



Cont.P.(MD)No.1515 of 2022 and Crl.M.P.(MD)SR.No.10205 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**Cont.P.(MD)No.1515 of 2022
and
Crl.M.P.(MD)SR.No.10205 of 2022 in H.C.P.(MD)No.1680 of 2021**

Cont.P.(MD)No.1515 of 2022:-

B.Senthil Kumar

... Petitioner

vs.

S.Ramesh

... Respondent

Prayer :- Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondent herein for the violation of the order of this Court, dated 12.11.2021, made in H.C.P.(MD)No.1680 of 2021, by proceeding under the Contempt of Courts Act.

For Petitioner

: Mr.R.Ravindran

For Respondent

: Mr.M.Jahangir Baba

Crl.M.P.(MD)SR.No.10205 of 2022:-

S.Sundaravel Ramesh

... Petitioner

vs.

1.The Superintendent of Police,
District Police Office, Thanjavur,
Thanjavur District – 613 001.



2.The Sub-Inspector of Police,
Thogur Police Station,
Thanjavur District,
Kallanai – Thiruvaiyaru Road,
Thanjavur – 613 105.

3.The Foreigners Regional Registration Officer (FRRO),
Bureau of Immigration, Ministry of Home Affairs,
Shastri Bhawan Annexe Building,
No.26, Haddows Road,
Nungambakkam,
Chennai – 600 006.

4.B.Anuradha

5.B.Senthilkumar

6.B.Mohan Kumar

7.B.Mala

... Respondents

For Petitioner	:	Mr.M.Jahangir Baba
For Respondents 1 and 2	:	Mr.D.Sasikumar Additional Government Pleader
For 5 th Respondent	:	Mr.R.Ravindran

COMMON ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

The petitioner [B.Senthil Kumar] has approached this Court by way of filing the Contempt Petition as if the respondent has violated the order of this Court, dated 12.11.2021, made in H.C.P.(MD)No.1680 of 2021. Whereas, the respondent

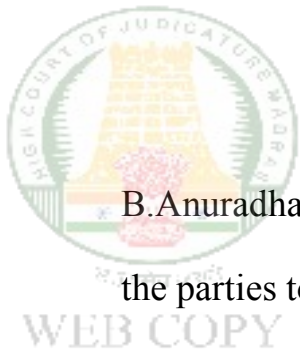


[S.Sundaravel Ramesh] has filed a petition in Crl.M.P.(MD)SR.No.10205 of 2022 to review the order passed by this Court in H.C.P.(MD)No.1680 of 2021, dated 12.11.2021.

2. There are some disputes between the contempt petitioner and the respondent in respect of custody of a child, who is a Citizen of Singapore and they have already filed litigations about the custody of the child and obtained orders from the Singapore Court. Since the said fact was not brought before this Court while filing H.C.P.(MD)No.1680 of 2021 by S.Ramesh [the father of the detainee], this Court imposed a cost of Rs.50,000/- and dismissed the Habeas Corpus Petition.

3. In continuation of the said proceedings, Senthilkumar, who is the fifth respondent in the Habeas Corpus Petition, had taken out an application for contempt, alleging that the said Ramesh has not paid the cost of Rs.50,000/-. Whereas, Ramesh, the petitioner in the H.C.P., has filed a petition to review the order dated 12.11.2021 and to waive the cost imposed on him.

4. This Court heard the learned counsel for the review petitioner [Ramesh] with regard to the error in describing the parties and their designation. The learned counsel for the review petitioner submitted that the order passed by the Subordinate Court of Republic of Singapore was pursuant to the proceedings initiated by



B.Anuradha and not by the review petitioner. Since there is an error in describing the parties to the proceedings, the order has to be recalled.

5. This Court on perusing the earlier order, dated 12.11.2021, finds that there is an error in mentioning the person, who has approached the Subordinate Court of Singapore and the person, who has preferred the appeal. However, the fact remains that the petitioner herein was aware of that proceedings and in the H.C.P., he has not disclosed about this proceedings. That is why, this Court while dismissing the H.C.P., imposed cost. The person, who approaches the Court, should come with clean hands and place all the facts before the Court for the Court to decide the case on merits. However, with an ulterior motive and intention, the petitioner has suppressed the case regarding custody of the child pending in a foreign country. Such suppression is with an ulterior motive to snatch an order from this Court and therefore, this Court finds that the reasoning for imposing costs requires no review. Hence, **Crl.M.P.(MD)SR.No.10205 of 2022 is dismissed.**

6. As far as the Contempt Petition is concerned, the contemner [Ramesh], who is present before this Court, submits that he has submitted all the documents to his erstwhile counsel while filing the H.C.P., but for the reasons best known his erstwhile counsel, has not disclosed the same in the H.C.P., which has invited dismissal of the H.C.P. with costs.



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7. He has also filed a counter affidavit and made certain averments, which are not relevant for this Court to consider the Contempt Petition. The cost imposed in the H.C.P., is an incidental order and not the substantial order, so does not require invoking the contempt power. The cost can be recovered from the contemnor [Ramesh] through other mode.

8. We do not find any reason to invoke the extraordinary power vested with this Court under the Contempt of Courts Act for recovery of the cost. Hence, **the Contempt Petition is closed.**

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SMN2

[G.J., J.] [S.M., J.]
24.01.2023

To

1.The Superintendent of Police,
District Police Office, Thanjavur,
Thanjavur District – 613 001.

2.The Sub-Inspector of Police,
Thogur Police Station,
Thanjavur District,
Kallanai – Thiruvaiyaru Road,
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