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Cont P(MD)No.1777 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

CORAM:

**THE HON'BLE MR JUSTICE R. SURESH KUMAR
AND
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**Cont P(MD)No.1777 of 2022
and
Sub Application (MD)No.155 of 2022**

M.Raja

... Petitioner/Writ Petitioner

-VS-

Mr. Vijayabaskar,
The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai.

... Contemnor/3rd Respondent

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, to punish the contemnor/Respondent herein for his willful, wanton and utter disregard to the orders passed by this Court in C.M.P(MD)No.4530/2017 in W.A(MD)No.535/2017 dated 17.05.2017 under the Contempt of Courts Act.



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For Petitioner : Mr.S.Ramsundarvijayraj
For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by R. SURESH KUMAR,J.)

For an alleged electricity theft, there was a criminal case, which was investigated by the Inspector of Police, Usilampatti Taluk Police Station, at the time, the writ petition was filed by the petitioner herein in W.P(MD)No.4821 of 2017 seeking for a Writ of Mandamus directing the respondents 2 and 3 i.e., the Additional District Superintendent of Police, Madurai District, Madurai and the Inspector of Police, Usilampatti Taluk Police Station, Madurai to collect undisputed seal samples of CT boxes of Low Tension electricity supply fixed during relevant date of 22.12.2014 from other low tension electricity consumers within Usilampatti with relevant series of seals of the TANGEDCO and send it to the Forensic Lab to verify the genuineness of the seal samples collected by the third respondent in connection with Cr.No.289 of 2016.



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2. The learned Judge, who heard the writ petition, disposed the same on 27.03.2017, whereby, he passed the following order:-

“6. Thus, from the above, this Court is able to see that the police are taking appropriate steps in Crime No.289/2016 for sending the material objects through the Judicial Magistrate No.I, Usilampatti to the Chief Electrical Inspector to Government-Industrial Estate, Guindy, Chennai for opinion. Thus, the prayer of the petitioner stands satisfied. However, this Court directs the Deputy Superintendent of Police to monitor the investigation in Crime No.289/2016 that is being conducted by the Inspector of Police, Usilampatti Taluk Police Station and ensure that an unbiased investigation is conducted and if it is found that the petitioner is innocent, it is needless to state that the FIR against him should be closed or otherwise, he should be prosecuted to its logical conclusion.

7. With the above direction, this petition is closed. No costs. Consequently connected Miscellaneous Petition is also closed.”

3. As against the said order, the appellant preferred an appeal in W.A(MD)No.535 of 2017. In the said appeal, C.M.P(MD)No.4530 of 2017 was filed seeking interim injunction restraining the respondents from in any way filing



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the final report until an impartial investigation is completed by the second respondent in connection with Cr.No.289/2016 pending disposal of the above W.A(MD)No.535/2017.

4. In the said C.M.P., a Division Bench of this Court by order, dated 17.05.2017 granted an interim order of injunction.

5. According to the petitioner, despite the said injunction order passed by this Court which is subsisting, subsequently, in the year 2022, the respondent i.e., the Inspector of Police, Usilampatti Police Station had filed the charge-sheet before the concerned Court, therefore, it is in violation of the interim order of injunction granted by this Court, that is why this contempt petition has come up before this Court.

6. We have heard Mr.S.Ramsundarvijayraj, learned counsel appearing for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the respondent.



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7. The learned Additional Public Prosecutor appearing for the respondent would point out that the Writ Court had directed the Deputy Superintendent of Police concerned to monitor the impartial investigation to be undertaken by the respondent ie., the Inspector of Police and ultimately if the investigation reveals that the petitioner was innocent, the FIR should be closed otherwise he should be prosecuted to its logical conclusion.

8. Only in that context, when the writ appeal was filed, C.M.P(MD)No. 4530 of 2017 also has been filed seeking an injunction, where, under the notions, the petitioner sought for an interim injunction not to file the charge sheet till an impartial investigation is completed by the second respondent in the writ appeal, who is none other than the Additional District Superintendent of Police.

9. Though interim injunction was granted, it is to be taken note of the point that the investigation has never been directed to be conducted by the Additional District Superintendent of Police and it is only to be conducted only by the Inspector of Police, Usilampatti i.e., the respondent herein. The only direction to the Additional District Superintendent of Police was to monitor such



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investigation, whether it is taken up impartially or not.

10. Such an investigation conducted by the Inspector of Police i.e., the respondent having been monitored by the Additional District Superintendent of Police, who was the second respondent in the writ appeal, had not intervened the investigation which according to him has been conducted impartially and therefore, on conclusion of the impartial investigation, charge sheet has been made ready which has been filed before the concerned Court only in the year 2022, because the writ appeal has been pending for all these years, he contended.

11. We have heard the learned counsel appearing for both sides and have perused the materials placed before this Court.

12. Though the prayer has been sought for in C.M.P(MD)No.4530 of 2017 that interim injunction restraining the respondent herein from in any way filing the final report until an impartial investigation is completed by the second respondent in connection with Cr.No.289/2016, it is to be noted that the Additional District Superintendent of Police never has been directed to have the



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investigation. He was only directed to monitor the investigation to be conducted by the Inspector of Police, who is none other than the respondent herein.

13. Therefore, unless the Additional District Superintendent of Police has not intervened the investigation conducted by the Investigating Officer, i.e., the Inspector of Police, Usilampatti, it should be presumed that the investigation has gone well impartially and at the conclusion charge-sheet has been filed, the same can very well be filed which has been cleared by the Writ Court and to that extent, the interim order granted by the Division Bench, dated 17.05.2017 can only be taken into account for the purpose of not to file the charge-sheet unless it is ensured that there was an impartial investigation conducted in this matter.

14. Therefore, at this juncture, it can be taken, as there was no violation of such impartial investigation conducted, therefore, the investigating officer was not precluded from filing the charge-sheet by citing the interim injunction granted on 17.05.2017.



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15. Hence, in view of the aforestated facts and circumstances, we are of the view that there has been no violation on the part of the respondent in filing the charge-sheet pursuant to the impartial investigation claimed to have been conducted which presumed to have been monitored by the Additional District Superintendent of Police concerned and therefore, there has been no violation of the orders of this Court, especially, by the order dated 17.05.2017 passed by the Division Bench and hence, this contempt petition is liable to be closed and accordingly, it is closed. No costs. Consequently, connected Sub Application is also closed.

[R.S.K.,J.] [K.K.R.K.,J.]
29.03.2023

Index : Yes / No
Internet : Yes / No
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To

Mr. Vijayabaskar,
The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai.



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R. SURESH KUMAR, J.
and
K.K.RAMAKRISHNAN, J.

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