

by the petitioners is not maintainable as permission contemplated under Section 15 of Contempt of Courts Act, 1971 had not been obtained by the petitioners. In any case the ground that the counsel for the petitioner is not available cannot be ground for adjournment, considering that the matter has been adjourned on one ground or other at the instance of the petitioners.

Considering the history of the case we are not inclined to adjourn the matter especially since the criminal contempt has been filed without obtaining the sanction of the standing counsel (Criminal), Government of NCT under Section 15 of the Contempt of Courts Act, 1971.

The petition itself stipulates in para 35 that sanction from the standing counsel (Criminal), Government of NCT under Section 15 of Contempt of Courts Act, 1971 has not been obtained and reliance has also been placed on letter dated 13th May, 2005 of the standing counsel (Crl.) declining the sanction.

The learned counsel for the respondent has pointed out that there has been extrapolation in para 35 of the petition as the word 'not' has been inserted later on and it is not initialed. Even the date of the letter has been changed and the letter dated 13th May, 2005 has also been produced and inserted later on in the Court record as at page 129 of the paper book, annexure P12 is the copy of the letter from the counsel of

the petitioners to the standing counsel (Criminal) which is numbered as page 129 whereas at page 130 is the application on behalf of petitioners under provisions analogous to Order 39 Rules 1 & 2. The letter dated 13th May, 2005 by Ms.Mukta Gupta, standing Counsel (Criminal) declining sanction for initiating criminal contempt has been inserted in between these two pages and it does not bear any page number. In the circumstances it is asserted that the said letter has been inserted later on. It is contended that had the petitioners disclosed initially that the permission has not been granted, the Court would not have issued notice to the respondents.

Be that as it may, the fact remains that the sanction as contemplated under Section 15 of the Contempt of Courts Act, 1971 has not been granted by the concerned authorities. Even if there is any extrapolation in para 35 of the petition, the fact remains that now even according to the petitioners the sanction has not been granted by letter dated 13th May, 2005.

A full Bench of Patna High Court in 1986 CrL. L.J 320, Harish Chandra Mishra and ors. vs The Hon'ble Mr. Justice S.Ali Ahmed had held by a majority judgment that requirement of written consent in application for initiating contempt by a private individual is a must. In this case the application for Criminal Contempt filed on behalf of the petitioners without the consent in writing of the Advocate General was

held to be not maintainable and was not entertained. A division Bench of Bombay High Court in 1990 CrL.L.J.2179, Vishwanath Vs E.S.Venkatramaih & ors had held that petition for initiation of proceeding for criminal contempt without consent of Advocate General is not maintainable.

From Perusal of section 15 of the Contempt of Courts Act, 1971 it is apparent that the section contemplates only three modes as to how a contempt petition can be moved. Either the Court can initiate the proceedings suo motu or on a motion made by the Advocate General or on a motion made by any other person, with the consent in writing of the Advocate General. In relation to High Court for Union Territories of Delhi it can be any law officer who is specified by the Central Government by notification in the official Gazette which is the Standing Counsel Criminal at New Delhi. Another Division Bench of this Court in Subhash Chand v. Shri S. M. Aggarwal, ILR (1984) 1 Del 850, at page 850 had held that the Court may reject a petition presented without the consent of Advocate General or where consent has been refused in limine.

The letter dated 13th May, 2005 from standing counsel (Crl.), Ms. Mukta Gupta is categorical that the case of the petitioners does not fall within the ambit of criminal contempt and as such the consent is declined. The case of the respondent nos.1 to 15, officials of Canara

Bank is that the debtors of the Bank despite due service of the summons of the recovery proceedings initiated by the Canara Bank against them had not contested the proceedings and therefore the petitions of the bank for recovery were allowed by order dated 14th December, 2004 and recovery certificates for Rs.35,53,515/- and Rs.2,22,29,356.53 together with interest and costs were issued. The petitioners who are the purchasers from the debtors of the Bank after issuance of recovery certificate had filed a CM (M) 226 of 2005 under Article 227 of the Constitution of India for quashing of order dated 14th December, 2004 and the Court had passed an order dated 7.2.2005 staying the operation of the impugned order. The CM (M) 226 of 2005 where the stay order was passed, was dismissed by the Court later on by order dated 21st March, 2006. The Canara Bank had contended that recovery proceedings were initiated against borrowers including M/s S.K.Trading Corporation, M/s Ess Kay International, M/s Goodwill Exporters, M/s S.K.Worldwide Clothing Ltd. And M/s Fast Forward Fashions after decrees had been passed after following due process of law and in the circumstances no criminal contempt has been committed by any of its officials.

This is not disputed that the permission as contemplated under section 15 (1) (b) of the Contempt of Courts Act, 1971 was not granted by the Standing Counsel (Crl.). In the circumstances, the petition for initiating criminal contempt against the respondents who are the

officials of Canara Bank shall not be maintainable without the permission as contemplated under Section 15 (1) (b) of the Contempt of Courts Act, 1971. Consequently, the criminal contempt is not maintainable. Resultantly, the petition is dismissed, however, parties are left to bear their own cost.

ANIL KUMAR, J.

February 19th, 2010
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V.K.SHALI, J.