

Cont.P. No.1135 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON: 08.03.2022

PRONOUNCED ON: 11.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Contempt Petition No.1135 of 2020 & Sub Application No.430 of 2020

Sivakumar

Petitioner

vs.

A. Radhakrishnan

Respondent

Contempt Petition filed under Section 15 of the Contempt of Courts Act, 1971, to prosecute the respondent for his illegal activities.

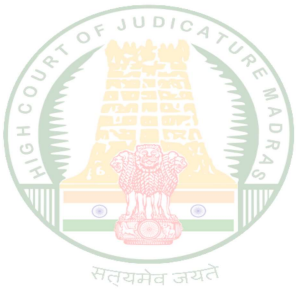
For petitioner Mr. E. J. Ayyappan

For respondent Mr. R. Marudhachalamurthy

ORDER

P.N.PRAKASH, J.

This contempt petition has been filed seeking to prosecute the respondent for his alleged illegal activities.



Cont.P. No.1135 of 2020

2 The brief facts of the case are as under:

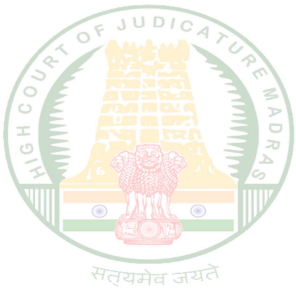
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2.1 The petitioner filed an application being Contempt Petition No.7 of 2019 under Section 15(1)(a) of the Contempt of Courts Act before the learned Advocate General alleging that the respondent has committed several acts of criminal contempt and prayed for a reference under Section 14 of the Contempt of Courts Act.

2.2 The learned Advocate General, after hearing both sides, by order dated 31.10.2019 in Contempt Petition No.7 of 2019, granted consent for pursuing criminal contempt proceedings against the respondent.

2.3 Thereafter, the matter was listed before this Court and this Court ordered statutory notice to the respondent. On the appearance of the respondent, he was furnished with the copies of the affidavit of the petitioner and a typed set containing all the relied upon documents, including the consent order dated 31.10.2019 of the learned Advocate General.

2.4 After poring over the records, this Court framed the following charges against the respondent on 05.10.2021.



Cont.P. No.1135 of 2020

CHARGES

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"1. That, you, A.Radhakrishnan s/o.Arumugam filed the following cases in the High Court, wherein, you have given a false address as your address viz., Allikuttai Post, Salem District, whereas your Aadhar Card No.8135 2177 8318 shows your address as No.1, Pannaiyar Subbarayan Street, Kannakurichi, Salem – 636 008 and thereby, you are charged for the above said act, under Section 2(c)(iii) of the Contempt of Courts Act, 1971, which is punishable under Section 12 of the Contempt of Courts Act, 1971:

- | | |
|-------------------------|---|
| (a) W.P.No.1421 of 2015 | : Pg.No.46 of the typed set of papers; |
| (b) W.P.No.1625 of 2015 | : Pg.No.89 of the typed set of papers; |
| (c) W.P.No.2791 of 2015 | : Pg.No.67 of the typed set of papers; |
| (d) W.P.No.3481 of 2015 | : Pg.No.60 of the typed set of papers; |
| (e) W.P.No.8898 of 2015 | : Pg.No.75 of the typed set of papers; |
| (d) W.P.No.3923 of 2017 | : Pg.No.149 of the typed set of papers. |

What do you say?

2. That, you, A.Radhakrishnan s/o.Arumugam filed the following cases in the High Court, wherein, you have stated in your affidavit that you are the trustee of Arulmighu Sugavaneshwarar Thirukoil, Salem, which is not true and thereby, you are charged for the above said act, under Section 2(c)(iii) of the Contempt of Court Act, 1971, which is punishable under Section 12 of the Contempt of Courts Act, 1971:

- | | |
|--------------------------|--|
| (a) W.P.No.34516 of 2014 | : Pg.No.54 of the typed set of papers; |
| (b) W.P.No.29118 of 2016 | : Pg.No.174 of the typed set of papers; |
| (c) W.P.No.29121 of 2016 | : Pg.No.131 at 132 of the typed set of papers; |
| (d) W.P.No.36767 of 2016 | : Pg.No.137 at 139 of the typed set of papers; |
| (e) W.P.No.3923 of 2017 | : Pg.No.149 at 150 of the typed set of papers. |



Cont.P. No.1135 of 2020

WEB COPY

What do you say?

3. That, you, A.Radhakrishnan s/o.Arumugam filed the following case in the High Court wherein you have stated in your affidavit that you are the trustee of Arulmighu Kamanatheeshvarar Temple, Attur Taluk, Salem District, which is not true and thereby, you are charged for the above said act, under Section 2(c)(iii) of the Contempt of Court Act, 1971, which is punishable under Section 12 of the Contempt of Courts Act, 1971:

W.P.No.4359 of 2019 : Pg.No.153 at 154 of the typed set of papers.

What do you say?

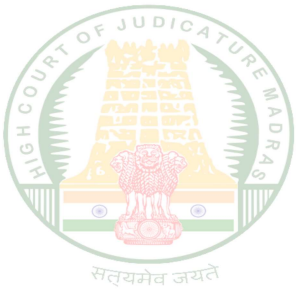
4. That, you, A.Radhakrishnan s/o.Arumugam filed the following case in the High Court wherein you have stated in your affidavit that you are one of the trustees of Sakthi Vinayagar Temple, Krishnagiri, which is not true and thereby, you are charged for the above said act, under Section 2(c)(iii) of the Contempt of Court Act, 1971, which is punishable under Section 12 of the Contempt of Courts Act, 1971:

W.P.No.5748 of 2017 : Pg.No.161 at 162 of the typed set of papers.

What do you say? "

2.5 When the respondent was questioned on each charge in the presence of his counsel Mr. R. Marudhachalamurthy, he pleaded not guilty. He was given time to file his affidavit in response to the charges that were framed against him and accordingly, he filed an affidavit dated 14.12.2021 giving his explanation for the aforesaid charges.

3 Before advertng to the charges and the explanation given by the respondent, it may be necessary to state certain facts.



Cont.P. No.1135 of 2020

3.1 Overwhelming records produced by the petitioner show that the

respondent is in the habit of claiming himself to be the Trustee of some temples, on the strength of which, used to address representations to various Departments alleging that the lands of those temples have been encroached, with a prayer for removal of such encroachments and following them up by filing public interest litigations in the High Court against only the Government officials without including the alleged encroachers and praying for writs of mandamus to the authorities for the removal of the alleged encroachments.

3.2 We also find yet another *modus operandi* that has been adopted by the respondent. In a particular case, he has addressed a representation dated 03.01.2011 to the Hon'ble Chief Justice of the Madras High Court alleging that some persons have encroached the lands of Arulmigu Kothandarama Swamy Temple in Salem and asking for action to be taken against them. As was the practice that was obtaining then, the said representation was forwarded by the Private Secretary to the Hon'ble Chief Justice, to the District Collector, Salem, for necessary action. On receiving a copy of the forwarding letter from the Chief Justice's secretariat, the



respondent would approach the authorities and make it appear as if the High

WEB COURT is monitoring the matter.

3.3 In page 270 of the typed set of papers, the criminal cases disposed and pending against the respondent have been catalogued which is profitably extracted hereunder:

S.No.	Cr.No. & Offence	Date of occurrence/Regn.	Complainant	Name of the accused	Status of the case
1	Veeranam C4 P.S. Cr. No. 318/2003 u/s 147,341,323,354,506 (II) IPC	05.05.2003 08.05.2003	Saroja (51) W/o Annamalai Allikuttai	Radhakrishnan S/o Arumugam Allikuttai & 16 others	Acquittal u/s 248(1) Cr.P.C. at JM No.IV Salem on 17.06.2005 in C.C. No.406/2003
2	Veeranam C4 P.S.Cr. No.719/2003 u/s 447,294(b) & 506(II) IPC	11.12.2003 12.12.2003	Vadivelu S/o Veerappa Gounder	Radhakrishnan, Allikuttai Boopathi, Allikuttai	Acquittal u/s 248(1) Cr.P.C. at JM No.IV, Salem on 12.02.2007 in C.C. No.166/2004
3	Veeranam C4 P.S. Cr.No.722/2003 u/s 447,294(b) & 506(II) IPC	2003	Not known	Radhakrishnan	Not known
4	Veeranam C4 P.S. Cr.No.726/2003 u/s 294(b), 447 & 506(II) IPC	18.12.2003 19.12.2003	Annamalai S/o Pappen Chettiar 356-B Allikuttai	1. Radhakrishnan S/o Arumugam, Allikuttai 2. Velu @ Vadivelu S/o Ponkali Gounder	Acquittal u/s 248(1) Cr.P.C. at JM No.IV, Salem, on 03.01.2007 in C.C. No.167/2004
5	Veeranam C4 P.S. Cr.No.22/2003 u/s 341, 420, 387 (ii) IPC	14.12.2003 16.12.2003	Auto Manickam @ Ramasamy (40) S/o Pachudaiyar 3/48 Vaikkal Pattarai	1. Radhakrishnan S/o Arumugam, Allikuttai 2. Anbu, Allikuttai 3. Devaraj Karattukadu 4. Maveeran, Ammamet	Acquittal u/s 235(1) Cr.P.C. at AASJ, Salem, on 03.02.2007 in S.C.No.08/2006

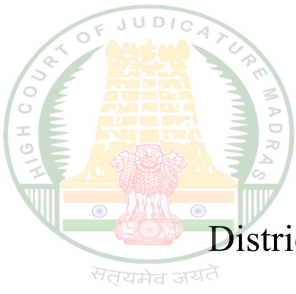


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S.No.	Cr.No. & Offence	Date of occurrence/Regn.	Complainant	Name of the accused	Status of the case
6	Salem Town P.S. Cr.No.1584/2009 u/s 341,294(b) & 323 IPC	2009	--	Radhakrishnan & Others	Not known
7	Salem Town B1 P.S.Cr.No.33/2017 u/s 294(b) & 353 IPC	06.02.2017 @ 16.30 hrs. 07.02.2017 @ 13.30 hrs.	Uma Devi (41) (Public Servant) W/o Hariharan ATC Nagar Alagapuram Pudur, Salem	Radhakrishan Allikuttai, Salem	PT (Pending Trial)
8	Tharamangalam P.S. Cr.No.574/2018 u/s 294(b), 323 & 506(I) IPC	24.09.2018	Kaveri	1. Radhakrishnan 2. Mariappan 3. Manikandan 4. Thangaraj	PT (Pending Trial)

3.4 Notwithstanding the above, page 271 of the typed set of papers shows that the Veeranam police had opened a history sheet earlier for the respondent and intelligence gathered by the police shows that the respondent used to collect money by giving false promises to old people that he would get them pension amount.

4 Now, let us examine the charges against the respondent and his explanation for the same. Though the respondent has filed many a public interest litigation, we confine ourselves only to those writ petitions in charge no.1, wherein, he has given his address as Allikuttai Post, Salem



Cont.P. No.1135 of 2020

District, whereas, his Aadhaar Card shows that his address is No.1,

Pannaiyar Subbarayan Street, Kannankurichi, Salem. For charge no.1, the

respondent's explanation is as follows:

“4. In respect of the 1st charge is concerned, I have given false address in my writ petitions, viz., (a) W.P. No.1421 of 2015, (b) W.P. No.1625 of 2015; (c) W.P. No.2791 of 2015; (d) W.P. No.3481 of 2015; (e) W.P.No.8898 of 2015; and (f) W.P.No.3923 of 2017 and thereby I was charged under Section 2(c)(iii) of the Contempt of Courts Act, 1971, which is punishable under Section 12 of the Contempt of Courts Act, 1971, for which I was advised to submit that I born and brought up at the place of Allikuttai, Salem and reside in the same place up to the year 2003, up to my age of 25, because of which, everyone in that locality would call me as Allikuttai Radhakrishnan. Even though I shifted to the present address mentioned in the Aadhar in the year of 2004, any correspondence via post or any other mode mentioned as A. Radhakrishnan, Allikuttai Post, Salem will reach me. Moreover, because of my birth and native place as a sentimental value, I used the same in the petition and moreover the distance between Allikuttai to Kannankurichi just 15 minutes far away. I have not furnished any false address and furthermore by mentioning my birth/native address in the petitions, which is just 15 minutes far away from my present address, with great respect, I have not “interferes or tends to interfere with, or obstructs, or tends to obstructs, the administration of justice any other manner”, and the same can evident from the orders passed by this Hon'ble Court in the above W.Ps. which are enclosed along with this affidavit.”

5 Thus, a reading of the above explanation shows that the respondent was not residing in Allikuttai Village when he filed the above



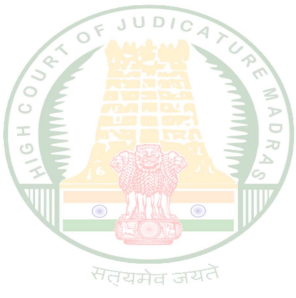
Cont.P. No.1135 of 2020

writ petitions, but was living in Kannankurichi Village. According to him,

both the villages are proximate to each other and since he was born in Allikuttai Village, he has given that as his address. We are not able to accept the aforesaid explanation of the respondent. When a person files an affidavit especially in a public interest litigation, he is required to disclose his true details. Giving an address in the affidavit knowing full well that it is not the correct one, *per se*, amounts to criminal contempt, because, the respondent does not want to be reached by the Court and wants to remain incognito. Hence, we reject the first explanation of the respondent and hold him guilty of the first charge.

6 Now, coming to the second charge that without being a Trustee of Arulmigu Sugavaneswarar Thirukoil, the respondent has filed five public interest litigations claiming himself to be the Trustee of the said temple and asking for certain directions, the explanation of the respondent is as follows:

“In respect of the 2nd charge is concern, I have stated as Trustee of Arulmigu Sugavaneswarar Thirukoil, Salem, in my writ petitions namely (a) W.P. No.34516/2014; (b) W.P. No.29118 of 2016; (c) W.P. No.29121 of 2016; (d) W.P. No.36767 of 2016 and (e) W.P. No.3923 of 2017 and which is not true, thereby I was charged under Section 2(c)(iii) of the Contempt of Courts Act, 1971, which is punishable under Section 12 of the Contempt of Courts Act, 1971,



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Cont.P. No.1135 of 2020

for which I was advised to submit that in order to safeguard the said temple, properties and its administration, I made representations to the concerned authorities and in view of no action from the authorities, I decided to approach this Hon'ble Court to secure and safeguard the minor properties of said temple, while giving instructions to my advocate I was informed that I am one of the “Kattalaitharar” (கட்டளைதாரர்) to the above said temple and the same was mentioned in my affidavit as Trustee. With great respect and swearing on the Arulmigu Sugaveneswarar, I am submitting that I have not well-versed in English language and I was under the impression that the word mentioned in those affidavits as “Trustee” means “Kattalaitharar” to the said temple.”

7 What the respondent states is that he was a Kattalaidharar of Arulmighu Sugavaneswarar Temple and the English translation of the word “Kattalaidharar” is Trustee. To be noted “Kattalaidharar” means a person who sponsors the poojas or Annadhanam (free distribution of food) in a temple, perhaps, to commemorate a particular event. Whereas, the Trustee of a temple is called an “Arangavalar” in Tamil. The Trustee is in a higher position than a mere Kattalaidharar, because, the Trustee holds an office, whereas, a Kattalaidharar is merely a donor. When a Trustee of a temple comes to the High Court and files a public interest litigation alleging that some lands of the temple have been encroached, naturally, the High Court would give more weight to his assertion than the assertion of a mere donor.

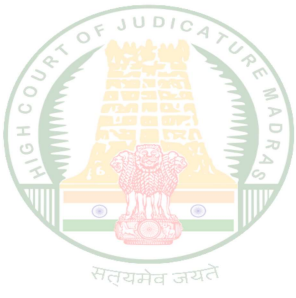


Therefore, the respondent has misled this Court by calling himself as a Trustee when actually he was not one. Hence, he is found guilty of the second charge.

8 Coming to the third charge that the respondent has filed W.P.No.4359 of 2019 claiming himself to be the Trustee of Arulmighu Kaamanatheeswarar Temple, Salem, alleging that the temple lands have been encroached when actually he was not one, he has not given any separate explanation but has clubbed it along with his explanation for the fourth charge. Therefore, we now advert to the fourth charge.

9 The fourth charge relates to W.P. No.5748 of 2017 where the respondent has claimed himself to be a Trustee of Sakthi Vinayagar Temple, Krishnagiri, when actually he was not one and has alleged that the land of the temple has been encroached. The explanation given by the respondent for charges 3 and 4 is as under:

“7.As far as those two writ petitions mentioned above are filed relating to the period of writ petitions mentioned in the 2nd charge and in view of copy paste method followed in the affidavits in respect of general paragraph, inadvertently it was mentioned as Trustee in these writ petitions. I have no oblique motive or vested interest in mentioning me as Trustee to those temples and



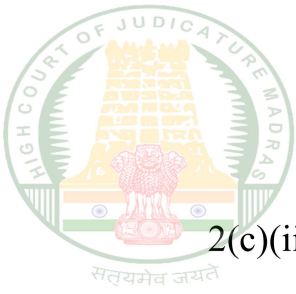
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Cont.P. No.1135 of 2020

mentioning of trustee to these two temples are purely inadvertent. Moreover, by mentioning as Trustee to these two temples in my affidavit I have not “interferes or tends to interfere with, or obstructs or tends to obstructs, the administration of justice any other manner”. With utmost respect and bottom of my heart, I tendered my unconditional apology in respect of mentioning Trustee inadvertently in these two writ petitions.”

10 At least, in the second charge, the respondent claimed himself to be a “Kattalaidharar”, whereas, as regards these two temples, viz., Arulmighu Kaamanatheeswarar Temple, Salem and Sakthi Vinayagar Temple, Krishnagiri, he admits that he is not a Trustee, but, since the affidavit was cut and pasted, the error had crept in. This shows the cavalier manner in which the respondent has been filing public interest litigations in this Court. Concededly, he was not the Trustee of either Arulmigu Kamanaatheeswarar Temple or Arulmigu Sakthi Vinayagar Temple, but, he has stated in his affidavits that he is one. The learned counsel for the respondent posed a question to us as to how this would amount to contempt of Court. As stated by us above, his acts of giving false information would definitely interfere with the administration of justice and would fall within the expression “the administration of justice in any other manner” in Section



Cont.P. No.1135 of 2020

2(c)(iii) of the Contempt of Courts Act. Therefore, we reject his explanation for the third and fourth charges and we convict him of those charges also.

11 Mr. Marudhachalamurthy, learned counsel for the respondent fervently pleaded that the respondent is an ardent devotee of Lord Shiva and his only endeavour is to ensure that the encroachments of temple lands are removed. He also contended that the petitioner's family had encroached into the property of a temple in connection with which orders were passed in W.P. (MD) No.22682 of 2018 and therefore, aggrieved by that, the petitioner has launched the present contempt petition.

12 To this allegation, Mr. Ayyappan, learned counsel for the petitioner contended that the petitioner is not a party in W.P. (MD) No.22682 of 2018 at all and therefore, there is no question of the relatives of the petitioner being aggrieved by the orders passed therein as alleged by the respondent. We perused the case records of W.P. (MD) No.22682 of 2018 and find that the petitioner herein is not a respondent therein.

13 Be that as it may, assuming for a moment that the petitioner has a motive against the respondent, to be noted, contempt proceedings are essentially between the Court and the alleged contemnor. In this case, as



Cont.P. No.1135 of 2020

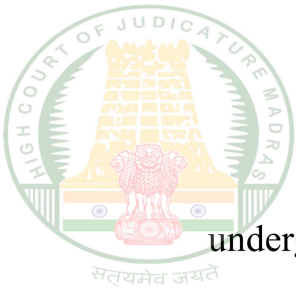
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alluded to above, the learned Advocate General has given his consent for initiating contempt proceedings against the respondent, pursuant to which, we have taken cognizance of the case and framed the aforesaid charges. Hence, motive, which is normally alleged in criminal cases for false implication, does not apply to the facts and circumstances of this case.

14 Further, very recently, the respondent has filed a public interest litigation in W.P. No.22328 of 2021 arraying as many as 44 Government officials as respondents and the same was withdrawn before a Division Bench of this Court on 12.10.2021, presumably on the ground that the Division Bench was not inclined to entertain it.

15 On a conspectus of the facts obtaining in this case, the respondent appears to be an interloper who has been using the judicial process for blackmailing and causing annoyance to ordinary people in the guise of being a Good Samaritan. Hence, no sympathy can be shown to the respondent.

16 Accordingly, the respondent is convicted for all the four charges and is sentenced to undergo four weeks simple imprisonment for each charge and pay a fine of Rs.2,000/- for each charge, in default to



Cont.P. No.1135 of 2020

undergo two weeks simple imprisonment. The substantive sentence of four weeks simple imprisonment for each charge shall run concurrently.

17 We direct the Chief Judicial Magistrate, Salem, to issue appropriate warrant addressed to the Commissioner of Police, Salem City, for causing production of the respondent. On such production, the Chief Judicial Magistrate, Salem, shall commit the respondent to prison for undergoing the period of sentence.

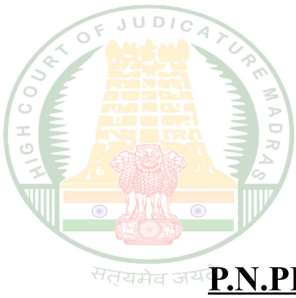
In the result, this contempt petition stands ordered on the above terms. Connected Sub Application is closed.

[P.N.P., J]

[A.A.N., J]

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Cont.P. No.1135 of 2020

Cont. P. No.1135 of 2020

P.N.PRAKASH, J.

and

A.A.NAKKIRAN, J.

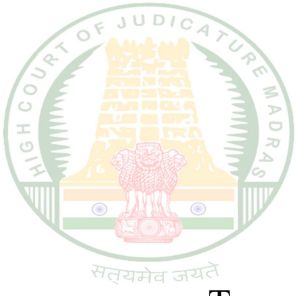
(Order of the Court was made by *P.N.PRAKASH,J.*)

Today, the respondent/contemnor is present. After the orders were pronounced, the learned counsel for the respondent/contemnor prayed for suspension of substantive sentence of imprisonment on the ground that the respondent/contemnor intends to file an appeal before the Supreme Court. Accepting the submission made by the learned counsel for the respondent/contemnor, the substantive sentence of imprisonment alone stands suspended for a period of eight weeks. The learned Chief Judicial Magistrate, Salem, shall wait for a period of eight weeks from today and if no order from the Supreme Court, either staying or setting aside this order, is produced before him, he shall issue a warrant addressed to the Commissioner of Police, Salem City, to cause production of the respondent/contemnor before him and on such production, he shall commit the respondent/contemnor to the prison for undergoing the substantive sentence of imprisonment.

(P.N.P.,J.) (A.A.N.,J.)

11.04.2022

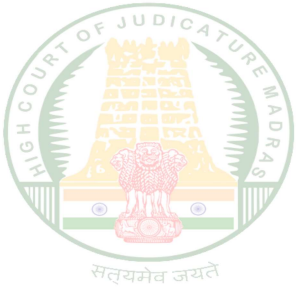
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Cont.P. No.1135 of 2020

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- To
- 1 The Chief Judicial Magistrate
Salem
 - 2 The Commissioner of Police
Salem City
 - 3 The Accounts Section
High Court of Madras
Chennai 600 104



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Cont.P. No.1135 of 2020

P.N.PRAKASH, J.
and
A.A.NAKKIRAN, J.

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Contempt Petition No.1135 of 2020

11.04.2022