



Cont. Pet. No.139 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 20.01.2023	Delivered on 23.03.2023
---	--

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Contempt Petition No.139 of 2020

M/s. Dr.Mohan's Diabetes Specialities

Centre Pvtl. Ltd.,

Rep. by its Authorised Signatory,

Mr.R.P.Appadurai,

having its registered office at

No.6, Conran Smith Road,

Gopalapuram, Chennai 600 086.

... Petitioner

Versus

A.S.Thulasi Sah

... Respondent

PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for his willful defiance disobedience and violation of the order dated 05.08.2019 passed in O.A. No.730 of 2019 in C.S.No.463 of 2019.



Cont. Pet. No.139 of 2020

For Petitioner : Mr.R.Krishna Ravindran

For Respondents : Mr.A.S.Thulasi Sah
Respondent- in- person

ORDER

Complaining disobedience/willful violation of the order passed in Application No.730 of 2019 dated 05.08.2019, the applicant seeks to punish the respondent.

2. The suit in CS No.463 of 2019 has been filed by the applicant seeking compensation of Rs.1,10,00,000/- for the damage and loss caused to the reputation of the plaintiff due to the willful acts of defamation committed by the defendant.

3. The petitioner claims to be a leading medical service provider specialising in Diabetes Care and was incorporated as a Company on 22.10.1990. It is ISO 9001-2000 certified Institution. It is manned by very renowned diabetologist and is headed by Dr.V.Mohan, who had received



Cont. Pet. No.139 of 2020

several awards including Padma shri Award by the Government of India. It is also claimed that Dr.V.Mohan was awarded Harold Rifkin Distinguished International Service in the cause of Diabetes Award from the American Diabetes Association and he is also a recipient of Dr.B.C.Roy Award from the Medical Council of India.

4. The petitioner would aver that the defendant approached its branch in Kancheepuram on 02.10.2018 seeking treatment for Diabetes. Dr.Karthik Raghavan, who is incharge of the Centre examined him and he suggested a certain treatment. The defendant refused to accept the suggestion and opted to go for Glycemic control. After some time, the defendant started making calls to the Customer Care Executive and whenever he was called to remind him of an appointment, he used rude language and claimed that the treatment was not warranted.

5. The petitioner would further claim that the respondent has been publishing derogatory posts on the social media with the calculated intention of tarnishing the image of the plaintiff. On the above contentions,



Cont. Pet. No.139 of 2020

the petitioner sought for an order of injunction restraining the defendant from making such malicious publications which would lower the image of the plaintiff in the public domain.

6. On 05.08.2019 I had granted an interim order restraining the defendant from publishing, circulating and writing in any manner on any social media platform or any other public domain any false and derogatory remarks about the applicant/plaintiff and its management. According to the petitioner, the order of injunction was communicated to the defendant in compliance with Order XXXIX Rule 3 of the Code of Civil Procedure on the same day and it was received by him on 06.08.2019.

7. It is the case of the petitioner that despite receipt of such notice, the defendant had continuously disobeyed the order and has been publishing derogatory messages and articles in various social media platforms. Certain messages put up by the defendant in the social media platform were also placed before me. Considering the nature of the messages that were posted in the social media platforms, I had ordered statutory notice to the



Cont. Pet. No.139 of 2020

respondent

WEB COPY

8. The respondent had filed a counter affidavit denying the allegations made in the affidavit filed in support of the Contempt Petition. Since the respondent had contended that he had not published any of the derogatory materials and the alleged whatsapp posts were made by the respondent prior to the date of my order, I had directed evidence to be recorded by the learned Master. Accordingly the evidence was recorded by the learned Master and one R.P.Appadurai was examined as P.W.1, the respondent contemnor examined himself as R.W.1. While Exhibits P1 to P14 were marked on the side of the petitioner and Exhibits R1 to R25 were marked on the side of the respondent.

9. Mr.R.P.Appadurai, the Authorised Signatory of the petitioner Company has produced series of Whatsapp messages, Facebook Postings and Youtube comments, wherein it is claimed that the contemnor has made various statements against the petitioner and its founder. A perusal of those documents shows that the contemnor has sent various whatsapp messages to



Cont. Pet. No.139 of 2020

several people accusing the Doctors Associated with the Petitioner Company. He also sent extracts of certain provisions of the Consumer Protection Act and other enactments by whatsapp and he has circulated the same to several people. It appears that he has got a whatsapp group through which he has indulged in sustained maligning propaganda against the petitioner. It is also seen that he claims that all whatsapp numbers that are found in the group belonged to Doctors and Medical Representatives etc. He has also made complaints to various people that all advertisements of the Petitioner Company must be removed from the Web.

10. Even in Ex.P6, it is seen that the contemnor has made a vociferous attack on Dr.V.Mohan and his Associates. He had claimed that the Doctor is indulging in tax evasion and also giving misleading advertisements through Youtube etc. The contemnor claims himself to be a litigant, a scientist and a journalist. In his letter pad itself he has described himself as a scientist and a party-in-person litigant in the District Court from 2002 and in the High Court from 2019. He also claims to be a Newspaper Publisher. He has also posted messages on Facebook as well as



Cont. Pet. No.139 of 2020

Whatsapp claiming that Dr.Mohan had been giving various false and misleading advertisements in order to make more money and he has indulged in acts of forwarding the copies of this Contempt Petition to the Branches of the petitioner Company. Though Mr.R.P.Appadurai has deposed to the effect that the actions of the contemnor are in violation of the orders of this Court and the petitioner had been given an opportunity to cross-examine, the contemnor has not addressed his questions to the claim regarding contempt. He had complained of non-service of notice and he had claimed that he did not know about the order passed in the injunction application.

11. It is found from the records that the plaintiff on obtaining an order of injunction has communicated the order to the contemnor and has also filed an affidavit to that effect. The contemnor would however claim that the order of injunction was not served on him. The covering letter that was enclosed along with the affidavit filed under Order XXXIX Rule 3 of the Code of Civil Procedure discloses that the contemnor was informed of the order of injunction. Therefore, the claim that the contemnor was not aware



Cont. Pet. No.139 of 2020

of the order of injunction cannot be accepted. The only question that is to be addressed by the Court in this Contempt Petition is, as to whether, the Whatsapp messages, the Facebook postings and other letters written by the contemnor would be in violation of the order of injunction.

12. I had granted an order of injunction restraining the contemnor from making or publishing anything derogatory of the Company or its founders. A reading of the Whatsapp messages and the Facebook postings which had been produced as Exhibits P10,P11 & P12, and would show that the contemnor has used the social media to spread messages derogatory of the founders of the Petitioner Company. A reading of Ex.P12 shows that as an interview of Dr.Mohan was being broadcast through Youtube, the contemnor has made public comments stating that this Dr.Mohan had filed a case against him and again stating that Dr.Mohan's Speciality Centre is giving wrong treatment and calling upon people to produce evidence of the effect of wrong treatment so that he would file them before this Court and the Hon'ble Supreme Court. He has also given the Suit number and the Application number in the responses.



Cont. Pet. No.139 of 2020

WEB COPY

13. All these things have been done by him after orders have been passed by this Court. These public chats would definitely amount to publication of these materials. Again an Ex.P11, we find that the contemnor has posted derogatory messages in Facebook, he had claimed that the Doctors attached to the petitioner Company having giving wrong treatment for Diabetes and therefore, their advertisements should be banned. He also accuses one Dr.Karthik Raghavan giving him wrong treatment and prescribing insulin for him. He claims that the associates of the applicant had attempted to give him wrong treatment for a non-existent diabetic condition. He has also forwarded certain messages even to the friends of the counsel for the petitioner. No doubt Ex.P14 which is an email letter addressed by the contemnor to the petitioner may not amount to publication of derogatory materials, I conclude that the conduct of the contemnor in putting up posts under Ex.P11 in the Facebook, putting up comments on Youtube in the interview of Dr.Mohan was going on under the public chat system and sending whatsapp messages to the counsel and posting in big whatsapp groups would definitely amount to publication of derogatory



Cont. Pet. No.139 of 2020

material against the petitioner herein.

WEB COPY

14. I find that the claim of the petitioner that he did not receive the notice sent by the counsel for the plaintiff under Order XXXIX Rule 3 is on the face of it false. The copy of the notice along with the postal receipt has been marked as Ex.P4 which shows that the notice was delivered to him on 06.08.2019 itself. It is therefore, clear that the contemnor is attempting to burk the effect of the contempt. In fact under Ex.P8 dated 26.07.2019, the contemnor had claimed damages of Rs.10,00,000/- from the petitioner herein and he had said if he is paid Rs.10,00,000/- he would not escalate the issue. Though this would not amount to publication still I find this is an attempt by the contemnor to blackmail the Doctor and extract money from him.

15. No doubt the contemnor has very strenuously disputed the claim that he had disobeyed the order of the Court. He would submit that he had not done anything after the order of the Court. He would claim that these Whatsapp messages and Facebook posts were made prior to the order of the



Cont. Pet. No.139 of 2020

Court. The electronic evidence that is available dispels such contentions on his part.

16. I therefore conclude that the contemnor has acted in violation of the orders of interim injunction granted in the suit. However, taking a lenient view, I impose a punishment of censure and warn the contemnor that if he persists in continuing with his publications maligning the petitioner, this Court will be forced to take a very serious view of the matter. The Contempt Petition is disposed of with the above observation.

23.03.2023

Index : Yes
Internet : Yes
Speaking order
Neutral Citation: Yes
jv



WEB COPY



Cont. Pet. No.139 of 2020

R.SUBRAMANIAN, J.

jv

Pre-delivery order in
Contempt Petition No.139 of 2020

23.03.2023