

BEFORE THE ADVOCATE GENERAL OF TAMIL NADU
MADRAS HIGH COURT
CHENNAI

Contempt Petition No. of 2021

S.Doraisamy,
Advocate,

.. PETITIONER

/VERSUS/

S.Gurumurthy,
Editor,
Thuglak Tamil Magazine,

.. CONTEMNOR

AFFIDAVIT OF THE PETITIONER

I, S.Doraisamy,

, do hereby solemnly affirm and sincerely state as follows:

1. I am the petitioner herein and as such I am well acquainted with the facts of the case.

2. I am a practising advocate of this Hon'ble Court having 51 years of continuous practice. I am filing this petition seeking the permission from the Learned Advocate General of Tamil Nadu as required under section of 15(b) of the Contempt of Courts Act, 1971 to take contempt proceedings against one S.Gurumurthy also known as ThuglakGurumurthy (the editor of the tamil weekly magazine Thuglak), the contemnor herein for initiating criminal contempt against S.Gurumurthy for making scandalises speech lowering the honesty of High Court Judges, thereby undermining people's confidence in administration of justice and bring the High Court into disrepute and disrespect, which amounts to criminal contempt.

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3. I state that the contemnor S.Gurumurthy in a public meeting viz. Thuglak Anniversary 2021 dated 14.01.2021 made a speech about the Hon'ble Supreme Court Judges and the Hon'ble High Court Judges which read as follows:

**காரணம்என்னவென்றால்நீதிமன்றத்துலஇருக்கறநீதிபதிகள்,
உச்சநீதிமன்றத்தில்இருக்கிறநீதிபதிகள்எல்லோரும்அரசியல்வாதிக
ளால்நியமிக்கப்பட்டவர்கள்.
யாரோடையோயார்மூலமாபோயியார்காலையோபுடிச்சிதான்நீதிபதி
கள்பலபேர்வந்திருக்கிறார்கள்.இன்றைக்குநாம்மிகவும்வருத்தப்பட
வேண்டியவிஷயம். தகுதியின்அடிப்படையில்நீதிபதிகள்வந்தால்,
இந்தமாதிரிஒருநிலைமைஇருக்காது.**

Thus the contemnor spoke that the most of the Judges are dishonest and meritless and obtained the post of the High Court Judge by falling in the legs of politicians. I state that it is a false scandalises dishonest speech of the contemnor, thereby lowering the honesty of the High Court judges and interfering with the administration of justice and hence he is liable to be punished for making a contemptuous speech under section 2(c) of the Contempt of Courts Act.

4.I state that though the contemnor made a speech on 14.01.2021, it is a pity, the Advocate General had not moved any contempt petition against the contemnor till date. I state that the former Judge of this Hon'ble Court viz. Justice Karnan make a defamatory statement against the Hon'ble Judges. The police registered a case against him and he was arrested and put him behind the bars. But the Government of Tamil Nadu is very reluctant to take action against S.Gurumurthy, since he happened to be a strong man in BJP. The ruling AIADMK Party is afraid of the contemnor S.Gurumurthy since the contemnor is a sympathiser of RSS (*Rashtriya Swayamsevak Sangh*) and political advisor to the BJP (*Bharatiya Janata Party*). Since I am very much interested in up keeping the majesty of the judiciary,I am seeking the consentin writing of the Advocate General u/s 15(b)

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of the Contempt of Courts Act to file a criminal contempt against the contemnor before the Hon'ble Madras High Court.

5. I state that S.Gurumurthy is a habitual contemnor. In a similar circumstances two years back he made a tweet in his twitter account, a scandalises allegations against Delhi High Court Judge, Justice S.Muralidharforreleasing rights activists Gautam Navlakha from house arrest in the Bhima Koregaon violence case. The Division Bench of the Delhi High Court initiated contempt proceedings against the present contemnor S.Gurumurthy. Since he made an unconditional apology he was let off and the contempt petition was closed.

6.In the above case, the Delhi High Court, Justice Bhampani observed that "a bell cannot be unrung, if it was something which one had said to his friend over drinks it would be different". But to put the question on a public platform may be the problem is that of the medium - a person such as him should have been careful misinformation darks across the globe in a jiffy.I state that when the contemnor S.Gurumurthy made the above speech whether he was in a drunken mood or not. However he ought to have been very careful in making the public speech.But his intention wasto defame the High Court Judges since he feelsthat he is above the law since he happened to be a strong man in the BJP and no power in the earth can question him. Further the Delhi High Court observed in the words of Justice Siscani "you cannot throw the ink and then walk away". Hence the contemnor should be dealt with in accordance with the law and no lenient views should be taken since the contemnor is habitual offender in making scurrilous attack on the High Court judges.

7. I state that according to the contemnor, most of the High Court Judges are meritless and were appointed as a judge by illegal method. It is a false and frivolous statement against the Judges. Almost all the judges of the Madras High Court are appointed considering their own merit only. Their names were

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chosen by the collegium of the Madras High Court and it is forwarded to the Supreme Court Collegium and then their names are forwarded to the Law Ministry. The Law Ministry forward the name to the Intelligent Bureau, then the Intelligent Bureau make a thorough investigation into the honesty and merits of each candidates and if in the report it is found that a candidate is not meritless, his name will be returned to the Supreme Court Colleageums. After the collegiums system had come in, the constitutional requirement of "in consultation with the Government has given a go buy" and the consultation is only a formal. Thus there is no chance for any politician to interfere with the appointment of the High Court Judges and only meritorious persons with the integrity are chosen as High Court Judges.

8.It seems the contemnor S.Gurumurthy is thinking of Mr.Justice Ramachandra Iyer who belongs to the community of contemnor S.Gurumurthy.Some six decades back i.e. in the year 1961 Justice Ramachandra Iyercommitted a fraud by giving a false date of birth to continue in the office for some more years even after crossing the superannuation date and it was found out by one of the advocate of the Madras High Court that Justice Ramachandra Iyerhas given his age as younger than his younger brother. After the fraud committed by RamachadraIyer was brought out the writ petition was filed by Mr.Vasanthabai advocate, Justice Ramachandra Iyer simply went away. I think the contemnor had Ramachandra Iyer in his mind and criticize the present High Court judges. I state that all the Hon'ble Judges of Madras High Court are meritorious persons, and they can deal with any branch of law so easily.

9.I state that the contemnor cannot be let out by simply accepting the unconditional apology, since it is not a first time he made such a speech.The intention of the contemnor is deliberate and to throw mud on the High Court. I state thatin one of the earliest legal pronouncements dealing with the

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subject, Justice Wilmot in Rex v. Almon (1765) Wilmot's Notes, 243 explained the philosophy behind the power to punish for contempt of court. The passage now a classic exposition runs as follows: "And whenever men's allegiance to the law is so fundamentally shaken, it is the most fatal and most dangerous obstruction of justice and in my opinion calls out for a more rapid and immediate redress than any obstruction whatsoever, not for the sake of the Judges as private individuals but because they are the channels by which the King's justice is conveyed to the people"

10. I state that justice Douglas in his pronouncements dealing with the subject "The law of contempt is not made for the protection of judges who may be sensitive to the winds of public opinion. Judges are supposed to be men of fortitude, able to thrive in a hardy climate." [Douglas, J., Craig v. Harney, 331 US 367, 376 (1947)].

11. In Helmore v. Smith, (1887) 35 Ch D 449, 455 "The object of the discipline enforced by the Court in case of contempt of Court is not to vindicate the dignity of the Court or the person of the Judge, but to prevent undue interference with the administration of justice." [Bowen, L.J.]

12. It seems the contemnor S.Gurumurthy thinks that he can make any kind of defamatory speech against the High Court Judges and if any contempt proceedings is initiated he can be let off by making an unconditional apology. Since the contemnor made the above speech which was a written speech with planned intention to defame the Hon'ble Judges knowing full well that the defamatory statement made by him is not correct and hence he is liable to be punished for maximum punishment of imprisonment for a period of six months with fine.

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13. Hence the Learned Advocate General may give his written consent as provided u/s 15(1)(b) of the Contempt of Courts Act, 1971 to file a contempt application against the respondent S.Gurumurthy.

In such circumstances it is prayed that the Hon'ble Advocate General may be pleased to grant written consent u/s 15(1)(b) of the Contempt of Courts Act, 1971 to file a criminal contempt against the respondent before the Hon'ble Madras High Court and pass such further or other orders and thus render justice.

Solemnly affirmed at Chennai X
this the 17th day of January X
2021, and signed his name X
in my presence. X

BEFORE ME,

ADVOCATE : CHENNAI

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