



Contempt Appeal Nos.3 & 4 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN**

**Contempt Appeal Nos.3 & 4 of 2022
and
C.M.P.Nos.8641 & 8465 of 2022**

M.Senthil Kumar
S/o.M.Muthuvel

... Appellant in Cont.A.No.3/2022

K.Murugesan
The Inspector of Police,
Thammampatti Police Station,
Salem District.

... Appellant in Cont.A.No.4/2022

Vs.

1.K.Saravanan
S/o.Kandasamy

... R1 in both appeals

2.K.Murugesan
Inspector of Police,
Thammampatti Police Station,
Salem District.

... R2 in Cont.A.No.3/2022

Contempt Appeals filed u/s.19(1) of the Contempt of Courts Act, 1971, against the order passed by this Court dated 12.04.2022 made in Contempt Petition No.498 of 2022 in CrI.O.P.No.12432 of 2021.



Contempt Appeal Nos.3 & 4 of 2022

For Appellants : Mrs.P.Kritika Kamal
[in both appeals]

For Respondents : Mr.N.Manoharan [R1]
[in both appeals] Mr.R.Muniyapparaj
Additional Public Prosecutor [R2]

COMMON JUDGMENT

[Delivered by **P.N.PRAKASH, J.**]

For the sake of convenience, we are referring to the names of the persons involved in this case.

2. One Saravanan married Malar some ten years back and on account of marital discord, they got estranged. Saravanan was residing within the jurisdiction of Thammampatti Police Station and Malar was residing in her natal home within the jurisdiction of Thalaivasal Police Station. It is alleged that on 15.10.2018, Malar and her relatives barged into the house of Saravanan and assaulted him. In this connection, on a complaint given by Saravanan, a case in Thammampatti P.S.Crime No.203 of 2018 was registered on 20.10.2018 for the offences u/s.147, 148, 294(b), 324, 341 and 506(ii) IPC against Malar and nine others. It is seen that on a complaint



given by Malar, a case in Thalaivasal P.S. Crime No.192 of 2021 was registered on 13.04.2021 for the offences u/s.420, 421, 465, 468 and 471 IPC against Saravanan and four others. It appears that investigation in Thammampatti P.S.Crime No.203 of 2018 was conducted by one Vijaya Kumar, Inspector of Police and the said case was closed as 'mistake of fact' on 15.12.2018. Entries were promptly made in the First Information Report index as well in CCTNS portal. However, the RCS notice for closing the First Information Report was neither served on Saravanan [*de facto* complainant] nor was it filed in the jurisdictional Court.

3. Saravanan filed a petition in CrI.O.P.No.12432 of 2021 in this Court u/s.482 Cr.P.C. for quashing the First Information Report in Thalaivasal P.S.Crime No.192 of 2021. In the said petition, Malar was shown as second respondent. A learned Single Judge of this Court, by order dated 19.07.2021, quashed the First Information Report in Thalaivasal P.S.Crime No.192 of 2021 and issued a direction to the Inspector of Police, Thammampatti Police Station, to complete the investigation in Thammampatti P.S. Crime No.203 of 2018 and lay a charge sheet on or



before 24.09.2021. Though, the Thammampatti Police was not a party in CrI.O.P.No.12432 of 2021, a copy of the order was sent to them and it was received by them on 05.08.2021.

4. Alleging non-compliance with the order dated 19.07.2021 in CrI.O.P.No.12432 of 2021, Saravanan initiated contempt proceedings in Cont.P.No.498 of 2022 against Murugesan, the Inspector of Police, Thammampatti Police Station. Statutory notice was served on Murugesan, after which, he entered appearance and filed his affidavit and contended that he joined in the Thammampatti Police Station only on 08.08.2021 and therefore, he was not aware of the events that took place prior to that. When this was brought to the knowledge of the learned single Judge, notice was issued to Senthilkumar, who worked in Thammampatti Police Station from 11.03.2021 to 08.08.2021. Senthilkumar also entered appearance and filed his affidavit. Both of them [Murugesan and Senthilkumar] though apologised to the learned single Judge for not complying with the order dated 19.07.2021, contended *inter alia* that the investigation in Thammampatti P.S. Crime No.203 of 2018 was completed as early as on



15.12.2018. This explanation was not found satisfactory and therefore, the

learned single Judge, by order dated 12.04.2022, in Cont.P.No.498 of 2022

has punished Senthilkumar and Murugesan as under :

"i. The Commissioner of Police, Salem is directed to take departmental action against both Mr.Senthilkumar, the then Inspector of Police, Thammampatti Police Station, now the Inspector of Police, Karripatty Police Station, Salem District and also Mr.Murugesan, the Inspector of Police, Thammampatti Police Station.

ii. The Superintendent of Police, Salem, is directed to recover the salary of Mr.K.Murugesan, the Inspector of Police, Thammampatti Police Station, Salem District, for the period from 08.08.2021 to 12.04.2022 and also recover the salary of Mr.Senthilkumar, the then Inspector of Police, Thammampatti Police Station now serving as the Inspector of Police, Karripatty Police Station, Salem District, for the period from 19.07.2021 to till the date of his relieving from the post of Inspector of Police, Thammampatti Police Station, at the earliest.

iii. The Inspector General of Police, West Zone is hereby directed to withdraw the F.I.R. in Crime No.203 of 2018 on the file of the Thammampatti Police Station and transfer the same to some other Police Station in Coimbatore District to investigate the matter and to file the charge sheet within a period of three months preferably on or before 29.07.2022.

6. With the above said directions, the Contempt Petition is disposed of."

5. Aggrieved by the above order, Senthilkumar has filed Cont.A.No.3 of 2022 and Murugesan has filed Cont.A.No.4 of 2022.



6. Heard Mrs.P.Kritika Kamal, the learned counsel appearing for the appellants. Private notice was served on Saravanan. Since he did not enter appearance, we directed the learned counsel for the appellants to inform Mr.N.Manoharan, Advocate, who appeared for Saravanan before the learned single Judge.

7. Today, Mr.K.Murugesan, Inspector of Police and Mr.M.Senthilkumar, Inspector of Police, are present.

8. Heard Mrs.P.Kritika Kamal, learned counsel appearing for the police and Mr.N.Manoharan, learned counsel, who appeared for Saravanan before the learned single Judge. It is trite that original contempt proceedings and appeals therefrom are matters essentially between the Court and the alleged contemnors. Hence, Saravanan cannot have much say in this appeal.

9. Mrs.P.Kritika Kamal, the learned counsel appearing for the appellants, submitted that when the FIR in Thammampatti P.S. Crime No.203 of 2018 was registered, one Vijaya Kumar was the Inspector of Police. He completed the investigation and closed the case as 'mistake of



fact', but did not take steps to serve the RCS notice on Saravanan nor he filed the closure report before the jurisdictional Magistrate. Therefore, Saravanan was totally unaware of the fact that the complaint given by him in Thammampatti P.S. Crime No.203 of 2018 was closed. When a fresh First Information Report was registered against Saravanan in Thalaivasal P.S.Crime No.192 of 2021 on the complaint given by Malar, Saravanan rushed to this Court for quashing the First Information Report by filing CrI.O.P.No.12432 of 2021. During the arguments in CrI.O.P.No.12432 of 2021, learned counsel for Saravanan brought to the notice of the learned single Judge that the complaint given by Saravanan is pending investigation in Thammampatti P.S. Crime No.203 of 2018. Learned Public Prosecutor also did not bring to the notice of the learned single Judge that the case in Thammampatti P.S. Crime No.203 of 2018 was closed as 'mistake of fact' on 15.12.2018. Under such circumstances, learned single Judge was under the impression that the case in Thammampatti P.S. Crime No.203 of 2018 was pending and therefore, the learned single Judge directed the Thammampatti Police to complete the investigation and file the charge sheet on or before 24.09.2021.



WEB COUNCIL

10. Now before us as well before the learned single Judge, Senthil Kumar and Murugesan submitted that on receipt of the copy of the order dated 19.07.2021, they both checked the FIR index as well the CCTNS portal and found that the case was closed way back on 15.12.2018. Of course, they did not take steps to find out whether the RCS notice was served on Saravanan and intimation was given to the concerned jurisdictional Magistrate.

11. It is the case of Senthil Kumar that he served as Inspector of Police in Thammampatti Police Station only for a brief period viz., 11.03.2021 to 08.08.2021. It is the defence of Murugesan that though he joined as Inspector of Police, Thammampatti Police Station on 08.08.2021, he was made in charge of eight police stations, which did not have regular Inspectors in Salem district, in support of which, he produced the proceedings of the Superintendent of Police, Salem dated 01.10.2021 and 22.01.2022. He also submitted that he had taken charge during the peak of Covid-19 and on account of work burden, he had failed to take steps to serve RCS notice on the *de facto* complainant and intimate the concerned Court for which, he has tendered his unconditional apology.



12. We carefully considered their explanations as well their apologies.

Had the DIG of Police and Superintendent of Police, during their annual inspection, checked the FIR registers properly, these aspects would have come to light. Failure on the part of the senior police officials in not conducting proper inspection of the station house records had resulted in colossal waste of judicial time on this matter.

13. Learned Additional Public Prosecutor submitted that pursuant to the order of the learned single Judge, the case in Thammampatti P.S.Crime No.203 of 2018 was transferred to Inspector of Police, Sulur, Coimbatore District, who also conducted an independent investigation and came to the same conclusion and closed the case as 'mistake of fact'. Learned Additional Public Prosecutor submitted that RCS notice has been served on Saravanan and the same has also been filed before the learned Judicial Magistrate II, Athur. Learned Judicial Magistrate II, Athur, issued notice to Saravanan and he also appeared before the Court.



14. On a conspectus of the facts obtaining in this case, we find that there was no supine or wilful failure on the part of these two officers [Senthilkumar and Murugesan] in not complying with the directions issued by this Court in CrI.O.P.No.12432 of 2021 dated 19.07.2021 inasmuch as, the investigation in Thammampatti P.S. Crime No.203 of 2018 was conducted by Vijaya Kumar, Inspector of Police and the case was closed as 'mistake of fact', which was the main reason for these two officers [Senthilkumar and Murugesan] in not proceeding further with the investigation of a closed case.

15. The failure of these two police officers [Senthilkumar and Murugesan] in not serving RCS notice on the *de facto* complainant and filing the closure report before the jurisdictional Magistrate is a laxity, which cannot be said to be very serious warranting punishment for contempt of Court. In our opinion, this may not amount to wilful disobedience of the orders of this Court. That apart, punishment prescribed by Section 12 of the Contempt of Courts Act, 1971, can only be imposed and not the punishments referred to in paragraph No.4 above.



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In the result, these Contempt Appeals are allowed and the order of punishment imposed in Contempt Petition No.498 of 2022 dated 12.04.2022 is set aside. Consequently, connected miscellaneous petitions are closed.

[PNP, J.] [TKR, J.]
04.11.2022

Index: Yes/No
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and
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