



CONT.P.(MD)No.1482 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

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in

Cr.M.P.No.872 of 2014

in

Crl.A.No.9 of 2014

J.Adel

... Petitioner

-Vs-

1.S.Ramesh

2.S.Brathibha

... Respondents

PRAYER: Petition filed under Section 10 of the Contempt of Courts Act, 1971, praying this Court to punish the respondents herein for having willfully and deliberately violated and disobeyed the undertaking given by them before the I Additional Sessions Judge, Madurai in CrI.M.P.No.872 of 2014 in CrI.A.No.9 of 2014.

**For Petitioner : Mr.K.Subramanian,
Senior Counsel
for Mr.K.M.Thiruppathy**



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For R1 : No Appearance
For R2 : Mr.T.Lajapathi Roy,
Senior Counsel,
for M/s.Roy & Roy Associates

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

This Contempt Petition has been instituted under Section 10 of the Contempt of Courts Act, 1971 (hereinafter referred to as 'the Act') to punish the respondents for their willful disobedience of the undertaking given by them before the I Additional Sessions Judge, Madurai in CrI.M.P.No.872 of 2014 in CrI.A.No.9 of 2014.

2.The Principal Sessions Court, Madurai passed the following order on 03.02.2014:-

“2.Heard. Perused the petition and judgment. The trial court has convicted the petitioner / accused No.1 for the offences u/s. 294(b), 47 and 427 of IPC and petitioner / accused No.2 u/s 447 of IPC and sentenced A-1 to undergo S.I for 2 months and to pay a fine of Rs.200/- in default to undergo S.I for one week u/s. 294(b) IPC and A-1 and A-1 and A-2 to undergo S.I or 2 months and to pay a



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fine of Rs.200/- in default to undergo S.I for 2 months to pay a fine of Rs.200/- in default to undergo S.I for one week u/s 447 of IPC and A-1 to undergo S.I for 6 months and to pay a fine of Rs.1000/- in default to undergo S.I for one month u/s 427 of IPC. Fine amount was paid by the petitioners. The petitioners were on bail during trial. The lower court has suspended the sentence till filing the appeal. Considering the facts and circumstances of the case, since the petitioners have preferred appeal against the judgment of the lower court, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioners are ordered to be released on bail on his executing a bond for Rs. 10,000/- along with two sureties for a like sum each to the satisfaction of the Judicial Magistrate, Melur.”

3.Mr.K.Subramanian, learned Senior Counsel appearing for the petitioner would submit that the 2nd respondent has violated several orders passed by the High Courts also and by residing in United States of America, he is continuing to commit contempt.

4.Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the 2nd respondent would oppose by stating that proclamation order has been stayed by the High Court and the Judgment of the Principal Sessions Court was reversed by the High Court in CrI.R.C.(MD)No.330 and 641 of 2019, dated 23.11.2023.



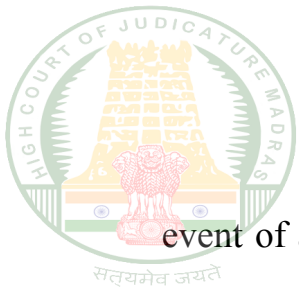
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5.The learned Senior Counsel for the petitioner would submit that against the said order dated 23.11.2023, Special Leave Petition in Special Leave to Appeal (Crl.) No.2608 of 2024 is preferred and the same is pending before the Hon'ble Supreme Court of India.

6.May that as it be, this Court is inclined to examine maintainability of this Contempt Petition filed under Section 10 of the Act.

7.Section 10 of the Act contemplates power of High Court to punish contempts of subordinate courts. Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself

8.The provision contemplates that High Court is empowered to initiate contempt proceedings for the contempt committed in Subordinate Courts. However, it does not contemplate that Contempt Petition can be filed under Section 10 of the Act in respect of non-implementation or violation of the orders passed by the Subordinate Courts. For invoking Section 10 of the Act, in the



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event of any contempt being committed by any person in Subordinate Courts, the Presiding Officer or the learned Principal District Judge, as the case may be, has to submit a report to the High Court, which would be a basis for initiation of the contempt proceedings under Section 10 of the Act. Section 10 of the Act would not be of any assistance for the litigants to punish for contempt in respect of violations or non-implementation of the orders passed by the Subordinate Courts.

9.Exercise of the powers conferred under Section 10 of the Act need not be exercised in a routine manner, so as to make an alternate remedy contemplated under the Special enactments ineffective. The Rule is to exhaust the remedies contemplated under the Special enactments and general law can be invoked such enactments are inadequate for the purpose of redressal of the grievances of the parties.

10.It is a discretionary power conferred on the High Court and to be exercised cautiously and not in a routine manner. Even the powers conferred under Article 215 of the Constitution is to be exercised in just cases and cannot be exercised in order to punish a person for violation of certain interim orders passed by the Courts subordinate to the High Court.



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11.In the case of **A.Ramakrishnan vs. Vijayalakshmi & Ors.**, reported in **2016 (2) L.W. 781**, the Division Bench of this Court relied on the case of **Samir Kumar Sarkar v. Maharaj Singh, 1983 Cri LJ (NOC)** observed as follows:

"25. A Hon'ble Division Bench of the Calcutta High Court in Samir Kumar Sarkar v. Maharaj Singh, 1983 Cri LJ (NOC) 1, held that in cases of disobedience or breach of injunction order issued temporarily during pendency of the suit either under Rule 1 or Rule 2 of Order 39, Code of Civil Procedure, it is inexpedient to invoke and exercise contempt jurisdiction. In such cases, action is contemplated by the Court which issued the injunction under Rule 2A of Order 39, Code of Civil Procedure. It was further held that it is well settled principle of law that when there is a special law and general law, the provisions of special law prevail over general law and since special provisions and procedure are contained in Code of Civil Procedure itself under Rule 2A of Order 39, Code of Civil Procedure, for taking action for the disobedience of an order of injunction, the general law of Contempt of Court cannot be invoked."

12.In the present case, an efficacious remedy is contemplated under the Code of Criminal Procedure for implementation / execution of the orders passed by the Sessions Court. In stead of invoking such provisions, the petitioner has chosen to file this Contempt Petition under Section 10 of the Act.



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WEB COPY 13. When the special enactment contemplates procedure, invoking general law need not be entertained. Special law will prevail over the general law and therefore, High Court is expected to exercise restraint in entertaining Contempt Petition under Section 10 of the Act, which has been filed, seeking punishment for violation or non-implementation of the orders passed by the Subordinate Courts.

14. The learned Senior Counsel for the petitioner would submit that an application has already been filed before the Sessions Court. Thus, the petitioner is at liberty to workout his remedy in the manner known to law.

15. With the above observations, this Contempt Petition stands dismissed.

(S.M.S., J.) & (G.A.M., J.)
13.08.2025

NCC : Yes / No
Index : Yes / No

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