



WEB COPY

CONT.P.No.2981 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CONT.P.No.2981 of 2023

Nishar Ahamed

... Petitioner

Vs.

Mrs.Naseema,
The Inspector of Police,
W-18 All Women Police Station,
M.K.B.Nagar,
Chennai – 600 039.

... Respondent

Prayer: Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, 1971, pleased to initiate contempt proceedings against the respondent and punish her for willfully disobeying the order passed in Hon'ble Apex Court in Criminal Appeal No.1277 of 2014 on 02.07.2014.

For Petitioner : Ms.R.Lakshmi

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



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ORDER

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[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The contempt proceedings has been initiated to punish the respondent for her wilful disobedience of the judgment of the Hon'ble Supreme Court in the case of *Arnesh Kumar vs. State of Bihar*¹.

2. The learned counsel for the petitioner would submit that the mandatory requirement of Notice under Section 41-A of the Criminal Procedure Code has not been issued to the petitioner before carrying out the arrest. Thus, the Police Officer has committed contempt wilfully and therefore, liable to be punished.

3. Every procedural lapses by the Police Officer would not provide cause for initiation of contempt proceedings. In the case of *Arnesh Kumar* cited supra, the Hon'ble Supreme Court of India laid down guidelines for initiation of action. Wherever required, Notice under Section 41-A is to be issued before effecting arrest.

1 [(2014) 8 SCC 273]



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4. In the present case, the allegation of the petitioner is that the respondent violated the procedure and also Section 41-A. Therefore, liable to be punished.

5. It seems to be hard to accept such proposition mooted out by the petitioner, since it may be a procedural lapse on the part of the Police Officer. If at all such procedural lapse caused any prejudice, the petitioner has to seek appropriate remedy before the Court concerned or make a complaint against such Police Official to the Department for initiation of disciplinary proceedings. Contrarily, contempt petition would not lie.

6. In the event of allowing the contempt proceedings for each and every lapse being committed by the Police Officer, they may not be in a position to perform their duties freely in the manner contemplated. Therefore, we are not inclined to entertain the contempt petition.



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7. Accordingly, the Contempt Petition stands dismissed. No costs.

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[S.M.S., J.] [V.S.G., J.]
13.08.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

The Inspector of Police,
W-18 All Women Police Station,
M.K.B.Nagar,
Chennai – 600 039.



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S.M.SUBRAMANIAM, J.
and
V.SIVAGNANAM, J.

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