



Cont.P(MD).No.363 of 2023 in
W.P.(MD)No.28086 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 11.04.2023

Delivered on : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Contempt Petition(MD).No.363 of 2023
in
W.P.(MD)No.28086 of 2022

Maha Suseendra

: Petitioner / Petitioner

Vs.

1.V.Baskaran ,
Superintendent of Police,
O/o.The Superintendent of Police,
Surveyor Colony,
Moondrumavadi, K.Pudur,
Madurai – 625 007.

: Contemnor / 1st Respondent/
5th Respondent

2.Shiva Prasad, I.P.S.,
(presently serving as)
The Superintendent of Police,
O/o.The Superintendent of Police,
Surveyor Colony, Moondumavadi,
K.Pudur, Madurai – 625 007.

: 2nd Respondent

(R2 impleaded vide Court order dated 12.06.2023 in Sub.A(MD)No. 127/2023)



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PRAYER: Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, to punish the contemnor/5th respondent herein for his willful, deliberate and disobedience of the order passed in Writ Petition in W.P. (MD)No.28086 of 2022, dated 04.01.2023 by this court.

For Petitioner : Mr.Niranjan S.Kumar
For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

ORDER

The above petition has been filed, invoking contempt jurisdiction of this Court, seeking orders to punish the respondent for his willful, deliberate and disobedience of the order passed in Writ Petition in W.P.(MD)No.28086 of 2022, dated 04.01.2023 by this court.

2. The petitioner, claiming to be an Office bearer of the Madurai District Bharatiya Janata Party, by alleging that his requisition for police protection was not considered, has filed a writ petition in W.P.(MD)No.12858 of 2022, seeking a writ of mandamus and when that petition was taken up for hearing,



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this Court considering the submission made on behalf of the Police Officials that the police protection has already been given to the petitioner, closed the writ petition.

3. The petitioner, thereafter by alleging that the police protection given to him was withdrawn completely, has filed another writ petition in W.P. (MD)No.28086 of 2022, seeking writ of mandamus, directing the respondents therein to provide sufficient police protection/Personal Security Officer in tune with the recommendations of the sixth respondent/Inspector of Police, District Special Branch, Madurai vide his proceedings dated 20.01.2022 within the stipulated time to be fixed by this Court. When the above writ petition was taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents therein submitted that the private parties are not entitled to get the coverage of the Personal Security Officer (PSO) and at that juncture itself, the learned counsel for the petitioner submitted that the writ petitioner was ready to restrict the prayer for police protection by providing Gun Man. Thereafter, the learned Additional Public Prosecutor submitted that the representation of the writ petitioner, dated 18.01.2021 was pending before the fifth respondent and that the writ petitioner may be directed to give fresh representation to the fifth respondent and on such representation, the fifth



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respondent may be directed to consider the representation within a time stipulated by this Court. Recording the submission made by the learned Additional Public Prosecutor, the writ petitioner was directed to give afresh representation along with the copy of this order to the fifth respondent and on receipt of the representation, the first respondent was directed to consider the same and pass orders in the light of the recommendation already made to the Inspector General of Police (Operation), Chennai within a period of 10 days from the date of representation and with the above directions, the Writ Petition was disposed of.

4. The case of the petitioner is that in pursuance of the directions of this Court, he had sent a representation to the fifth respondent by attaching the web cop of the order passed in W.P.(MD)No.28086 of 2022 through registered post on 17.01.2023 and the same was received by the fifth respondent on 18.01.2023 and that thereafter, the petitioner had sent a legal notice on 08.02.2023 and the same was also received by the fifth respondent; that the fifth respondent has not considered the petitioner's representation till the filing of the contempt petition and that the same would amount to willful, deliberate and disobedience of the order of this Court.



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5. When the matter was taken up for hearing earlier, the learned Additional Public Prosecutor submitted that in pursuance of the directions of this Court, the contemnor/fifth respondent, who is the Superintendent of Police, Madurai District, has issued the proceedings dated 10.03.2023, rejecting the petitioner's prayer for providing police protection, but with a direction to the Deputy Superintendent of Police, Oomachikulam Sub Division and the Station House Officer of Karuppayoorani Police Station to maintain a patta book in the house of the petitioner.

6. The learned counsel for the petitioner would submit that though this Court has passed the order on 04.01.2023, directing the contemnor to pass orders within 10 days from the date of representation and though the petitioner has sent his representation on 17.01.2023 itself, which was received by the contemnor on 18.01.2023, has not chosen to pass any orders within the time stipulated by this Court or till the filing of the contempt petition and that the contemnor has passed the rejection order only on 10.03.2023, after filing of the present contempt petition.

7. No doubt, as rightly pointed out by the learned counsel for the



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petitioner that there existed delay in passing the orders. But as rightly contended by the learned Additional Public Prosecutor, the delay by itself cannot be construed as willful or deliberate disobedience. The Superintendent of Police/Contemnor, considering the life threat instances pointed out by the petitioner, has come to a decision that the petitioner is not having any threat politically or individually and that therefore, he is not entitled to get the police protection.

8. As rightly pointed out by the learned counsel for the petitioner, this Court while directing the contemnor to consider the petitioner's representation, he was also directed to consider the same and pass orders in the light of the recommendation made to the Inspector General of Police (Operations), Chennai. It is the specific contention of the petitioner that the Inspector of Police, District Special Branch, Madurai had sent his recommendation, dated 20.01.2022, recommending to the respondents to provide Personal Security coverage in order to ensure his safety. But, admittedly, the contemnor while passing the impugned order, has not at all referred the recommendation allegedly made by the Inspector of Police, District Special Branch, Madurai.



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9. During the hearing of the contempt petition, a circular issued by the Superintendent of Police, Special Division, Chennai, to all the Commissioners of Police in Cities except Chennai City, the Deputy Commissioner of Police, I.S. Chennai City and all Superintendents of Police in Districts, is brought to the notice of this Court, wherein it has been stated that PSOs are provided to functionaries of various organizations as per SRC recommendation and in addition to the above, PSOs were also provided to functionaries of Hindu/Muslim organizations who are facing life threat based on threat perception by local police and apart from the above, they have also decided to provide PSOs temporarily to the functionaries of religious organizations who are facing threat in view of Independence Day celebrations/Vinayagar Chathurthi festival.

10. As rightly pointed out by the learned counsel for the petitioner, the submission made on behalf of the respondents earlier in the writ petition that private persons are not entitled to get coverage of the Personal Security Officers, is not correct.

11. At this juncture, it is necessary to refer the decision of this Court in ***S.Girinivasa Prasad Vs. State of Tamil Nadu rep. By its Secretary, Home***



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Department, Chennai- 600 009 and others reported in ***(2012) 4 MLJ 514,***

wherein, this Court by referring to the earlier decision, has formulated the principles to be applied and the relevant passage is extracted hereunder :

“16. Therefore, from the law laid down in the above decisions, it is clear

(i) that there should be a clear threat perception, to the life and property of a person, to enable him to seek police protection;

(ii) that such perception should be based on some material worth considering;

(iii) that the Superintendent of Police should examine the request for protection on an objective basis, after collecting necessary data and

(iv) that if a decision is taken by the competent authority on a scientific basis, this Court will not easily interfere with such a decision, unless the decision is tainted.”

12. As rightly contended by the learned counsel for the petitioner, the contemnor in the impugned order has considered the irrelevant aspects, but not considered the relevant aspects.

13. On considering the entire facts and circumstances of the case, the order of the contemnor and the submissions made by the learned counsel on either side, this Court is of the clear view that there is no willful, deliberate,



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disobedience on the part of the contemnor and hence, this Court is not inclined to proceed further. However, considering the reasons, on which, the rejection order was passed, the second respondent is to be directed to consider the representation of the petitioner again in the light of the principles laid down in the ***S.Girinivasa Prasad 's*** case and to pass orders within the time to be stipulated.

14. Accordingly, the second respondent is directed to consider the petitioner's representation again, taking note of the relevant materials and in the light of the principles laid in the ***S.Girinivasa Prasad 's*** case and to pass orders within a period of three weeks from the date of receipt of copy of this order.

15. With the above observations and directions, the contempt petition stands disposed of. No costs.

12.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
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