

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3282 of 2023

Applicant :- Atul Pandey @ Anadi Pandey

Opposite Party :- Sri Ila Maran Superintendent Of Police, Amethi And Others

Counsel for Applicant :- Sudhakar Mishra

Hon'ble Rajesh Singh Chauhan,J.

1. Heard.

2. This Court has passed the order dated 3.10.2023 which reads as under :

"1. Heard Sri Sudhakar Mishra, learned counsel for the applicant.

2. This is a case where the disobedience of the order of the writ court dated 16.8.2023 passed in Criminal Misc. Writ Petition No. 6358 of 2023 has been apprised by submitting that despite the specific direction being issued to the Investigating Officer to follow the provisions of section 41A Cr.P.C. in the light of dictum of Apex Court in re: Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273 the investigating agency / authority is trying to harass not only the family members of the petitioner but the sister of the petitioner has been humiliated. The specific recital to that effect has been given in para 6 of the contempt petition which reads as under:

"That the investigating officer exceeded the limit of the power of police by making entry as the house of the applicant and the sister of the applicant has been humiliated by the contemnor number 3 by taking hand of them, trying to pull to come out from the house, does activity of the contemnor is liable to held a enquiry against the misconduct of the police officer which the Police manual and CRPC not permitted to any police authority to commit such misconduct, some videos and audios of the activity of the investigating officer is preserved by the family of the applicant in which the voice of the contemnor clearly recognize which can be produced after order of this honorable High Court."

3. Learned counsel for the petitioner has further submitted that since the writ court has protected the liberty of the petitioner in the light of the Arnesh Kumar (supra), therefore, the petitioner has cooperated with the investigation and in future he wishes to cooperate in terms of the order of the writ court. As and when the petitioner approached the concerning investigating officer / authority, the investigation and recording of statement etc. has not been done and the investigating officer stated that he will apprise the date on which the petitioner will have to come to the police station, on that the petitioner agreed but instead of apprising the date on which the petitioner was to appear before the investigating officer / agency the investigating officer adopted the tactics which is not accepted in the eyes of law in terms of provisions laid in Arnesh Kumar (supra).

4. Before passing any order in this issue, I must clear that in the cases of alleged disobedience of the dictum of Apex Court in re: Arnesh Kumar (supra) aggrieved person / persons has / have got alternative statutory remedy in the Criminal Procedure Code but looking into the allegations, so levelled in para 6 of the contempt petition, I wish to seek specific instructions from the investigating officer through Addl. C.S.C. Sri Sunil Bajpayee.

5. Therefore, learned counsel for the petitioner is directed to provide two copies of the contempt petition to Sri Sunil Bajpayee, learned Addl. C.S.C. to seek complete written instructions from opposite party no. 2 / 3, particularly on para 6

of the contempt petition. On the next date the petitioner may also produce some evidence to convince the Court that the allegation, so levelled in para 6 of the contempt petition are correct.

6. If the written instructions are not provided to the learned Addl. C.S.C. by the next date, the opposite party no. 2 / 3 shall appear in person along with the case diary.

7. List on 17. 10.2023 as fresh."

3. In compliance of the aforesaid order Sri Mayankar Singh, learned Standing Counsel has produced the copy of instruction letter dated 12.10.2023 provided by In-charge Inspector, P.S. Musafirkhana, District Amethi addressed to C.S.C. of this Court, same are taken on record.

4. In the aforesaid instructions it has been categorically indicated that despite the service of notice upon the father of the applicant as he was not accepting the notice the police team tried to record the statement of the accused-applicant but his family members including some female family members tried to create obstruction to such exercise of the police and resultant thereof the accused-applicant absconded. It has also been indicated that the allegations, so levelled in the petition are false inasmuch as the police team has not violated any direction being issued by the Apex Court or the direction being issued by the Human Rights Commission, copy of the aforesaid instruction letter has been provided to the learned counsel for the petitioner.

5. In the wake of the aforesaid development, I do not find any good ground to issue any direction in this contempt petition or to keep this contempt petition pending any longer.

6. Accordingly, the contempt petition is **dismissed**. However, it is always open for the petitioner to take appropriate legal steps or to adopt legal recourse for redressal of his grievance, if any before the appropriate court of law.

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[Rajesh Singh Chauhan, J.]

Order Date :- 17.10.2023

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