

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3249 of 2023

Applicant :- Atiullah Inayat Ali Ansari

Opposite Party :- Sri Ram Bihari Panedy

Counsel for Applicant :- Dilip Kumar Chaudhary, Santosh Kumar Yadav

Counsel for Opposite Party :- Pankaj Verma

Hon'ble Rajesh Singh Chauhan, J.

1. Heard.

2. This Court has passed order dated 31.10.2023 which reads as under :

"1. Heard learned counsel for the petitioner and Sri Pankaj Verma, who has filed Vakalatnama on behalf of the sole opposite party. Said Vakalatnama is taken on record.

2. This Court has passed order dated 27.09.2023, which reads as under:-

"1. Heard Sri Santosh Kumar Yadav, learned counsel for the applicant/ petitioner.

2. Sri Santosh Kumar Yadav has stated that this Court has passed the order dated 17.05.2023 in Criminal Misc. Writ Petition No.802 of 2023 allowing the writ petition of the opposite party quashing the first information report bearing F.I.R./Crime No.0330 of 2022, under Sections - 419, 420, 467, 468, 471, 447, 506 I.P.C., Police Station.-Dhanepur, District- Gonda on the basis of settlement agreement, which had taken place before the Mediation the Conciliation Centre of this Court on 17.04.2023 (Annexure No.4). Learned counsel has submitted that the sole opposite party of the present contempt petition, who was petitioner before this Court in the aforesaid writ petition, did not abide by the conditions of the settlement, more particularly conditions no.C, D & E. Thereafter, the present applicant/ petitioner filed an application before the writ court seeking recall of the order dated 17.05.2023 (supra) and the aforesaid recall application was disposed of by the writ court on 19.07.2023 observing that if the petitioner of the writ petition/ sole opposite party of this contempt petition has flouted any condition(s) of the settlement agreement, the appropriate proceedings under the Contempt of Courts Act may be initiated but no order can be passed by the writ court.

3. Matter requires consideration.

4. Issue notice to the sole opposite party returnable at an early date, for which, necessary steps be taken within a week.

5. Office to proceed accordingly.

6. List this case on 31.10.2023.

7. On the next date, the sole opposite party i.e. Sri Ram Bihari Pandey, son of Shyam Narayan Pandey, resident of Village- Ahirauliya, Police Station- Itiathonk, District- Gonda, U.P. shall appear in person."

3. In compliance of the aforesaid order, Sri Ram Bihari Pandey, the sole opposite party, is present in person. Sri Pankaj Verma has stated that the opposite party has not flouted any condition of the agreement and specific affidavit has already been filed before the Division Bench. However, learned counsel for the petitioner has stated that the opposite party has flouted the condition of the agreement and if he is given some time, he may file some evidence to show that the opposite

party has flouted the condition.

4. Let supplementary affidavit be filed by the learned counsel for the petitioner bringing on record some evidence to show that the sole opposite party has flouted the condition of the agreement.

5. In the meantime, learned counsel for the opposite party may also file counter affidavit.

6. List on 05.12.2023 within top ten cases.

7. On that date, the petitioner and the sole opposite party, both, shall appear in person.

8. When the case is next listed, name of Sri Pankaj Verma shall be shown in the cause list as counsel for the opposite party"

3. In compliance of the aforesaid order Sri Santosh Kumar Yadav has filed supplementary affidavit, same is taken on record.

4. In the aforesaid supplementary affidavit the petitioner has enclosed Annexure no. 1 whereby the copy of representations dated 28.11.2023 preferred to District Magistrate, Gonda, Superintendent of Police, Gonda, Sub-Divisional Officer, Sadar, Gonda and Station House Officer, P.S. Dhaneypur, District Gonda has been enclosed. Annexure no. 2 is a call to the police on 112 number. Annexure no. 3 is a coloured photograph. However, no proof has been enclosed in this affidavit to show that those applications have been given to the aforesaid authorities, therefore, this Court is unable to comprehend as to whether these representations have been preferred to the competent authorities or not.

5. The perusal of the representations dated 28.11.2023 reveals that it has nowhere been indicated as to when the direction of the Court has been flouted by the private opposite party, however, bald allegations have been indicated. Coloured photographs did not indicate as to when those photographs have been clicked, therefore, the contempt court is unable to comprehend as to when the order of the Court has been flouted.

6. Both the petitioner and private opposite party are present in person along with their Advocates. Opposite party no. 1 namely, Ram Bihari Pandey has stated that he has not flouted the order of the writ court and the allegations, so levelled against him are false and misconceived, however, Sri Santosh Kumar Yadav, learned counsel for the petitioner has stated that the sole opposite party is threatening the petitioner for dire consequences and he is flouting the orders of the writ court.

7. Having considered the arguments of learned counsel for the parties and having perused the material available on record, I

am of the considered opinion that the dispute in question may not be adjudicated in a contempt proceedings. Even if the private opposite party is flouting the direction of the writ court, the appropriate application may be preferred to the competent administrative / police authorities and the grievance of the petitioner, if any, may be redressed strictly in accordance with law after carrying out the spot inspection.

6. In the wake of aforesaid development nothing remains to be adjudicated by this Court in this writ petition.

7. Accordingly, the contempt petition is **dismissed**.

8. Notices discharged.

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[Rajesh Singh Chauhan, J.]

Order Date :- 5.12.2023

Om