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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Cont.P(MD)No.1610 of 2021

DATED: 23.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Cont.P(MD)No.1610 of 2021
in
CRLOP(MD)No.1979 of 2021

M.Jaffar Ibrahim

... Petitioner

vs.

Balasubramanian
The Inspector of Police,
Nagudi Police Station,
Pudukottai District.

... Contemnor

PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, to punish the contemnor / respondent for violating the order of this Court dated 17.09.2021 passed in CrI.O.P(MD)No.1979 of 2021.

For Petitioner : Mr.J.John

For Respondent : Mr.P.Kottaichamy
Government Advocate (Crl Side)

ORDER

This contempt petition has been filed as against the respondent alleging that the respondent has violated the order of this Court dated 17.09.2021 passed in CrI.O.P(MD)No.1979 of 2021.



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2.The petitioner Jaffar Ibrahim is the defacto complainant in Crime No.606 of 2020, which was registered by the Inspector of Police, Nagudi Police Station, as against one Mohamed Meera S/O.Abddul Hamed, and Mohamed Ismayil, S/O. Mohamed Sulthan for the offence punishable under Sections 147, 294(b), 448, 447, 380 and 506(i) IPC.

3.The contents of the complaint in Crime No.606 of 2020 are that the petitioner is having a house property in his native place at Arasarkulam village and that house property was settled in his favour by his mother by settlement deed dated 31.05.2011. The petitioner is doing business in Chennai and therefore he is maintaining the said house property by engaging a watchman, namely, Shiek Ismail. On 29.11.2020 at about 9.56 a.m, accused No.1 Mohammed Meera and accused No.2 Mohamed Ismayil along with 20 persons trespassed into his house, demolished the house with JCB bearing registration No.TN 55 AQ 2324 and took away the household articles worth about Rs.20 lakh and jewels of his wife. A complaint was lodged before the Sub-Inspector of Police, Nagudi Police Station and enquiry



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was also conducted by the Inspector of Police on the same day. Again on 30.11.2020 at about 10.15 a.m, one Radha Chettiyar along with more than twenty henchmen razed the entire house of the petitioner and thrown away the household articles.

4.Accused Nos.1 and 2 in Crime No.606 of 2020 filed an anticipatory bail application before the Principal District and Sessions Court, Pudukottai in CrMP.No.293 of 2021. The Court by order dated 27.01.2021 granted an interim anticipatory bail to the accused with certain conditions. Aggrieved over the same, the *de-facto* complainant/ petitioner filed a petition before this Court in Cr1.OP(MD)No.1979 of 2021 on 31.01.2021, for cancelling the interim anticipatory bail granted to the accused by the Principal District and Sessions Judge, Pudukottai in CrMP.No.293 of 2021 dated 27.01.2021.

5.The petition in Cr1.OP(MD)No.1979 of 2021 was filed on 31.01.2021 and this Court being satisfied with the



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reasons stated therein ordered for notice to the accused. When the petition was taken up for hearing on 17.09.2021, the learned Additional Public Prosecutor appearing for State submitted that the case in Crime No.606 of 2020 was closed as mistake of fact on 08.02.2021 and RCS notice was also served to the petitioner. In fact, the learned Counsel for the petitioner disputed the same that he had not been served with any RCS notice as represented by the State. However, this Court based on the representation made on behalf of the State, disposed of the said Criminal Original Petition with a direction to the respondent Police to produce a copy of RCS notice along with final report to the petitioner and also permitted the petitioner to file a protest petition before the Judicial Magistrate concerned within a period of fifteen day from the receipt of RCS notice.

6.While so the petitioner filed this contempt petition that the respondent police have given false information before this Court and have also violated the directions of this Court, on the following grounds:



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- i. The petitioner issued notice of contempt on 25.09.2021 to the respondent and the same was acknowledged by the respondent police. Even then RCS notice and the investigation report were not furnished to him despite the orders of this Court.
- ii. The case in Crime No.606 of 2020 is not yet closed and it is under investigation. However false information was provided to this Court, to defeat the petition in CrIOP(MD)No.1979 of 2021, filed by this petitioner for cancelling the anticipatory bail granted to accused therein.
- iii. It was reported before this Court on 17.09.2021 during the hearing of the petition in CrIOP(MD)No.1979 of 2021 that case in Crime No.606 of 2020 has been closed as mistake of fact on 08.02.2021 and the RCS notice was also served on the petitioner, but till date of filing of the contempt petition, no RCS notice has been served to him.
- iv. The Tamil Nadu Police - Citizen portal reveals that as on 28.10.2021, the date on which the petitioner filed



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this contempt petition, the investigation of the case in Crime No.606 of 2020 was pending.

v.The petitioner has also made an application under the Right to Information Act, to the Superintendant of Police, Pudukottai District, who in turn, by his letter in Na.Ka.No.G4/5053/2021, dated 23.04.2021 informed that the petitioner's complaint in Crime No. 606 of 2020 on the file of the Nagudi Police station, which was registered for the offence punishable under Sections 147, 294(b), 448, 447, 380 and 506(i) IPC, was under investigation.

vi.The petitioner has also filed an application under Section 310 CrPC before the learned Judicial Magistrate, Aranthangi that the respondent Police are not keen in conducting the investigation in Crime No.606 of 2020 and requested the Court to conduct the investigation in Crime No.606 of 2020, but the same was returned by the Court on 27.01.2021 that there cannot be any parallel investigation under Section 310 CrPC and returned the petition as it was not maintainable at that stage.



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7.This Court being satisfied with the grounds raised in the contempt petition has taken cognizance of the issue and has also issued notice to the respondent.

8.When the contempt petition was listed for hearing on 17.12.2021 the learned Government Advocate (Crl Side) mentioned this matter that the directions of this Court issued in the criminal original petition has been complied with. The learned Government Advocate (Crl Side) stated that the order of this Court was to serve RCS notice to the defacto complainant and accordingly it was served. Recording the same, this contempt petition was closed on 17.12.2021.

9.The learned Counsel for the petitioner later on represented before this Court that the contempt petition was closed in his absence and it was taken out of turn, on the mentioning of the learned Government Advocate (Crl Side) and it was disposed of without providing opportunity to the petitioner.



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10. According to the learned Counsel for the petitioner the respondent police have committed perjury by providing false information before this Court and the petitioner must be provided opportunity to put forth his case.

11. Based on the representation of the petitioner, this Court has verified and it is seen that on 17.12.2021 this Court listed 335 cases in Additional List - VII and this contempt petition was listed as serial No.161. Since the learned Government Advocate (Crl Side) mentioned that the orders of this Court has been complied with, this Court took the contempt petition out of turn and also disposed it of around 6.00pm. However the petitioner was not provided with an opportunity in the contempt petition before it was disposed of. No doubt once this Court has taken cognizance of the contempt, the role of the petitioner is seized off. However, the learned Counsel for the petitioner has brought certain facts to the notice of this court that the respondent police have acted in a high handed manner and have also committed perjury before this



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Court. Therefore, this Court directed the registry to list the matter under the caption 'for clarification'.

12.The learned Counsel for the petitioner demonstrated the statements made by the respondent police in Cr1OP(MD)No.1979 of 2021 before this Court, as false and the same are recorded as follows:

- i.The above criminal original petition was filed as against the interim anticipatory bail granted to accused Nos.1 and 2 in Crime No.606 of 2020 by the learned Principal District and Sessions Judge, Pudukottai, dated 27.01.2021.
- ii.In that petition, the respondent Police represented before this Court on 17.09.2021 that the case in Crime No.606 of 2020 was closed as mistake of fact on 08.02.2021 and RCS notice was also served on the petitioner. As per the information furnished by the Superintendant of Police, Pudukottai in letter No. Na.Ka.No.G4/5053/2021, dated 23.04.2021, the investigation in Crime No.606 of 2020 was pending as



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iii.The Tamil Nadu Police - Citizen portal, the official website also disclosed that the investigation in Crime No.606 of 2020 was pending on the date of filing of this contempt petition. While so, RCS notice was served on the defacto complainant in Crime No.606 of 2020 only on 27.11.2021 at about 2.55 pm and the final report in Crime No.606 of 2020 was not furnished to him. The RCS notice dated 27.11.2021 is placed before this Court, which though contained that the final report is enclosed along with that, the petitioner/ defacto complainant has received the same with objection with an endorsement that he received the RCS notice alone at about 2.55 pm.

13.There are several contradictions with regard to the date of registration of the complaint and the closure of the case in Crime No.606 of 2020. Admittedly the occurrence took place on 29.11.2020, the complaint was lodged through Help Line No.100 and the police was also present in the place of occurrence on 29.11.2020 itself. However, the case



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was registered only on 04.12.2020. RCS notice in RCSNo.8 of 2020 was prepared only on 27.11.2021. However the Investigating Officer in one place claims that the case was closed on 04.12.2020 and in another place he claims that the case was closed on 06.12.2020. Before this Court in CrIOP(MD)No.1979 of 2021, it was represented on 17.09.2021 that the case was closed as mistake of fact on 08.02.2021 and RCS notice was served. But the RCS notice was not served till 27.11.2021. Perusal of the materials and the photographs placed before this Court, this Court had serious doubt in the manner in which the FIR has been registered in Crime No.606 of 2020, it was closed and the manner in which, the information was provided to the Court, the Court on 02.03.2022 directed the respondent to file a report on the following queries:

"a) Whether the Police were present at the time of occurrence, as claimed by the petitioner through photographs enclosed in this petition and if so, why the case was registered only on 04.12.2020?



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b) When the case in Cr.No.606 of 2020 was originally closed as mistake of fact? RCS notice served on the petitioner in Form No.96 would show that the case in Cr.No.606 of 2020 was closed on 21.12.2020, whereas, it was represented before this Court that the case was closed as mistake of fact on 08.02.2021.

c) If the case is closed as mistake of fact on 08.02.2021, as claimed by the respondent Police, why an information was given by the Superintendent of Police in his proceedings dated 23.04.2021 that the case in Cr.No.606 of 2020 is still under investigation?"

14.In response, one G.S.Ravindran, the present Inspector of Police, Nerkuppai Police Station, Sivagangai District, then Investigating Officer in Crime No.606 of 2020 filed a report before this Court dated 15.03.2022, the relevant portion of which reads as follows:

"a.As regards query No.1, I the Sub-Inspector



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of Police Rajendran and the Head Constable Senthil Kumar attached to Nagudi Police Station rushed to the occurrence place after receiving phone call through 100. Soon after reaching the occurrence place, I asked the person, who was indulging in the act of demolishing the houses to stop his act. Accordingly the person also stopped his act of demolishing the building. So I and the other police officials were present at the scene of occurrence to stop the act of demolishing the building.

b.As regards query No.2, the first information report was closed on 04.12.2020 and the RC notice was prepared on 21.12.2020 and the RC notice was served upon the petitioner on 22.02.2021. The reason for delay in service the notice was due to the petitioner absconded apprehending arrest at the hands of the respondent in connection with the crime No.573 of 2020.

c.As regards query No.3, when the cancellation of bail application came up for hearing the



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respondent herein mistakenly represented that the FIR was closed on 08.02.2021. When the Superintendant of Police sent a letter to the Nagudi Police Station to furnish the details about the status the FIR in crime No.606 of 2020 one Rajendran, Sub Inspector of Police received the said letter and he without seeing the CD file, inadvertently sent a reply to the Superintendant of Police stating that the investigation is still pending."

15.The Inspector of Police has stated that during the course of hearing in CrIOP(MD)No.1979 of 2021, it was mistakenly represented by the respondent that the case in Crime No.606 of 2020 was closed on 08.02.2021. According to him on 29.11.2020, he received a call through the Help Line No.100 from an unknown person and he complained that his house was being illegally demolished. On receipt of the information, he rushed to the place of occurrence along with Sub-Inspector of Police one Rajendran, Head Constable Senthil Kumar attached to the Nagudi Police Station and



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stopped the demolition work. On enquiry he was informed that the property belongs to one Kamaludeen and since the house was in dilapidated condition, he instructed the accused to renovate the house. The Inspector of Police directed the petitioner and the accused to appear before him but neither of them appeared before him. On 29.11.2020 one Shiek Ismayil Watchman of the petitioner appeared before him and lodged a written complaint and the same was treated as petition enquiry in CSR No.659 of 2020 and the parties were directed to appear for enquiry. This time too no one appeared before him. On 04.12.2020 he received an unsigned letter dated 30.11.2020 from the petitioner and based on that complaint the case in Crime No.606 of 2020 was registered as against one Mohamed Meera and Mohamed Ismayil for the offence punishable under Sections 147, 294(b), 448, 447, 380 and 506(i) IPC. The Inspector of Police examined the defacto complainant and 11 other witnesses and also perused the documents produced on either side and found that complainant does not have title over the property and he prepared RCS notice on 18.12.2020. However, the same could not be served upon the petitioner,



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since the petitioner was absconding in connection with Crime No.573 of 2020. Eventually on 22.02.2021 the RCS notice was affixed in the petitioner's house at Chennai. The reply to the application made under RTI Act, was given by the Sub-Inspector of Police Rajendran and without perusing the CD file, he inadvertently sent the reply to the Superintendant of Police stating that the investigation is still pending. He further stated that even in the anticipatory bail application filed by the accused in CrMPNo.293 of 2021, before the learned Principal and District Sessions Judge, Pudukottai, inadvertently instruction was given to the learned Additional Public Prosecutor that the case is pending.

16.The learned Government Advocate (Crl Side) submits that the petitioner is an accused apprehending arrest in Crime No.573 of 2020 and he executed a release deed in respect of the property in dispute as early as in the year 2008 and the property in dispute was settled in favour of one Kamaludeen and his sons in the year 2009 by his father. The said Kamaludeen, brother of the petitioner is residing



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in Malasiya. Due to Covid-19 pandemic the petitioner came from Chennai and created documents, as if he is in possession of the property on the pretext of taking care of his mother. The petitioner is also having criminal antecedent and he was absconding at the relevant point of time. The petitioner has manhandled and abused the police officials, who went to enquire him and as against him the case in Crime No.573 of 2020 is pending.

17.The learned Government Advocate (Crl Side) further submits that on receipt of the complaint on 29.11.2020, the police acted upon immediately and stopped the demolition. Though the petitioner and the accused were directed to appear for enquiry, neither of them appeared for enquiry and thereafter action was not taken immediately. While so, the Investigating Officer Ravindran was transferred on 27.02.2021 and there was miscommunication in this matter.

18.The learned Counsel for the petitioner submits that the petitioner and his wife are living in the said



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house at Door No.30, Giri Road, Arasarkulam village.

The petitioner's mother Hamitha Beevi died at her age of 88 on 01.11.2020. The petitioner's sister lodged a complaint to harass the petitioner and the respondent police had registered a case in Crime No.568 of 2020 on 01.11.2020 under Section 174 CrPC and also subjected the body for postmortem. Again another case was registered against the petitioner and his wife in Crime No.573 of 2020 on 04.11.2020 for the offence punishable under Sections 294(b), 353 and 506 (i) IPC, as if the petitioner and his wife abused the Sub Inspector of Police and intimidated him on 04.11.2020. By registering the above case and placing him under threat of arrest, the respondent police facilitated the accused to demolish the petitioner's house with the help of police and henchmen. The house property at Door No.30, Giri Road Arasarkulam Village, Aranthangi Taluk, Pudukottai District is the property, which was allotted to his mother and the mother by way of gift deed gave the property to him in the year 2011 and ever since he is residing in the said property. The respondent Police are also aware that he is residing in



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the said house.

19.The learned Counsel for the petitioner further submits that the case in Crime No.573 of 2020 was registered by the respondent Police showing the petitioner's address as Door No.30, Giri Road, Arasarkulam. The Sub Inspector of Police, who came for investigation to his house on 04.11.2020 is aware that he is residing in the house. On 29.11.2020 the accused persons have demolished the house with JCB bearing Registration No.TN 55 AQ2324 and Police complaint was lodged through Help Line No.100 to the police. The police have also visited the place of occurrence and in their presence the accused demolished the house, but they have not acted on 29.11.2020. Therefore, the accused by taking advantage of it demolished the entire house on 30.11.2020. On the date of the occurrence the petitioner was in Chennai and his Watchman Shiek Ismayil preferred a complaint on 29.11.2020. It was treated only as a petition enquiry in CSR No.659 of 2020. Thereafter the petitioner lodged a complaint on 30.11.2020, which was registered only on 04.12.2020. Though the case was



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registered on 04.12.2020, the FIR reached the Court only on 18.01.2021 with a delay of 42 days. The respondent police claim that the case was closed as mistake of fact on 04.12.2020.

20.The learned Counsel further submits that as per Serial No.3 of the First Information Report, the case was registered at about 1.00pm on 04.12.2020. The case was handed over by the Sub Inspector of Police Rajendran to the Inspector of Police G.S.Ravindran. It is not known how the Inspector of Police has examined 11 witnesses on the same day without even issuing any summon to the witness and also closed the case as mistake of fact on the same day. Though the case is claimed to have been referred as mistake of fact on 04.12.2020 itself, the RCS notice was prepared only on 21.12.2020 and this RCS notice was served only on 27.11.2021 that too after the directions of this Court in Cr1OP(MD)No.1979 of 2021. If the case was closed on 04.02.2020 as claimed, it is not known as to why the anticipatory bail petition filed by the accused in CrMP.No.293 of 2021 in Crime No.606 of 2020 was objected



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by the respondent police on 27.01.2021.

21.The learned Counsel also submits that the reasons assigned by the respondent for not serving the RCS notice that the petitioner was absconding in connection with Crime No.573 of 2020 is not correct since he was granted anticipatory bail in Crime No.573 of 2020 by this Court in CrIOP(MD)No.14809 of 2020 dated 04.12.2020. Even though this Court has called for a report from the respondent for contempt of Court, for the false information provided in CrIOP(MD)No.1979 of 2021, in the report dated 15.03.2022, the Inspector of Police Ravindran has projected that the petitioner is facing serious allegations of abusing the Sub Inspector of Police in Crime No.573 of 2020. It is not correct and it is a wrong projection by the Inspector of Police, to create an impression as against the petitioner.

22.This Court has considered the rival submissions made on either side and perused the materials placed on record.



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23. Admittedly the petitioner was residing along with his wife in the house property at Door No.30 Giri Road, Arasarkulam Aranthangi. The petitioner has placed some documents to show that he was in occupation of the property from the year 2011. Whether the documents are created or whether the petitioner is having right over the property are the matters to be decided by the competent civil Court. The police officer is not supposed to interfere with the civil disputes as per PSO No.562.

24. However the complaint in Crime No.606 of 2020 is that the property in Door No.30 Giri Road, Arasarkulam, Aranthangi Taluk was demolished by the accused by using JCB. The complaint was lodged on the date of occurrence, i.e., on 29.11.2020 and the Inspector of Police Ravindran, the Sub-Inspector of Police Rajendran and Head Constable visited the place and they directed to stop the demolition. The petitioner has also produced photographs that the demolition was done in the presence of the Police Officers. Thereafter the building was demolished fully on 30.11.2020.



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The photographs placed by the petitioner would disclose that the building is not in dilapidated condition. Even otherwise the accused ought not to have demolished the house, without vacating the petitioner, who was in occupation of the same by following the due process of law.

25.Though the complaint was lodged on 29.11.2020 and another complaint was lodged on 30.11.2020, the case in Crime No.606 of 2020 was registered only on 04.12.2020 at about 1.00 pm by the Sub Inspector of Police Rajendran, and on the same day the case was closed by the Inspector of Police, Ravindran, claiming that he examined 11 witnesses and found that one Kamaludeen is the real owner of the property. As rightly pointed by the learned Counsel for the petitioner, not even summon was issued to the witnesses and the investigation was conducted and closed on 04.12.2020 itself.

26.Apprehending arrest the accused in Crime No.606 of 2020 approached the Principal District and Sessions Court, Pudukottai seeking anticipatory bail. The respondent police



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raised objection as follows:

"The learned Public Prosecutor has submitted that the FIR was registered on 04.12.2020 and the occurrence was on 29.11.2020. Further stated that due to civil dispute all the accused unlawfully assembled, trespassed the house of the defacto complainant and caused damages to the house of the defacto complainant with the help of JCP valued at Rs. 20 Lakh and stolen 120 sovereigns of gold jewels threatened to kill him and properties not yet recovered. Thus strongly objected this petition."

27.Considering the objections, the Principal District and Sessions Judge, Pudukottai by order dated 27.01.2021 granted interim anticipatory bail to the accused. Challenging the same the petitioner filed a petition in Cr1OP (MD) No.1979 of 2021 before this Court. The said application was disposed of by this Court based on the representation of the respondent police on 17.09.2021 that the case in Crime No.606 of 2020 was closed as mistake



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of fact on 08.02.2021 and RCS notice was also served on the petitioner. In one place the respondent police claim that the investigation in Crime No.606 of 2020 was completed on 04.12.2020 on the date of registration of the complaint itself. However they have objected to the anticipatory bail application on 27.11.2021 filed by the accused in CrMP.No.293 of 2021 before the Principal District and Sessions Judge, Pudukottai. Contrarily it is represented before this Court that the case was closed on 08.02.2021.

28.RCS notice was prepared on 21.12.2020 and it was served on the petitioner on 27.11.2021 at about 2.55pm. In the application made under the Right to Information Act to the Superintendant of Police, Pudukottai, it was informed that as on 23.04.2021 the investigation in Crime No.606 of 2020 was pending. The Tamil Nadu Police - Citizen portal also disclosed that as on the date of filing of this contempt petition, the case in Crime No.606 was pending. All these go to show that the case in Crime No.606 of 2020 was not closed on 04.12.2020 as contended by the respondent police. Even assuming that the case was closed on



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04.12.2020, there is no necessity for the respondent Police to raise objections in the anticipatory bail petition on 27.11.2021 filed by the accused in CrMP.No.293 of 2021 before the learned Principal District and Sessions Judge, Pudukottai. Therefore this Court is of the view that the investigation in Crime No.606 of 2020 was not done properly by the Investigating Officer and false information has been placed before this Court to defeat the petition in CrIOP(MD)No.1979 of 2021 and the contempt petition in Cont.P(MD)No.1610 of 2021 filed by the petitioner.

29.An impartial investigation is the basic requirement for any investigation. A fair investigation is also a part of constitutional right guaranteed under Articles 20 & 21 of the Constitution of India. The investigation must be unbiased, honest, just and in accordance with law. The purpose of investigation is to bring out the truth of the case before the Court of law.

30.A Crime is a public wrong, which involves the public rights of the community as a whole and also harmful



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to the society in general. By observing so, the Hon'ble Supreme Court in **Dayal Singh v. State of Uttaranchal**, reported in **(2012) 8 SCC 263**, has held as follows:

"34. Where our criminal justice system provides safeguards of fair trial and innocent till proven guilty to an accused, there it also contemplates that a criminal trial is meant for doing justice to all, the accused, the society and a fair chance to prove to the prosecution. Then alone can law and order be maintained. The courts do not merely discharge the function to ensure that no innocent man is punished, but also that a guilty man does not escape. Both are public duties of the Judge. During the course of the trial, the learned Presiding Judge is expected to work objectively and in a correct perspective. Where the prosecution attempts to misdirect the trial on the basis of a perfunctory or designedly defective investigation, there the Court is to be deeply cautious and ensure that despite such an attempt, the determinative process is not subverted. For truly attaining this object of a "fair trial", the Court should leave no stone unturned to do justice and protect the interest of the society as well.

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47.5. We hold, declare and direct that it shall be appropriate exercise of jurisdiction as well as ensuring just and fair investigation and trial that courts return a specific finding in such cases, upon recording of reasons as to deliberate dereliction of duty, designedly defective investigation, intentional acts of omission and commission prejudicial to the case of the prosecution, in breach of professional standards and investigative requirements of law, during the course of the investigation by the investigating agency, expert witnesses and even the witnesses cited by the prosecution. Further, the courts would be fully justified in directing the disciplinary authorities to take appropriate disciplinary or other action in accordance with law, whether such officer, expert or employee witness, is in service or has since retired."

31.The Hon'ble Supreme Court in **Awadh Bihari Yadav v. State of Bihar**, reported in **(1995) 6 SCC 31**, noticed that "if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the



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people would be shaken not only in the law enforcement agency but also in the administration of justice.”

32.PSO 110(3) mandates the police to enforce the law, fairly and impartially, without fear or favour, malice or vindictiveness. As per PSO 566, the investigation officers are warned against prematurely committing themselves to any view of the facts for, or against a person. It is reiterated that in order to find out the truth, they should preserve an open mind throughout the inquiry.

33.The investigation is the prerogative of the investigation agency. Not even the Court would interfere with the investigation or during the course of investigation and Court would not issue any direction to the manner in which the investigation to be carried out, which would mean that from the lodging of the first information report till the filing of the final report, the right of investigation exclusively is vested with the investigation agency. Whoever high he may be, a victim of any crime has to depend upon the investigation agency. If the investigations are carried out in such a manner,



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then there cannot be any remedy for the affected victims.

It is the responsibility of the State to protect the life and limb of every citizen. The affected victims must be ensured that they would get proper justice for the crime committed on them.

34.A fair justice can be done, only on the materials placed before the Court by the investigation agency. Therefore, the purpose of an investigation agency must be fair and proper, unbiased and honest. The duty of the Court is not only to protect the rights of an accused, but also to protect and render justice to the innocent victims. The responsibility of the investigation agency in the criminal justice system plays a major role and they are, in fact, the kingpins in the criminal investigation system. Only on a reliable investigation and with reliable evidence, a proper justice can be rendered.

35.In ***Dayal Singh v. State of Uttaranchal***, reported in **(2012) 8 SCC 263**, the Hon'ble Supreme Court observed as



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"21. The investigating officer, as well as the doctor who are dealing with the investigation of a criminal case, are obliged to act in accordance with the Police Manual and the known canons of medical practice, respectively. They are both obliged to be diligent, truthful and fair in their approach and investigation. A default or breach of duty, intentionally or otherwise, can sometimes prove fatal to the case of the prosecution. An investigating officer is completely responsible and answerable for the manner and methodology adopted in completing his investigation. Where the default and omission is so flagrant that it speaks volumes of a deliberate act or such irresponsible attitude of investigation, no court can afford to overlook it, whether it did or did not cause prejudice to the case of the prosecution. It is possible that despite such default/omission, the prosecution may still prove its case beyond reasonable doubt and the court can so return its finding. But, at the same time, the default and omission would have a reasonable chance of defeating the case of the prosecution in some events and the guilty could go scot-free.

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26. Dereliction of duty or carelessness is an abuse of discretion under a definite law and misconduct is a violation of indefinite law. Misconduct is a forbidden act whereas dereliction of duty is the forbidden quality of an act and is necessarily indefinite. One is a transgression of some established and definite rule of action, with least element of discretion, while the other is primarily an abuse of discretion. This Court in *State of Punjab v. Ram Singh* [(1992) 4 SCC 54 : 1992 SCC (L&S) 793 : (1992) 21 ATC 435] stated that the ambit of these expressions had to be construed with reference to the subject-matter and the context where the term occurs, regard being given to the scope of the statute and the public purpose it seeks to serve. The police service is a disciplined service and it requires maintenance of strict discipline. The consequences of these defaults should normally be attributable to negligence. Police officers and doctors, by their profession, are required to maintain duty decorum of high standards. The standards of investigation and the prestige of the profession are dependent upon the action of such specialised persons. The Police Manual and even the provisions of CrPC require the



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investigation to be conducted in a particular manner and method which, in our opinion, stands clearly violated in the present case."

36. The Hon'ble Supreme Court, in **Karnel Singh vs The State of M.P.**, reported in **1995 SCC (5) 518**, has held as follows:

"5. ...In cases of defective investigation the court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective."

37. The purpose of contempt jurisdiction was summarised as below by Lord Morris in Attorney General v. Times Newspapers 1974 A.C. 273 **at page 302:**

"In an ordered community courts are established for the pacific settlement of disputes and for the maintenance of law and order. In the general interests of the community it is imperative that the authority of the courts should not be imperiled



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and that recourse to them should not be subject to unjustifiable interference. When such unjustifiable interference is suppressed it is not because those charged with the responsibilities of administering justice are concerned for their own dignity: it is because the very structure of ordered life is at risk if the recognised courts of the land are so flouted and their authority wanes and is supplanted."

38. In **Chandra Shashi vs Anil Kumar Verma**, reported in **1995 SCC (1) 421** the Hon'ble Supreme Court has held as follows:

"8. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. People would have faith in courts when they would find that (truth alone triumphs) is an achievable aim there; or (it is virtue which ends in victory)



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13.The King's Bench judgment was rendered in *R. v. Weisz, ex p Hector MacDonald Ltd.*⁴ Lord Goddard, C.J. (speaking for the Court) held the action of the type, which was one of recovery of money on the basis of 3 1912 AC 347: 81 LJPC 169 : 105 LT 973 : 28 TLR 204, PC 4 (1951) 2 KB 611 : (1951) 2 All ER 408 account stated though there was none, as an abuse of the process of the court but not per se a contempt. It was however added that if the attempt were to deceive by disguising the true nature of the claim, the same would be contempt. On the facts of the case it was found that the solicitor firm had committed contempt as it had endorsed the writ (which was for money won at betting) for a fictitious, though apparently a legal cause of action, as Parliament had ordained that courts are not to be used for realising such monies. The action was, therefore, regarded as an interference with, or distortion of, the course of justice. (A different view was, however, taken insofar as the litigant himself was concerned as he had done nothing to bring a



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14.The legal position thus is that if the publication be with intent to deceive the court or one made with an intention to defraud, the same would be contempt, as it would interfere with administration of justice. It would, in any case, tend to interfere with the same. This would definitely be so if a fabricated document is filed with the aforesaid mens rea. In the case at hand the fabricated document was apparently to deceive the court; the intention to defraud is writ large. Anil Kumar is, therefore, guilty of contempt."

39.In view of the above discussion and applying the ratio laid down by the Hon'ble Supreme Court, this Court is satisfied that the Inspector of Police G.S.Ravindran by giving false information deceived the Court with an intent to defraud and thus he has committed contempt of Court, by interfering in the administration of justice. However, this Court leaves the issue open to the Director



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General of Police, being the Head of the Department, to take appropriate action against the officer concerned.

40.This Court considering the manner in which the investigation was conducted in Crime No.606 of 2020 and information were provided before the Court, invoking the inherent powers of this Court, orders for reopening the case in Crime No.606 of 2020 on the file of the Nagudi Police Station. It shall be handed over to a Deputy Superintendent of Police, CB-CID, who shall conduct investigation afresh and bring the truth to the light.

41.In the result this contempt petition is allowed with the above direction and the earlier order dated 17.12.2021 passed in this petition is hereby recalled since it was obtained by providing false information.

23.09.2022

dsk
To
The Inspector of Police,
Nagudi Police Station,
Pudukottai District.



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Copy to
The Director General of Police,
Chennai.



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B. PUGALENDHI, J.

dsk

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in
CRLOP (MD) No.1979 of 2021

23.09.2022