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Cont.P(MD).No.1999 of 2023 in
Crl.O.P.(MD)No.21522 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.03.2024

Delivered on : 28.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Contempt Petition(MD).No.1999 of 2023
in
Crl.O.P(MD)No.1999 of 2023

Kanoj : Petitioner / Petitioner

Vs.

K.Sabarinathan : Contemnor/2nd Respondent

PRAYER: Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, to initiate contempt proceedings against the contemnor/second respondent and punish him for the wilful disobedience of the order of this Court made in Crl.O.P(MD)No.21522 of 2022, dated 06.12.2022 by issuing the R.C.S notice in R.C.S.No.18 of 2022, dated 19.12.2022.

For Petitioner : Mr.A.Robinson

For Respondent : Mr.S.S.Madhavan,
Government Advocate (Criminal Side)



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ORDER

The above petition has been filed, invoking Section 11 of Contempt of Courts Act, 1971, seeking orders to initiate contempt proceedings against the respondent /second respondent and punish him for his willful, deliberate and disobedience of the order of this Court in Crl.O.P(MD)No.21522 of 2022, dated 06.12.2022 by issuing R.C.S notice in R.C.S.No.18 of 2022, dated 19.12.2022.

2. The petitioner has filed a petition in Crl.O.P(MD)No.21522 of 2022, under Section 482 of Cr.P.C., seeking orders to transfer the investigation from the file of the second respondent to the file of the third respondent therein in connection with Crime No.23 of 2022, dated 22.09.2022 pending on the file of the second respondent.

3. It is not in dispute that on the basis of the complaint given by the petitioner, FIR came to be registered in Crime No.23 of 2022 against one Boopathi, for the offences under Sections 406, 468, 471 of I.P.C. Considering the submission made by the learned Additional Public Prosecutor that the first respondent may be directed to monitor the investigation, this Court vide order,



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dated 06.12.2022, directed the second respondent/Inspector of Police, District Crime Branch, Trichy District, to proceed with the investigation and the first respondent/Superintendent of Police, Trichy District, was directed to monitor the same and with the above directions, the Criminal Original Petition was disposed of.

4. The main contention of the petitioner is that the second respondent, without following the directions of this Court and with *male fide* intention in order to help the accused and even before delivery of the above order of this Court and within the short span of time, has wantonly issued RCS notice in R.C.S.No.18 of 2022, dated 19.12.2022 as further action dropped; that the respondent even before the delivery of the order copy of this Court, he had issued RCS notice to the petitioner; that the respondent had chosen to close the investigation even prior to being monitored by the first respondent; that the petitioner has issued a contempt notice, dated 23.03.2023 requesting the respondent to make fair investigation as per the order of this Court and that since the respondent has failed to comply with the same, the present contempt petition came to be filed.



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5. This Court taking note of the submission made by the learned Government Advocate (Criminal Side) as well as the counsel for the petitioner has issued statutory notice to the respondent and in pursuance of the same, the respondent appeared and also filed his reply. The respondent in his reply has stated that as per directions of this Court, he has proceeded with the investigation, after verifying the online copy of the order of this Court, that he had placed the entire CD file for perusal of the Superintendent of Police, Trichy District, dated 18.12.2022 for enabling him to monitor the case; that the Superintendent of Police after verifying all the relevant documents and statements in the CD file, directed the respondent to ensure proper investigation in an unbiased manner and also directed him to proceed further based on the statements and the documents collected and that thereafter, concurred with the view of the respondent for dropping further action temporarily till the judgment of the suit in O.S.No.405 of 2021 on the file of the Principal District Munsif Court, Trichy.

6. The respondent has further stated in his reply that after the receipt of the summons, the defacto complainant and his brother had appeared before the respondent for enquiry on 11.10.2022 and admitted that they have suppressed



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the pendency of the suit in O.S.No.405 of 2021 from 26.08.2021 in the complaint filed before the Superintendent of Police, Trichy; that they have also admitted that they have withdrawn another Criminal Original Petition in Crl.O.P(MD)No.1919 of 2022 filed by the defacto complainant's brother Karthik before this Court stating that they have approached the concerned Civil Court for remedy; that since the matter is pending before the Civil Court and also the fact that the defacto complainant has failed to produce the original Muchalika deed, they have no other option, but to stop the investigation temporarily and that since the respondent has obeyed the orders of this Court, dated 06.12.2022 and the respondent has not violated the orders of this Court, the present Contempt Petition cannot be sustained.

7. The main contention of the petitioner is that even according to the respondent, they have down loaded the copy of the order of this Court, dated 06.12.2022 on 18.12.2022, but the final report was filed on 19.12.2022 and that the respondent, without conducting any investigation and without placing the file before the Superintendent of Police for monitoring the investigation and only to delete the accused, who is a police official, has filed the final report as further action dropped.



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8. The learned Government Advocate (Criminal Side) would submit that the respondent was informed about the order of this Court, dated 06.12.2022 immediately; that they have down loaded the order copy on 18.12.2022 and that the respondent after getting necessary instructions from the Superintendent of Police has proceeded with the investigation and filed the final report.

9. This Court is informed by the Registry that the order of this Court has been uploaded on 13.12.2022.

10. It is evident from the CD file that the Superintendent of Police has perused the records on 07.12.2022 and thereafter again on 18.12.2022 and on 18.12.2022, he issued a memo consenting with the respondent to temporarily drop further action till the out come of the civil case in O.S.No.405 of 2021 pending on the file of the District Munsif Court.

10. Considering the above, there is absolutely no material to show that the respondent has disobeyed the orders of this Court and that too willfully. Hence, this Court concludes that the contempt petition is liable to be closed.



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11. In the result, the Contempt Petition is closed. The petitioner is at liberty to file a protest petition, challenging the final report filed before the jurisdictional Court.

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NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
Contempt Petition(MD).No.1999 of 2023
in
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