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Sub Application No.825 of 2025 in Cont.P.No.1846 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

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THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

**Sub Applications (OS) No.825 of 2025
in
Contempt Petition No. 1846 of 2024
in
Crl.O.P.No.6835 of 2023**

Antony Joseph

... Petitioner/ Petitioner/ Petitioner

-VS-

Mrs. Brindha,
The Inspector of Police,
Oomangalam Police Station,
Cuddalore District.
Crime No.349 of 2022.

... Respondent/ Respondent/ Respondent

Prayer: This Sub Application is filed under Section 151 of Code of Civil Procedure to reopen the contempt petition in Cont.P.No.1846 of 2024, which was closed on 07.08.2024.

For Petitioner : Mr. J. Antony Jesus

For Respondent : Mr. S. Balaji
Government Advocate (Crl. Side)



ORDER

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The petitioner herein alleging that sand from the land situated in Survey No.19/01 at Arasukuzhi village, measuring about 1.20 acres being illegally removed by the accused persons namely Selvaraj and Victoria, claiming that the land owned by his mother namely Uthamamary. She gave a complaint before the respondent police on 12.11.2021 about the illegal mining of the sand, amounting to theft. Since no action was taken on her complaint, his mother moved an application under Section 156(3) of Code of Criminal Procedure before the learned Judicial Magistrate, Neyveli. The learned Judicial Magistrate, Neyveli, vide order dated 15.07.2022 directed the respondent to conduct preliminary enquiry and register FIR, if any cognizable offence is made out.

2. In regard to his direction, no investigation was taken by the respondent and therefore, the petitioner moved to this Court by filing a petition in Crl.O.P.No.27599 of 2022 for direction to register a FIR and when the said application is pending. The learned Government Advocate reported before the Court that the complaint has been registered in Crime



No.349 of 2022 on 07.09.2022. Recording the same, this Court dismissed the CrI.O.P.No.27599 of 2022 as infructuous.

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3. After registering the FIR, no action was taken by the respondent police and when enquired by the petitioner, they informed that the FIR was closed as 'mistake of fact'. However on further enquiry, it has come to know that no closure report was filed before the Judicial Magistrate Court. Subsequently, when an application in CrI.O.P.No.6835 of 2023 was filed before this Court for transfer of investigation in Crime No.349 of 2022 to CBCID or any other competent investigation agency, this Court in the said application, vide order dated 28.03.2023, directed the respondent police to complete the investigation as early as possible and to file final report, preferably within a period of three months from the date of order. The respondent police wilfully disobeyed the order of this Court and failed to file the final report within the prescribed period of three months from the date of order i.e., 28.03.2023.

4. In the above circumstances, the contempt petition in Cont.P.No.1846 of 2024 was filed by the petitioner before this Court and



when the said contempt petition was taken up for hearing, the learned Government Advocate (Crl. Side) represented that the final report filed on that date before the learned Judicial Magistrate, Neyveli. Therefore, recording the same, this Court closed the contempt petition for the present, observing that, if the Investigation Officer fails to ensure that the final report is taken on file by the learned Judicial Magistrate within a period of 15 days from the date of order i.e., 07.08.2024, the contempt petitioner is at liberty to approach the Court for reopen of the contempt petition.

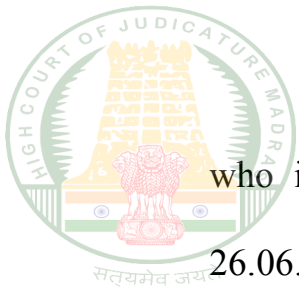
5. Stating that the final report alleged to have been filed on 07.08.2024, not been pursued by the Investigation Officer within a period of 15 days as fixed by this Court. The information sought through an application under Right to Information Act from the Chief Judicial Magistrate Court, the petitioner came to know that report was filed through online on 20.09.2024 and directly by hard copy on 18.10.2024. However, the final report dated 10.05.2023 closed as 'mistake of fact' was not informed to the Court when the contempt petition heard on 07.08.2024.

6. According to the learned counsel appearing for the petitioner,



the respondent has manipulated the documents to show as if the final report was closed as 'mistake of fact' on 10.05.2023. When the respondent/Inspector of Police had replied that Crime No.349 of 2022 is still under investigation as on 03.11.2023, it is impossible to close the final report six months earlier i.e., on 10.05.2023. Therefore, for misleading the Court and manipulating the records, the petitioner seeks reopen of the contempt petition in Cont.P.No.1846 of 2024, which was closed on 07.08.2024 with a liberty to the contempt petitioner to approach the Court, if the final report is not filed properly and the Investigation Officer fails to ensure that the final report being taken on file within a period of 15 days from the date of order i.e., 07.08.2024.

7. The affidavit filed by the Inspector of Police attached to the respondent police station indicates that the complaint was closed as 'mistake of fact'. In view of no *prima facie* case made out, the R.C.S. No.12 of 2023 served on the complainant and subsequently, the final report filed before the District Munsif-cum-Judicial Magistrate, Neyveli on 20.09.2024. The learned District Munsif-cum-Judicial Magistrate has assigned R.C.S.No.266 of 2024 dated 18.10.2024 and issued summons to the defacto complainant,



who is the mother of the petitioner. The summons served on her on 26.06.2025, for appearance on 09.07.2025, thereby the defacto complainant appeared before the learned District Munsif-cum-Judicial Magistrate, Neyveli on 09.07.2025 and had filed protest petition, which is posted for enquiry on 22.08.2025.

8. From the affidavit, it appears that the statement earlier made by the respondent that the final report filed on 07.08.2024 and pending for scrutiny is incorrect and the final report is only filed through e-filing on 20.09.2024 i.e., after 15 days time granted by this Court to the respondent. Likewise, the R.C.S. Notice in R.C.S. No.12 of 2023, which is alleged to have been served to the complainant is also a mis-leading fact, since the R.C.S. No.266 of 2024 in this case is dated 18.10.2024.

9. As pointed out by the learned counsel appearing for the petitioner, the complaint itself was not taken for investigation for the reason best known, even after direction by the learned Judicial Magistrate under Section 156(3) of Code of Criminal Procedure. With much reluctance, the respondent has registered a FIR in Crime No.349 of 2022, only after the



petitioner approached this Court for direction to register the FIR. Without making proper enquiry and investigation, the respondent had closed the complaint as 'mistake of fact' and filed closure report, even that is not within the time prescribed by this Court but belatedly.

10. This Court finds that there is a serious deliberation of duty, besides wilful contempt by making misrepresentation regarding the investigation and filing of final report. However, instead of proceeding under the Contempt of Court Act, this Court is of the view that it is a fit case for the department concerned to take necessary action against the respondent for misconduct and deliberation of duty. Therefore, this Court directs the Director General of Police to take appropriate action against the respondent.

11. In so far as the grievance of the petitioner is concerned, since the defacto complainant had received the RCS notice from the Court, it is open for the defacto complainant to work out the remedy in the manner known to law.



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Dr. G. JAYACHANDRAN, J.,

12. With the above observations, this sub application stands closed.

25-07-2025

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To

1. The Director General of Police,
Chennai.
2. The Inspector of Police,
Oomangalam Police Station,
Cuddalore District.
Crime No.349 of 2022.
3. The Public Prosecutor,
High Court of Madras.

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