Mr. Vinay Asharam Rathi, A Practising ... vs Mr. M.S. Rao, The Senior Inspector Of ... on 23 January, 2003

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Bench: R.M.S. Khandeparkar

JUDGMENT

R.M.S. Khandeparkar, J.

1. Heard the learned Advocates for the parties. Perused the records. The grievance of the Petitioner relates to non-compliance of the orders issued by the Metropolitan Magistrate, First Class under Section 156(3) of the Code of Criminal Procedure, 1973 (hereinafter called as the said Code). Pursuant to the said compliant, notices were issued to the Respondents to answer the charge of contempt for non-compliance of the orders dated 31st May, 2000 and 7th April, 2000 issued by the Metropolitan Magistrate, Mumbai, as prima facie, it appeared, that inspite of specific direction to complete the investigation into the complaints filed by the Petitioner and to submit the charge-sheet or the summary report, as the case may, be, at earliest possible, there was no compliance of the said orders till 1st June, 2001. Consequent to such notices, affidavit-in-reply was filed on behalf of the Respondents by one Rajan Dhoble, Senior Police attached to M.R.A. Marg Police Station, Mumbai. In the course of hearing, additional affidavits came to be filed by Murlidhar S. Rao, the Respondent No.1, R.K. Kasbekar, Inspector of Police, L.A.-II, Worli, Mumbai as well as by the Petitioner. Copies of various documents including the investigation papers in respect of the investigation which is stated to have been carried out subsequent to the said orders of the Metropolitan Magistrate, as well as prior thereto, have been placed on record.

2. The facts relevant for the decision in the matter, in brief, are that, the Petitioner lodged complaints being Criminal Case No.8 of 1995 and 31 of 1995 in February and July, 1995 respectively with the Metropolitan Magistrate, 33rd Court at Ballard Pier, Mumbai under various sections of Indian Penal Code. Consequent to which, directions came to be issued under Section 156 of the said Code to the police to investigate into the matter. Being dissatisfied with the procedure adopted by the police authorities, the Petitioner again approached the Magistrate, consequent to which, the learned Magistrate by order dated 7th April, 2000, the learned Metropolitan Magistrate, 33rd Court, Mumbai, directed the Inspector of Police, M.R.A. Marg Police Station, to do the needful in the matter while reminding him about the requirements of compliance of the directions issued earlier pursuant to the complaint filed by the Petitioner. Even prior thereto, the Respondents were reminded of the complaint by the Petitioners and about the necessary directions issued by the Magistrate for investigation and therefore, the necessity to do the needful in the matter by the

Police. Further, on 31st May, 2000, directed the Inspector of Police at M.R.A. Marg Police Station, Mumbai, that matte was already sent to the police under Section 156(3) of the Code of terms of C.C.No.8/IR/95 as well as 31/IR/95 and therefore the police were required to file either the charge-sheet or the summary report as early as possible. Thereafter, the Respondents recorded M.E.C.R. No. 5 of 2000 on 18th of June, 2000 in relation to complaint No. 8 of 1995 of the Petitioner and also recorded M.E.C.R. No.6 of 2000 on 7th July, 2000 in relation to complaint No.31 of 1995 of the Petitioner. In relation to the M.E.C.R. No.5 of 2000, statements of four witnesses namely, Nilkumar Ramgopal Gupta, Mukat Simon John, C.Chandran and Geet Kanthariya, came to be recorded on 20th, 23rd, 23rd and 24th June, 2000 respectively. In relation to M.E.C.R. No.6 of 2000, statements of the Petitioner, Anil Shridher Purandare, Farukh Ajmeri, Nilkumar Ramgopal Gupta came to be recorded on 7th July, 22nd August, and 7th July, and 7th July, 2000 respectively. The Senior Police Inspector of M.R.A. Marg Police Station, thereafter, submitted its report to the Court of learned Metropolitan Magistrate on 1st June, 2001.

3. It is the case of the Petitioner that during the pendency of investigation, he had approached the office of the Respondent No.2 for necessary direction to expedite the investigation in accordance with the provisions of law, however, without any success. The Petitioner complains of wilful and intentional disobedience of the order of the learned Metropolitan Magistrate requiring the police Respondents to investigate into the complaint of the Petitioner, as the Respondents did not take any action in the matter, even though there was specific direction to file either the charge-sheet or the summary report as early as possible by its order dated 31st May, 2000 and the investigation itself had commenced, as late as on 18th June, 2000 in case of complaint No.8 of 1995 and on 7th July, 2000 in case of Complaint No. 31 of 1995. Such acts on the part of the Respondents police authorities, according to the Petitioner, are in violation of the order of the learned Metropolitan Magistrate, and therefore, warrants action under the provisions of Contempt of Courts Act, 1971. On the other hand, it is the case of the Respondents that there was failure on the part of the Petitioner to render necessary co-operation for the purpose of investigation, in as much as, that inspite of intimation to come to the Police Station for recording of the statement of the Petitioner, the Petitioner did not bother to come till 7th July, 2000, and therefore, the delay, if any, in connecting the investigation, consequent to the order of the Magistrate, was solely attributable to the Petitioner, and there was no intention on the part of the Respondents to flout the orders of the learned Metropolitan Magistrate.

4. Defencing the action on the part of the Respondents, learned Additional Advocate General has submitted that the police authorities being concerned with investigation concerning general law and order problems in the locality, they cannot be expected to conclude every investigation in a time frame programme, besides investigation in each case depends upon the nature of the offence as well as various related factors necessary to be taken into consideration for the purposes of investigation in relation to such offences, and in the case in hand particularly, there was no proper co-operation from the Petitoner, as a result of which, there might have been some delay in concluding the investigation, but certainly no malafide can be attributed to the police authorities in that regard, as the Petitioner has not disclosed any fact which can justify the accusation of malafide on the part of the police authorities on account of delay, if any, in concluding the investigation. In any case, according to the learned Additional Advocate General, the Respondent No.1 has tendered the

apology for the delay that has been caused, besides the fact that there is nothing on record to disclose that the police officers were personally interested in the matter or any rivalry against the Petitioner, so as to accuse the Respondent No.1 of being partisan in favour of the persons against whom the complaint was lodged by the Petitioner, and that, in the absence of any intentional delay being caused in the matter of investigation carried out by the Respondents, there is no case for holding the Respondents guilty of Contempt of Court.

5. As already seen above, there is no dispute about the fact that by orders dated 7th April, 2000 and 31st May, 2000 passed by the learned Metropolitan Magistrate, the police authorities of M.R.A. Marg Police Station, Mumbai, were directed to conclude the investigation expeditiously and to file either the charge-sheet or the summary report at earliest possible. The earlier order dated 7th April, 2000, apparently disclose, reminder to the police authorities about the necessity to conclude the investigation in terms of earlier orders issued under Section 156(3) of the said Code, pursuant to the complaint filed by the Petitioner. At the same time, the record also is clear about the registration of M.E.C. Rs. on 18th of June and 7th of July, 2000. It is the case of the Respondents that there was further investigation carried out pursuant to the order dated 31st May, 2000 and as the investigation did not reveal anything against the persons against whom the complaint was filed and regarding the allegations made by the Petitioner, the Summary report was submitted on 1st of June, 2001. These factors undoubtedly disclose delay in conducting and concluding the investigation as well as in filing the Summary report, and indeed, there is a clear admission to that effect, on the part of the Respondent No.1 as well as the other deponents namely, Rajan Dhoble and R.K. Kasbekar, Senior Police Inspector and Police Inspector respectively. The Respondent No.1 has also stated to be tendering his apology for the same.

6. The point therefore which arises for consideration, is whether this delay caused in conducting and concluding the investigation and further in filing the report, can be construed as wilful violation of the orders of the learned Metropolitan Magistrate, warranting action under the Contempt of Courts Act, 1971.

7. Upon hearing the learned Advocate for the Respondents and the Petitioner-in-person as well as on perusal of the records placed before the Court, only defence pleaded in reply of he Respondents is that there was failure on the part of the Petitioner to render necessary co-operation for commencement of investigation, consequent to the order dated 31st May, 2000 as well as failure on the part of the Petitioner to produce witnesses in support of his complaint.

8. Indeed, the first affidavit which was filed in reply to the notice of charge of contempt on behalf of the Respondent i.e. of Rajan Dhoble, clearly discloses the grievance of the Respondent that the Petitioner did not produce a single witness in relation to the incident inspite of repeatedly being called upon to do so and also did not come forward for registering the First Information Report in order to enable the police authorities to re-investigate the matter, consequent to the order dated 31st May, 2000. Further affidavit of Respondent No.1 came to be filed, reiterating the statements of facts stated by Rajan Dhoble in his affidavit.

9. As regards the first ground of defence that there was failure on the part of the Petitioner to procure the witnesses in support of his complaint, it is rather surprising that the police authorities expected the complainant himself to procure the witnesses in relation to criminal complaint lodged by him with the police authorities for the purpose of investigation into the matter. It cannot be believed that the police authorities are unaware of the modalities and their duties in relation to the investigation to be carried out, consequent to the cognizable offence being registered or consequent to the order by the Magistrate under Code of Criminal Procedure. Certainly, in case, the police authorities require any assistance of any person for the purposes of investigation in respect of any offence, there are various provisions of law empowering the police authorities to secure the presence of any such person, whose presence is necessary and required for the purpose of such investigation and the police authorities cannot be heard expressing helplessness to proceed with the investigation on account of the complaint having failed to procure the witnesses or to produce the witnesses for the purpose of investigation. Besides, in case of any difficulty being faced in that regard, nothing prevents the police authorities from approaching the concerned Magistrate on whose direction the investigation is being carried out. Being so, the first ground of defence which is sought to be raised, is nothing but a lame excuse to justify the delay on the part of the Respondent in giving effect to the order issued by the learned Metropolitan Magistrate.

10. The second ground of defence is the failure on the part of the Petitioner to appear before the police authorities to record his statement in order to recommence the investigation. It was sought to be contended on behalf of the Respondent that investigation could not be re-started without recording the First Information Report which is referred to as M.E.C.R., as the Petitioner did not approach the police authorities inspite of repeated requests by the police authorities in that regard till 7th of July, 2000 and therefore, the re-commencement of the investigation was delayed. At the outset, it is to be noted that by order dated 31st May, 2000, the learned Magistrate had directed the police authorities of M.R.A. Marg Police Station either to submit the charge-sheet or the Summary report as early as possible. There is absolutely no explanation on the part of the Respondent as to what prevented the Respondent to comply with the said order from 1st of June, 2000 till 1st of June, 2001. There was no direction for further investigation as such, after 31st May, 2000. However, the police authorities themselves thought it fit to investigate into the matter still further, and did not pursue the matter till 18th of June, 2000 in case of Complaint No.5 of 2000 and till 7th of July, 2000 in case of Complaint No. 31 of 1995 on the pretext of failure on the part of the Petitioner to come forward to record his statement. It is bewildering and sickening to note that the police authorities required "second F.I.R." for the purposes of investigation. It was the case of the Respondents themselves that F.I.R. in the matter of complaints by the Petitioners was recorded as long back as in the year 1995. It is absolutely elementary that first report recorded in relation to the alleged offence in the Police Station is to be called as "F.I.R." For the purpose of carrying out the investigation, the police authorities are not required to insist upon "the second F.I.R." Very expression "F.I.R." discloses that it refers to "First Information Report". Being so, insistence for "the second F.I.R." itself discloses that the police authorities were hesitant to act in accordance with the direction issued by the learned Metropolitan Magistrate. That apart, even assuming that the presence of the Petitioner was required in the Police Station for the purposes of continuation or conclusion of the investigation, there were ways and means to procure his presence. The records do not disclose any attempt having been made by the police authorities in that regard inspite of specific

direction by the learned Magistrate to submit the charge-sheet or the summary report at earliest possible. Submission of report on 1st June, 2001 in relation to the order of the learned Magistrate passed on 31st May, 2000 can, by no stretch of imagination, be said to have been in the compliance of said order "as early as possible" as was specifically directed by the learned Magistrate. The explanation about failure on the part of the Petitioner to come forward to record his statement and that being the justification for the delay, is thoroughly unacceptable and in face, is no justification at all.

11. The above discussion apparently reveal that the Respondent No.1, being the in-charge of the Police Station, and being required to comply with the direction issued by the learned Magistrate, did not comply with the said directions issued under Orders dated 7th April, 2000 and 31st May, 2000 in the manner the same were required to be complied with. In other words, there was failure to comply with the direction issued by the learned Magistrate under its orders dated 7th April, 2000 and 31st May, 2000. However, mere failure to carry out the order would not warrant action under the Contempt of Courts Act, unless, such a failure is wilful or intentional or deliberate.

12. At this stage, it is expedient to refer to some of the decisions of the Apex Court, relevant for the decision. In Ram Lal Narang v. State (Delhi Admn.) , after taking note of the various provisions of the Criminal Procedure Code, 1898, the Apex Court had ruled that the police has statutory right and duty to register every information relating to the commission of a cognizable offence and the police also has the statutory right and duty to investigate the facts and circumstances of the case where the commission of a cognizable offence is suspected and to submit the report of such investigation to the Magistrate having jurisdiction to take cognizance of the offence upon a police report. In State of A.P. v. Punati Ramulu , the Apex Court has held that refusal on the part of the police constable at the Police Station to record the complaint presented by the complainant on the ground that the Police Station had no territorial jurisdiction over the place of crime was certainly a dereliction of duty on the part of the constable because any lack of territorial jurisdiction could not have prevented the constable from recording information about the cognizable offence and forwarding the same to the police station having jurisdiction over the area in which the crime was said to have been committed. In the same case, it was also observed that once it was found that the investigating officer had deliberately failed to record the first information report on receipt of the information of a cognizable offence and had prepared the first information report after reaching the spot after due deliberations, consultations and discussions, the conclusion became inescapable that the investigation was tainted and therefore, unsafe to rely upon, as one would not know where the police officer would have stooped to fabricate evidence and create false clues. The law that the police authorities are required to record the First Information Report immediately and without loss of time, on receipt of information regarding the commission of the cognizable offence, is well settled, as also that the investigations in relation to the cognizable offence has also be to be done expeditiously, needs no further judicial pronouncement in that regard. In fact, the necessity for prompt action in that regard by the police authorities and manner in which the investigation to be carried out on information relating commission of cognizable offence having been received by the police authorities was elaborately discussed by the Apex Court in H.N. Rishbud v. State of Delhi , while ruling as under:-

> "Investigation usually starts on information relating to the commission an offence given to an officer in charge of a police station and recorded under Section 154 of the Code. If from information so received or otherwise, the officer in charge of the police station has reason to suspect the commission of an offence, he or some other subordinate officer deputed by him, has to proceed to the spot to investigate the facts and circumstances of the case and if necessary to take measures for the discovery and arrest of the offender.
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> Thus investigation primarily consists in the ascertainment of the facts and circumstances of the case. By definition, it includes "all the proceedings under the Code for the collection of evidence conducted by a police officer". For the above purposes, the investigating officer is given the power to require before himself the attendance of any person appearing to be acquainted with the circumstances of the case. He has also the authority to examine such person orally either by himself or by a duly authorised deputy. The officer examining any person in the course of investigation may reduce his statement into writing and such writing is available, in the trial that may follow, for use in the manner provided in this behalf in Section 162.
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> Under Section 155 the officer in charge of a police station has the power of making a search in any place for the seizure of anything believed to be necessary for the purpose of the investigation..... The investigation officer has also the power to arrest the person or persons suspected of the commission of the offence under Section 54 of the Code. A police officer making an investigation is enjoined to enter his proceedings in a diary from day-to-day".

The Apex Court has further observed thus:-

> "Under the Code investigation consists generally of the following steps:(1) Proceeding to the spot, (2) Ascertained of the facts and circumstances of the case, (3) Discovery and arrest of the suspected offender, (4) Collection of evidence relating to the commission of the offence which may consist of (a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit, (b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial, and (5) Formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by the filing of a charge-sheet under Section 173".

It has also been held in Madhy Bala v. Suresh Kumar and Ors. reported in 1997 Cri. L.J. 3757 that a complaint filed with the Magistrate can be sent to the appropriate Police Station under Section 156(3) of Criminal Procedure Code for investigation, and once such a direction is given under Sub-section (3) of Section 156, the police is required to investigate into the complaint under Sub-section (1) thereof and on completion of investigation to submit a police report in accordance with Section 173(2) on which a Magistrate may take cognizance under Section 190(1)(b) of the Code.

13. The duties of the police authorities on the point of investigation being well settled for over five decades after the independence, it is really disgusting to hear the police authorities, complaining of helplessness to conclude the investigation in relation to the complaint filed by the Petitioner for a period of five years and further for a period of one year inspite of specific direction by the learned metropolitan Magistrate to file the necessary charge-sheet or the summary report as the case may be. The fact that delay in conclusion of investigation can be fatal to the prosecution as well as can be prejudicial to the accused, being well known to the police authorities, and the same cannot e, by any stretch of imagination, presumed to be not known to the police officers, and especially to Senior Inspector and Police Inspector, by whom, the affidavit-in-reply have been filed, the record apparently disclose deliberate and wilful inaction on the part of the police authorities to conclude the investigation within shortest possible time and to file the necessary charge-sheet or summary report expeditiously as was otherwise directed by the learned Magistrate. Indeed, as per the Respondent themselves, the last statement in case of both the investigations was recorded on 27th August, 2000, and there is no explanation as to what prevented the Respondents from complying with the orders dated 7th April, 2000 and 31st May, 2000 over a period of nine months from the recording of the last statement of the witness in the course of investigation.

14. At this stage, it is also necessary to take note of one more relevant fact in the matter and that is an attempt on the part of the Respondents to submit incorrect information tot he Court in their first affidavits filed by Rajan Dhoble as well as the Respondent No.1 Murlidhar S.Rao. In the affidavit filed by Rajan Dhoble, there was solemn assertion about the summary report having been filed before the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai on 1st February, 2001. It is also pertinent to note that the verification of the said affidavit clearly disclose that the statements made in the affidavit were true and correct to the best of the knowledge were true and correct to the best of the knowledge of the deponent and the record and information gathered by him from the office record. The said statements were reiterated by Murlidhar S.Rao in his affidavit, further making a solemn assertion that Senior Inspector of Police Mr. Rajan Dhoble is in custody of all necessary records and documents and after going through the records, he had failed affidavit dated 21st June, 2002, and further confirming that the summary report was submitted before the learned Metropolitan Magistrate, 33rd Court, Ballred Pier, Mumbai on 1st February, 2001. It was only in the course of arguments, to the specific query by the Court as to why a prejury proceedings should not be ordered to be initiated against these officers for making false statement, as the record reveal that the report was submitted to the Court of the Metropolitan Magistrate only on 1st June, 2002 and not on 1st February, 20012, the Respondent came out with affidavits sitting about the mistake on their part in relation to the date of submission of the report to the learned Magistrate. The discrepancy in date may appear to be of trifle nature and of little importance. However, the Respondents facing the contempt proceedings were required to come out with all the true facts and knowing well the same, having not hesitated to make a false statement on oath and thereafter to come out with the affidavit contending the same to be an uninentioanl lapse on their part without disclosing any justification for such lapse, assumes importance as it apparently discloses that there had been no reluctance on the part of the Respondents to submit false information when it was known to them that they were answering to the charge of Contempt of Court for violating the order of the learned Magistrate and the orders clearly required the Respondents to submit the charge-sheet or the summary report as expeditiously as possible from 31st May, 2000. In other

words, the Respondents very well knew that they were required to comply with the order dated 31st May, 2002 as expeditiously as possible and in the process. Merely because the report was signed by the police authorities on 1st February, 2002, the Respondents tried to take advantage of the said date to contend that the report was submitted on 1st February, 2001 when in fact to their knowledge, the report was submitted as late as on 1st June, 2002.

15. From the above facts, the inevitable conclusion is that there was deliberate attempt on the part of the Respondent No.1 and other concerned police officers not to comply with the directions issued by the learned Metropolitan Magistrate by its orders dated 7th April, 2002 and 31st May, 200. The Court is, however, concerned in the present case, only with Respondent No.1 as far as the non compliance of the said order in the manner in which it was required to be complied with, as the proceedings are not initiated against other police officers, and that, this stage is too late to initiate any such action against those police officers.

16. As far as the Respondent No.2 is concerned, the grievance of the Petitioner relates to reluctance on his part to issue appropriate directions to the Respondent No.1 or the authorities or the police officers at the M.R.A. Marg Police Station to expedite the investigation and/or to comply with the directions issued by the Magistrate. Undoubtedly, being a Police Commissioner, a Head of the Department, under whose jurisdiction, the concerned Police Station functions, if any complaint is brought to his notice by any person about failure on the part of such officers in such Police Station to comply with their duties, the Commissioner should certainly take note of such complaint in accordance with provisions of law. However, even assuming that there was failure in that regard on the part of the Commissioner, that would not ipso facto lead to the non-compliance of the orders in question, issued by the learned Metropolitan Magistrate. There was no specific direction to the Respondent No.2 to take any steps in relation to the investigation to be carried out by the M.R.A. Marg Police Station or to ensure the filing of the report by such Police Station with the intervention of the Police Commissioner. In the case at hand, there does not appear to be any specific direction issued to the Respondent No.2 by the learned Metropolitan Magistrate under its orders. Undoubtedly, if failure on the part of the police officers is brought to the notice of the Commissioner, certainly Commissioner has to take steps in that regard, but even assuming that there is failure in that regard, no action is warranted against Respondent No.2 in the Contempt of Courts Act in the case in hand.

17. It is also true that the Respondent No.1 has filed an affidavit, tendering apology. The said apology relates to the incorrect statement made in relation to the submission of report on 1st June, 2001. Being so, question of ordering perjury proceedings against Respondent No.1 or Rajan Dhoble who has also rendered apology by his affidavit dated 11th December, 2002, does not arise, as the said apology in relation to the said statement is accepted.

18. In the course of argument, it was also submitted on behalf of the Respondent that there was no wilful delay on the part of the Respondent in completing the investigation or submitting the report and in case, the Court is not satisfied with the explanation, the Respondents are prepared to tender their apology. In case of apology by a party who is facing contempt proceedings, the apology has to disclose genuine repentance on the part of the party tendering apology for having violated the order

of the Court. Such an apology can not be a conditional apology. It can not depend on the ultimate finding which the Court may arrive attain a contempt proceeding. It has to disclose and apparently reveal remorse or repentance on the part of the person who has violated the Court's order and realisation of illegal act on his part, and only in such cases, the question of considering apology by the person facing contempt proceedings can arise and be entertained and looked into. The Apex Court in Murray & Co. v. Ashok Kr. Newatia reported in 2000 AIR SCW 389 after taking note of the observations of the Apex Court in the case of Afzal v. State of Haryana, 1995 Supp (2) SCC 388 to the effect that: "It cannot be lightly brushed aside by the tendency to file false affidavits or fabricated documents or forgery of the document and placing them as part of the record of the Court are matters of grave and serious concern", and while dealing with the apology tendered in the matter, observed that:-

> "None of them made any candid admission nor tendered unqualified contrite apology. Police officers, who are supposed to be the so-called disciplined force, have deliberately fabricated false records placed before this Court without any compunction. It is, therefore, of utmost importance to curb this tendency, particularly, when they have the temerity to fabricate the records with false affidavit and place the same before the highest Court of the land. Their depravity of conduct is writ large".

Similarly, the Delhi High Court in M/s Jyoti Ltd. v. Kanwaljit Kaur reported in 1987 Cri.L.J. 1281, it was held that the apology made after the conclusion of the arguments or upon consideration of the observations made by the Court in the course of hearing of arguments, is no apology and it looses its value as an apology. It would be after-thought and a mere device to escape the punishment. It does not purge the contempt. Apology has to be offered clearly at the earliest opportunity indicative of remorse and contrition, which is the essence of the purging of a contempt and it should not be offered in the hope and with the object of avoiding punishment.

19. No doubt, in the case in hand, there is no attempt to fabricate the document or fore the document to justify the acts on the part of the Respondents. However, it is pertinent to note that though the Respondents have chosen to tender the unconditional apology for incorrect statement made by them in relation to the date of submission of the report of the Court of the learned Metropolitan Magistrate, has not shown any sign of remorse or repentance for having delayed the submission of the report or for not complying with the specific directions issued by the learned Metropolitan Magistrate under its orders dated 7th April, 2000 and 31st May, 2000. The Respondent No.1 is a police officer, holding the post of Senior Inspector of Police. Any act of indiscipline or dereliction of duties itself would warrant a strict action. Here is a case where inspite of specific directions by the learned Metropolitan Magistrate to submit the charge-sheet or report as expeditiously as possible and inspite of the fact that no investigation was carried out after 27th August, 2000, and the matter was just kept pending with the police authorities, no justification has been tendered for delay and there is no sign of remorse and repentance for such an act on the part of the Respondent No.1, and therefore, certainly warrants punishment for non-compliance of the said order under the Contempt of Courts Act.

20. At this stage, the Respondent NO. 1 is head in-person as to whether he has to say anything on the point of punishment to be imposed and accordingly, he has stated that has rendered unblamish service for a period of thirty three years and he had not intentionally delayed the investigation or filing of the report and in fact he had stated so in his affidavit dated 11th December,, 2002. The learned Additional Advocate General also has submitted that considering his apology tendered in the affidavit dated 11th December, 2002, lenient view be taken in the matter.

21. Undoubtedly, the affidavit dated 11th December, 2002 does seek to tender unconditional apology for delay in registering the offence and submitting the report to the Court. However, the same apology is tendered at the fag end of the hearing of the matter, and on the face of it, nowhere discloses realisation of the contemptuous act of violation of the order of the Court and the failure in performance of the duties vis-a-vis the Court's order by a police officer. The police machinery has to act for due implementation of the Court's orders and it is their primary duty to see to it that the Court's orders are not flouted and in the cases where such orders are flouted, to take appropriate action against the offenders. If the authority entrusted with the job of ensuring due compliance of the Court's orders, itself is allowed to flour the Court's orders, there will be total anarchy and indiscipline in the society. An act of indiscipline on the part of the police officer vis-a-vis the Court's order, can never be tolerated. Even trifle instances of violation of Courts orders by such authorities need to be dealt with strictly. It is true that the Respondent No. 1 appears to have rendered unblamish service of thirty three years, as has been claimed by him, and not controverted or challenged. However, that will not entitle him to go unpunished for the violation of the Court's order in the matter in hand. At the same time, the said claim of Respondent No. 1 that he had rendered unblamish service for thirty three years, cannot be overlooked while imposing the punishment.

22. In the fitness of the case, therefore, in my considered opinion, imposition of fine of Rupees Two Thousand with the imprisonment till the rising of the Court will meet the ends of justice. Accordingly, the Respondent No. 1 having been held guilty of the Contempt of Court for the violation of the orders of the learned Metropolitan Magistrate passed on 7th April, 2000 and 31st May, 2000, the Respondent No. 1 is ordered to pay a fine of Rupees Two Thousand and to undergo civil imprisonment till rising of the Court. On request of learned Additional Advocate General, four weeks time is granted to pay the fine.

23. As far as Respondent No. 2 is concerned, the notices issued to him stands discharged and proceedings against him are dropped.