

APHC010244352023

IN THE HIGH COURT OF ANDHRA PRADESH



AT AMARAVATI

[3311]

(Special Original Jurisdiction)

Friday, the sixth day of March two thousand and twenty six

Present

The Honourable Ms. Justice B. S. Bhanumathi

Contempt Case No.2954 of 2023

Between:

Pasupuleti Vijaya Durga

...Petitioner

And

Md. Masthan Khan

...Contemnor

Counsel for the petitioner:

1. Bala Krishna Sastry

Counsel for the contemnor:

1. Y. Nagi Reddy

The Court made the following:

ORDER:

The contempt case is filed under Sections 10 to 12 of the Contempt of Courts Act, 1971, for violation of the order of this Court dated 11.04.2023 in I.A.No.01 of 2023 in CrI.P.No.2572 of 2023.

2. The case of the petitioner is, briefly, as follows:

a. The petitioner filed CrI.P.No.2572 of 2023 under Section 482 of Cr.P.C. to quash F.I.R. No.16 of 2023, dated 18.03.2023 on the file of Disha Women Police Station, Machilipatnam, Krishna District, registered against the petitioner and others for the offences under Sections 498-A, 324 and 506 read with 34 I.P.C. and Sections 3 and 4 of Dowry Prohibition Act, 1961, on the complaint lodged by the respondent No.3 therein and for other reliefs. Along with the main petition, the petitioner filed I.A.No.01 of 2023 to grant stay of all further proceedings in F.I.R.No.16 of 2023.

b. On 11.04.2023, this Court, after hearing the matter, granted interim stay for three weeks while giving liberty to the investigating officer to proceed with the investigation except filing charge sheet. A copy of the order was served on the respondent No.2 therein and also to the counsel for the petitioner and to the Assistant Public Prosecutor. The counsel for the petitioner took out personal service of notice to the respondent No.3 / *de facto* complainant through registered post with acknowledgment due, but she avoided to receive the notice by managing the postal authorities. The postal track consignment was filed before this Court in the criminal petition.

c. The respondent herein is the Sub-Inspector of Police, Disha Women Police Station, Machilipatnam, Krishna District and conducted investigation in this case. After dispatch of the order of this Court dated

11.04.2023 in I.A.No.01 of 2023, in spite of having knowledge of the order from the Assistant Public Prosecutor, who represented the respondent before this Court, intentionally filed the charge sheet in the crime before the Special Judicial First Class Magistrate (Prohibition & Excise) Court, Machilipatnam, Krishna District on 24.04.2023 while the order of stay was in force and got speedily numbered the charge sheet though several other charge sheets filed prior to 24.04.2023, were pending for scrutiny.

d. The charge sheet in the present case was numbered as C.C.No.402 of 2023 and summons were ordered to the petitioner and other accused on 27.04.2023. Thus, the respondent filed the charge sheet, by violating the order of stay passed by this Court with an intention to whittle down the spirit of the order and to obstruct the prospective order. Such conduct of the respondent amounts to interference of administrative jurisprudence, hence, this contempt case is filed.

3. The respondent filed a counter with the averments, briefly stated, as follows:

a. During the course of investigation in Crime No.16 of 2023, the Deputy Superintendent of Police, Disha Mahila Police Station, Machilipatnam, Krishna District, issued a memo vide C.No.16 / Disha Mahila PS, Kri., MTM/Cr.2023, dated 20.03.2023 directing the Assistant Sub-Inspector of Police with certain instructions to file charge sheet within seven days in this case. Accordingly, the Assistant Sub-Inspector of Police followed the instructions and secured the presence of A1 to A4 and caused service of notice under Section 41-A Cr.P.C. on 20.03.2023. Thereafter, the respondent took investigation in this case, verified the investigation done by previous officer and found it to be

correct. Therefore, the charge sheet dated 28.03.2023 was uploaded in CCTNS police website (portal) on the same day.

b. As seen from the case status of this High Court website, the petitioner / A4 appears to have filed a petition to quash F.I.R.No.16 of 2023 of this police station. The petition was filed without ascertaining from the investigating officer whether the charge sheet was filed or not, since the learned Assistant Public Prosecutor submitted that the investigation was still pending and charge sheet was yet to be filed and instructions were yet to be received.

c. After perusing the record, this Court ordered that in view of routine and casual allegations made against the petitioner, while making serious allegations, referring to the specific events against the husband of the *de facto* complainant i.e., A1, the matter is fit to grant a limited interim stay for three weeks, while giving liberty to the investigating officer to proceed with the investigation, except filing charge sheet and further directed issuance of notices to the respondents Nos.2 and 3 and posting the matter after three weeks. The petitioner had never informed about the order dated 11.04.2023 to the respondent or any officers subordinate to the respondent in the police station. As such, the respondent had no opportunity to know the order. The respondent came to know about the order through notice dated 15.07.2023 in the contempt proceedings vide tracking number RN654373713IN.

d. The order of this Court in the criminal petition was dispatched from the Special Cell, A.P. High Court on 17.04.2023 through R.P.A.D. vide tracking number RN416685508IN. It was received in the police station on 24.04.2023 at 5.10 P.M. The physical copy of the charge sheet was presented before the Special Judicial First Class Magistrate (Prohibition & Excise) Court, Machilipatnam, Krishna District, on the

same day at about 10.30 A.M. in public court by the concerned court constable.

e. As such, the respondent had no opportunity to implement the order of this Court. As the physical copy of the charge sheet was already filed in the morning before the Court, ball of the game lies in the Court of law. The charge sheet was numbered as C.C.No.402 of 2023. The respondent had never willfully and intentionally disobeyed the order of this Court. The respondent has great respect for the judiciary and the order of the High Court and the Apex Court.

f. The respondent tenders unconditional apology to the High Court and undertakes to be careful in future. The respondent seeks to be exonerated from the contempt proceedings by considering this case as a mistake of fact.

4. The petitioner filed a rejoinder affidavit with the averments, briefly stated, as follows:

a. There is no material placed by the respondent with regard to the memo vide C.No.16/Disha Mahila PS, Kri., MTM/Cr.2023, dated 20.03.2023 said to have been issued to file the charge sheet within seven days. If there is any such memo, it shows the influence made by the *de facto* complainant on the higher police officials. The respondent has not placed any material to show that the charge sheet was uploaded on 28.03.2023 in CCTNS police website (portal). Even after it is uploaded in police website, it does not have overriding effect on the order in I.A.No.01 of 2023 in the criminal petition. To file a petition to quash criminal proceedings, there is no condition precedent to in law to ascertain from the investigating officer whether the charge sheet is filed

or not. The adamant attitude of the respondent is clear from the averments in the counter.

b. The order, dated 11.04.2023, in I.A.No.01 of 2023 was passed in open Court after hearing the counsel for the petitioner and the learned Assistant Public Prosecutor who represents the respondent police. It is the duty of the Public Prosecutor to inform the order to the concerned police immediately. The said order was dispatched from the Section of this Court on 20.04.2023 through R.P.A.D.

5. In answer to the additional documents filed by the respondent, the petitioner filed an additional affidavit with the averments briefly stated as follows:

a. The respondent filed documents vide CCUSR.No.147974 of 2025 before this Court enclosing a copy of the screen shot from the computer as one of the material documents to show that the charge sheet was uploaded on 28.03.2023 in the website, but the document is not supported by any certificate as required under Section 65-B of Indian Evidence Act or Section 63(4) of Bharatiya Sakshya Adhinyam, 2023. Therefore, it has no legal validity to consider in evidence.

b. The respondent retired from service approximately four to six months after filing of the contempt case. Immediately after his retirement, all login credentials of the respondent would be defunct. The respondent failed to show how he got access to CCTNS website after his retirement to secure the copy of the said document. Even after receipt of the interim order in I.A.No.01 of 2023, the respondent failed to make any effort to inform the concerned Magistrate about the order of this Court with a request not to number the charge sheet. The office of the Public Prosecutor has to follow the guidelines of Directorate of Prosecution. It is the duty of the office of the Public Prosecutor to work

in close coordination with the police. It includes giving immediate feedback on the Court's directions or orders passed against or regarding the investigating agency and ensure that the order is communicated to the investigating officer for necessary action, if necessary, by passing message through wireless communication.

c. On the date of passing the order, the learned Assistant Public Prosecutor submitted to the Court that the investigation was still pending and charge sheet was yet to be filed and instructions were yet to be received. As per the Police Standing Orders No.726(3), the proceedings in the High Court should be communicated on time to the head of the department by the law officer in charge of the case so that the head of the department may, if necessary, depute a departmental officer to instruct the law officer suitably on departmental matters and also to the civil and criminal cases in the High Court.

d. As such, the respondent cannot escape by saying that he was unaware of the order of this Court. This amounts to disobedience of the order of this Court and cannot be spared as it would whittle down the spirit of the order. The counter of the respondent is silent as to whether he had received communication from the office of the Public Prosecutor of the High Court in this regard. The liberty given in the order to carry out investigation except filing charge sheet refers to except filing of charge sheet in Court and not with regard to uploading on any website of police.

6. The learned counsel for the petitioner contended that in spite of the order of this Court, the charge sheet was hurriedly laid before the Magistrate on the day of receipt of the order. The action of the respondent is contemptuous and moreover even after coming to know about the order on the same day or the next day, no action was taken to

report the order to the Court of Magistrate and therefore, the manner in which the events happened clearly indicate deliberate disobedience of the order of this Court.

7. The learned counsel for the respondent submitted that the charge sheet was prepared on 28.03.2023 itself and therefore, it is improper to contend that the respondent deliberately disobeyed the order of this Court and that since the charge sheet was filed before the Magistrate before receiving the copy of the order of this Court, there was no violation of the order of this Court. He further submitted that the respondent is offering unconditional apology, if this Court believes that there is violation of the order of this Court.

8. In reply, the learned counsel for the petitioner submitted that even if the charge was prepared well before the date of its filing, the same ought not to have been filed because the respondent would be informed by the concerned Public Prosecutor about the order passed by this Court as per the standard procedure being adopted in all Courts and that there is no denial that the order was not communicated by the Public Prosecutor concerned to the respondent through liaison.

9. Irrespective of the fact whether the charge sheet was prepared by 28.03.2023 itself or not, even according to the respondent, the copy of the order of this Court was received on 24.04.2023. The contention is just that the charge sheet was filed in the early hours of that day and subsequently, the copy of the order of this Court was received on the same day.

10. The respondent is absolutely silent as to what steps were immediately taken on receipt of the copy of the order. The respondent has not bothered to enquire whether the charge sheet was filed on that

day or not and if already filed, to inform the Magistrate about the order and, if required, to take back the charge sheet before its verification. There is no reason as to why the charge sheet was held up during the period from 28.03.2023 to 24.04.2023 even though it was said to be prepared as on 28.03.2023 and filed only on 24.04.2023.

11. A cumulative understanding of all the facts and circumstances stated by both the parties as noted above, it is obvious that the charge sheet was filed deliberately to flout the order of this Court. As such, it is a clear case of contempt of Court committed by the respondent and the apology, even if unconditional, is not acceptable.

12. Keeping in view the nature of the offence and in exercise of the powers conferred under the provisions of the Contempt of Courts Act, 1971, this Court allowed the Contempt Case and the Contemnor / respondent is sentenced to undergo simple imprisonment for one (1) week.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

B.S.BHANUMATHI, J

Dt.06.03.2026
NSM / RAR