

2024 SCC OnLine Del 1380

In the High Court of Delhi at New Delhi
(BEFORE SURESH KUMAR KAIT AND MANOJ JAIN, JJ.)

Cont. Cas.(Crl) 1/2022

And

Crl.M.A.2527/2022

Crl.M.A.19717/2022

Sujata Kohli ... Petitioner;

Versus

Rajiv Khosla ... Respondent.

Cont. Cas.(Crl) 1/2022, Crl.M.A.2527/2022 and

Crl.M.A.19717/2022

Decided on February 28, 2024

Advocates who appeared in this case :

Petitioner in person (through V.C.)

Mr. Sunil Singh, Advocate with respondent in person

Mr. Sanjay Lao, Standing Counsel (Crl.) with Ms. Priyam Agarwal and
Mr. Abhinav Kumar Arya, Advocates.

JUDGMENT (ORAL)

1. Present petition has been filed by an advocate who was earlier a member of Delhi Higher Judicial Service and retired as District Judge, who seeks initiation of criminal contempt against the respondent u/s 15 of Contempt of Courts Act, 1971.

2. The respondent is an Advocate who has been member of Delhi Bar Council and Executive Member of Delhi Bar Association and Delhi High Court Bar Association. He has been convicted in a case wherein petitioner herein was advocate and complainant at relevant time.

3. The petitioner seeks contempt on the ground that the respondent, by way of series of acts and words, has directly interfered with administration/dispensation of justice and has also interfered with the due process of law. He has scandalized the Court on its face, leaving the court totally helpless, desperate and exasperated and compelled to adjourn the proceedings. It is averred that respondent also by publication of material on social groups etc. collected mob-support to disrupt court proceedings and to be physically present with huge numbers of lawyers/leaders in the court room, shouting slogans, standing on chairs, calling the particular judge on his face as 'biased' and calling '95% of judges as being corrupt'.

4. It is further averred that the acts and words of the

convict/respondent in protest of the judgment of his conviction, has scandalized the Court, lowered down its dignity in the eyes of public and was done to shake the faith of the people at large, in judicial institution.

5. It is further averred that the incident that occurred on 27th of November, 2021 in the Court of learned CMM, Central, District, Delhi was unbridled show of Mob Power over the rule of law, and as such, it is a gross contempt of Court, a criminal contempt, as defined in Section 2 (c) of the Contempt of Courts Act, 1971.

6. Vide order dated 01.02.2024, learned Standing Counsel (Crl.) was directed to explain as to whether Additional Standing Counsel was also competent to give consent for initiating the contempt proceedings and to show the record of delegation.

7. Pursuant to said order, learned Standing Counsel (Crl.) has produced copy of Notification dated 18.05.1973 issued by Ministry of Law, Justice & Company Affairs. S.O.1528 of the said Notification reads as under:—

"S.O. 1528.- In pursuance of sub-section (2) of Section 15 of the Contempt of Courts Act, 1971 (70 of 1971), the Central Government hereby specifies the Standing Counsel (Criminal) to the Delhi Administration to be the Law Officer for the purposes of the said sub-section, in relation to the Union Territory of Delhi."

8. Learned Standing Counsel (Crl.) further submits that as per Section 15(c) of the Contempt of Courts Act, 1971, due to personal reasons, he had authorized Ms. Richa Kapoor, learned Additional Standing Counsel for the State to consider the aspect of grant of consent to initiate contempt proceedings against the respondent.

9. Though by the present petition, petitioner has raised certain issues which are not necessary to adjudicate in the present petition which merely seeks initiation of criminal contempt, the petitioner had, on 01.02.2024, sought liberty to file transcription of the video/CCTV footage of the proceedings dated 27.11.2021 before learned CMM.

10. We, however, note that the petitioner has, instead, filed a very brief summary of transcription. The above summary does not reflect utterances attributable to contemnor, suggesting contempt or scandalizing the justice delivery system.

11. We have also gone through the CCTV footage and such footage is of VC proceedings and on account of background voices, it is not discernible to hold that contemnor had demeaned the dignity of the Court. We may also point out that as reported by Registry, the other video clips do not contain any audio.

12. It is also pertinent to mention here that the petitioner had earlier moved an application for withdrawal of the present contempt

petition. However, on 30.01.2024, petitioner herself sought permission from this Court to withdraw her said application and the same was, accordingly, dismissed as withdrawn.

13. Be that as it may, petitioner has not been able to produce any material which may compel us to form an opinion that the respondent has committed any criminal contempt. It will be also worthwhile to mention here that though according to the petitioner, respondent/contemnor had committed contempt by his words and actions on 27.11.2021, we have the benefit of seeing the proceedings dated 27.11.2021. Copy of said order is attached as Annexure-F to the present petition. On perusal of aforesaid order, it would become clear that Court of Ld. CMM (Central), Tis Hazari Courts, Delhi had not received the Victim Impact Report which, it felt was necessary and, therefore, Ld. CMM (Central) thought it appropriate to wait for the same before passing any order on sentence.

14. Such order does not contain any observation or remark indicating that the court was unable to conduct the proceedings or that anyone had committed any contempt of the Court.

15. As already noticed above, the present contempt proceedings have not been initiated on the basis of any reference. Undoubtedly, the complainant, having obtained the consent in writing in terms of Section 15 of Contempt of Courts Act, is not debarred from filing the petition of the present kind but fact remains that there is nothing before us which may indicate that contemnor had scandalized or lowered the authority of any Court or interfered or tried to interfere with the due course of any judicial proceedings

16. We would certainly like to highlight that the CCTV footage in question does indicate that the Court room was fully packed and, therefore, in view of the multiple background voices, even the voice of the alleged contemnor was not properly audible. We are also cognizant of the fact that the Presiding Officer was to hear arguments on sentence and the convict had remained Office Bearer of Delhi Bar Association as well as of Delhi High Court Bar Association. Quite possibly, because of the aforesaid fact, many members of the Bar had collected inside the Court Room.

17. However, no Presiding Officer of the Court should feel helpless in any such situation.

18. Keeping in mind the sensitivity of any given case, the Court can always direct that such matter would be taken up through video conferencing mode only so as to ensure that no untoward incident happens at the time of physical hearing. Moreover, even if the Court chooses to resort to physical hearing, Section 327 Cr. P.C. can be pressed into service which provides any such court with ample powers, directing the public generally, or any particular person, to not have

access to the Court room. Unfortunately, in the present matter, no direction in this regard was passed by the concerned Presiding Judge.

19. In order to make sure that such type of incidents, as alleged, do not happen in future, the Registrar General of this Court shall circulate the copy of this order to all the Principal District & Sessions Judges of District Courts of Delhi so that wherever so required and keeping in mind the sensitivity of any case, the concerned Presiding Officer either takes up the matter through video conferencing mode or restrict the access of general public in terms of Section 327 Cr. P.C., after recording reasons in writing.

20. In view of above, we, hereby, discharge the respondent from these proceedings.

21. With the above directions, the petition stands disposed of.

At 2:45 PM

22. The above petition had been disposed of in the forenoon session when the petitioner had appeared through video conferencing. However, when the Bench comprising of Suresh Kumar Kait, J. and Neena Bansal Krishna, J. had assembled for pronouncement of the judgment in *Sandeep Singh v. Jagwanti @ Nidhi*, in the afternoon session, the petitioner, despite knowing well that the instant petition had already been disposed of, appeared in person and started claiming that she had not been heard.

23. She was apprised that she had appeared before a wrong Coram.

24. Thereafter, when this Bench, i.e. Bench comprising of Suresh Kumar Kait, J. and Manoj Jain, J. assembled, she again appeared in robes and wearing band and reiterated that she had not been heard. When asked whether she had informed the other side that she was going to mention the matter, she replied in negative. She wanted the Court to go through the entire video footage again and also passed on her laptop containing the video footage. However, when certain questions were posed to her, she claimed that she was not fully ready.

25. She was then advised that since the matter had already been disposed of and she had not even apprised the opposite side that she would be mentioning the matter, it was no longer possible for us to take up the matter all over again and that she would be at liberty to take appropriate steps in accordance with law.

26. However, the petitioner did not allow the Bench to take up other matters and it was only when she was told that if she did not allow the Court to take up other matters, she might be hauled up for disrupting the judicial proceedings, she eventually left the Court room after apologising.

27. We hoped that since the petitioner had remained a judicial officer, she would, at least, maintain decorum of the Court and would

not endeavour to argue out the matter which had already been disposed of and also without giving any advance intimation to the opposite side.

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