



Suo Motu CrI. Cont.P. No.1699 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.03.2022

PRONOUNCED ON: 12.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

and

THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

Suo Motu CrI. Contempt Petition No.1699 of 2021

High Court of Madras
Chennai 600 104

Petitioner

vs.

R.D. Santhana Krishnan

Respondent

Suo Motu Criminal Contempt proceedings initiated against the respondent as per order dated 21.12.2021.

For petitioner Mr. B. Vijay

For respondent Mr. K. Elangovan

ORDER

This is a *suo motu* criminal contempt proceedings initiated against the respondent as per order dated 21.12.2021 passed by this Court.

2 The facts that are required for deciding this contempt petition are as under:



2.1 On 20.12.2021, a video clipping, showing the online Court proceedings of Court No.11 by one of our brother Judges, in which a male who was participating in the virtual hearing platform was found canoodling with a lady, went viral in the social media.

2.2 On the directions of the Hon'ble Chief Justice, this Bench which holds the criminal contempt portfolio, registered the present *suo motu* criminal contempt proceedings and issued the following directions on 21.12.2021:

- The Registry shall register a *suo motu* criminal contempt proceedings based on the impugned video clipping and place the matter before us on the next date of hearing;
- Since the impugned video clipping *prima facie* discloses the commission of cognizable offences under the Information Technology Act and other penal laws, the CB-CID shall register a *suo motu* FIR on the impugned video clipping and file a preliminary report before this Court on 23.12.2021 (Thursday) naming the *dramatis personae* who are found engaged in the vulgar activity;
- The Registry shall preserve the video recordings of the Court proceedings in question;
- The Registrar (I.T.-cum-Statistics) shall coordinate with CB-CID and if required, furnish the impugned video clipping and other evidences in this regard, to the CB-CID;



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- The Commissioner of Police, Greater Chennai, shall take steps to block the circulation of the impugned video clipping in the social media.
- The Registrar (I.T.-cum-Statistics) shall take steps to liaise with the authorities concerned for removal of the impugned video clipping from the internet.

2.3 On 23.12.2021, the CB-CID filed a preliminary report dated 22.12.2021 stating that the male in the impugned video clipping is one R.D. Santhana Krishnan, Advocate (Enrolment No.MS3907/2011), aged about 49 years, residing at No.2/3, Teeds Garden, VII Street, Perambur, Sembium, Chennai – 11. The report further stated that the CB-CID has registered a case against Santhana Krishnan in Cr. No.13 of 2021 for the offences under Sections 228, 292(2)(a) and 294(a) IPC and Section 67-A of the Information Technology Act, 2008.

2.4 On the same day, the learned Public Prosecutor brought to the notice of this Court that the Bar Council of Tamil Nadu and Puducherry has placed Santhana Krishnan under suspension on 21.12.2021 for his indecent behaviour, pending disposal of the disciplinary proceedings against him.



2.5 Since the report of the CB-CID disclosed the identity of the male, we issued statutory notice on 23.12.2021 to Santhana Krishnan returnable by 20.01.2022.

2.6 The CB-CID identified the lady in the impugned video clipping (whom we will refer to as “X” in order to protect her privacy) and had her statement recorded under Section 164 Cr.P.C. by the XI Metropolitan Magistrate, Saidapet, Chennai on 28.12.2021.

2.7 Pursuant thereto, the CB-CID altered the offences in the FIR to Sections 228, 292(2)(a), 294(a) and 354-A IPC, Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 and Section 67-A of the Information Technology Act, 2008. Santhana Krishnan was then placed under arrest on 08.01.2022 and released on station bail due to pandemic situation and his ill-health. Subsequently, on 21.01.2022, he was arrested again and remanded in judicial custody.

2.8 However, when the matter was listed on 25.01.2022, the CB-CID filed a status report dated 24.01.2022, *inter alia*, stating that Santhana Krishnan was placed under arrest on 21.01.2022 and enquiries conducted



with “X” and her mother “Y” revealed the following facts.

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“18 It is submitted that, during course of investigation it came to know “X” family shifted their residence. On enquiry the victim “X” stated that she was subjected to physical and sexual exploitation several times by accused R.D. Santhana Krishnan. Further statement of the victim and her mother “Y” was recorded on 21.01.2022.

19 It is submitted that, victim's mother “Y” has stated that accused Santhana Krishnan used their family's financial situation to his advantage and exploited her daughter “X” sexually by offering her money, new dress and food.”

2.9 On the same day, (25.01.2022), Mr. K. Elangovan, Advocate, entered appearance for Santhana Krishnan and filed an affidavit dated 20.01.2022 sworn to by Santhana Krishnan giving his version of the incident in question and offering his unconditional apology. Though in his affidavit, Santhana Krishnan had not denied about the incident in question, yet, in the interest of fair play and justice, we directed the Registry to copy the impugned video clipping in a compact disc and furnish the same to Santhana Krishnan.

2.10 On the next hearing date, *i.e.*, 22.02.2022, we furnished a compact disc containing the impugned video clipping to Mr. Elangovan, Advocate, since Santhana Krishnan was in judicial custody.



2.11 Santhana Krishnan was released on bail on 25.02.2022 and he appeared before us on 08.03.2022 along with Mr. Elangovan, Advocate. We framed the following charges against him:

“(1) That, you, R.D.Santhana Krishnan, an Advocate (E.No.3907/11) were attending the proceedings of Court No.11, on Monday, the 20th December, 2021. While so attending, you brazenly engaged yourself in canoodling with a lady "X", in full public gaze, which act, not only scandalised, but also lowered the authority of the said Court and thereby, you are charged for the above said act, which is punishable under Section 2(c)(i) read with Section 12 of the Contempt of Courts Act, 1971.

What do you say ?

(2) That, your aforesaid act was publicly visible to all those who were there in the virtual platform, and thereby, it interfered with the due course of the judicial proceedings of the said Court and thereby, you are charged for the same, which is punishable under Section 2(c)(ii) read with Section 12 of the Contempt of Courts Act, 1971.

What do you say ?

(3) That, your aforesaid act brought the administration of justice by the High Court into disrepute and thereby, you are charged for the same, which is punishable under Section 2(c)(iii) read with Section 12 of the Contempt of Courts Act, 1971.

What do you say ?”

2.12 When questioned by us, he pleaded guilty to all the charges and tendered his unconditional apology. His counsel submitted that the apology affidavit dated 20.01.2022 may be treated as Santhana Krishnan's reply to the charges and orders may be passed thereon. Mr. Elangovan further



submitted that Santhana Krishnan has great respect for the Court and since he was not tech savvy, he was unaware that the camera was 'on' in his laptop while he was involved in the impugned act with “X”. In other words, he submitted that the impugned act was not done with an intention to scandalise the Court or lower the authority of the Court and that Santhana Krishnan had suffered 34 days of incarceration and has also been suspended from practice by the Bar Council of Tamil Nadu and Puducherry.

3 At this juncture, it may be relevant to extract paragraphs 8 to 11 of Santhana Krishnan's affidavit dated 20.01.2022:

“8. I state that on 20.12.2021, as usual, my junior had connected to the virtual court of the Hon'ble High Court of Madras and watched the proceedings and minimised the laptop screen and he left the office. Unknowingly and unfortunately, I had not noticed to disconnect the virtual court. Whereas the virtual court was minimised and the laptop screen was kept turned on in the home screen, upon which I had no knowledge. I submit that I am not a person who is technically sound and I do not possess the adequate technological knowledge to operate computer system in complete manner.

9 I state that I was in the impression that the virtual court screen was kept turned off while I was carrying on my works by sitting in front of the laptop. I was not aware that the virtual court was connected and running in my laptop's background. The volume was also muted and therefore, I did not have the knowledge about the running of the virtual court in the background. I further state that I was not aware that the camera was kept turned on.



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10 I submit that the facts being so, without my knowledge and intention, my video canoodling with a woman was displayed in the virtual court through my laptop camera. I submit that I was completely unaware about the fact that the Court was running in the background and the said video had unfortunately appeared on the virtual court without my intention and knowledge.

11 I submit that the woman who was present in the said video is “X”, who is one of my neighbourhood friends and residing close to my residence. She is not a staff at my office, but she used to visit my office often. I submit that she had randomly visited my office on the said day of the incident. I submit that this was the first ever incident of such kind and it had happened mistakenly, out of my control and will. It was very unfortunate that the said incident had also appeared on the virtual court.”

4 Albeit in his affidavit, Santhana Krishnan has disclosed the name of “X”, for the reason stated in paragraph 2.6 (*supra*), we have indicated her name as “X” in the above extract. We find that the averments in paragraph 11 of the affidavit are in material variance with the Section 164 Cr.P.C. statement of “X”. But, we do not want to say anything on this material variance because the investigation by the CB-CID is still in progress and the Section 164 Cr.P.C. statement of “X” has not yet become public. Therefore, we leave it at that.

5 However, we have not impleaded “X” as a respondent in this contempt petition because we are of the view that she is from a poor



background and was not only a victim of circumstances, but also that she fell prey to Santhana Krishnan's lechery. Santhana Krishnan's defence is that he was not aware that the video in his laptop was on when he canoodled with "X". It is like one saying *"I did not see the policeman on the other side of the road when I jumped the traffic signal; had I seen him, I would not have done so."* Of course, the aforesaid analogy cannot be applied in all its fours because jumping traffic signal is *per se* an offence, but, canoodling with a lady during Court hours in one's office, by itself, is not an offence nor would it attract the provisions of the Contempt of Courts Act.

6 But, the circumstances of the case are not as simple as that. Santhana Krishnan is an advocate and the impugned video shows that he was on the virtual platform watching the Court proceedings on the screen of his laptop. Therefore, it is limpid that he had consciously elected to come into the Court proceedings virtually. After having elected so, being a lawyer himself, he was required to maintain a sense of respect and decorum for the Court. Irrespective of the fact whether his camera was in 'on' mode or 'off' mode, he ought not to have indulged in the impugned act while being in the



virtual platform. If he had opted to move out of the virtual platform lock, stock and barrel and thereafter, had he engaged himself in the amorous act, none could have had any grievance. The whole problem for him was he wanted to have the best of the worlds at the same time, viz., to be in virtual hearing platform with his professional work and simultaneously, to canoodle with “X”. One cannot run with the hare and hunt with the hound. Therefore, we find that his explanation is not satisfactory.

7 There is also no point in Santhana Krishnan being angry with the devious person who had captured his act and circulated it in the social media. We are aware that had that not been done also, it would have been very difficult to prosecute Santhana Krishnan. Therefore, the explanation offered by Santhana Krishnan does not cut ice with us and we hold him guilty of all the three charges.

8 Albeit the fact that “X” appears to be an accomplice in the impugned video, her plight indeed disturbs us, in that, she not only suffered, but would also continue to suffer shame and trauma on account of Santhana Krishnan's indiscretion. We should not lose sight of the fact that Santhana



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9 Therefore, on 22.03.2022, we expressed our view in the open Court that “X” deserves to be suitably compensated. Santhana Krishnan, who was present in the Court with his counsel, offered to pay a sum of Rs.4 lakhs to “X” as compensation. We recorded his offer and directed him to take a demand draft for a sum of Rs.4 lakhs favouring “X” and hand over the same to the Secretary, Tamil Nadu State Legal Services Authority. The Secretary, Tamil Nadu State Legal Services Authority has submitted a report stating that Santhana Krishnan has complied with this Court's order dated 22.03.2022 and that the demand draft has also been handed over to “X” who was identified by the Inspector of Police, CB-CID.

10 As regards sentence, Mr. Elangovan, learned counsel for Santhana Krishnan, prayed for mercy by submitting that Santhana Krishnan has already suffered enough, inasmuch that, he has not only lost his name



and honour in the society, but has also suffered incarceration for 34 days, besides suffering suspension of practice.

11 On a deep contemplation over the aforesaid plea of Mr.Elangovan, we are reminded of the following parable from verses 2 to 11 of Chapter 8 titled “John” of the Holy Bible:

“At dawn he appeared again in the temple courts, where all the people gathered around him, and he sat down to teach them. The teachers of the law and the Pharisees brought in a woman caught in adultery. They made her stand before the group and said to Jesus, “Teacher, this woman was caught in the act of adultery. In the Law Moses commanded us to stone such women. Now what do you say?” They were using this question as a trap, in order to have a basis for accusing him.

But Jesus bent down and started to write on the ground with his finger. When they kept on questioning him, he straightened up and said to them, “Let any one of you who is without sin be the first to throw a stone at her.” Again he stooped down and wrote on the ground.

At this, those who heard began to go away one at a time, the older ones first, until only Jesus was left with the woman still standing there. Jesus straightened up and asked her, “Woman, where are they? Has no one condemned you?”

“No one, sir,” she said.

“Then neither do I condemn you,” Jesus declared. “Go now and leave your life of sin.” (emphasis supplied)

12 Though we are too small to play Jesus, yet, one cannot be



oblivious of the fact that there could be many a Santhana Krishnan in various walks of life who are lucky enough in not getting captured in a camera or clever enough to get away by hook or crook. This Court cannot engage in moral policing.

13 Coming to the substantive sentence of imprisonment, when the fact remains that Santhana Krishnan has surrendered and shown remorse, we should temper justice with mercy and not flog him to assert our might. The power of the ocean does not lie in its tumultuous tides but in its meditative vastness. *Ergo*, we sentence him to undergo simple imprisonment for two weeks for each charge, which shall run concurrently, and pay a fine of Rs.2,000/- for each charge (totally Rs.6,000/- for 3 charges), in default to undergo one week simple imprisonment for each charge. However, since Santhana Krishnan has already undergone 34 days of incarceration, the substantive sentence of imprisonment imposed on him shall stand set off against the period of incarceration he had already undergone pursuant to his arrest and detention in CB-CID Cr.No.13 of 2021. On our request, Mr. Hasan Mohamed Jinnah, learned Public Prosecutor and



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Mr. R. Muniyapparaj, learned Additional Public Prosecutor, assisted this

Court by making available the investigation files of the CB-CID, for which, we place on record our appreciation. We also place on record our appreciation to the CB-CID for acting with alacrity in registering a case and taking up the investigation.

This *suo motu* criminal contempt petition stands disposed of on the above terms.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

cad

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

To

1. The Inspector of Police
Cyber Crime Cell
CB-CID
Chennai

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2. The Public Prosecutor,
High Court, Madras

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High Court, Madras 104

2. The Section Officer,
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