



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CONT.P.(MD)No.740 of 2021

in

Crl.O.P.(MD)No.9381 of 2020

WEB COPY

A.Ganagaraj

... Petitioner/Petitioner

Vs.

D.Robin Gnanasigh,
S/o.D.Deva Thiraviamani,
The Inspector of Police,
Investigation Officer,
Vigilance and Anti-Corruption,
Tirunelveli Detachment,
Palayamkottai,
Tirunelveli - 627 002.

... Contemnor/Respondent

Prayer: Contempt petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondent herein for the willful and deliberate breach and disobedience caused to the order of this Court dated 01.12.2020 made in Crl.O.P.(MD)No.9381 of 2020.

Prayer in CRL OP(MD) . 9381/ 2020 :

Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the case pending investigation in Crime No.7/2016 on the file of the first respondent police and quash the same as illegal and abuse of process of law.

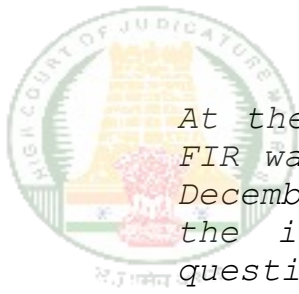
For Petitioner : Ms.Thilakavathi, Senior Counsel,
For Mr.R.Janarthanan.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl. Side).

O R D E R

This contempt petition has been filed alleging commission of contempt on the part of the investigation officer while instructing the learned Government Advocate (Crl. Side) in Crl.O.P.(MD)No.9381 of 2020. The said criminal original petition was filed for quashing the FIR in Crime No.7 of 2016 registered on the file Inspector of Police, Vigilance and Anti-Corruption, Tirunelveli Detachment, Palayamkottai. When the matter was taken up for hearing on 01.12.2020, I disposed of the same in the following terms:-

"4.Though the contentions on the face of it appear to be quite persuasive, I am afraid that I will be undertaking a factual exercise, if I consider all the contentions of the learned Senior Counsel. This is primarily because the challenge has come at the FIR stage.



At the same time, I cannot blame the petitioner, because FIR was registered way back on 09.11.2016. We are now in December 2020. Even though four years have gone by, still the investigation is not yet over. When this Court questioned the learned Government Advocate, the learned Government Advocate submitted that only a few more witnesses remain to be examined and that the final report will be filed within a period of eight weeks from the date of receipt of a copy of this order. This submission made by the learned Government Advocate, on instructions, is recorded.

5.Considering the special facts and circumstances obtaining in this case, I direct the investigation officer to take note of all the materials enclosed by the petitioner in the typed set of papers and the additional typed set of papers. The disposal of this petition will not in any way infringe the rights and defences of the petitioner. It is for the Investigation Officer to arrive at an objective conclusion after taking note of all the relevant aspects. Investigation Officer is specifically directed not to apply for extension of time. He shall file the final report one way or other based on the materials collected by him within the time stipulated above.

6.This Criminal Original Petition is disposed of with the aforesaid direction."

2.It is now stated by the learned senior counsel appearing for the petitioner that well before passing of the order on 01.12.2020, the investigation officer had already submitted the draft charge sheet to the head of the department for obtaining his sanction.

3.I concur with the submission of the learned counsel senior counsel that had I known that the draft final report had already been submitted to the head of the department, I would not have issued the direction set out in paragraph No.5 of the order. All of us were under the genuine impression that the investigation was still pending and that the investigation officer has not formed any definite opinion regarding the role played by the petitioner herein.

4.The learned Government Advocate (Crl. Side) submits that the aforesaid submission was made on the strength of status report dated 23.09.2020. It appears that the subsequent developments were not informed to the learned Government Advocate (Crl. Side). The learned Government Advocate (Crl. Side) submits that this was due to genuine communication gap and no motive need to be attributed to the investigation officer. I accept the explanation given by the learned Government Advocate (Crl. Side).



5.I therefore close the contempt petition. However, the petitioner cannot be left remediless. Therefore, the order dated 01.12.2020 disposing of CrI.O.P.(MD)No.9381 of 2020 is recalled. CrI.O.P.(MD)No.9381 of 2020 is restored to file. Since the said criminal original petition should not be rendered infructuous, I restrain the competent authority from according any sanction against the petitioner in Crime No.7 of 2016. Of course, this restraint order will hold good till 30.06.2021. It is for the petitioner to have the matter listed before the Roster Judge and get the O.P., adjudicated on merits.

6.With this direction, this contempt petition is disposed of.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Inspector of Police,
Investigation Officer,
Vigilance and Anti-Corruption,
Tirunelveli Detachment,
Palayamkottai,
Tirunelveli - 627 002.

Copy to

The Section Officer, (2C)
Criminal Section, Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.R.JANARTHANAN, Advocate (SR-18328[F] dated
03/05/2021)

CONT.P.(MD)No.740 of 2021in
CrI.O.P.(MD)No.9381 of 2020
29.04.2021

DKS (CO)

KB(12.05.2021) 3P 5C

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