

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2019

CORAM:

**THE HON'BLE MR. JUSTICE P.N.PRAKASH
AND
THE HON'BLE MR. JUSTICE B.PUGALENDHI**

SUO MOTU CONTEMPT PTN. (MD) NO. 370 OF 2019

The Registrar (Judicial)
Madurai Bench of Madras High Court
Madurai.

.. Petitioner

- Vs -

Dr. G.Manoharan

.. Respondent

Suo Motu Contempt proceeding initiated against the
respondent/contemnor under Section 15 of the Contempt of Court Act.

For Petitioner : Mr. D.Sivaraman

For Respondent : Party-in-Person

ORDER

P.N.PRAKASH, J.

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For the sake of convenience, the actors in this legal play will be referred to
by their name.

2. The factual matrix of the case is as follows :-

2.1 One Anganan, a serving military personnel, had a civil dispute with Manoharan, and succeeded in the suit that was filed by him in the District Munsif Court, Srivilliputtur, on account of which, Manoharan became inimical to him.

2.2 On 05.03.2006, around 4.30 p.m., while Anganan and his wife were sitting on the pial of their house, it is alleged that Manoharan came there and berated them in choicest vulgar epithets and exposed his private part by untying the dhoti worn by him. When Anganan's daughter, Amarajothi came there, Manoharan tried to pull her hand, but, she escaped from him and ran for cover.

2.3 On these allegations, a police complaint was lodged by Anganan, based on which, a case in Amsapur Police Station Crime No.196/2006 for the offences u/s 341, 355 and 509 IPC r/w 3 & 4 of the Tamil Nadu Prohibition of Harassment of Women Act was registered against Manoharan.

2.4 After completing the investigation, the police filed final report in C.C. No.75 of 2009 before the Judicial Magistrate, Rajapalayam, for the said offences against Manoharan. Since Manoharan pleaded not guilty to the charges, a full-fledged trial was conducted in which the prosecution examined 7 witnesses and marked 4 exhibits. On behalf of Manoharan, one witness was examined and one document was marked.

2.5 After considering the evidence on record and hearing either side, Mr.K.Arunachalam, M.A., M.L., Judicial Magistrate, Rajapalayam, convicted Manoharan in C.C. No.75/2009 on 15.10.2012 u/s 341, 355 and 509 IPC r/w 3 & 4 of the Tamil Nadu Prohibition of Harassment of Women Act and sentenced him to undergo various terms of imprisonment, the maximum being three years rigorous imprisonment for the offence u/s 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

2.6 Challenging the conviction and sentence, Manoharan filed CrI.A. No. 150/2012 in the Court of Session, Virudhunagar @ Srivilliputtur and the same is still pending. While that being so, Manoharan filed CrI. O.P. (MD) SR No. 20561/2017 u/s 482 Cr.P.C. before the Madurai Bench of the Madras High Court for quashing the proceedings in CrI.A. No.150/2012 and C.C. No.75/2009. The petition was scrutinised by Mr.Ganesan, Appeal Examiner, Criminal Section, who felt that the petition was not maintainable. Therefore, he did not number the petition, but, posted it before the Court for deciding the issue of maintainability.

2.7 On coming to know of this, Manoharan sent a representation dated 03.08.2017 in Tamil to the Registrar (Judicial) with copies to the Hon'ble the President of India, the Prime Minister of India, the Chief Minister of Tamil Nadu

and the Chief Justice of Madras High Court. In that representation, he has called Mr.K.Arunachalam, Judicial Magistrate as "Bastard", who had killed fair justice. Further, he has also referred to Mr.Ganesan, Appeal Examiner, as "Fraud". Apart from this, the letter contains scurrilous and reckless allegations against Mr.K.Arunachalam, Judicial Magistrate, Mr.Ganesan, Appeal Examiner, President of India, *et al.* The free English translation of a portion of the communication is given below, which is self-explanatory :-

"The petition was returned on 24.07.2017 with a ulterior motive by Ganesan, questioning 'How this petition is maintainable for quash' and insisting to file the impugned order. to comply with the return properly and to explain to for re-presentation, Ganesan would not be present in the office most of the times, as he took leave on 31.07.2017 and 01.08.2017. On 02.08.2017, when he was explained orally as well as in writing as to 'How this petition is maintainable for quash' under the provisions of Section 482 (expressed provisions of law) [sic], he did not listen. No only advented new stories and found lapses but also threatened with the very same forged documents with which the bastard K.Arunachalam had written the judgment. Even after showing, the records which proved them as forged documents under Section 91 of Cr.P.C., he refused to look at it and he challenged that whatever petition I file, he would never number it and would return them all. Cr.P.C. does not allow anyone to curtail the rights of the accused. Who is he to curtail the right of the petitioner? Whether he has any legal knowledge to dispute the provisions of law and facts of the petition filed by the petitioner? Is he a Judge to decide the case? Let him shut

his mouth. Is he a Judge, after all he is a criminal agent and drawing wasteful salary."

(Emphasis supplied)

2.8 The Registrar (Judicial) placed this communication along with the petition in Crl. O.P. (MD) SR No.20561/2017 before Brother S.S.Sundar, J., for deciding the issue of maintainability. On 09.08.2017, Brother S.S.Sundar, J., directed the Registry to place the impugned letter dated 03.08.2017 before the Administrative Judge for appropriate action. The Administrative Judge directed the matter to be placed before the Hon'ble Chief Justice under Rule 8 of the Madras High Court Contempt of Court Rules for appropriate action.

2.9 The Hon'ble Chief Justice ordered initiation of criminal contempt action against Manoharan and the matter was placed before the learned Advocate General for consent u/s 15 of the Contempt of Courts Act. The office of the learned Advocate General numbered the case as Contempt Petition No. 10/2018 and after giving opportunity to Manoharan, by order dated 15.02.2019, gave consent u/s 15 of the Contempt of Courts Act for initiating criminal contempt action against Manoharan. Thereafter, the matter was listed before us since we hold the criminal contempt portfolio also.

3. We took cognizance and issued statutory notice to Manoharan on 22.03.2019. On 22.04.2019, Manoharan appeared before us. When we apprised him of his right to legal assistance, he stated that he does not require any legal assistance and that he himself would defend the case. To satisfy ourselves, we gave him the communication dated 03.08.17 and asked him whether he disowns it, for which, he stated clearly and categorically that he owns it. We furnished him with a copy of the order of initiating contempt proceedings, the consent letter dated 15.02.2019 passed by the learned Advocate General and the impugned letter dated 03.08.2017 that was sent by him to the Registry, inasmuch as those were the documents on the basis of which the contempt proceedings stood predicated. We adjourned the case to 24.04.2019. On 24.04.2019, Manoharan appeared. Since he did not dispute sending the impugned communication dated 03.08.2017, we framed the charge against him in Tamil, the free English translation of which is as under :-

"Against you G.Manoharan, the following charge is framed :-

In the case in C.C. No.75/2009, you were convicted by Thiru K.Arunachalam, M.A., M.L., Judicial Magistrate, Rajapalayam, under Sections 341, 355 and 509 IPC and sentenced. You have filed an appeal before the Sessions Court at Srivilliputtur in Crl.A. No.150/2012, which is pending and with regard to the same, you had filed Crl. O.P. (MD) SR No.20561 of 2017 before the High Court which was verified by Mr.Ganesan, Appeal Examiner who

found certain discrepancies and, therefore, the said petition was listed before the Hon'ble Judge for maintainability and you, in the letter dated 03.08.2017 addressed to this Court, have called Mr.K.Arunachalam, Judicial Magistrate a Bastard and Mr.Ganesan a Fraud. In this regard, the learned Advocate General of Tamil Nadu has given his consent vide order dated 15.2.2019 for initiating contempt action against you and, therefore, you have committed an offence punishable under Section 12 (1) of the Contempt of Courts Act for which the above charge is framed."

4. When questioned, he pleaded not guilty. He filed his response in the Registry, which was taken on record for perusal. Manoharan wanted a copy of the order dated 09.08.2017 passed by Brother S.S.Sundar, J. We furnished him with a copy of the said order as well and we adjourned the case to 26.04.2019 for his submissions.

5. On 26.04.2019, we heard Manoharan's arguments. He submitted five written submissions, all dated 22.4.2019 in Tamil. He also filed a typed set of papers containing irrelevant documents. In his oral submissions as well as in the written submissions, he did not show any iota of remorse or penitence for having called Mr.Arunachalam a "Bastard" and Mr.Ganesan a "Fraud". He sought to justify his act by contending that the learned Magistrate had colluded with

Anganan and convicted him (Manoharan) illegally. He submitted that u/s 13 (b) of the Contempt of Courts Act, truth is a valid defence. Therefore, he argued that great injustice was done to him by Mr.Arunachalam, Judicial Magistrate and Mr.Ganesan, Appeal Examiner.

6. Initially, we felt that Manoharan was giving vent to his frustration after having lost in the legal battle before the civil court and criminal court. Unfortunately, we were sadly mistaken because, Manoharan justified the abuses by contending that he had consciously used the expression "Bastard" in order to draw the attention of this Court to his plight. We reasoned it out with him by saying that, whatever injustice he feels he has suffered by the judgment of conviction passed by Mr.Arunachalam, the same could be rectified by the Appellate Court and the Revisional Court, if there was merit in his case. We further explained to him that after filing a regular criminal appeal in Crl.A. No.150 of 2012 before the Sessions Court, a further petition u/s 482 Cr.P.C., before the High Court for quashing the appellate proceedings that has been filed by him cannot be entertained and that is why Mr.Ganesan, Appeal Examiner, rightly did not number the petition, but, posted it for maintainability. We also told him that, if he had really wanted to draw the attention of the High Court to the so-called sufferings undergone by him, hurling nasty invectives at the trial Magistrate cannot be the route at all and the only way is to file a properly maintainable

petition. Our exhortation went in vain and Manoharan simply did not relent, but, continued to justify his action. When Manoharan realised that we were not convinced with his arguments, he changed track by contending that he has no ill-will towards Mr. Arunachalam and only for getting an opportunity to get a hearing in the High Court, he had used the foul word “bastard”. However, he was least apologetic and attempted to take us through the judgment of Mr. Arunachalam for picking holes in it. We told him that we are not hearing the appeal against the judgment of the Magistrate and it is only the Court of Session which can entertain the appeal thereagainst. We are unable to countenance his contention that he has no ill-will towards Mr. Arunachalam, because, in the impugned communication dated 03.08.2017, he has used the word “Bastard” not merely once, but, five times, while referring to Mr. Arunachalam. Similarly, he has employed abusive expressions against Mr. Ganesan, Appeal Examiner, at three places. Since he did not dispute the communication dated 03.08.2017 and owned it to be his, we have no other alternative but to convict Manoharan u/s 12 of the Contempt of Courts Act.

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7. As regards the sentence, when we questioned Manoharan, he stated that he is not guilty. He further made a strange request which indeed baffled us. He submitted that, in the event of this Court sentencing him to undergo imprisonment, some leniency may be shown to him qua the period of

imprisonment and that the Prison authorities may be directed to provide him milk and rice instead of onion, inasmuch as, even right from his childhood, he has not been taking onion. It is his further submission that if milk is not provided to him, he will suffer low blood pressure.

8. We bestowed our anxious consideration on the various facets of this case. The High Court has a solemn duty to protect and safeguard the judicial officers of the Subordinate Judiciary against such brazen attacks by disgruntled litigants. Our judicial set up is akin to a Hindu undivided joint family, where the the Kartha is the Supreme Court, the eldest brother is the High Court and the younger siblings are the Courts subordinate to the High Court. A clear message should go to one and all that the eldest brother will brook no such vituperative insult to their younger siblings and that the High Court will feel the pain of the hurt suffered by them. We will be showing misplaced sympathy if we treat elements like Manoharan with kid-gloves as that will embolden others to mount such attacks on defenceless subordinate judicial officers, who are not clothed with any power under the Contempt of Courts Act to rein in such attackers.

9. Section 13 (a) of the Contempt of Courts Act reads as under :-

"13. Contempts not punishable in certain cases.- Notwithstanding anything contained in any law for the time being in force, -

(a) no Court shall impose a sentence under this Act for a contempt of Court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice."

10. This Section cautions us not to sentence a contemnor unless the contempt is of such a nature that it substantially interferes or tends substantially to interfere with the due course of justice. In our view, calling a judicial officer "Bastard" would not only demoralise him, but indubitably interfere with the due course of justice by instilling fear in his mind. Once the emotion "fear" afflicts a judicial officer, he will not be able to discharge the onerous responsibility of administering justice. Honour is the bedrock of human life and if that is unjustly annihilated, what remains is only a living corpse. If a disgruntled litigant is allowed to go scot free even after he calling a Judicial Officer a "bastard", the Judicial Officer will not be able to command respect in his Court from litigants and other stakeholders. All this will hamper the administration of justice.

11. Likewise, the staff members of the Court are also not orphans, but, are an integral part of the Court system. The litigants should not think that whatever rubbish they dump in the Registry, has to be automatically registered

and posted before the Court. In the instant case, Mr. Ganesan, Appeal Examiner, was perfectly justified in not registering the petition filed by Manoharan. We would like to strike a note of caution that the High Court will not take such assaults on its staff members lying low.

12. For all the reasons aforesaid, we have no hesitation to sentence Manoharan to simple imprisonment for a period of three months and it is ordered accordingly. The Registry is directed to take Manoharan into custody and lodge him in the nearest Central Prison for serving the sentence. The Prison authorities may consider his dietary request and provide him milk and rice.

This *suo motu* contempt petition stands disposed of in the above terms.

(P.N.P.J.) (B.P.J.)

27.04.2019

Index : Yes / No

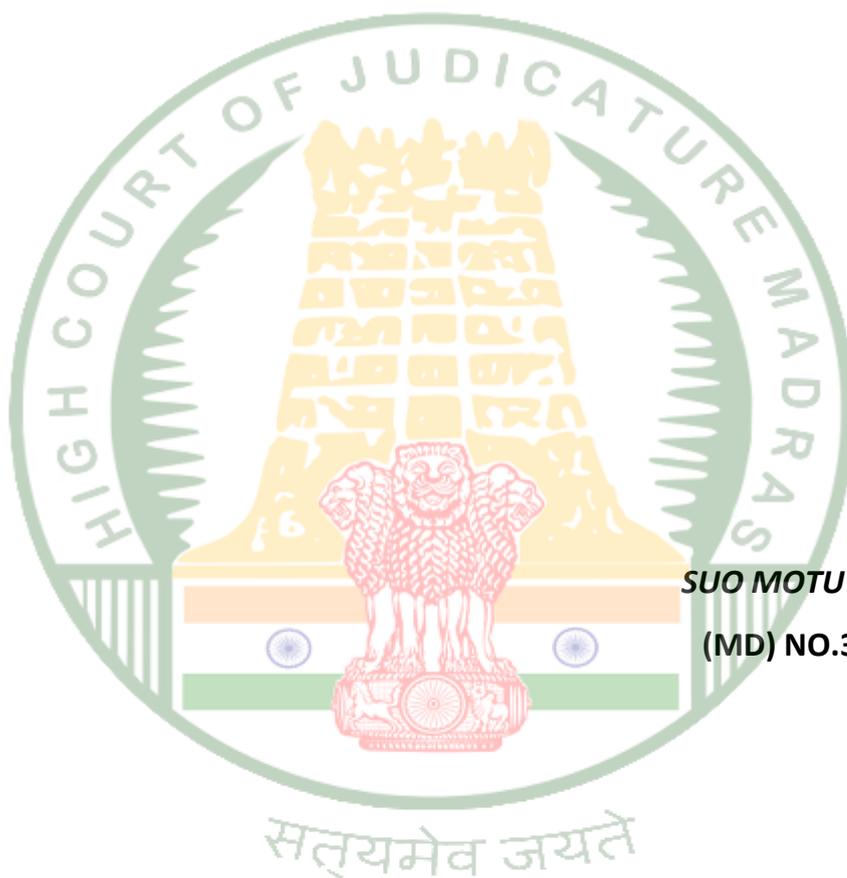
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P.N.PRAKASH, J.
AND
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