

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.12.2012

CORAM:

THE HON'BLE MR.JUSTICE T.MATHIVANAN

Cont.P.No.1390 of 2012

in

Crl.O.P.No.25046 of 2011

Dr.C.A.Mohmed Abdul Huq Petitioner

Vs.

1.Mr.S.Manoharan
Superintendent of Police
Kanchipuram Range
Collector Office
Kanchipuram-631 502

2.Mr.N.Ramadoss
Inspector of Police
District Crime Branch
Collector Office
Kanchipuram-631 502

..... Respondents

Prayer : This petition is filed under Sections 2(b) and 11 of the Contempt of Courts Act, 1971 to punish the respondents for not obeying the Order of this Court dated 25.01.2012 and made in Crl.O.P.No.25046 of 2011.

For Petitioner : Dr.A.E.Chelliah
Senior Counsel
for Mr.C.Saifullah

For Respondents : Mr.S.Shanmugavelayutham
Public Prosecutor
assisted by Mr.A.N.Thambidurai
Addl. Public Prosecutor (Crl.Side)

O R D E R

Contempt of Courts Act, 1971, the petitioner has approached this Court seeking the relief of punishing the respondents for having committed contempt of Court by their wilful disobedience of the Order of this Court dated 25.01.2012 and made in Crl.O.P.No.25046 of 2011.

2. Before entering into the merits of the case, this Court finds that it may be appropriate to quote the lamentation made by the Honourable Supreme Court of India in **Anil Ratan Sarkar vs. Hirak Ghosh**, reported in (2002) 4 SCC 21 : AIR 2002 SC 1405:

"The Contempt of Courts Act, 1971 has been introduced in the Statute Book for the purposes of securing a feeling of confidence of the people in general and for due and proper administration of justice in the country undoubtedly a powerful weapon in the hands of the law Courts but that by itself operates as a string of caution and unless thus otherwise satisfied beyond doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Statute."

3. In an another recent decision, a Division Bench of the Honourable Supreme Court of India, headed by His

Lordship **The Honourable Mr. JUSTICE S.H.KAPADIA**, Chief Justice of India (as he then was), has explained the impact of the disobedience of the Orders of the Court by the officials, who are bound to abide and the role of the higher Courts to safeguard the dignity and majesty of the law and also to infuse confidence in the minds of people in the following manner:

"Disobedience of orders of the court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. The Judiciary is the guardian of the rule of law. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which it is sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs....."

4. The excerpts of the facts:

4.1. The petitioner herein had lodged two complaints dated 23.05.2011 and 25.05.2011 respectively before the first respondent viz., the Superintendent of Police, Kanchipuram Range to take necessary actions against one Mrs.Rahmathunissa, Mr.Mohammed Ilyas and Mr.P.Suresh Kumar for the offences of cheating, conspiracy, misappropriation

of property, land grabbing etc., with regard to properties worth about Rs.1,00,00,000/- (Rupees One Crore Only), situated at Plot Nos.62, 63 and 79, comprised in S.F.Nos.1047/2, 1049/1 and 1049/3, Chella Perumal Nagar, Sriperumbudur, measuring an extent of 7,200 sq.ft., (3 Grounds). Since no action was taken on the above said complaints by the first respondent, the petitioner was constrained to file a petition in CrI.O.P.No.25046 of 2011 before this Court seeking a direction to the respondents to register a case based on the complaints dated 23.05.2011 and 25.05.2011, take up the investigation and to file the final report before the competent Court of law.

4.2. When that petition viz., CrI.O.P.No.25046 of 2011 came up for hearing on 19.01.2012, the learned Government Advocate (CrI.side) had informed that in the earlier complaint, the parties were called for enquiry and subsequently, the complaint was closed on 19.08.2011.

4.3. While denying the information furnished by the learned Government Advocate (CrI.Side), Dr.A.E.Chelliah, learned senior counsel appearing for Mr.C.Saifullah, learned counsel for the petitioner had submitted that the petitioner was summoned by the Inspector of Police,

respondent herein, to appear on 12.12.2011 for enquiry. In this regard, he had raised a question that if the complaint was closed on 19.08.2011 as informed by the learned Government Advocate (Crl.Side), how the petitioner, who is the complainant could have been summoned by the second respondent Inspector of Police, directing him to appear on 12.12.2011?

4.4. In this connection, he had also argued that despite the complaint was lodged as early as on 23.05.2011, neither the Superintendent of Police, Kanchipuram District (first respondent herein) nor the Inspector of Police, District Crime Branch, Kanchipuram Range (second respondent herein) had evinced any interest in registering the case.

4.5. He had continued that as contemplated under Section 154 of the Code of Criminal Procedure, when an information was given in writing, the Police Officer to whom the complaint was lodged, was duty bound to register the case and that the Proviso to Section 154 Cr.P.C did not mandate any Police Officer to conduct any preliminary enquiry and if he had suspected the commission of cognizable offence, then the question of conducting of either petition enquiry or preliminary enquiry did not

4.6. While advancing his arguments, the learned senior counsel had also adverted to that the conduct of the second respondent appeared to be misuse of the process of law and thus he had to be deprecated.

4.7. On perusal of the Order of this Court dated 25.01.2012, it is manifested that during the pendency of the petition in CrI.O.P.No.25046 of 2011, one Mr.Mohanavel, who is the predecessor in office of the present Inspector of Police Mr.N.Ramadoss, attached to the District Crime Branch, Kanchipuram Range, had not made his appearance, instead he had filed a status report. Under such circumstance, this Court was constrained to initiate a contempt proceedings against him *suo motu* and accordingly, a notice was caused to be issued to show cause as to why he should not be punished under Section 12 of Contempt of the Courts Act, 1971. Only after receipt of that notice, he had appeared in person on 19.01.2012.

4.8. Then, when the petition in CrI.O.P.No.25046 of 2011 came up for final hearing on 25.01.2012, the learned Government Advocate (CrI.Side) had apologised in the open Court for the wrong committed by Mr.Mohanavel, the then Inspector of Police, District Crime Branch, Kanchipuram

Range and on considering the apology tendered by the learned Government Advocate (Crl.Side) this Court had decided to abandon the contempt proceedings and accordingly it was dropped. When this Court had specifically questioned about the fate of the complaint dated 23.05.2011, it was informed by the learned Government Advocate (Crl.Side) that the second respondent had registered a case based on the complaint dated 23.05.2011 lodged by the petitioner.

4.9. After recording this information, this Court had proceeded to issue a direction to the respondents 1 and 2 herein, which runs as follows:

"Therefore, the second respondent is directed to take up the case for investigation in an impartial manner and file the final report within a period of 60 days without loss of further time. The first respondent is also directed to monitor the progress of the investigation and see that the investigation is completed expeditiously and the charge sheet is filed within the period stipulated above."

5. Now, the petitioner has come forward with this petition under Sections 2(b) and 11 of the Contempt of Courts Act, 1971 alleging that the respondents 1 and 2 were fully aware of the direction issued by this Court in the Order dated 25.01.2012 and in spite of the specific Order, the respondents 1 and 2 have miserably failed to comply with the direction of this Court.

6. On perusal of the averments of the petition, it is revealed that the petitioner had issued a legal notice through his counsel on 26.06.2012 to the respondents 1 and 2 to explain as to why a contempt proceedings should not be initiated against them. However, while the first respondent had received the notice on 03.07.2012, the second respondent Mr.N.Ramadoss, Inspector of Police, attached to District Crime Branch, Kanchipuram Range had refused to receive the notice on 03.07.2012.

7. In the counter affidavit filed by the second respondent, he has stated that the complaints, dated 23.05.2011 and 25.05.2011, lodged by the petitioner before the first respondent viz., the Superintendent of Police, Kanchipuram Range, were forwarded to the Deputy Superintendent of Police, District Crime Branch, Kanchipuram and he in turn had directed Mr.Mohanavel, the

then Inspector of Police, attached to District Crime Branch, Kanchipuram to conduct an enquiry and during the course of enquiry the petitioner had approached this Court with the petition in CrI.O.P.No.25046 of 2011 seeking the direction to the respondents 1 and 2 as stated herein before.

8. In paragraph No.4 of his counter affidavit, he has stated that on the direction of this Court, a case in District Crime Branch Crime No.30 of 2012 for the offences under Sections 406 and 420 I.P.C., was registered on 08.05.2012 at 09.00 hours and the case was taken up for investigation.

9. Further, he has also stated that he had examined the petitioner and his sister and recorded their respective statements and it is also revealed from his counter affidavit that he had examined several witnesses and recorded their respective statements.

10. In paragraph No.9 of his counter affidavit, he would submit that based on the evidences, the case was referred as mistake of fact on 12.11.2012 and he had also served a notice to the petitioner/complainant and thereby

referred charge sheet was also filed before the learned Judicial Magistrate, Sriperumbudhur on 15.11.2012.

11. From paragraph No.10 of his counter affidavit, it is revealed that he had filed a miscellaneous petition before this Court in CrI.M.P.No.1 of 2012 in CrI.O.P.No.25046 of 2011 for the extension of time and this Court was also pleased to grant the extension of time for three months from 14.06.2012.

12. When the contempt petition came up for hearing before this Court on 12.12.2012, another counter affidavit was filed by the second respondent, wherein he has stated that the two complaints dated 23.05.2011 and 25.05.2011, lodged by the petitioner were forwarded to the second respondent through the Deputy Superintendent of Police, District Crime Branch, Kanchipuram and on receipt of the complaints, his predecessor in office namely Mr.Mohanavel had conducted a petition enquiry and while he was in the process of collecting documents, the petitioner had filed the above direction petition before this Court in CrI.O.P.No.25046 of 2011 seeking the direction as afore

13. In paragraph No.5 of his second counter affidavit, he has stated that the Order dated 25.01.2012 and made in Cr1.O.P.No.25046 of 2011 was despatched on 20.03.2012 and communicated to the first respondent on 02.04.2012 and the same was forwarded to him through his immediate superior within a week and thereafter he had registered a case in District Crime Branch Crime No.30 of 2012, under Sections 406 and 420 I.P.C., on 08.05.2012 on the complaint dated 23.05.2011 and took up the investigation.

14. It is also revealed from paragraph No.7 of the second counter affidavit that the above process consumed time and therefore he was not able to file a final report within the time limit specified by this Court and after obtaining permission from the first respondent, he had filed a miscellaneous petition in M.P.No.1 of 2012 in Cr1.O.P.No.25046 of 2011, for extension of time, on 04.06.2012.

15. Further, it is also revealed from paragraph No.10 that on the date of registering the first information report, the petitioner was called to the Police Station for

the purpose of serving with the copy of FIR and that he had refused to receive the same because one of the accused namely Suresh Kumar was not shown as accused in the relevant column of the first information report.

16. Dr.A.E.Chelliah, learned senior counsel has submitted that the second respondent Inspector of Police had not only mislead the learned Government Advocate by supplying false information before this Court, but he had also played fraud upon this Court by giving false information as if a case was registered based on the complaint dated 23.05.2011, even prior to the passing of Order dated 25.01.2012.

17. Keeping in view of this fact, it is incumbent on the part of this Court to have a reference to the Order dated 25.01.2012.

18. In the operative portion, this Court has observed that "however it is ascertained that the second respondent Police has now registered the case based on the complaint of the petitioner dated 23.05.2011. Therefore, the second respondent is directed to take up the case for investigation in an impartial manner and file the final report within a period of sixty days without loss of

further time. The first respondent is also directed to monitor the progress of the investigation and see that the investigation is completed expeditiously and the charge sheet is filed within the period stipulated above".

19. In this connection, the learned senior counsel has maintained that on 22.11.2011, the second respondent Inspector of Police, attached to the District Crime Branch, Kanchipuram Range was directed to appear in person before this Court on 25.11.2011. Even in spite of a specific direction, the second respondent had not made his appearance. Instead of making his appearance, he had filed a status report. Under such circumstance, this Court was constrained to issue a contempt proceedings against him suo motu and a statutory notice was also ordered to be issued to show cause as to why he should not be punished under Section 12 of Contempt of the Courts Act.

20. He has also drawn the attention of this Court to Paragraph No.7 of the Order of this Court dated 25.01.2012, wherein it has been observed that after receipt of the notice, the second respondent had appeared in person on 19.01.2012 and thereafter on the submission made by the learned Government Advocate (Criminal Side), this Court had

taken up for final hearing, the learned Government Advocate had apologized before the open Court for the wrong committed by the concerned Police Officer and on considering the apology tendered by the learned Government Advocate, this Court had found that the contempt proceedings need not be continued and it might be closed and accordingly the contempt proceedings were closed". Thereafter, on the instructions given by the Inspector of Police, the learned Government Advocate had made a representation that a case was registered based on the complaint dated 23.05.2011. However, he did not disclose the date on which the case was registered.

21. In this connection, the learned senior counsel has submitted that it would be more significant to note here that as admitted by the second respondent in his counter affidavit the petitioner was constrained to lodge two complaints dated 23.05.2011 and 25.05.2011. When the second respondent was able to register a case based on the complaint dated 23.05.2011, he had not come forward with any satisfactory explanation as to why no case was registered in respect of the complaint dated 25.05.2011. He has also raised a question that as it revealed from the counter affidavit, when the second respondent was able to

under what crime number the earlier case was registered as it was informed to this Court on behalf of the second respondent? If no case was registered prior to passing of the Order on 25.01.2012, then the conduct of the Inspector of Police attached to the District Crime Branch, Kanchipuram Range would certainly demonstrate that he had not only abused the process of the Court but also misled it to pass an order after banking heavily on his words that case was duly registered based on the complaint of the petitioner dated 23.05.2011.

22. On the other hand, the learned Additional Public Prosecutor has submitted that insofar as the first respondent viz., the District Superintendent of Police is concerned he had been complying with the direction of this Court and in obedience to the direction of this Court, he had issued a memorandum on 03.04.2012 directing the Deputy Superintendent of Police, District Crime Branch, Kanchipuram to direct the Inspector of Police to comply with the Court's Order dated 25.01.2012 and register a case in accordance with the law and investigate the matter and report compliance within sixty days as stipulated in the Order and file the final report before the Court concerned.

11.05.2012 was also issued by the first respondent, in which he had instructed the Inspector of Police, District Crime Branch, Kanchipuram to file a petition for seeking extension of time limit for the investigation of the case in Crime No.30 of 2012 under Sections 406 and 420 I.P.C., with the consultation of Public Prosecutor, High Court Madras.

24. He has also adverted to that another memorandum dated 04.07.2012 was also issued by the first respondent and thereby the Inspector of Police herein was instructed to complete the investigation in Crime No.30 of 2012, under Sections 406 and 420 I.P.C., and file the final report within a period as ordered by this Court on 14.06.2012.

25. Further, he has submitted that as directed by this Court in the Order dated 25.01.2012, the first respondent had monitored the progress of the investigation and he had also been continuously giving instructions to the Deputy Superintendent of Police as well as the Inspector of Police, who is the second respondent herein to complete the investigation and to file the final report as directed by this Court and therefore the allegations against the first respondent Police that he had miserably failed and disobeyed the Order of this Court are not sustainable.

However, he has fairly conceded that there was some latches on the part of the second respondent in giving information as well as in completing the investigation within the specified period.

26. This Court, on perusal of the records finds that at the first instance when the Order was passed on 25.01.2012, it was wrongly informed to this Court as if a case was registered based on the complaint dated 23.05.2011.

27. Infact, as it was pointed out by the learned senior counsel no case was registered even prior to the passing of Order i.e., prior to 25.01.2012 and the case was only registered on 08.05.2012 i.e., after nearly four months, which itself would shed a light to project the factum that there is utter disregard, disobedience and unmindful on the part of the second respondent towards the Court.

28. It is revealed from the records that the petition in CrI.O.P.No.25046 of 2011 was at the first instance filed on 11.10.2011 and thereafter that petition had been crossing the following dates viz., 20.10.2011, 29.10.2011, 12.11.2011 and 22.11.2011 on various reasons assigned by

the Inspector of Police was directed to appear before the Court on 25.11.2011 and the learned Government Advocate (Crl.Side) was also directed to communicate the Order to the Inspector of Police. But, the Order sheet does not have any reference to show that the Inspector of Police had made his appearance on 25.11.2011 as directed. However, the case had been crossing several hearings and on 06.01.2012 this Court has directed the learned Government Advocate (Crl.Side) to file a report with regard to the present stage of the investigation and then the matter stood posted to 10.01.2012.

29. When that petition came up for hearing on 18.01.2012, this Court had specifically directed the second respondent viz., the Inspector of Police to appear before this Court on 19.01.2012.

30. That on 19.01.2012 when the petition came up for hearing, Mr.Mohanavel, Inspector of Police, Cheyyur Police Station had appeared in person and filed a status report stating that based on the complaint lodged by the complainant (petitioner herein) before the first respondent the Superintendent of Police, Kanchipuram District, which was transmitted to the file of the Inspector of Police, District Crime Branch, Kanchipuram vide his Proceedings

enquiry.

31. He has also stated in the status report that both the parties were directed to be present on 18.06.2011 and on enquiry and on perusal of the entire documents furnished by both the parties, it was revealed that the allegations levelled in the complaint were civil in nature and hence the petitioner was directed to approach Civil Court to get appropriate remedy.

32. Further, he has also stated that the complaint was closed as early as on 19.08.2011 after getting legal opinion from the Assistant Director of Prosecution, Alandur, Chennai, who was placed in additional charge of Kanchipuram.

33. From the interim Order dated 19.01.2012, passed by this Court in the above said petition, it is revealed that Dr.A.E.Chelliah, learned senior counsel had submitted before this Court that the petitioner was summoned to make his appearance before the respondent Police along with the original documents on 12.12.2011 for the purpose of enquiry and if at all the complaint was closed on 19.08.2011, how summons could have been sent to the petitioner directing

maintained that there was no iota of truth in the submission made by the second respondent.

34. Under this circumstance, the learned Government Advocate (Crl.Side) had submitted that he would verify the fact and would file a detailed report on 23.01.2012 and therefore the Registry was directed to list the matter on 23.01.2012 along with contempt proceedings and that on 23.01.2012 it was adjourned to 25.01.2012.

35. On 25.01.2012, Mr.Mohanavel, the then Inspector of Police, District Crime Branch, Kanchipuram Range had filed his affidavit, in which he had ratified the fact that after completion of due enquiry and on the basis of examination of both the parties, he had closed the complaint as early as on 19.08.2011 after obtaining legal opinion from the Assistant Director of Prosecution, Alandur, Chennai.

36. He has also stated in his affidavit that on 22.09.2011 he was transferred to Cheyyur Police Station and only thereafter he came to know that this Court had initiated contempt proceedings against him and therefore he had tendered unconditional apology for any wrong on his part and the learned Government Advocate (Crl.Side) had also tendered apology.

37. On considering this fact, this Court found that the contempt proceedings against the second respondent Mr.Mohanavel, Inspector of Police need not be continued and might be closed. But, a wrong information was furnished to this Court stating that the second respondent had registered a case based on the complaint dated 23.05.2011. But, now it has been proved to be false.

38. It is also pertinent to note here that on accepting the apology tendered by the then Inspector of Police Mr.Mohanavel, both the respondents 1 and 2 were directed to take up the case for investigation in an impartial manner and file a final report within a period of sixty days without loss of further time and the first respondent Superintendent of Police, Kanchipuram Range was also directed to monitor the progress of the investigation and see that the investigation is completed expeditiously and the charge sheet is filed within the stipulated period.

39. From the above context, it is thus made clear that on 18.06.2011 itself when an enquiry was conducted by Mr.Mohanavel, Inspector of Police attached to District Crime Branch, Kanchipuram Range, it was found that the

and therefore both the parties were directed to approach the Civil Court for getting appropriate remedy. But, the complaint was not closed on that date i.e., on 18.06.2011. But, it was closed only on 19.08.2011 after getting legal opinion from the Assistant Director of Prosecution, Alandur, Chennai.

40. When such is the case of the prosecution, what necessitated the Inspector of Police to summon the complainant, who is the petitioner herein to appear before the respondent Police with original documents on 12.12.2011 for the purpose of enquiry?

41. From the above texture of sentences, a question is arisen as to under whose direction the complaint was resumed or reopened, which was already closed on 19.08.2011, on the ground of civil in nature, after getting legal opinion from the Assistant Director of Prosecution, Alandur, Chennai?

42. When the complaint was closed as early as on 19.08.2011 on the ground of civil in nature, how a criminal flavour could be/was applied to the averments of the complaint?

43. The records are also manifested that on 08.05.2012, the present Inspector of Police Mr.N.Ramadoss, attached to the District Crime Branch, Kanchipuram Range appears to have registered a case in Crime No.30 of 2012 based on the complaint lodged by the petitioner herein. It reveals as if an information was received from the petitioner/complainant on 08.05.2012 at 09.00 a.m., and only based on the information received on 08.05.2012 the above complaint in Crime No.30 of 2012 is said to have been registered. It is also stated that the information was received in writing.

44. The First Information Report further reveals that the above case in Crime No.30 of 2012 has been registered against two accused persons viz., Mrs.Rahmathunissa and Mr.Mohammed Ilyas.

45. In this connection, it is imperative on the part of this Court to place it on record that Dr.A.E.Chelliah, learned senior counsel has been arguing that despite the complaint was lodged as against three persons, the respondent Police had registered the above case only

Ilyas and purposely and deliberately they had refrained themselves from registering the case as against the third person Mr.P.Suresh Kumar, who was having hand in glove with the accused Mrs.Rahmathunissa and Mr.Mohammed Ilyas in purchasing the property for feeble value when it is deserved to fetch more than rupees one crore.

46. He has also argued that the second respondent has not come forward with any acceptable explanation for the wilful deletion of Mr.P.Suresh Kumar, even in spite of serious allegations levelled against him in the complaint.

47. On perusal of the Case Diary file, it is revealed that the complaint dated 23.05.2011 was received by the Office of the District Police on 31.05.2011 under k2/20540/255/11. From the face of the complaint dated 23.05.2011, it appears that the Superintendent of Police has forwarded the complaint to the Deputy Superintendent of Police, District Crime Branch for enquiry.

48. It also appears that the Deputy Superintendent of Police, District Crime Branch has received the complaint on 04.06.2011 in C.No.421/DSP/DCB/17. The Office Seals of the District Superintendent of Police as well as the Deputy

over the complaint. Beneath the complaint, the Inspector of Police Mr.Ramadoss, attached to District Crime Branch, Kanchipuram Range had written in his hand as follows:

"Sir, On 8.5.2012 at 09.00 hours the above complaint as per the Order of Hon'ble High Court of Madras in CrI.O.P.No.25046 of 2012 registered a case in DCB Cr.No.30/2012 U/S 406, 420 I.P.C.,"

He had also signed below the endorsement on 08.05.2012.

49. With regard to the above endorsement, this Court would like to reiterate the earlier observation that infact this Court had never ordered in CrI.O.P.No.25046 of 2012 to register a case. But, this Court has specifically directed the second respondent to take up the case for investigation (not to register a case) in an impartial manner and file the final report within a period of sixty days without loss of further time. The first respondent Superintendent of Police was also directed to monitor the progress of the investigation and see that the investigation is completed expeditiously and the charge sheet is filed within the period stipulated above.

50. It is to be mentioned here that the above said

made by the learned Government Advocate (Crl.Side) that a case was already registered.

51. On perusal of CD file, the case diary relating to the date 08.05.2012 reveals that the date of action and time was 08.05.2012 at 09.00 a.m., In the margin, the name of the three accused have been shown including Mr.P.Suresh Kumar. But, infact, in the first information report dated 08.05.2012 his name has not been included. But, unfortunately, his name is found in the case diary as if he is also one of the accused along with the two accused.

52. It is not satisfactorily explained as to how his name was entered in the case diary dated 08.05.2012 and also found to have been entered in the case diary on subsequent dates.

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53. As argued by the learned Additional Public Prosecutor, the first respondent Superintendent of Police in his memorandum vide C.No.G1/257/16323/2012, dated 03.04.2012 had directed the Deputy Superintendent of Police to instruct the Police Officials to comply and register the

revealed that on 08.05.2012 the petitioner herein, who is the complainant was summoned to appear before the Inspector of Police.

54. It is also revealed that the summons were served on the complaint on 08.05.2012 at 10.00 a.m., and subsequently on 11.05.2012 the Deputy Superintendent of Police had also instructed through another memorandum to file a petition seeking extension of time limit for investigation. In fact, no objection was filed to expedite the investigation of the case in Crime No.30 of 2012, which was registered on 08.05.2012.

55. It is also revealed that the petition in M.P.No.1 of 2012 in CrI.O.P.No.25046 of 2011 was filed seeking the extension of time limit for about three months. In paragraph No.3 of the Order, it is stated that as if the case in Crime No.30 of 2012 was registered on receipt of the copy of the Order. But, the Order dated 25.01.2012 did not direct either the first respondent or the second respondent to register a case, instead a specific direction was issued to take up the case, which according to the Police officials was already registered, and to take up the investigation and file the final report and even case diary

accused Mr.P.Suresh Kumar was also impleaded as one of the accused in this case and the case diary file also reveals that Mr.Ramadoss, Inspector of Police presently attached to the District Crime Branch, Kanchipuram Range had addressed a letter to the learned Judicial Magistrate, Sriperumpudur informing him that the third accused was also impleaded and the investigation was under progress.

56. In this connection, Dr.A.E.Chelliah, learned senior counsel has raised a question as to under what capacity or under what authority the Inspector of Police had addressed a letter to the learned Judicial Magistrate, Sriperumpudur informing him about the impleadment of the third accused Mr.P.Suresh Kumar? He has also raised another question as to whether the learned Judicial Magistrate had given a direction to the second respondent to include Mr.P.Suresh Kumar as the third accused? But, nothing is found in the Case Diary file and thereafter the case diaries relating to the dates 14.06.2012, 15.06.2012, 22.06.2012 and 25.06.2012 would go to show as if Mr.P.Suresh Kumar has also been included as one of the accused.

57. Then, ultimately another memorandum was also

<https://hcservices.ecourts.gov.in/hcservices/> issued by the first respondent on 14.06.2012 instructing

the second respondent to complete the investigation of the case in Crime No.30 of 2012 expeditiously and to show the progress.

58. Only, under the above circumstance i.e., subsequent to the memorandum issued by the District Superintendent of Police, M.P.No.1 of 2012 in CrI.O.P.No.25046 of 2011 seems to have been filed for the extension of time.

59. As per the second counter affidavit filed by the second respondent, after completion of the investigation, the case was closed on the ground of mistake of fact on 12.11.2012. They have not explained as to what happened to the case after the submission of the closure report and it is also kept in dark as to whether the learned Judicial Magistrate, Sriperumpatur had passed any Order based on the final report submitted by the second respondent on 12.11.2012.

60. PSO 196 of Tamil Nadu Police Standing Orders defines the responsibility for station administration. It reads as follows:

"PSO 196. Responsibility for station administration. -

A Station House Officer in charge of a police station is fully responsible for the police administration of his charge. It is his duty to assign to his subordinates their duties and to see that they perform them correctly and to take measures for preservation of the peace and the prevention and detection of crime within the limits of his station."

61. PSO 211 of Tamil Nadu Police Standing Orders defines the Inspector's Case diary. It enacts as follows:

"PSO 211. Inspector's Case diary.-

Inspectors shall forward to their immediate superior, with the diary of the day, Case diaries in cases investigated by themselves. They shall sent another copy of the Case diary for file in the station in which the case is registered, and retain a copy themselves."

62. Chapter XXIX of the Tamil Nadu Police Standing Orders deals with first information to the police officials. PSO 551 contemplates Registry in first information report book. It reads as follows:

"PSO 551. Registry in First Information Report

Book. -

Information coming under any of the following heads received at a Police Station, shall be registered in the First Information Report Book (Form No.73) which is the book prescribed by Section 154, Criminal Procedure Code:

- (1) Cognizable cases including those referred to the Police for inquiry by Magistrates;
- (2) Complaints falling under Regulation IV of 1821;
- (3) All occurrences which need investigation, such as suicides and accidental death, accidental fires, straying of cattle, etc., only where there is a reason to suspect the commission of cognizable offences;
- (4) Non-cognizable cases endorsed to the Police for inquiry;
- (5) Cases under section 107 to 110 of the Criminal Procedure Code after it has been determined to put them before a Magistrate;
- (6) Offences to be reported to the Central Excise Salt and Customs departments;
- (7) Reports made to Magistrate with a view to action being taken under sections 144 and 145 of the Criminal Procedure Code."

63. PSO 560 deals with instruction regarding first information reports. It reads as follows:

"PSO 560. Instruction regarding First Information Reports:

(1) Cases entered in the First Information Report Book will be given a consecutive number and this number will constitute the crime number for the purpose of the subsequent records.

(2) The thumb-impression of the informant will usually be taken only in the case of illiterate persons.

(3) In the case of complaints a copy of the First Information Report should be furnished free of charge to the complainant or informant under proper acknowledgement immediately after the complaint is registered."

64. Chapter XXX of the Tamil Nadu Police Standing Order deals with the Investigation. PSO 564 contemplates about refusal of investigation. It reads as follows:

"PSO 562. Refusal of investigation

(1) The following principles are laid down to guide the exercise of their discretion by Station house officers in the matter of refusing investigation under Section 157(1) (b) of the

(G.Os.No.332, Judl. 28th Feb. 1906. and 485 Judl. 14th March 1911)

(2) Grounds for refusal.-

Investigation may be properly refused in the following cases.--

(a) Triviality-

Trivial offences, such as are contemplated in section 95 of the Indian Penal Code.

(b) Civil nature-

Cases of petty theft of property less than Rs.10 in value cognizable by a Village Headman under Regulation IV of 1821, provided that the accused person is not an old offender, nor a professional criminal, and that the property does not consist of sheep or goats."

65. With regard to the investigation as envisaged under Chapter XXX of Tamil Nadu Police Standing Orders PSO 566 assumes more importance, because it deals with the investigation to be impartial. The proviso to PSO 566(1) reads as follows:

"PSO 566. Investigation to be impartial

(1) Investigating officers are warned against prematurely committing themselves to any view of the facts for, or against a person. The aim of an investigating officer should be to find out the truth, and to achieve this purpose, it is

inquiry."

66. On coming to the instant case on hand, the learned Additional Public Prosecutor has argued that based on the complaint dated 23.05.2011, the case in Crime No.30 of 2012 was registered by the second respondent on 08.05.2012 under Section 406 and 420 I.P.C.,

67. In this connection, this Court would like to observe that there is a slight distinction between the first information and first information report. An information at the first instance received by a police officer, who is in charge of the police station with regard to a particular incident is called first information. Whereas, a report prepared and registered based on the first information is called first information report.

68. Therefore, the case, which appears to have been registered on 08.05.2012 under Crime No.30 of 2012 is not based on the first information, which was received from the complainant and the information appears to have been received by the police officials as early as on 23.05.2011 and 25.05.2011 respectively.

69. On coming to the instant case on hand, as already observed in the foregoing paragraphs, no adequate grounds are available to hold the first respondent Mr.S.Manoharan, Superintendent of Police, Kanchipuram Range, guilty under Section 12 of the Contempt of Courts Act, to say that he had flouted the Order of this Court on the ground and committed wilful disobedience.

70. With reference to enquiry conducted on 18.06.2011, based on the complaint dated 23.05.2011 and closure of the complaint on 19.08.2011, after getting legal opinion from the Assistant Director of Prosecution, Alandur, it necessitates for this Court to state that every information relating to the commission of a cognizable offence, if given orally to an officer-in-charge of a police station shall be reduced to writing by him or under his direction, and be read over to the informant and every such information, whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it and the substance thereof shall be entered in a book to be kept by such officer in such form as the state government may prescribe in this regard as contemplated under Section 154 (1) of the Code of Criminal Procedure.

71. With reference to the above context, reference to the decision in **State of Kerala vs. Samuel**, reported in **AIR 1961 Kerala Page 99** assumes importance. In this case, a

Full Bench of Kerala High Court headed by His Lordship The Honourable **MR. JUSTICE M.A.ANSARI**, the Chief Justice, as he then was, has very well explained the scope and applicability of the proviso to Sections 154, 162 and 173 Cr.P.C.,

72. The Full Bench has also defined as to what amounts to First Information Report and equally explained as to when an investigation starts. The Full Bench has observed as follows:

"Whether or not a particular statement would constitute the First Information Report in a case is a question of fact and would depend on the circumstances of that case. However it can be stated as a general principle that it is not every piece of information however vague, indefinite and unauthenticated. It may be, that should be recorded as the First Information Report for the sole reason that such information was the first, in point of time to be received by the police regarding the commission of an offence. On the other hand it is equally clear that to permit a preliminary enquiry before recording the First Information is to diminish if not destroy the value of the First Information Report itself."

"The report filed by the police amounted to a charge sheet and not First Information Report affording a starting point for a fresh investigation."

For coming to this conclusion, the Full Bench has referred to the decision reported in **H.N.Rishbud vs. State of Delhi**, reported in **AIR 1955 SC 196**.

73. Mr.Mohanavel, who had dealt with this case at first had supplied false information to this Court as if the case was registered earlier. He should have appraised the first respondent Superintendent of Police about the non-registration of the case. At least, he should have spoken the truth before this Court at the time of passing the Order dated 23.01.2012. He had not only furnished false information to this Court, but also failed to place correct information about the non-registration of the case before this Court.

74. Having regard to the facts stated herein above, this Court finds that the conduct of Mr.Mohanavel, former Inspector of Police attached to District Crime Branch, Kanchipuram Range as well as the present Inspector of Police Mr.N.Ramadoss, showed continued violation of the Order passed by this Court.

75. It may be more significant to note here that

Crime Branch, Kanchipuram Range alone has been impleaded as second respondent in this contempt petition. But, Mr. Mohanavel, former Inspector of Police attached to District Crime Branch, Kanchipuram Range, who himself has become the reason for filing this contempt petition has not been impleaded as one of the respondents.

76. In this regard, a question may also arise as to whether a person, who is not a party to the contempt petition could be found guilty and punished. By way of answer for this question, this Court would like to say that this Court being the Courts of record has been fully fortified to find him guilty and also to punish him under Article 215 of the Constitution of India.

77. Article 215 of the Constitution of India enacts as follows:

"215. High Courts to be courts of record.- Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself."

78. The Supreme Court and the High Courts in India are Courts of Record, and it is essential for the administration of justice and protection of individuals that they should be able to punish summarily acts of

contempt. This proposition of law has been laid down in ***The State vs. Editor etc.***, reported in ***AIR 1955 Ori 36 (para 7) : 1955 Cr.LJ 547 (DB)***.

79. As observed in ***Mohd. Ikram Hussain vs. State of U.P.***, reported in ***AIR 1964 SC 1625 (para 11) : (1964) 2 Cr LJ 590***, where a person wilfully disobeys an order from the High Court it is undoubtedly contempt of court. The powers of high Court for punishment of contempt have been preserved by the Constitution and they are also inherent in a Court of Record. The only curbs on the power of the High Court to punish for contempt of itself are contained in the Contempt of Courts Act.

80. On the above line, Dr.A.E.Chelliah, learned senior counsel, has also placed reliance upon the decision of the Division Bench of this Court in ***G.Rajaram v. T.K.Rajendran, I.P.S.***, reported in ***2010 (4) CTC 407***.

81. In this case, while speaking on behalf of the Division Bench of this Court, His Lordship ***The Honourable MR.JUSTICE D.MURUGESAN***, as he then was, has observed that the Court is empowered to proceed against the contemnor for civil and criminal contempt. There is also power to a Court of record to punish for contemnor in terms of Article 215 of the Constitution of India. High Courts are superior Courts of Record. They have inherent and plenary powers, independent of provisions of Contempt of Courts Act.

Article 215 does not restrict power of Court to impose punishment, which it considers to be appropriate.

82. Under Article 215 of Constitution, High Court can consider as to whether quantum of punishment and nature of orders by way of cost or compensation, could meet ends of justice. While awarding cost or compensation, Court should consider prejudice and hardship caused to complainant, due to act of contemnor. Such prejudice and hardship must be real and interference with administration of justice be substantial. Rule of law is a fundamental feature of constitution. Even a possible attempted interference with Courts of justice is a grave matter which demands proper consideration and action.

83. Keeping in view of the provisions of Article 215 of the Constitution of India and based on the guidelines given in the afore-cited decisions, this Court finds that though Mr.Mohanavel is not a party to the present contempt petition, this Court exercising it's nature of powers conferred under Article 215 of the Constitution of India, finds him guilty and accordingly he is liable to be punished.

84. Though Mr.Mohanavel, former Inspector of Police, attached to District Crime Branch, Kanchipuram Range and Mr.N.Ramadoss, present Inspector of Police, attached to District Crime Branch, Kanchipuram Range have tendered

apology, their apology is construed to be an act of contrition. In **C.Elumalai vs. A.G.L.Irudayaraj**, reported in **(2009) 4 SCC 213**, while sitting on behalf of the Division Bench of the Hon'ble Supreme Court of India, the Hon'ble **Dr.JUSTICE ARJIT PASAYAT** in paragraph No.5 has held as follows:

"5. 31. Apology is an act of contrition. Unless apology is offered at the earliest opportunity and in good grace, the apology is shorn of penitence and hence it is liable to be rejected. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment it ceases to be an apology and becomes an act of a cringing coward.

32. Apology is not a weapon of defence to purge the guilty of their offence, nor is it intended to operate as universal panacea, but is intended to be evidence of real contriteness. As was noted in **L.D.Jaikwal vs. State of U.P.** (SCC p.406, para 1)

We are sorry to say we cannot subscribe to the 'slap-say sorry-and forget' school of thought in administration of contempt jurisprudence. Saying 'sorry' does not make the slapper taken the slap smart

less upon the said hypocritical word being uttered. Apology shall not be paper apology and expression of sorrow should come from the hearty and not from the pen. For it is one thing to 'say' sorry-it is another to 'feel' sorry."

85. Considering the submissions made on behalf of both sides and on perusal of the Order of this Court dated 25.01.2012 and made in CrI.O.P.No.25046 of 2011 and the averments of the petition and other materials available on record, this Court is of view that Mr.Mohanavel, who is the former Inspector of Police, attached to the District Crime Branch, Kanchipuram Range and Mr.Ramadoss, who is presently functioning as the Inspector of Police, District Crime Branch, Kanchipuram Range have committed an offence of civil contempt.

86. The term 'Civil Contempt' has been defined under Section 2(b) of the Contempt of Courts Act, 1971. Civil contempt means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.

87. Before parting, this Court would like to quote the

following lamentation made by The Honourable MR.JUSTICE

H.SEMA, while writing the Judgment on behalf of the Division Bench of the Honourable Supreme Court of India in **Tarak Singh and another vs. Jyothi Basu and others**, reported in **(2005) 1 SCC 201 : AIR 2005 SC 338**:

"...like any other organ of the State, judiciary is also manned by human beings but the function of judiciary is distinctly different from other organs of the State in the sense its function is divine. Today, judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock at all the doors failed people approach the judiciary as the last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth. Because of the power he wields, a Judge is being judged with more stricter than others. Integrity is the hall-mark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that temple of justice do not crack from inside, which will lead to catastrophe in the justice delivery system resulting in the failure of Public Confidence in the system. We must remember that woodpeckers inside pose a larger threat than the storm outside."

88. Keeping in view of the above facts, this Court finds that Mr.Mohanavel, Inspector of Police, formerly attached to the District Crime Branch, Kanchipuram Range and Mr.N.Ramadoss, Inspector of Police, presently attached to the District Crime Branch, Kanchipuram District are found guilty under Section 12 of the Contempt of Courts Act, 1971. Because, they have not only caused prejudice to the petitioner being the complainant in this case and undermined the dignity and majesty of the High Court. Therefore, they are punished to pay a fine of Rs.1,000/- each and in default they shall be liable to undergo simple imprisonment for a period of fifteen days. The above fine amount shall be remitted to the Hon'ble Chief Justice's Relief Fund.

89. This Court also impose exemplary cost of Rs.10,000/- on each of them and they shall pay the amount by way of demand drafts to the petitioner on or before 07.01.2013 and they are also directed to produce the demand drafts each for the value of Rs.10,000/- before this Court at 10.30 a.m., on 07.01.2013 and the petitioner is also directed to appear in person and receive the demand drafts directly from the Court.

90. Accordingly, this contempt petition is allowed.
Consequently, connected miscellaneous petition is closed.

krk

SD/-
DEPUTY REGISTRAR (OS)

//Certified to be true copy//

Dated at Madras this the day of 2012.

COURT OFFICER (O.S.)

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