



Cont.P.No.1078/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Cont.P.No.1078/2020

S. Jayasimman

... Petitioner

Versus

Shanmugam,
Inspector of Police,
K4, Thiru Vika Nagar Police Station,
Chennai – 600 082.

... Respondent

Prayer : - This petition filed under Section 11 of Contempt of Courts Act, 1971 to punish the respondent for willful disobedience of the order dated 25.02.2020 passed in CrI.O.P.No.4025 of 2020.

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For Petitioner : Mr. P.G. Perumal Pandian

For Respondent : Mr. A. Damodaran,
Addl. Public Prosecutor



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ORDER

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This petition has been filed seeking to punish the respondent for the willful disobedience of the order dated 25.02.2020 passed by this Court in CrI.O.P.No.4025 of 2020. This Court had passed an order directing the respondent to execute the warrant of arrest.

2.The grievance of the learned counsel for the petitioner is that the respondent / contemnor had willfully disobeyed the order of this Court though the accused was very much available in his address. Further, the respondent was hand and glove with the accused and it is clear from the fact that the order passed by the Hon'ble Supreme Court in S.L.P(CrI.)D.No.7646 of 2021 dated 08.09.2021 was produced by the respondent. Therefore, it cannot be said that the respondent is not aware of the whereabouts of the accused. Hence, the respondent is guilty of willful disobedience and liable to be punished.

3(a).The learned Additional Public Prosecutor would submit that the respondent / contemnor had filed an affidavit, in which, he has stated the



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reasons for not executing the warrant of arrest as directed by this Court. The

reasons stated in paragraphs nos. 5 to 7 are as follows:

“5.It is humbly submitted that as per the order of the Hon'ble High Court, I deputed a police one Mr.Arumugam, Sub-Inspector of Police to execute the warrant against the accused Rajendra Kumar and hence the police went to the residence of the accused situated at No.24B, Ayyalu Street, Vetri Nagar, Thiru. Vi. Ka. Nagar, Chennai – 600 082 and found that the door was locked. Hence, the police enquired the neighbours about the whereabouts of the accused namely, Tmt.Latha and Tr.Suresh and both of them stated that they have not been seen the accused years together and most of the days the door was kept in lock. Consecutively on every week, a police went to the above said address and monitoring his presence but ended in vain. That apart, we enquired some other witnesses and they also stated the same as stated above.

6.It is humbly submitted that meanwhile, the petitioner herein filed this present Contempt Petition No.1078/2021 to punish the



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respondent herein for having committed contempt of Court for the willful disobedience of the order in Crl.O.P.No.4025 of 2020 dated 25.02.2020.

7.It is humbly submitted that the warrant could not be executed since the house was kept locked continuously. In the meanwhile, Covid-19 Pandemic arose. Further it is to be submitted that after relaxation of Covid-19, once again the police party went to the said accused address and found that the door was locked till date.”

3(b).The learned Additional Public Prosecutor further submitted that when the accused was sought to be arrested, he had produced the order of the Supreme Court in S.L.P(Crl.)D.No.7646 of 2021 dated 08.09.2021. This Court by an order dated 26.10.2021 had recorded the said observations, which reads as follows:

“2.On perusal of the order dated 27.09.2021, it is seen that the accused Rajendra Kumar had already deposited Rs.10,45,000/- as per order of the Hon'ble Apex Court, dated



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08.09.2021 in S.L.P.(Crl.)D.No.7646 of 2021. Hence, the exemption from surrendering was permitted and S.L.P.(Crl.)D.No.7646 of 2021 is likely to be numbered and taken for admission. Since the accused Rajendra Kumar already approached the Hon'ble Apex Court, the respondent police is awaiting for outcome of the Hon'ble Apex Court.”

4.Hence, this Court is of the view that in the light of the above stated facts, the explanation given by the respondent and in view of the subsequent orders passed by Hon'ble Supreme Court, the conduct of the respondent would not amount to willful disobedience of the order of this Court. Accordingly, this Contempt Petition is closed.

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SUNDER MOHAN, J.

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