. The learned Public Prosecutor stated that whenever information is received about the presence of the accused, the respondent would take necessary steps to issue notice under Section 41(A) and would take necessary steps to arrest the accused if required and in accordance with law.

9. It is seen that a direction to arrest the petitioner cannot be granted, and moreso when in the order dated 18.08.2019, this Court had directed the respondent to serve notice under Section 41A Cr.P.C., and then proceed in accordance with law.

10. A notice can be issued by the respondent police under Section 41A of the Code of Criminal Procedure calling upon the petitioner to appear for investigation purpose and if the petitioner appears



and does not co-operate during investigation, then for reasons set out recorded in writing, the police officer can take a decision to arrest the accused. However, in this case, the address of the accused is not known. The notice could not be served. She is absconding.

11. It is seen that necessary steps have been taken to secure the accused. I can only to give a direction to the police to be vigilant and comply with the directions issued in the order dated 18.08.2019.

12. In view of these facts, particularly since the accused is absconding, a direction cannot be issued to the police to arrest the accused.

13. It is not the case of the learned counsel for the petitioner that the accused is available and that the respondent is not issuing notice under Section 41A Cr.P.C. It is also not the case of the petitioner that the accused appeared before the respondent police on receipt of notice under Section 41A of the Code of Criminal Procedure and that the accused did not co-operate during the investigation but still the respondent police did not take steps to arrest the accused. It is seen that the accused is just not available. She is absconding. It is for the respondent police to secure the accused in manner known to law. Onus is also cast on the de-facto complainant to give the correct address of the accused.



14. With these observations, I hold that the Contempt Petition will not lie and accordingly, the Contempt Petition is dismissed. The Petitioner is at liberty to explore other avenues as provided in the Code of Criminal Procedure.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

vsg

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Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/19/04/2021