Suo Motu Criminal Contempt Petition (MD)No.528 of 2020

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P.N.PRAKASH, J
AND
B.PUGALENDHI, J

ORDER

(Order of the Court was made by P.N.PRAKASH, J.)

Jayaraj and his son Bennicks were arrested in Sathankulam Police Station Crime No.312 of 2020, for the offences under Sections 188, 269, 294(b), 353 and 506(ii) of the Indian Penal Code and were remanded to judicial custody, where they died in quick succession on 22.06.2020 at the Government Hospital, Kovilpatti. In connection with this incident, this Court registered a *Suo Motu* Public Interest Litigation in *Suo Motu* Writ Petition (MD)No.7042 of 2020 and is monitoring it. Since the deaths were in custody, on the complaints lodged by the Prison Authorities, two cases, viz., Crime Nos.649 and 650 of 2020 have been registered by the Kovilpatti East Police Station and investigation is pending. The learned Judicial Magistrate No.1, Kovilpatti is conducting enquiry under Section 176(1)(1-A) of the Code of Criminal Procedure.

2. After the hearing in *Suo Motu* Public Interest Litigation was over today, the Registrar (Judicial), Madurai Bench of Madras High Court, received a report dated 29.06.2020 by e-mail from the learned Judicial Magistrate No.1, Kovilpatti. A reading of it clearly shows that the District Police Administration are doing everything within their command to prevent the learned Magistrate from proceeding with the enquiry. The report shows that Mr.D.Kumar, Additional Superintendent of Police, Tuticorin and Mr.C.Prathapan, Deputy Superintendent of Police, Tuticorin made themselves available in the Sathankulam Police Station and in their very presence, the other policemen were taking videos of the Magisterial proceedings. The policemen were not giving the records called for by the learned Magistrate and it is seen that one of them, viz., Maharajan, Police Constable, Sathankulam Police Station had made a very disparaging remark in Tamil "உன்னால ஒன்னும் புடுங்கமுடியாதுடா " to the learned Magistrate.

3. We are of the opinion that the report submitted by the learned Magistrate is sufficient for us to take cognizance of criminal contempt on our own motion under Section 15(1) r/w Section 2(c) of the Contempt of Courts Act, 1971, against (1) Mr.D.Kumar, Additional Superintendent of Police, Tuticorin; (2)Mr.C.Prathapan, Deputy Superintendent of Police, Tuticorin; and

(3) Mr.Maharajan, Police Constable, Sathankulam Police Station and accordingly, we direct the Registrar (Judicial) to first register a *Suo Motu* Criminal Contempt Case in the Sathankulam incident.

4. The Registry is directed to furnish a copy of the report of the learned Magistrate, dated 29.06.2020, to the learned Additional Advocate General, Madurai Bench of Madras High Court, through e-mail forthwith.

5. We are of the view that unless the State Government intervenes immediately to transfer the Additional Superintendent of Police, Tuticorin, Deputy Superintendent of Police, Tuticorin and other policemen in Sathankulam Police Station, it will be very difficult for a free and fair investigation and enquiry.

6. We direct the appearance of Mr.D.Kumar, Additional Superintendent of Police, Tuticorin; Mr.C.Prathapan, Deputy Superintendent of Police, Tuticorin; and Mr.Maharajan, Police Constable, Sathankulam Police Station, before us in person at **10.30 a.m. on 30.06.2020.**

7. The learned Additional Advocate General, Madurai Bench of Madras High Court, may also appear in person. The Range Deputy Inspector

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General of Police and the Superintendent of Police, Tuticorin District, shall accompany the learned Additional Advocate General.

8. The Registry is directed to send a copy of this order to the learned Additional Advocate General, Madurai Bench of Madras High Court and to the aforesaid persons.

9. Call on **30.06.2020.**