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Cont.P.No.1054 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Contempt Petition No.1054 of 2014

Saritha
W/o.Late Subramanian,
E Block, E-43, 3rd Street,
Anna Nagar East,
Chennai 102

... Petitioner

Versus

Mr.P.Sunderasan
The Inspector of Police
Thiyagathurugam Police Station
Villupuram

... Respondent

PRAYER: Contempt Petition filed under Section 11 of Contempt of Court Act to punish the respondent for wilful and deliberate disobedience of the Hon'ble High Court order in CrI.O.P.No.3244 of 2009 dated 13.02.2009 under the Contempt of Court Act.

For Petitioner : Ms.Selvi Rajesh
For Respondent : Ms.Sharadha Devi
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

This Contempt Petition has been filed to punish the respondent for wilful and deliberate disobedience on the order of this Court in CrI.O.P.No.3244 of 2009 dated 13.02.2009.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The case of the petitioner is that the father-in-law of the petitioner late

Velayudha Udayar had passed away on 25.12.2007. The petitioner is permanently residing in Chennai and was married to one Subramanian S/o.Velayudha Udayar. Her husband Subramanian died all of a sudden at Chennai on 11.11.2008. After the death of petitioner's husband, she along with her mother-in-law had locked their house at Sulankurichi village and had gone to Bangalore as there was no close relative in Kallakurichi to help them to carry out the rituals of her husband. On return to the village after 20 days, the petitioner and her relatives were threatened by the one Sekar and John Elangovan along with some rowdy elements to vacate the house claiming that the said Sekar is the son of her father-in-law's first wife and that they are the original owners of the property. Therefore, the petitioner had lodged a complaint against them on 31.11.2008. But the respondent police did not register the case and had asked the petitioner and her relatives to come after 40 days and assured that they will take action on her complaint. Believing the words of the said Sekar and John Elangovan and the respondent police, the petitioner had gone to her mother's place to complete the final rituals. When she had returned to Kallakurichi, she was shocked to see that the house had been broken open and that a board named one John Elangovan was fixed on the house. When the petitioner and her relatives had questioned the same, the said

John Elangovan claimed himself to be the president of Human Rights



Organisation, Villupuram and had told that the said Sekar/the son of her father-in-

law had leased the house to him and had mortgaged all the properties of her father-in-law /late Velayudha Udayar to him and now he is the General Power of Attorney for the said Sekar. Though, the petitioner had explained that her mother-in-law Amudha is the original owner of the property and she and her husband late Subramanian are the legal heirs of the said Velayudha Udayar and that her father-in-law/ late Velayudha Udayar had written a Will dated 28.06.1984 and bequeathed all his properties including the house to her mother-in-law till her life time and thereafter to her son late Subramanian, but they did not listen to them. Later, her mother-in-law has bequeathed all the properties including movable and immovable to the petitioner by a Will. The petitioner's mother-in-law Amudha passed away on 02.02.2011 and now the petitioner is the General Power of Attorney of her mother-in-law. However, The said Sekar and John Elangovan had encroached the property and had threatened and sent them out from the village forcefully with the help of rowdy elements. Thereby, the petitioner left with no other option had approached the respondent police and lodged a complaint on 12.12.2008 and she was given CSR No.285 of 2008. However, since no further action was taken by the respondent police, the petitioner had filed a CrI.O.P.No.3244 of 2009 seeking for registration of FIR and to take action against the persons who had conducted the Katta Panchayath and also sought for



police protection to enter into her mother-in-law's house at 117/1 Bharathi Road Street, Sulankurichi Village and Post, Sankarapuram Taluk, Villupuram District.

3. This court by order dated 13.02.2009 had directed the respondent police to give police protection to the life of the petitioner and her family members in the event of law and order situation. Thereafter, the petitioner had sent a representation on 17.02.2009 by a registered post however, the respondent had not taken any action and had not given protection. Thereby, the contempt petition was filed on 11.03.2014.

4. When the contempt application was taken on 10.12.2020, it had been reported by the Government Advocate (Crl. Side) that based on the complaint given by the petitioner/defacto complainant, a case in Crime No.119 of 2014 was registered and thereafter, the same was closed has mistake of fact on 01.06.2014. However, it was reported that the RCS notice had not served on the petitioner/defacto complainant. Thereby, this Court had directed the respondent police to produce the case diary and photocopy of the closure report along with the statements recorded by them on or before 16.12.2020 and that the petitioner and the Inspector of Police Thiyagathurugam were directed to be present before the Court through video conferencing on 16.12.2020.

5. On 16.12.2020 neither the petitioner, nor the Inspector of Police

Thiyagathurugam had appeared before this Court and thereby this Court adjourned



the matter to 21.12.2020 and directed the Deputy Superintendent of Police, Villupuram and Inspector of Police, Thyagadurgam to be present before this Court by video conferencing on 21.12.2020.

6. On 21.12.2020, the petitioner did not appear before the Court however, the counsel for the petitioner had appeared and Mr.Ramanathan, Deputy Superintendent of Police and Mrs.Mageshwari, Inspector of Police, Thiyaathurugam, were present. This Court finding that the police have conducted a perfunctory investigation in this case, had directed the police to conduct reinvestigation in Crime No.119 of 2014 and also directed to provide sufficient protection to the petitioner and her family members. Pursuant to which, the case was listed on 25.01.2021 and 12.02.2021 and thereafter posted today i.e.18.03.2021.

7. Mr.N.Ramadass, the present Inspector of Police, Thiyaathurugam Police Station, Kallakurichi District, has filed an additional status report in which it has been stated that the petitioner in this case claimed that the house property in Soolankurichi Village belong to her. But fact remains that the said property was bequeathed by the petitioner's father-in-law to her mother-in-law by name Amudha by way of registered will vide doc.No.6/1984 dated 28.05.1984 and registered at Sub Registrar Office, Thiyaathurugam. Further during the course of investigation, it was found that the husband of the petitioner died on 11.11.2008



and her mother- in-law Amudha died on 02.02.2011 and while her mother-in-law was alive, she had executed a power of attorney in favour of the petitioner in respect of agricultural land in S.No.66/6, 66/8, 66/5, 67/1-B, 64/1, 64/2, 67/4, 67/2A, 67/2B totally to the extent of 1.58 acres and the power of attorney was registered at the Sub Registrar Office Thiyagathurugam on 27.01.2009 and based on the power of attorney, the petitioner had executed a sale deed on the above said land in favour of one Sivakumar of Soolankurichi Village and the same is reflected in the encumbrance certificate. It was also brought to light that the house property documents vide old Survey No.76/08 and New Survey No.281/2016, 281/2017 was settled by the father-in-law of the petitioner to his second wife Amudha (petitioner's mother-in-law) and in turn, the said Amudha/ petitioner's mother-in-law had executed a Gift Deed to her daughter Banumathi vide document No.552/2010 at the Sub Registrar Office, Thiyagathurugam on 26.02.2020. Further, perusal of revenue records revealed that the above said house property was in the name of Sekar who is the son of the Velayudha Udayar's first wife and he is in possession of the said property from 12.10.2009 to till date and that in respect of the above said property, no civil dispute or litigation is pending between the parties. It is further stated that after selling the property on 27.01.2009, the petitioner had left the village and her whereabouts are not known till date and thereby, the respondent is unable to get her statement and to complete the



investigation and that best efforts were taken by the respondent to find out the petitioner in order to complete the investigation in accordance with law. It is further submitted that the witnesses in respect of the sale deed vide document No.140/2009 dated 27.01.2009 namely R.Gurunathan S/o.Raji and R.Raj S/o.Ramasamy, were enquired and they have also given a statement that the petitioner had come in person and she had sold the property to one Sivakumar of the same village to settle her debts which was incurred in respect of medical expenses of her husband.

8. Mr.Ramadass, the present Inspector of Police, Thiyyagathurugam is present before this Court. He would submit that the preliminary enquiry shows that the complaint has been given to settle civil dispute and private scores between the parties and the allegation that Katta Panchayat was conducted in the village is not true and enquiry also reveals that after selling the property, the petitioner had left the village and her whereabouts are not known. He would further submit that as per the submission made by the learned Counsel for the petitioner that the petitioner was stated to be residing at a Ashram at Sharjapur, Bangalore, his predecessor in office had visited the said Ashram at Bangalore and enquired one Srijith, Administrative Officer of the Ashram and he had informed that no such person named Saritha was staying as an inmate in the Ashram. He would submit that the petitioner had referred about a complaint dated 10.01.2009 that there was a



Kattapanchayath, whereas on a consequent day, she has visited the village and based on the power of attorney given by her mother-in-law has sold her family property by a registered sale deed on 27.01.2009 which has been registered as document No.140 of 2009 before the Sub Registrar Office, Thiyyagathurugam. He would further submit that the respondent at no point of time had any intention of disobeying the order of this Court and only since the petitioner did not appear before them and gave any statement and did not co-operate with the investigation, they were unable to get along with the investigation. Further the respondent have also enquired about 35 witnesses in the village and none of the witnesses have spoken about such a Kattapanchayat conducted pursuant to which, she was deprived off the property due to the pressure given by them. Only in order to settle scores with the son of the first wife of her father-in-law, the petitioner has given a false complainant. He would further submit that the respondent are prepared to provide suitable protection to the petitioner if she approaches in person and the respondent will also ensure that adequate protection is given to her. Further, in the event of the petitioner appearing in person and giving any statement, suitable action will be taken.

9. He would reiterate that since, the petitioner did not appear before them, they were unable to proceed any further in Crime No.119/2014 and it is still kept pending. He would submit that the respondent did not commit any wilful



contempt or disobedience of the order of this Court. However, the respondent tender unconditional apology and would pray that they may be purged of the contempt.

10. The learned counsel for the petitioner would submit that despite her sincere and best efforts to reach the petitioner she is unable to reach the petitioner. She would submit that the communication sent to both the addresses given by the petitioner, have been returned and that the AOS has been filed. She would further submit that she had also sent a communication to the petitioner's mother and sister through their Mobile Nos.09731809896 and 09535733224, 07019964459 respectively and though the delivery receipt have been shown in the whatsapp, they have not responded to the messages,

11. The learned Government Advocate (Crl. Side) would submit that after filing this petitioner, the petitioner had not appeared before the respondent police. However, the respondent have duly conducted enquiry and have originally referred the case as mistake of fact and in due compliance of the order passed by this court dated 21.12.2020, further investigation has been conducted and 35 witnesses have been examined so far and that the preliminary enquiry reveals that the contempt has been used by the petitioner to settle personal scores with one Sekar who is the son of her father-in-law through his first wife. She would submit that the respondent did not commit any contempt as alleged by the petitioner and



the investigation in Crime No.119/2014 is pending and that due to non appearance of the petitioner, they are unable to proceed any further. She would further submit that the respondent are prepared to give suitable protection if the petitioner appears in person and she would submit that the respondent may be purged of the contempt and the petition may be closed.

12. Heard the learned Counsels and perused the materials on record.

13. This court is satisfied with the reasons stated by the respondent. This Court is of the opinion that the respondent has not committed any contempt and thereby, this Court is inclined to close the Contempt Petition.

14. Accordingly, this Contempt Petition is closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

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//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/06/07/2021

To

1.The Inspector of Police
Thiyagathurugam Police Station
Villupuram

2.The Public Prosecutor,
High Court, Chennai.