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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.2.2024

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Contempt Petition No.2824 of 2023

Southern India Cinematographer's
Association, rep. by its General Secretary,
18, North Usman Road,
T.Nagar, Chennai 600 017.

Petitioner

vs.

1. Mr.Kannan,
Inspector of Police (Crime-in-Charge),
R-4, Pondy Bazaar Police Station,
T.Nagar, Chennai.
Cr.No.57/2022
2. Sivakumar,
Inspector of Police (Crime),
J-1, Saidapet Police Station (L&O),
Chennai-15.
3. Ramamoorthy,
Inspector of Police (Crime),
T-15, Peerkankaranai Police Station,
Chennai.
4. Selvarani.
Inspector of Police (Crime),
Central Criem Branch,
AVS-II,
Chennai.
(R2 to R4-suo motu impleaded
as per the order dated 30.1.2024)



5. A.V.Srinivasan,
Inspector of Police (Crime),
R-4, Soundarapandianar Angadi
Police Station,
Chennai.
(R5 impleaded vide order dated
20.2.2024 in Sub. Application
No.59 of 2024)

Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 arising out of order dated 3.3.2022 passed by this court in CrI.O.P.No.3872 of 2022.

For Petitioner : Mr.S.Conscious Ilango

For Respondents : Mr.Hasan Mohammed Jinna,
State Public Prosecutor assisted by
Mr.S.Santhosh, Govt. Advocate (CrI. Side)

ORDER

The Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, 1971 seeking to punish the respondent for his wilful and flagrant violation of order dated 3.3.2022 in CrI.O.P.No.3872 of 2022 passed by this court.

2. Considering the nature of allegations made in the petition and the backdrop of the case, this court feels it necessary to narrate the chronological events and accordingly, they are portrayed as under:-



i) A complaint dated 22.11.2016 came to be lodged by the petitioner-Association represented by its General Secretary with the Inspector of Police, Central Crime Branch alleging misappropriation of funds to the tune of Rs.40 lakhs and criminal breach of trust on the part of some of the previous office bearers of the Association.

ii) Having found that the complaint was kept in abeyance without any action, a petition in Crl.O.P.No.21314 of 2017 was filed seeking a direction to register the complaint, wherein, this court, by order dated 9.10.2017 issued a positive direction.

iii) Thereupon, the complaint was registered in Crime No.59 of 2018 by the Inspector of Police, Central Crime Branch for the offences punishable under Sections 406 and 34 IPC. Later, on the basis of pecuniary jurisdiction, the case was transferred to R-4, Soundarapandiyanar Angadi Police Station for further investigation on 21.02.2018.

iv) Finding that no progress was seen in the case, the petitioner had preferred another petition in Crl.O.P.No.3872 of 2022 before this court seeking for a direction to expedite the investigation and file final report, wherein, it was brought to the notice of this court that the case stands re-registered as Crime No.57 of 2022 after being transferred to



the file of the present respondent and investigation had been completed and final report would be filed at the earliest and thereby, this court, by order dated 3.3.2022, directed the respondent herein to complete the investigation in Crime No.57 of 2022 and file final report within a period of four months from the date of receipt of copy of that order.

v) Subsequently, the present Contempt Petition has been filed by the petitioner alleging that though he had co-operated for investigation of the case, the respondent had neither completed the investigation nor filed final report and thereby violated the order passed by this court.

vi) When this court had seized of the matter in Contempt Petition, this court was apprised by the learned Government Advocate (Criminal Side) that investigation in the case was completed and final report was filed on 12.12.2023. However, it was pleaded on behalf of the petitioner that though this court had passed the order on 3.3.2022, there was inaction on the part of the respondent and hence, the petitioner had sent a contempt notice on 7.8.2023 and only thereafter, he was directed to hand over the documents in his custody and accordingly, he handed over the same, however, he was not enquired thereafter and all of a sudden, the final report had been filed only to



wriggle out the contempt.

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vii) In order to find out the truth, this court, by order dated 22.12.2023, directed the respondent to file an affidavit with regard to the manner of investigation and file a copy of the final report.

viii) Accordingly, on 10.1.2024, Mr.A.V.Srinivasan, Inspector of Police, R-4, Soundarpandiyanar Angadi Police Station, has filed his Affidavit and produced a copy of the final report before this Court. After perusing the Affidavit of the investigating officer, the petitioner had raised a dispute to the effect that he had not appeared before the respondent on 12.12.2023 as claimed by the investigating officer and in fact, he had appeared only on 13.12.2023, whereas, the respondent had taken a stand that the petitioner had appeared on 12.12.2023 and after enquiring him alone, the final report was filed.

ix) As the respondent had claimed that CCTV footage is available to prove their stand, to resolve such a dispute, the respondent was directed to produce the proof in court. Accordingly, on 23.1.2024, the respondent has produced the footage, which disclosed the appearance of the petitioner before the respondent on 12.12.2023, however, the petitioner had strenuously contended that on 12.12.2023, he was not available in Chennai itself and he was held up on his avocation at



Mahabalipuram creating a suspicion on the footage produced by the respondent. Thereby, this court had directed the respondent to collect and produce the CDR details along with the tower locations in respect of the mobile number (98840 55756) used by the petitioner on 12.12.2023.

x) When the matter came up for hearing on 29.1.2024, the CDR details were produced, which disclosed the presence of the petitioner on the relevant date and time in the locality of T.Nagar, Chennai leaving no room for any suspicion with regard to the stand taken by the respondent about the presence of the petitioner before the respondent on the relevant date and time.

xi) Subsequently, when the matter was listed on 30.1.2024, the petitioner had submitted that in the meantime, he had enquired with the production team and also recollected that the shooting scheduled on 12.12.2023 was cancelled and his earlier statement with regard to his being away from Chennai for the shooting at Mahabalipuram on the relevant date is an incorrect statement and tendered unconditional and heartfelt apology expressing that due to anxiety and stress, he had messed up the issue. Sensing the anxiety of the petitioner, this court had accepted the apology tendered by the petitioner.



xii) After giving a closure to the chaos, when this court had enquired as to whether there was any disobedience or wilful disobedience of the order passed by this court, it was brought to the notice of this court that after this court had passed the order on 3.3.2022 in CrI.O.P.No.3872 of 2022, the case had been dealt with by various investigating officers with intermittent freezes till 22.11.2016 and thereafter, it went to cold storage and ultimately, it took a jerk and the final report was filed on 13.12.2023 after some investigation for a period of three days.

xiii) Inferring some lethargic attitude on the part of the investigating officers, who dealt with the case at different stages, this court had, suo motu, impleaded them in the contempt petition and directed for their presence in the court.

xiv) Accordingly, when the matter was called on 5.2.2024, the following officers had appeared before this court:-

Name	Tenure
Mr.Sivakuamar, Inspector of Police (Crime)	from 3.3.2022 to 11.7.2022
Mr.Ramamoorthy, Inspector of Police (Crime)	from 11.7.2022 to 25.12.2022
Mrs.Selvarani, Inspector of Police (Crime)	from 25.12.2022 to 27.7.2023
Mr.Kanan, Inspector of Police	from 28.7.2023 to 3.9.2023



<i>Name</i>	<i>Tenure</i>
(Crime)	
Mr.A.V.Srinivasan, Inspector of Police (Crime)	from 3.9.2023 till date

xv) After having enquired the police personnel about the action taken by them on the complaint filed by the petition, this court had directed for filing of their individual affidavits to have clear picture.

xvi) Accordingly, on 13.2.2024, the above police personnel had filed their individual affidavits tendering unconditional apology. It was also brought to the notice of this court, two of them had been suffering from some ailments and they were on leave during the relevant period and sought for production of supporting documents in that regard.

3. Today, when the matter was taken up for hearing, the supporting documents for the ailments suffered by the police personnel viz., Mr.A.Ramamoorthy and Mrs.D.Selvarani were produced. At this juncture, this courts feels it appropriate to extract the explanation offered by the respective police personnel in their individual affidavits for the delay on their part apart from tendering unconditional apology. Such extracts are as under:-



"Thiru.I.Sivakumar, Inspector of Police:

4. I most respectfully submit that I was on receipt of the said order passed by this Hon'ble Court on receipt of the copy and I enquired three witnesses viz, Elavarasu, Karthick Raja and Sakthi Saravanan on 13.03.2022. In the course of enquiry, when I asked those to attend enquiry with relevant documents, they said they would appear with those relevant documents, but they did not attend the enquiry as they said.

5. I most respectfully submit that when I contacted them, they told me that they were busy with the shooting and they would attend once the shooting was over, but they did not turn up for the enquiry. Therefore, I was unable to proceed with the further investigation in the case and as a result of which, delay has occurred in completing the investigation as direction by this Hon'ble Court.

Mr.Ramamoorthy, Inspector of Police :

During my tenure as Inspector of Police I have worked



in Soundarapandiyanar Angadi Police Station as Inspector of Police, Crime for a short span of five months from 11.07.2022 to 25.12.2022 ... It is pertinent to note that during the aforesaid tenure in Soundarapandiyanar Angadi Police Station, I was in leave from 23.07.2022 to 11.09.2022 (51 days) as I was suffering with acute disorder in walking properly ...

Mrs.Selvarani, Inspector of Police:

3. It is respectfully submitted that on 12.01.2023 I was posted as Inspector of Police in R4 P.S. and took over the charge. Due to health issue, I proceeded on Medical leave till 20.02.2023 and then after again health issues erupted and I proceeded on Medical Leave from 23.05.2023 to 11.06.2023.

4. It is respectfully submitted that after the medical leave, I have served very brief period in the R4 P.S., which is short span of period. However due to the said duration and medical leave, I am not seeking advantages nor exception, which I am only seeking excuse/apology before this Hon'ble Court.



Mr.Kanan, Inspector of Police:

2. I most respectfully submit that I have been working as Inspector of Police (Law and Order) in the said police station since 14.07.2022. Since the Inspector of Police (Crimes) working in the said police station was transferred, I was given additional charge of Inspector of Police (Crimes) between 27.07.2023 and 03.09.2023.

3. I most respectfully submit that I was given the additional charge of Inspector of Police (Crimes) only for 37 days and after that, another Inspector of Police took full charge of the Crimes. During the said period, I was in full charge of Investigation in the cases registered by the Law and Order and I was able to concentrate on the cases of Crimes, which were informed to me as urgent by the subordinates.

4. I most respectfully submit that during this time, on 07.08.2023, the petitioner in the contempt petition has sent a contempt notice, which was received by one Mrs.Chitra, the Spl. Sub-Inspector of Police working in our station (Crimes) and however, she, instead of



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informing me about the receipt of notice, has placed the said notice with the case file pertaining to the present FIR.

5. I most respectfully submit that I came to know about the said contempt notice only when the above contempt petition was come up for hearing before this Hon'ble Court. When I enquired with the officials working in our station (Crime), I came to know of the said fact and I issued a memo to the said Mrs.Chitra, the Spl. Sub-Inspector of Police working in our station (Crimes) on 25.12.2023.

.....

7. I most respectfully submit that since I was not informed of the said notice in time, I could not be able to perform my duty in order to comply with the directions of this Hon'ble Court. I repent my inaction and therefore, I hereby tender my sincere apology before this Hon'ble Court.

Mr.A.V.Srinivasan, Inspector of Police:

17. It is submitted that the complaint against the



accused is that they misappropriated the Association's fund and that they have not furnished and bills to substantiate the same. It is further submitted that the Complainant Association has passed an Order suspending the accused from the Union, on the allegation that they misappropriated a sum of Rs.40,00,000. Challenging the suspension order, the accused have filed civil suits vide O.S.No. 1020 of 2017 and O.S. No.3285 of 2018 on the file of the XVIIIth Assistant City Civil Court, Chennai.

18. It is submitted that the 3rd accused produced 319 vouchers and some supporting bills, thereby clearly proving that vouchers were there and that it is a false complaint. It is further submitted that there is no material to prove the allegation of criminal misappropriation. Thus, since the subject matter is pending on the file of XVIIIth Assistant City Civil Court, Chennai and that there are no materials to substantiate the allegation of criminal misappropriation, the case was closed as mistake of fact."



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4. In the present scenario, Mr.S.Conscious Ilango, learned counsel appearing for the petitioner would submit that the petitioner, being the General Secretary of Southern India Cinematographer's Association, having found misappropriation of funds belonging to the Association by the previous office bearers, had lodged a criminal complaint against them taking the cause of the members of the Association at the end of 2016. He would further submit that at every stage viz., for registration of complaint and for filing of final report, he had to constrain this court, however, ultimately, even after eight long years had lapsed, he could not bring back the money to the Association and it is still worse to say that the final report came to be filed concluding the case as mistake of fact making all the attempts of the petitioner as futile exercise. However, he would submit that the petitioner is more concerned in protecting the interest of the Members of the Association and thereby, it is suffice if further investigation is done in the matter and final report is filed in accordance with law and thereby, he craves indulgence of this court .



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5. Per contra, Mr. Hasan Mohammed Jinna, learned State Public Prosecutor would submit that though there had been some delay on the part of the respondent in investigating the case, the fact remains that the order of this court has been complied with. He would further submit that the delay occurred is neither wilful nor deliberate amounting to contempt. He would also submit that in the meanwhile, the Deputy Commissioner of Police, T. Nagar, having perused the file, directed for further investigation of the case under Section 173(8) Cr.P.C. to be done by the Assistant Commissioner of Police, Teynampet and on such directions, the Assistant Commissioner of Police, Teynampet Range has filed a memo before the XVII Metropolitan Magistrate Court, Saidapet seeking permission to conduct further investigation of the case and permission was also granted for conducting further investigation in a time bound manner. He would further submit that if the petitioner extends his co-operation for further investigation, a quietus could be given to the issue at the earliest.

6. Heard the learned counsel appearing for the parties and perused the materials available on record.

7. This court has already found that investigation in the case has



not been done in a proper manner. However, this court needs to find out whether the conduct of the respondent in not obeying the order of this court is wilful or deliberate. Having perused the individual affidavits filed by the investigating officers, who dealt with the case at various stages, this court does not find that the non compliance of the order is neither wilful nor deliberate. Still, the manner in which a closure as "mistake of fact" was given to the case by the present investigating officer viz., Mr.A.V.Srinivasan, Inspector of Police by filing a final report after conducting a short investigation for three days, when the case has been pending for about eight years, is liable to be deprecated. However, considering his unblemished past service, this court feels it is suffice to give a direction for further investigation of the case and accordingly, it is directed that the Assistant Commissioner of Police, Teynampet Range, Thiru.Arokiya Raveendaran shall conduct further investigation of the case in accordance with law in a time bound manner and file final report as expeditiously as possible. The investigation shall be monitored by the Deputy Commissioner of Police, T.Nagar.

8. In view of the above, the contempt petition is closed with the above observation.

20.2.2024.

Index: Yes/No.



Internet: Yes/No.
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A.D.JAGADISH CHANDIRA, J.

Ssk.

Contempt Petition No.2824 of 2023

20.2.2024.