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Cont.P.Nos.1109 and 1455 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cont.P.Nos.1109 and 1455 of 2023

Dhanumoorthy,
S/o.Muthukrishnan

... Petitioner in Cont.P.No.1109/2023

Saravanan,
S/o.Thangappa

....Petitioner in Cont.P.No.1455/2023

-Vs-

1.Ms.S.Annam,
Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.

2. Ms.Bagayalakshmi,
Sub-Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore District.

... Respondents in both Cont.Ps.

Prayer : Contempt Petitions under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for their willful disobedience of the common order of this Court made in CrI.O.P.Nos.5437 and 5439 of 2022 dated 10.03.2022.



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For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.S.Balaji
Government Advocate [Crl.Side] [R1]

Mr.P.Sathish Kumar [R2]

ORDER

These contempt petitions have been filed for the alleged disobedience of the orders of this Court dated 10.03.2022 made in Crl.O.P.Nos.5437 and 5439 of 2022.

2. It is the case of the petitioners that based on a false complaint given by one V.Sasi Reka, a case in Crime No.40 of 2021 came to be registered against the petitioners by the All Women Police Station, Thudiyalur, Coimbatore District for the offences under Section 498(A), 406 of IPC and Section 4 of Dowry Prohibition Act, 1961. It is the further case of the petitioners that they have individually filed Crl.O.P.Nos.5437 and 5439 of 2022 before this Court seeking to quash the FIR and this Court, by order dated 10.03.2022, had passed an order stating that the investigation shall go on, however, the final report shall not be filed in respect of the petitioners alone for a period of two weeks.



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It is the further case of the petitioners that in gross disobedience and violation of the orders of this Court dated 10.03.2022, the respondents have hurriedly filed the final report in Cr.No.40 of 2021 before the Additional Mahalir Court, Coimbatore, which was taken on file in C.C.No.1836 of 2022 and thereby the present contempt petitions have been filed.

3. The first respondent was present before this Court on 26.07.2023 and on that day, her appearance was dispensed with. Today(07.09.2023), the second respondent is present before this Court and both of them have filed their counter.

4. As per the averments made in the counter affidavit of the first respondent, on 31.12.2021 on the complaint given by one Sasi Reka, a case in Crime No.40 of 2021 came to be registered for the offences under Sections 498(A), 406 of IPC and Section 4 of Dowry Prohibition Act, 1961. After completion of investigation, the charge sheet has been filed on 26.08.2022. It has been further stated that only after filing of the final report on 26.08.2022, the respondents have received a legal notice dated



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14.12.2022 from Advocates Mr.S.Senthilnathan and Sivasailanathan on 18.12.2022. It has been further stated that Crl.O.P.Nos.5437 and 5439 of 2022 had been listed on 10.03.2022 and it was neither known to the first respondent nor her subordinates and no intimation was given to them about the pendency of the case and they came to know about the order dated 10.03.2022 only on 18.12.2022 after receipt of the legal notice from the counsel.

5. It is the further contention of the first respondent that final report was filed by the Sub-Inspector of Police, who was the Investigation Officer and that she had also retired from service on 31.01.2023 and it further reveals that failure of watching the filing of the charge sheet by the Sub-Inspector of Police was neither willful nor wanton and she had also rendered unconditional apology for the negligence on her part.

6. The second respondent viz., S.Bagyalakshmi, Sub-Inspector of Police has also filed a counter, wherein she has stated that on 18.12.2022 only they received the intimation through the legal notice sent by the



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counsel dated 14.12.2022 and she would also state that she did not appear before this Court on 10.03.2022 when the interim order of not to file the final report was passed by this Court and she was not aware of the order, thereby she had filed the final report after completion of the investigation on 26.08.2022 and she has rendered her unconditional apology for the negligence on the part of her.

7. The learned counsel appearing for the petitioners would submit that the interim order was passed 10.03.2022. Despite the knowledge of the direction of this Court, the respondents have filed final report, which would amount to contempt.

8. The learned Government Advocate appearing for the first respondent would submit that based on the complaint given by one Sasi Reka, a case in Cr.No. 40 of 2021 came to be registered on 31.12.2021 and after completion of the investigation the final report came to be filed on 26.08.2022. Even in the affidavit, the petitioners have not stated anything about the order being communicated to the respondents and only after filing of the final report on 26.08.2022, the petitioners have



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sent a legal notice through their counsel dated 14.12.2022 and it was received by the respondents on 18.12.2022 and he would submit that there is no deliberate and intentional act on the part of the respondents. He would further submit that this Court passed an interim order i.e., not to file the final report and also directed the matter to be listed after two weeks. Thereafter, the matter was not listed, in the meanwhile, the respondents have filed the final report. He would submit that admittedly there has been some negligence on the part of the respondents however, negligence is not deliberate and that they have not willfully committed any contempt. Further, he would submit that they have tendered their unconditional apology for not complying the order of this Court.

9. The learned counsel appearing for the second respondent submits that the order of this Court not to file the final report was not communicated to the second respondent and thereby, she had filed the final report after completion of the investigation. He would further submit that the second respondent has also retired from service on 31.01.2023 and she has performed her duty of filing the final report. However, she had also rendered her unconditional apology.



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WEB COPY 10. Heard the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. Though the petitioners have stated that the order was passed on 10.03.2022 by this Court, nothing has been stated in this contempt petition as if that the order dated 10.03.2022 has been positively served on the respondents. Even as per the affidavit, the learned counsel for the petitioners have sent the notice dated 14.12.2022 and it has been received by the respondents on 18.12.2022. In the meanwhile, the final report has been filed on 26.08.2022.

12. In the opinion of this Court, there has been no willful disobedience on the part of the respondents in not complying with the order of this Court. Hence, this contempt petition is closed.

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Index : Yes/No
Internet : Yes/No
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A.D.JAGADISH CHANDIRA, J.
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