

(2012) 10 MAD CK 0082

In the Madras High Court

Case No : Suo Motu Contempt Petition No. 1438 of 2012 and W.P. No. 27632 of 2012

In Re: A. Venkatesan

Date of Decision : 30-10-2012

Acts Referred:

Citation : (2012) 10 MAD CK 0082

Hon'ble Judges : N. Paul Vasanthakumar, J;K.N. Basha, J

Bench : Division Bench

Advocate : A. Venkatesan, Contemnor appeared in person in Contempt Petition No. 1438 of 2012 and S. Ramasamy, for R. Girirajan in W.P. No. 27632 of 2012, for the Appellant; A. Navaneethakrishnan, Advocate General (for assisting the Court) in Contempt Petition No. 1438 of 2012 and W.P. No. 27632 of 2012, S. Venkatesh, Government Pleader assisted by V. Jayaprakash Narayanan, Special Government Pleader, C.T. Mohan and A. Venkatesan in W.P. No. 27632 of 2012, for the Respondent

Judgement

K.N. Basha, J.—Both the Suo Motu Contempt Petition and the writ petition are arising out of the same issue, namely, framing appropriate and necessary explicit strict guidelines to regulate the entry of government servants and also to the usage of Cell Phone or any other Digital or Electronic Device/Gadgets having audio/video recording capability in any mode, inside the Court halls and the Court premises, to be strictly implemented by the fifth respondent except further prayer in the writ petition to order independent probe by CBI on the representation given by the petitioner dated 6.10.2012 and to take appropriate and necessary action within a reasonable time to be fixed by this Court for the above said relief. In view of the same, both the petitions have been taken up together for hearing and passing this common order. On an earlier occasion, we have passed the order dated 4.10.2012 issuing notice to the contemnor one Mr. A. Venkatesan, S/o. T. Adikesavan, Assistant Section Officer, attached to Home (P&E) Department, Secretariat, Chennai, calling upon him to explain as to why action for Contempt of Court Proceedings could not be initiated against him on the ground that during the course of Court proceedings he had used his mobile phone bearing SIM Card No. 9894107692 for recording the Court proceedings.

The contents of the order passed by us on 4.10.2012 in the Suo Motu Contempt Proceedings are to be incorporated as hereunder:

2. On our enquiry, he has clearly admitted that he has started recording the Court proceedings in his mobile phone and stated that within a short time, it was noticed and seized by the Court staff. He has further stated that he has just come to the Court Hall for watching the proceedings and he was not summoned by the learned Government Pleader or the learned Public Prosecutor or any other Government Advocate to assist or instruct them. It is stated by him that he has come to the Court hall on his own only for the purpose of watching the proceedings. It is also admitted by him that he has not obtained permission/pass from the security authorities before entering into the Court premises. It is also stated by him that he has not obtained any written permission for attending the Court proceedings.

3. The learned Public Prosecutor also stated before us that neither the Office of the Public Prosecutor nor the Office of the Government Pleader has sent any instructions to the said person, namely, Venkatesan, to appear before the Court. The said person is not in a position to explain as to what purpose he has come to this Court today. It is seen that he was having a file with some blank papers as if he has come to the Court to give instructions to the learned Public Prosecutor or to the learned Government Pleader. The above said factors make it crystal clear that he appears to have interfered into the administration of justice during the Court proceedings. Hence, the said person, namely, Venkatesan, is hereby called upon to explain as to why action for Contempt of Court Proceedings could not be initiated against him.

4. The cell phone bearing SIM Card No. 9894107692 seized from the said person, namely, Venkatesam, is directed to be handed over to the Registrar General of this Court to retain until further orders.

2. Pursuant to the said order, the Contemnor, namely, Mr. A. Venkatesan, filed an affidavit of tendering apology before this Court which reads as follows:

Affidavit Tendering Apology

I, A. Venkatesan, Male aged about 41 years, S/o. T. Adikesavan, working as Assistant Section Officer in the Home, Prohibition and Excise (XIV) Department, Secretariat, Chennai, do solemnly affirm as hereunder:

I am most humbly submit that, I came to the Court hall for watching the proceedings and I was not summoned by the learned Government Pleader or learned Public Prosecutor or any other Government Advocate to assist or instruct to them. I came to the Court Hall on my own to watch the proceedings without getting any permission from my office. This is the first time., I have entered in the Court Hall and I am not aware of the Court procedures. Out of curiosity without any intention or motive I recorded the Court proceedings innocently with my cell phone.

(2) I humbly submit that I have joined the service only two years back, and I have to look after my aged father and mother, wife and two small daughters. I am the only bread winner of the whole family.

(3) I am to submit that I was not aware that I should not bring cell phone in the Court Hall and use the same. I have not used the cell phone intentionally, wantonly and deliberately. I have no intention whatsoever manner to interfere in the administration of Justice during the Court Proceedings. I, therefore, beg this Honourable Court to sympathetically pardon me and drop further action.

(4) I most respectfully submit that such mistakes will not be committed by me and once again tender my apology for committing the above mistakes considering my family circumstances and I request that I may be pardoned.

3. However, we have requested Mr. A. Navaneethakrishnan, learned Advocate General, to assist the Court in this matter in order to regulate the entry of government officials, who are visiting the High Court for official and other purposes as per the order dated 8.10.2012 and the matter was posted on 12.10.2012.

4. In the meanwhile, the writ petition in W.P. No. 27632 of 2012 was filed by Mr. V. Arun, Advocate, with the above said prayer, which was also ordered to be posted before this specially constituted bench.

5. On 12.10.2012, the learned Advocate General obtained time for getting appropriate instructions from the Government.

6. Today the learned Advocate General produced the official communication of the Chief Secretary to Government in Letter (Ms) No. 151/A1 of 2012, dated 25.10.2012, wherein, the Government has stipulated certain guidelines in respect of the visit of the Government officials inside the Court premises while attending the Court proceedings. The contents of the above said communication dated 25.10.2012 stipulating guidelines read thus,

As per the direction of the Hon''ble High Court of Madras in the above writ petition, the following guidelines are issued to the Government Officials while attending the Court proceedings:

(a) No Government Official should enter into Court Halls for attending the Court Proceedings without the specific direction of the authority concerned and the specific permission of the learned Advocate General of Tamil Nadu/learned Additional Advocate General/Government Pleader/Public Prosecutor/Special Government Pleader/Additional Government Pleader/Additional Public Prosecutor/Government Advocates/Government Advocates (Criminal side). The direction of the Government official superior shall ordinarily be in writing. Oral direction to the subordinates shall be avoided to those who attending the Court Proceedings.

(b) During the Court hours, in the emergency, the Government Officials should get permission from the Manager of the Advocate General/Additional Advocate

General/Government Pleader/Public Prosecutor before entering in the Court halls.

(c) The Government Officials should not enter into the Court Hall with Cell phone or any other Digital or Electronic Devices/Gadgets having audio/video recording capability in any mode and should not take Court proceedings by audio/video/photo or any other means.

(d) As and when the Government records are required by the Law Officers concerned for perusal, the Government Officials should produce the same as per the instructions in force.

(e) The Government Officials should possess identity card with them while attending the Court proceedings.

2. If any Government Official fails to follow the above instructions, severe disciplinary action will be taken against them by the authority concerned for violation of respective Conduct Rules.

7. We are of the considered view that apart from the above said guidelines, in guideline (e), the Government officials apart from the possession of the Identify Card, shall also obtain entry pass from the security personnel of the High Court to enter into the Court premises and thereafter, they have to obtain pass from the respective Law Officers, namely, learned Advocate General of Tamil Nadu/ Additional Advocate General/Government Pleader/Public Prosecutor/Special Government Pleader/ Additional Government Pleader/Additional Public Prosecutor/ Government Advocate/ Government Advocate (Criminal side) or from the Manager of the respective offices.

8. In respect of the entry pass to be issued by the Security personnel for entering into the High Court premises, the Registry of this Court has already issued Notification No. 231 of 2011 dated 7.10.2011 and the relevant Clauses (2) to (5) read as follows:

(2) Litigant public will be allowed entry only on production of valid pass issued at the Reception Counter.

(3) Reception counters manned by the Registry will be established at this entry (Adjacent to the compound wall of the Additional Law Chambers and adjacent to the open area beyond the Fire Service Station).

(4) All public/litigants wanting to enter the High Court campus and other Courts will be issued with Entry Pass only on production of valid documents.

Proof of identify (Driving Licence, Ration Card, Voter ID, PAN Card, Passport, etc.,)

Identification Letters from the Advocates seeking entry of the litigants public at the Reception counter.

(5) After obtaining the passes, the public/litigants will be subjected to thorough frisking by Police (Women Police will frisk women in earmarked booths) and will

be permitted to enter through the DFMDs installed.

9. The above said guidelines issued by this Court in Notification No. 231 of 2011 dated 7.10.2011 are applicable to the government officials also and the Government officials shall scrupulously follow the above guidelines issued by this Court.

10. It is made clear that it is the responsibility of the Assistant Commissioner of Police, who is in-charge of the security arrangements of the High Court premises, to ensure that the Government officials are strictly following the above said guidelines before entering into the High Court premises and if any dereliction and violation of the said guidelines is noticed, the same will be viewed seriously.

11. Now coming to the proceedings initiated against Mr. A. Venkatesan, S/o. T. Adikesavan, Assistant Section Officer, attached to Home (P&E) Department, Secretariat, Chennai, we accept the tendering of apology, as incorporated in the earlier portion of this order. It is also brought to our notice by the learned Advocate General that already a charge memo dated 6.10.2012 in Letter No. 5/H, P & EI (OP)/2012-12 was issued against the contemnor as per Rule 17-B of Tamil Nadu Civil Service (Discipline and Appeal) Rules by the Deputy Secretary to the Government.

12. At this stage, we are constrained to state that the Government has formulated certain guidelines and restrictions for the entry of the Government officials only as per the proceedings dated 25.10.2012, as stated above. Apart from the said factor, it is also seen that the said contemnor Mr. A. Venkatesan, is in service only for the past 2 1/2 years; and he is aged about 41 years and it is brought to the notice of this Court that he has not been issued with any other charge memo or implicated in any other proceedings. It is also stated by him that he is the sole bread-winner of the family and he has to take care of his aged parents (father and mother) apart from his wife and two small daughters. Considering all these factors, we are of the considered view that the Government shall drop the proceedings initiated against Mr. A. Venkatesan, S/o. T. Adikesavan, Assistant Section Officer, attached to Home (P&E) Department, Secretariat, Chennai, as per charge memo dated 6.10.2012 in Letter No. 5/H. P & E I (OP)/2012-12.

13. In view of the order passed in the Suo Motu Contempt Proceedings, we are of the view that no further order is required in respect of the writ petition filed by Mr. V. Arun, a practicing lawyer and former Additional Government Pleader of this Court, and we are also of the considered view that there is no ground made out for ordering enquiry by Central Bureau of Investigation (CBI) in this matter. Both the petitions are disposed of accordingly. The cell phone already seized from Mr. A. Venkatesan, and kept under the custody of the Registrar General is directed to be returned to Mr. A. Venkatesan, S/o. T. Adikesavan, Assistant Section Officer, attached to Home (P&E) Department, Secretariat, Chennai, after deleting the clippings recorded by him during the Court proceedings, in the presence of the

registry officials on 1.11.2012.

Petitions disposed of.