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Contempt Petition No.55 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Contempt Petition No.55 of 2018

and

Sub.Appln.(OS) No.168 of 2020

V.Azhagamuthu,
S/o.P.Vadamalai,
Murukankudi, Serumathoor Mazira,
Kunnam Taluk, Perumbalur Taluk

... Petitioner

Vs.

1.Tmt.Vanitha,
Inspector of Police,
District Crime Branch,
Perambalur.

2.K.Periyannan,
Deputy Superintendent of Police,
Malaikottai Crime Branch,
Malaikottai Police Station, Trichy District.

*3.Ms.Lakshmi Latha,
Inspector of Police,
Electricity Board Vigilance,
Coimbatore

... Respondents

(*3rd respondent was impleaded as per order in Sub Application (OS) No.168 of 2020, dated 31.03.2021)

PRAYER: Contempt Petition filed, under section 11 of the Contempt of Courts Act, seeking to punish the respondents for willful disobedience of the order passed in Contempt Petition No.2687 of 2016 in Crl.O.P.No.22974 of 2013, dated 03.01.2017.

For Petitioner : Mr.C.Selvaraj, Senior Counsel
For M/s.C.S.Associates



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Contempt Petition No.55 of 2018

For Respondents : Mr.T.Shunmugarajeshwaran,
Government Advocate (Crl.Side)
ORDER

(This case has been heard through video conference)

The Contempt Petition has been filed by the petitioner, seeking to punish the respondents for willful disobedience of the order passed in Contempt Petition No.2687 of 2016 in Crl.O.P.No.22974 of 2013, dated 03.01.2017.

2.The case of the petitioner is that he had given a complaint against one Duraisamy and others. The respondent police viz., the Inspector of Police, District Crime Branch, Perambalur refused to take the complaint on file. Thereafter, the petitioner had presented the complaint before the learned Judicial Magistrate, Perambalur and on the directions of the learned Magistrate, the respondent registered a case in Crime No.26 of 2011, dated 02.02.2011 for offence under Sections 416, 419, 420, 465 read with Sections 466, 467, 470, 471 and 120 (B) IPC. After registration of the FIR, the respondent did not proceed further with the investigation and thereby, the petitioner had approached this Court in Crl.O.P.No.19962 of 2011, seeking for a direction to complete the investigation and to file the final report. This Court, vide order dated 25.08.2011 was pleased to issue a direction to the Inspector of Police, Mangalamedu Police Station to expedite



the investigation. Since, no action was taken, the petitioner again filed a contempt Petition in Cont.P.No.398 of 2012. When the matter had come up for hearing on 05.03.2012, the respondent had requested for some more time to complete the investigation and this Court recording the same had directed the police to complete the investigation and file the charge sheet within a period of four weeks, failing which directed that suo moto contempt would be initiated. The respondent after completion of the investigation had filed the final report referring the case as mistake of fact on 10.07.2012. The petitioner pointing out the various defects in the investigation had filed a protest petition in CrI.M.P.No.17554 of 2013, on the file of the Judicial Magistrate, Perambalur and sought for further investigation. The learned Judicial Magistrate after perusal of records passed an order dated 19.04.2013, directing the Inspector of Police, District Crime Branch, Perambalur, to conduct further investigation in accordance with law and even thereafter, the respondent had not complied with the order passed by the learned Judicial Magistrate, and did not conduct further investigation and thereby, the petitioner made a representation on 08.05.2013, before the District Superintendent of Police, Deputy Superintendent of Police, Perambalur, and the Inspector of Police, Mangalamedu Police Station to take appropriate action. Since, no action was taken, the petitioner further



approached this Court in CrI.O.P.No.22974 of 2013, seeking for a direction, directing the respondents to re-investigate the case in Crime No.26 of 2011 on 02.02.2011, as per the orders of the learned Judicial Magistrate, Perambalur in CrI.M.P.No.1754 of 2013, dated 19.04.2013. This Court vide order dated 19.09.2013 in CrI.O.P.No.22974 of 2013, directed the Inspector of Police, District Crime Branch, Perambalur District, to complete the further investigation in Crime No.26 of 2011 as ordered by the learned Judicial Magistrate, Perambalur in CrI.M.P.No.1754 of 2013, dated 19.04.2013 within 5 months. Thereafter, the petitioner made a representation to the respondent along with the order copy on 21.11.2013. Since the order dated 19.09.2013 in CrI.O.P.No.22974 of 2013 was not complied, the petitioner filed Contempt Petition No.2101 of 2014. When the matter had come up for hearing, it was represented by the 1st respondent that the investigation was completed and the final report was filed and thereby the Contempt Petition was closed on 31.03.2016.

3.A copy of the final report was also served on the counsel for the petitioner by the 1st respondent and thereby the petitioner filed a protest petition enclosing a copy of the final report before the learned Judicial Magistrate, Perambalur. However, the learned Judicial Magistrate, Perambalur returned the protest petition with an endorsement dated



02.09.2016 stating that the Court had not received the final report from the respondent police. Thereafter, the petitioner again approached this Court by filing a Contempt Petition No.2687 of 2014 in Contempt Petition No.2101 of 2014 in Crl.O.P.No.22974 of 2013 for not only violation of the order of this Court in Crl.O.P.No.22974 of 2013 dated 19.09.2013, but also in respect of the wrong representation and submission made by the respondent before this Court on 08.11.2014 in Contempt Petition No.2101 of 2014 stating that the final report had been filed before the Judicial Magistrate, Perambalur, for which, the respondents are liable to be punished.

4. When Contempt Petition No.2687 of 2016 had come up before this Court for final hearing on 03.01.2017, this Court finding that the then respondent was promoted as Deputy Superintendent of Police and in his place one Tmt.Lakshmi Latha, was posted and this Court had directed the said Tmt.Lakshmi Latha, to file the copy of the final report dated 08.11.2014, before the Judicial Magistrate, Perambalur and on receipt of the said final report, the learned Judicial Magistrate, Perambalur was directed to pass orders in accordance with law. However, since the final report has not been filed, the present contempt petition has been filed, seeking to punish the officer for her willful disobedience of the order passed in Crl.O.P.No.22974 of 2013, dated 03.01.017.



5.The 2nd respondent viz., K.Periyannan, Assistant Commissioner of Police had filed Counter Affidavit.

6.In the Counter Affidavit it has been stated that he has got great respects for this Hon'ble Court and he has no intention of disobeying the orders of this Court and it has been further stated that the earlier Inspector of Police, who was conducting the investigation was promoted as a Deputy Superintendent of Police and in his place the respondent has joined duty on 24.10.2015.

7.When the matter was listed on 19.03.2021, the officer Lakshmi Latha (who has been wrongly mentioned as Lakshmi Radha), the Inspector of Police was present before this Court through video conference. She had submitted that in due compliance of the order of this Court dated 03.01.2017 in Contempt Petition No.2687 of 2016, the final report has been filed before the learned Judicial Magistrate, Perambalur, within a week. However, it was denied by the counsel for the contempt petitioner, stating that the final report was not filed till date and thereby this Court directed the officer Lakshmi Latha to appear before the Court in person on 26.03.2021 and file an affidavit with proof to show that the final report has been filed before the learned Judicial Magistrate, Perambalur. Thereafter, the matter was posted to 26.03.2021.



8. On 26.03.2021, the 1st and 2nd respondent along with officer

Mrs. Lakshmi Latha were present before this Court and Mr. Lakshmi Latha had filed an affidavit before the Court. It was submitted by her that this Court vide order dated 03.01.2017 had directed her to file the final report and that she had complied with the order. However, since her affidavit was bereft of details and it did not contain the date on which the final report had been filed and thereby this Court directed her to file a better affidavit and also directed her to appear before this Court and report with regard to the filing of the final report. This Court also finding that a specific direction has been given by this Court only to her vide order dated 03.01.2017 and finding that the presence of the 1st and 2nd respondents was not required had discharged the 1st and 2nd respondents.

9. Today, i.e. 31.03.2021, Mrs. Lakshmi Latha is present before this Court. However, based on the order passed by this Court in Contempt Petition No.2687 of 2017 dated 03.01.2017, the name of the officer Lakshmi Latha has been wrongly mentioned as Lakshmi Radha in the Sub Application (OS) No.168 of 2020 in Contempt Petition No.55 of 2018. The name is hereby corrected as Lakshmi Latha and the Sub Application (OS) No.168 of 2020 is allowed and she is impleaded as the 3rd respondent and the 3rd respondent has filed a better affidavit.



10.Mr.T.Shunmugarajeswaran, Government Advocate (Crl. Side)

appearing for the 3rd respondent would submit that this Court by order dated 03.01.2017 in Contempt Petition No.2687 of 2016 had directed the 3rd respondent to file the final report before the concerned Judicial Magistrate and proceed in accordance with law and that she had taken all necessary steps and filed the final report in Crime No.26 of 2011 on the file of the District Crime Branch, Perambalur, before the learned Judicial Magistrate-1, Perambalur, on 23.02.2017. Subsequently, she had been transferred from the District Crime Branch, Perambalur and posted to the South Zone, Madurai and after her transfer, the final report had been returned by the concerned Judicial Magistrate without any remarks and thereby, she could not trace the proper Court serial number. Further, after her transfer, the final report had been represented on 05.10.2020 by her successor Tmt.Valarmathi, in E.Filing No.5581 of 2020 dated 05.10.2020. The Judicial Magistrate, Perambalur has taken the final report referring the case as mistake of fact and it has been given R.C.S.No.1 of 2021 and notice has also been served on the complainant and that the complainant had been directed to appear and file his protest petition before the Judicial Magistrate-1, Perambalur, on 15.04.2021. He would further submit that Tmt.Lakshmi Latha, has taken sincere steps in due compliance of the order



dated 03.01.2017 made in Contempt Petition No.2687 of 2016 and she had filed the final report before the Judicial Magistrate-1, Perambalur on 23.02.2017 and subsequently, due to her transfer to Madurai she was unable to follow the matter.

11.The 3rd respondent, who is present before this Court would submit that in due compliance of the order of this Court dated 03.01.2017, she had taken all necessary steps and filed the final report in Crime No.26 of 2011 on 23.02.2017 referring the case as mistake of fact. Subsequently, she had been transferred from Perambalur and posted to Madurai and thereby she was unable to follow and get the final report numbered. She would submit that though she had filed the final report in time, her failure to number the final report is not intentional and that only on account of her transfer, she was unable to follow it up. Subsequently, the file had been returned by the Court and her successor Tmt.Valarmathi had re-presented the same with compliance on 05.10.2020 vide E-Filing No.5581 of 2020 and thereafter it has been numbered as R.C.S.No.1 of 2021. She would reiterate that she has no intention to disobey the orders of this Court, however, she would render her unconditional apology for not following the case and getting the final report numbered and would pray that she may be purged of the contempt proceedings.



12.It is seen that the final report has been filed by the 3rd respondent referring the case as mistake of fact on 23.02.2017 and thereafter the 3rd respondent had been transferred to South Zone Madurai. Meanwhile, the final report had been returned and it had been re-presented by the successor of the 3rd respondent on 05.10.2020 and as on date it has been numbered as R.C.S.No.1 of 2021 and notice has also been served on the complainant and the complainant had been directed to appear and file his protest petition before the learned Judicial Magistrate, Perambalur on 15.04.2021.

13.Though, there had been some delay, the order of this Court dated 03.01.2017 in Contempt Petition No.2687 of 2016 in CrI.O.P.No.22974 of 2013 has been duly complied with. The 3rd respondent has also expressed her apology. The apology tendered by the 3rd respondent is accepted. Since the order has been complied with, the contempt petition stands closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

kas/ssi

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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Contempt Petition No.55 of 2018

GS/12/07/2021

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To

- 1.The Inspector of Police,
District Crime Branch,
Perambalur.
- 2.The Deputy Superintendent of Police,
Malaikottai Crime Branch,
Malaikottai Police Station, Trichy District.
- 3.The Inspector of Police,
Electricity Board Vigilance,
Coimbatore