

Suo Motu Crl. Cont.P. No.866 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON: 28.02.2022

PRONOUNCED ON: 25.03.2022

CORAM:

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

Suo Motu Crl. Contempt Petition No.866 of 2021

The Registrar General
High Court, Madras

Petitioner

vs.

1 P.R. Adikesavan

2 Balasubramanian

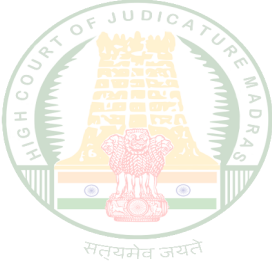
Respondents

Suo Motu Criminal Contempt proceedings initiated against the respondents as per order 14.07.2021 passed in I.P. No.16 of 2008.

For petitioner Mr. M. Santhanaraman

R1 Party-in-person

R2 Party-in-person



Suo Motu Crl. Cont.P. No.866 of 2021

ORDER

WEB COPY **P.N.PRAKASH, J.**

This *suo motu* criminal contempt proceedings is initiated against the respondents as per order 14.07.2021 passed in I.P. No.16 of 2008.

2 Introductory facts:

2.1 Two persons, viz., Cannammale and Bascarare (Puducherry spelling for Kannammal and Baskaran) initiated insolvency proceedings in I.P.No.16 of 2008 under Sections 9 to 13 of the Presidency Towns Insolvency Act, 1909, against P.R. Adikesavan, Advocate, the first respondent herein, which was being heard by sister P.T. Asha, J. (for brevity “PTAJ”) as she was the roster Judge for insolvency matters during the relevant period.

2.2 Instead of repeating the allegations against the respondents and making this order prolix, it would suffice if the order dated 14.07.2021



Suo Motu Crl. Cont.P. No.866 of 2021

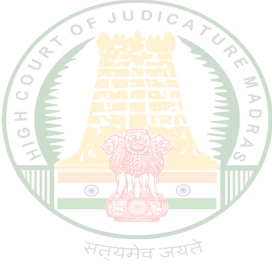
passed by PTAJ is reproduced verbatim as the facts have been narrated by her perspicuously.

“This Court by order dated 12.03.2021 had directed to issue a Non-Bailable Warrant against the respondent for appearance before this Court on 26.03.2021. This Court had narrated the reasons why it was constrained to issue a Non-Bailable Warrant against a practicing Advocate in the said order. Since the Police were unable to execute the warrant the matter was listed on 26.03.2021. The learned Government Pleader appearing for the Public Prosecutor's Office sought an extension of time for executing the Non-Bailable Warrant.

2. However, things turned ugly when the warrant of this Court was sought to be executed on 31.03.2021 by Mr.T. Chandra Mohan, Inspector of Police, D2, Anna Salai Police Station and his team. Not only has the respondent restrained the Police from discharging their duties pursuant to the orders of this Court, but over fifty Advocates have gheraoed the Police personnel and prevented them from executing the orders of this Court.

3. The incident was brought to the notice of the Registrar General of this Court by Letter dated 13.04.2021 from Deputy Commissioner of Police, Flower Bazaar District, Greater Chennai Police. A digital recording of the said incident has also been forwarded and this Court has perused the same.

4. This Court has also seen the entire footage starting from the time the Police informed the respondent about the orders of this Court and thereafter, how the respondent and one of his Advocate friend had started questioning the Police Personnel and the respondent has not paid heed to the Inspector of Police's statement that he is only executing the orders of this Court. The Police report would also state that the respondent's counsel Mr.Balasubramanian had arrived and he also started abusing the Police. The video footage shows his presence. Thereafter, the scene has totally turned ugly and in one footage, I saw two Advocates



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Suo Motu Crl. Cont.P. No.866 of 2021

trying to pull out a Police Officer using abusive and unparliamentary words. The entire scene is enacted on the public road just outside the Court premises in full public view. This is nothing but obstructing the administration of Justice. The act becomes all the more contumacious as the respondent and the others who are members of the noble profession have committed this act. They are bound to respect not only the dignity of this Court but also the orders of this Court.

5. The respondent who was fully aware of the pendency of the proceedings had deliberately not appeared before this Court constraining the Court to issue the Non-Bailable Warrant. A *prima facie* case of Contempt is made out against the respondent and Mr.Balasubramanian, Advocate for obstructing the Police Officials from executing the orders of this Court. This Court takes cognizance of the act of Criminal Contempt committed by them.”

2.3 The Registry placed the matter before the Hon'ble Chief Justice for appropriate orders, who, in turn, directed that the case be posted before the appropriate Division Bench dealing with criminal contempt matters. Accordingly, the matter was listed before us.

2.4 On 01.09.2021, we went through the records and found that a *prima facie* case has been made out for issuance of statutory notice and accordingly, we ordered statutory notice to Adikesavan and Balasubramanian, Advocates, returnable by 29.09.2021. On 29.09.2021,



Suo Motu Crl. Cont.P. No.866 of 2021

Adikesavan and Balasubramanian were physically present and they were supplied with a copy of the order dated 14.07.2021 passed by PTAJ. On 26.10.2021, we furnished them a copy of the video recording of the incident and the communication dated 13.04.2021 from the Deputy Commissioner of Police, Flower Bazaar, addressed to the Registrar General of this Court and the video records were also played in the open Court in their presence. On 26.10.2021, after briefly setting out the facts, the following charge was framed against them for which they pleaded not guilty.

Facts:

.....On 31.03.2021, when the Inspector of Police, D-2, Anna Salai Police Station and his team tried to execute the warrant of this Court, Mr.P.R.Adikesavan, Advocate and Mr.Balasubramanian, Advocate, had restrained the police from discharging their duties along with 50 other Advocates, who had gheraoed the police and prevented them from executing the orders of this Court.

Charge:

“That, you, Mr.P.R.Adikesavan, Advocate and Mr.Balasubramanian, Advocate, by your aforesaid conduct, in not permitting the execution of the Non-Bailable Warrant issued by this Court on 31.03.2021, has interfered with the administration of justice and has also obstructed the administration of justice, thereby, you are charged under Section 2(c)(iii) of the Contempt of Courts Act, 1971, which is punishable under Section 12 of the Act, *ibid*.

What do you say?”



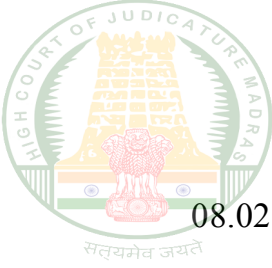
Suo Motu Crl. Cont.P. No.866 of 2021

They were also given an opportunity to file their affidavit to answer the above charge.

2.5 Adikesavan filed an affidavit dated 23.11.2021 running to 34 pages making very serious allegations against PTAJ. Balasubramanian also filed an affidavit dated 30.11.2021 making serious allegations against the police, and also against Adikesavan for suppressing facts. Therefore, Adikesavan sought an adjournment to file his reply affidavit to the affidavit of Balasubramanian, which we granted.

2.6 Adikesavan filed a reply affidavit dated 21.12.2021 calling Balasubramanian a 'Brutus' and a back stabber. Balasubramanian also filed a second affidavit of even date tendering his apology. On 21.12.2021, we adjourned the case to 24.01.2022 for final hearing.

2.7 On 24.01.2022, both Adikesavan and Balasubramanian appeared *via* video conferencing and Adikesavan submitted that he is under isolation on account of COVID-19. Therefore, we adjourned the case to



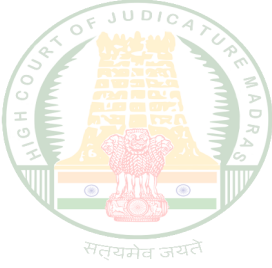
Suo Motu Crl. Cont.P. No.866 of 2021

08.02.2022. It appears that on 08.02.2022, the matter was not listed but was listed on 14.02.2022, on which date, Balasubramanian appeared in person and Adikesavan appeared *via* video conferencing and sought further adjournment. We, therefore, adjourned the matter to 28.02.2022. On 28.02.2022, we passed the following order:

“Mr.R.Balasubramanian is present before this Court. Mr.P.R.Adikesavan is present *via* video conferencing.

2. Charges, in this case, were framed by this Court on 26.10.2021 and thereafter, the matter was adjourned to 23.11.2021 for filing the counter affidavits of the respondents/alleged contemnors. On 23.11.2021, at the request of Mr.P.R.Adikesavan and Mr.R.Balasubramanian, the case was adjourned to 30.11.2021. On 30.11.2021, Mr.P.R.Adikesavan filed a counter affidavit dated 23.11.2021 and Mr.R.Balasubramanian filed a counter affidavit dated 30.11.2021 and on their request, the matter was adjourned to 21.12.2021 for enquiry. On 21.12.2021, Mr.P.R.Adikesavan filed a reply affidavit to the counter affidavit of Mr.R.Balasubramanian and sought adjournment for further arguments. Therefore, on his request, the matter was adjourned finally to 24.01.2022. On 24.01.2022, Mr.P.R.Adikesavan and Mr.R.Balasubramanian appeared *via* video conferencing and Mr.P.R.Adikesavan stated that he was under home isolation on account of Covid-19 and sought adjournment. His request was accepted and the case was adjourned to 08.02.2022. Again, when the matter came up on 14.02.2022, Mr.R.Balasubramanian was present physically, whereas, Mr.P.R.Adikesavan appeared *via* video conferencing and sought adjournment. His request was considered and the matter was adjourned to 28.02.2022.

3. In the mean while, Mr.P.R.Adikesavan has filed a sub-application for dismissing the contempt petition as not maintainable.



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Suo Motu Crl. Cont.P. No.866 of 2021

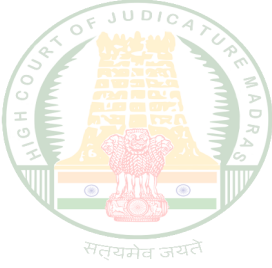
The Registry entertained certain doubts about the very maintainability of the sub-application. Therefore, this sub-application in SR stage has been posted today along with the main contempt petition.

4. Mr.R.Balasubramanian stated that his affidavits may be accepted as his submissions. However, Mr.P.R.Adikesavan appeared *via* video conferencing and stated that he is not ready and that he is unwell. We told him that he could appear from his house through video conferencing and make his submissions. For that, he stated that he has filed some more sub-applications making allegations against one of us [P.N.PRAKASH, J] and asking for his recusal. Mr.P.R.Adikesavan also stated that he has given a representation to the Honourable The Chief Justice to recuse one of us [P.N.PRAKASH, J].

5. Thus, it is obvious to us that Mr.P.R.Adikesavan has been playing hide and seek with this Court and therefore, he does not require any further indulgence.

Orders reserved. This Court would go through the papers and pass orders in accordance with law.”

2.8 As could be seen from the above order, Adikesavan represented to us that one of us (PNPJ) should recuse from this case and that he has filed a separate application therefor and has also given a representation to the Hon'ble Chief Justice in regard thereto.



Suo Motu Crl. Cont.P. No.866 of 2021

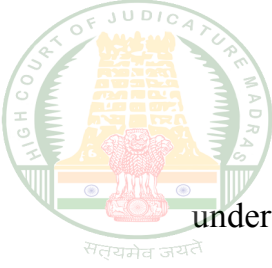
2.9 After we reserved orders, we were informed by the Registry

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that Adikesavan had filed two sub-applications, one seeking to issue summons to PTAJ for examining her as a witness in this case and another, for one of us (PNPJ) to recuse from the hearing of this case and that the Registry, on 01.03.2022, had returned the sub applications calling upon Adikesavan to explain about the maintainability of the said petitions. Adikesavan has taken back those applications from the Registry on 03.03.2022. We waited for him to re-present those applications in order to see if he has made out any valid grievance against one of us (PNPJ) so that he (PNPJ) could recuse from the case. However, since Adikesavan had not re-presented the same, we went ahead in making ready this order.

3 The question we ask ourselves is, should a Judge recuse from a case at the mere demand of a party. These days, this issue arises in every Court frequently and the Supreme Court, in **Supreme Court Advocates-On-Record Association and another vs. Union of India (Recusal matter)¹**, has dealt with this aspect elaborately. Having taken the oath

¹ (2016) 5 SCC 808

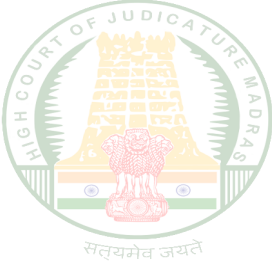


Suo Motu Crl. Cont.P. No.866 of 2021

under the Constitution of India to administer justice without fear or favour,
a Judge should not buckle at such insinuations and abdicate his responsibilities. Therefore, we now proceed to examine the explanation given by Adikesavan and Balasubramanian for the charge that has been framed against them.

4 At the outset, it is pertinent to state here that both Adikesavan and Balasubramanian have not denied the fact that some untoward incident had taken place when Chandramohan, Inspector of Police, came on 31.03.2021 to take Adikesavan into custody pursuant to the warrant issued by the High Court. Adikesavan, in his counter affidavit dated 23.11.2021, has stated as follows:

“On 31.03.2021, when I was about to go to a xerox shop opposite to the High Court for getting some copies, as a “bolt from the blue” a khaki clad man and some of his musclemen friends who were hiding there, intervened me and only orally informed me that the High Court issued an order for my arrest without disclosing any further details and hence, wanted to arrest me. While I was stunned, speechless and shell shocked, some of the advocates and the public who were there accidentally, demanded the khaki clad men to show his ID card and to furnish the arrest order that led to an argument, the advocates insisting on the police to produce the original order for arrest and the police stating that they will show the order only at the police station after my arrest, putting the cart before the horse. The



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Suo Motu Crl. Cont.P. No.866 of 2021

policemen on one side and the advocates and the public on the other side, dragged me in opposite directions. In the melee, I had become dumb and fainted. I was kicked by the policemen who abused me and threatened to kill me, pushed me to the median and I fell down right in the middle of the road semi-consciously.

While I regained consciousness, I found myself in the midst of the High Court complex with a few advocate friends providing me some first aid. Only thereafter, I was told that the advocates and the public rescued me from the road and pushed me inside the High Court campus. All these incidents occurred within a short span of 2-3 minutes. Thereafter, I was not aware of anything that had happened in front of the High Court on 31.03.2021. In this connection, till about 7.00 p.m., when about 100 plus advocate friends came to me and took me to B2 police station to lodge a complaint against the Inspector of Police, D2 police station, under CSR No.106/21, as told by the DCP to the protesting advocates in the negotiations held by him on the spot. Thereafter, on the same night on 31.03.2021, I was rushed to Rajiv Gandhi General Hospital and was admitted in the Emergency & Critical Care Unit. After the various lab tests, check-ups, *etc.*, and whole night observation in the hospital, I was discharged on 01.04.2021 and came out of the hospital by 12.00 noon.

No any valid, alive and authenticated order for arrest.

Only thereafter, I came to know from my colleague advocates that the policeman had with them only an expired, uncertified xerox copy of an alleged order passed in I.P. No.16 of 2008 for my arrest, did not possess any valid, alive and authenticated order for my arrest in front of the High Court on 31.03.2021 issued by the High Court in I.P. No.16/2008, for my non-appearance.”

Adikesavan and Balasubramanian have also not denied their presence at the place of occurrence. We are not adverting to the various insinuations that have been made against PTAJ and others because they are not germane to



Suo Motu Crl. Cont.P. No.866 of 2021

the present enquiry, though they may form the basis for initiating a fresh
contempt of Court proceedings.

5 According to Adikesavan, the police were having only an expired uncertified photocopy of an alleged order passed in I.P. No.16 of 2008. Whatever was seen and recorded by PTAJ in the video clipping was seen by us also in the presence of Adikesavan and Balasubramanian. We were able to see the Inspector of Police requesting Adikesavan to accompany him to the police station as a warrant has been issued for his arrest and production by the High Court. We did not find the police even touching either Adikesavan or Balasubramanian and on the contrary, a group of advocates surrounded the police, started abusing them and two of them even tried to pull out a policeman physically. The police were maintaining total calm and were found pleading with Adikesavan to come to the police station. The allegation of Adikesavan that he was kicked by the policemen, on account of which, he fell on the median and became semi-conscious does not appear to be true. In the video, Balasubramanian is also found vociferously arguing with the police against taking Adikesavan into

12/19



Suo Motu Crl. Cont.P. No.866 of 2021

their custody. However, Balasubramanian, in paragraph 15 of his affidavit

dated 30.11.2021, has stated as follows:

“I humbly submit that I am not aware of the fraud committed by the above named 1st contemnor so called advocate Adikesavan. He not only suppressed the entire fact of I.P. proceedings against him is pending before the Hon'ble High Court and also misguided me to file such above anticipatory bail petition in Hon'ble High Court but suppressed the non bailable warrant pending against him also. Due to his fraudulent act not only myself but more than 100 advocates were also victimised as scapegoat.”

6 Balasubramanian has reiterated the above allegation against

Adikesavan in paragraph 11 of his counter affidavit dated 21.12.2021 which is as under:

“11. I humbly submit that accordingly I appeared in person before this Hon'ble Court on 29.09.2021 and shocked to know that one petition was filed by one Mr. Sourirajan and criminal contempt was initiated in I.P. No.16 of 2008 by His Lordships. But I am nothing to do with the said I.P. since above named 1st contemnor so called Advocate Adikesavan not only suppressed the entire fact of I.P. proceedings but non bailable warrant pending also. Due to his fraudulent act not only myself but more than 100 advocates were also victimized as scapegoat. Therefore, I suffered by mental agony and physically affected and undergone angiogram.”

7 As regards the contention that the police had produced the expired warrant, we find from the records that PTAJ had directed the issuance of a non bailable warrant in I.P. No.16 of 2008 by order dated 12.03.2021 with a further direction that Adikesavan be produced before her



Suo Motu Crl. Cont.P. No.866 of 2021

on 26.03.2021. On 26.03.2021, PTAJ has passed the following order in
WEB CO I.P.No.16 of 2008:

“The learned Government Pleader appearing for the Public
Prosecutor's office would seek further time for executing the non-
bailable warrant. Time is granted till 09.04.2021.”

Therefore, it is factually incorrect to say that as on 31.03.2021, the police
had no authority or direction to apprehend Adikesavan for his production
before PTAJ in I.P. No.16 of 2008.

8 Under Section 23 of the Chennai City Police Act, 1888, it is the
duty of every police officer to execute all orders and warrants lawfully
issued to him. As a practising advocate, Adikesavan is expected to know
this legal provision. The police spotted him in a tea shop right opposite the
High Court on 31.03.2021, which was a working day for the High Court and
PTAJ was holding Court and therefore, they wanted to take him and produce
him before PTAJ in execution of the warrant issued by her, because, the law
states that the person arrested on a warrant should be produced before the
Court that had issued the warrant without delay. Adikesavan could have just
accompanied the police along with his advocates to the police station where



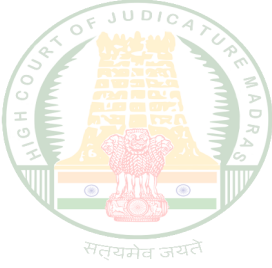
Suo Motu Crl. Cont.P. No.866 of 2021

after making necessary entry in the General Diary in the nearby Flower Bazaar Police Station, he would have been produced before PTAJ before whom he could have pleaded for release. Instead, Adikesavan has played fraud on Balasubramanian by not disclosing the truth and had collected huge number of advocates to prevent the police from performing their duty of executing the lawful order of the Court. To be noted, whether PTAJ was correct in issuing the non-bailable warrant or not is a question which could not have been decided by the police officer, for, he is simply required to execute all lawful orders issued by the Court.

9 As regards Balasubramanian, in paragraph 12 of his affidavit dated 21.12.2021, he has averred as follows:

“12. I humbly submit as his advocate I asked to furnish the warrant order alone to help the 1st contemnor who suppressed the fact. Hence it does not mean that I prevented the police from doing his duty nor have any ulterior motive to disrespect the Hon'ble Court, Hon'ble Judge and esteemed Justice. Other than that If your Lordships feel that I disrespected the Hon'ble Court, Hon'ble Judges and esteemed Justice I am tendering my apology.”

10 Accepting Balasubramanian's apology, further action against him is dropped.



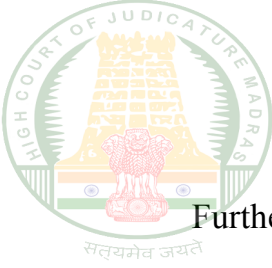
Suo Motu Crl. Cont.P. No.866 of 2021

WEB COPY 11 As far as Adikesavan is concerned, he is found guilty of the charge framed against him and is convicted of the said charge. Coming to the question of sentence, Adikesavan has been defiant throughout and has not shown any remorse. In fact, his counter affidavit dated 23.11.2021 is replete with personal attacks on PTAJ. However, we extract below only one portion from his counter affidavit dated 23.11.2021 in consonance with maintaining the dignity of the institution.

“The conduct of the Judge Mrs. P.T. Asha J directly appropriating I.P. No.16/2008 case bundle from the insolvency court and assigning the same to her “Second Appeals Portfolio Court” on 14.07.2021 and misappropriating the same to order criminal contempt notice against me, smacks about the Judge Mrs. P.T. Asha J's contempt for the time tested, respected “Master of the roster” role of the Hon'ble Chief Justice and abuse of judicial process.”

His conduct in filing sub applications to summon PTAJ as a witness and for a direction to one of us (PNPJ) to recuse from hearing this case, shows that he has scant respect for the judiciary as such.

12 Bearing in mind the aforesaid aggravating circumstances, we sentence Adikesavan to undergo two weeks simple imprisonment and pay a fine of Rs.2,000/-, in default to undergo one week simple imprisonment.



Suo Motu Crl. Cont.P. No.866 of 2021

Further, we direct that Adikesavan (Enrolment No.77 of 1973, according to Adikesavan) shall not practise in the Madras High Court for a period of one

year from the date of this order. We are fortified in holding so, in the light of

the law laid down by the Supreme Court in **R.K.Anand vs. Registrar, Delhi**

High Court², wherein, it has been held as under:

“240. It is already explained in *Ex. Capt. Harish Uppal [(2003) 2 SCC 45]* that a direction of this kind by the Court cannot be equated with punishment for professional misconduct. Further, the prohibition against appearance in courts does not affect the right of the lawyer concerned to carry on his legal practice in other ways as indicated in the decision. We respectfully submit that the decision in *Ex. Capt. Harish Uppal v. Union of India [(2003) 2 SCC 45]* places the issue in correct perspective and must be followed to answer the question at issue before us.”

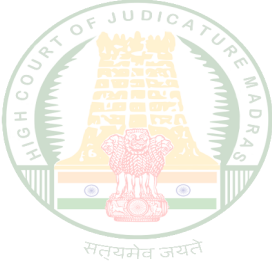
13 A copy of this order is marked to the Secretary, Bar Council of Tamil Nadu and Puducherry, for taking appropriate action against Adikesavan in accordance with law.

This contempt petition stands disposed of on the above terms.

[P.N.P., J] [A.A.N., J]
25.03.2022

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² (2009) 8 SCC 106



Suo Motu CrI. Cont.P. No.866 of 2021

***Suo Motu* CrI. Contempt Petition No.866 of 2021**

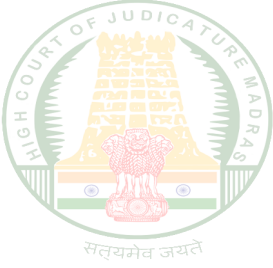
P.N. PRAKASH, J.
and
A.A. NAKKIRAN, J.

Today, after the order was pronounced by this Court, Adikesavan requested this Court to suspend the substantive sentence of imprisonment on the ground that he wants to prefer an appeal against this order in the Supreme Court. Accepting his request, the substantive sentence of simple imprisonment for two weeks is hereby suspended for a period of eight weeks from today, so as to enable Adikesavan to prefer an appeal in the Supreme Court. However, it is made clear that the sentence of fine imposed by this Court is not suspended. We direct the Chief Metropolitan Magistrate, Egmore, Chennai, to wait for a period of eight weeks and if thereafter, Adikesavan does not produce any order from the Supreme Court, either staying or setting aside this order, he shall issue a warrant addressed to the Commissioner of Police, Chennai City, to cause production of Adikesavan before him and on such production, he shall commit him to the prison for undergoing the substantive sentence of imprisonment.

(P.N.P., J.) (A.A.N., J.)
25.03.2022

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Suo Motu Crl. Cont.P. No.866 of 2021

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

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To

- 1 The Chief Metropolitan Magistrate
Egmore
Chennai
- 2 The Commissioner of Police
132, EVK Sampath Road
Vepery
Periamet
Chennai – 600 007
- 3 The Secretary
Bar Council of Tamil Nadu & Puducherry
N.S.C. Bose Road
Chennai 600 104
- 4 The Accounts Section
High Court of Madras
Chennai 600 104

Suo Motu Crl. Cont. Petn.No.866 of 2021

25.03.2022

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