

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3517 of 2023

Applicant :- Satya Narayan Yadav And Another

Opposite Party :- Neelam Yadav

Counsel for Applicant :- Gopesh Tripathi

Counsel for Opposite Party :- Jaikaran

Hon'ble Rajesh Singh Chauhan,J.

1. Heard.

2. This Court has passed an order on 14.12.2023 which is as under:-

"1. Heard.

2. This Court has passed the order dated 21.11.2023, which reads as under:-

"1. Heard.

2. This Court has passed the order dated 12.10.2023, which reads as under:-

"1. Heard learned counsel for the petitioners.

2. Learned counsel for the petitioners has drawn attention of this Court towards the order dated 5.4.2011 passed in Misc. Bench No. 11040 of 2010 whereby writ petition of the petitioners was allowed on the very ground that the parties have settled their dispute 29.3.2021 and the Mediation and Conciliation Center of this Court has submitted its report dated 31.3.2011 in this regard. Learned counsel for the petitioners has shown the aforesaid agreement which has been enclosed with this contempt petition in terms of the aforesaid Mediation Agreement the opposite party must withdraw the pending cases which has been indicated in the aforesaid agreement itself.

3. Learned counsel for the petitioners has stated that despite the aforesaid agreement the opposite party / contemnor did not withdraw her cases, rather she persuaded the cases wherein warrant has been issued on the application of the opposite party dated 1.9.2023. The aforesaid application has been enclosed on running page 127 of the contempt petition.

4. The matter requires consideration.

5. Issue notice to opposite party namely Neelam Yadav, D/o Rampal Yadav w/o Shiv Kumar Yadav, r/o Machariya, Post Jagesarganj, P.S. Jagdishpur, District Amethi returnable at an early date.

6. Steps within a week.

7. Office to proceed accordingly.

8. The aforesaid notice shall be served on opposite party / contemnor through the C.J.M, Sultanpur and C.J.M., Sultanpur shall ensure the personal appearance of opposite party / contemnor before this Court on the next date of listing.

9. List on 21.11.2023 within top ten cases."

3. As per office report dated 21.11.2023, the compliance report of service of notice upon opposite party No.1 as well as letter sent to the Chief Judicial Magistrate, District-Sultanpur is still awaited.

4. List again on 14.12.2023 within top ten cases.

5. By the next date, the office shall file a fresh service report."

3. In compliance of the earlier order dated 12.10.2023, Smt. Neelam Yadav, the sole opposite party, is present in person.

4. Learned counsel for the petitioners has stated that despite the settlement agreement dated 29.03.2011, the sole opposite party has yet not withdrawn the cases, which have been indicated in para-6 (Gha) 3 & 7 i.e. 3. Misc. Case No.178/10, under Section 128 Cr.P.C., District Sultanpur & 7. Complaint No.2069/2010, under Sections 498A, 323, 406, 504, 506 IPC and Section 3/4 of Dowry Prohibition Act pending in the Court of Additional Chief Judicial Magistrate (Fourth), District Sultanpur, therefore, she has committed contempt.

5. Smt. Neelam Yadav has stated that however, it was orally agreed before the Mediators that petitioner no.2 shall make payment of Rupees one thousand per month to his son in terms of the order being passed by the Family Court, Sultanpur but no such payment has been made. On that, learned counsel for the petitioners has stated that in the entire settlement agreement this clause is not there. On being further confronted from the learned counsel for the parties as to where the son of petitioner no.2 is living, it has been informed that the son of petitioner no.2 is living with the family members of the sole opposite party. The opposite party has informed that presently her son is aged about 20 years. She has further submitted that if petitioner no.2 pays a sum of Rupees one thousand per month to the son with arrears thereof, she may file application for withdrawal of the aforesaid cases.

6. Learned counsel for the petitioners has raised objection on the aforesaid point to the effect that opposite party may not impose such condition as that condition has not been indicated in the settlement agreement.

7. However, after due deliberations, learned counsel for the petitioners has stated that he shall advise petitioner no.2 to prepare a Fixed Deposit of Rs.50,000/- in the name of his son for a period of three years and that may be renewed further as per sweet will of the son of petitioner no.2 since he has become major. However, he has submitted that if the aforesaid Fixed Deposit is prepared, the same be provided to the son in

case the sole opposite party files applications for withdrawal of the aforesaid cases forthwith, to be more precise within two days. On that, learned counsel for the opposite party has stated that applications for withdrawal of the aforesaid cases shall be filed tomorrow or day-after-tomorrow and the certified copy of those applications shall be produced before the Court on the next date. If such applications are filed, the Court concerned may be requested to dispose of those applications with expedition so that the settlement agreement could attain finality at the earliest.

8. List on 20.12.2023.

9. On that date, petitioner no.2, namely, Vinay Kumar, son of Satya Narayan Yadav, resident of Gram Panpurwa, Satgawan, Amethi, U.P., the sole opposite party, namely, Neelam Yadav, daughter of Rampal Yadav, wife of Shiv Kumar Yadav, resident of Machariya, Post Jagesarganj, P.S. Jagdishpur, District- Amethi and their son Sachin Yadav shall appear in person.

10. On that date, petitioner no.2 shall produce the Fixed Deposit in terms of the aforesaid order and Smt. Neelam Yadav shall produce the certified copy of the applications for withdrawal of the aforesaid cases.

11. The present contempt petition may be decided finally, if the aforesaid conditions are fulfilled by the parties.

12. This case shall be taken up at 03:45 P.M."

3. In compliance of the aforesaid order Sri Vinay Kumar, S/o Satya Narayan Yadav, opposite party no.1 and Sri Satya Narayan Yadav opposite party no.1 are present in person. Though Sri Satya Narayan Yadav was not called but he is present. Further the sole opposite party, Smt. Neelam Yadav, W/o Shiv Kumar Yadav and Sri Sachin Yadav, Son of Vinay Kumar (opposite party no.2) are also present.

4. Sri Jaikaran, learned counsel for the opposite party has filed supplementary affidavit enclosing therewith the copy of the application dated 15.12.2023 and order dated 16.12.2023 as Annexure no.SA-1 and Annexure no.SA-2 respectively, the same is taken on record. Sri Jaikaran, learned counsel for the opposite party has informed that the sole opposite party has filed an application in a case No.178 of 2010 (new case No.779 of 2022) seeking withdrawal of the aforesaid proceedings in terms of the settlement agreement. The aforesaid case has been withdrawn vide order dated 16.12.2023 and certified copy thereof has been enclosed as annexure no. SA-2 with the supplementary affidavit of the sole opposite party in case No.2069 of 2010, under Section 498-A, 323, 504, 506 IPC R/w 3/4 D.P. Act for withdrawing the aforesaid case in terms of the settlement agreement wherein the next date has been fixed for 22.01.2024. Learned counsel has stated that the aforesaid case

is likely to be dismissed on 22.01.2024. In view of the aforesaid facts and circumstances, it is clear that the sole opposite party/contemnor has discharged her obligation.

5. Sri Gopesh Tripathi, learned counsel for the applicant has submitted that in terms of the order of this Court dated 14.12.2023, the petitioner no.2 approached his bank i.e., HDFC Bank, Faridabad, Haryana, alongwith a cheque of Rs.50,000/- to get a Fixed Deposit prepared in the name of his son Sri Sachin Yadav but the Fixed Deposit could not be prepared for the reason that he was not aware about the account details of his son which was required for preparing the Fixed Deposit. Sri Vinay Kumar, petitioner no.2 and his counsel has assured that as soon as the account details of Sri Sachin Yadav is provided, the Fixed Deposit shall be prepared forthwith.

6. On that Sri Sachin Yadav, son of petitioner No.2 has intimated his complete bank account details which are as under:-

<i>"Name</i>	-	<i>Sachin Yadav</i>
<i>Account No .</i>	-	<i>80220100011479</i>
<i>IFSC Code</i>	-	<i>BARB0VJJAGD</i>
<i>Bank of Baroda Branch</i>	-	<i>Jagdishpur, Amethi"</i>

7. The aforesaid detail has been provide to the petitioner no.2 in writing before this Court.

8. After perusing the aforesaid account details the opposite party no.2 has stated that he shall get the Fixed Deposit prepared in the name of his son Sachin Yadav at the earliest, preferably within 48 hrs. and the Fixed Deposit certificate shall be handed over to Sachin Yadav.

9. On being asked, Sri Sachin Yadav, son of petitioner no.2 as to whether he is willing to live with his father, Vinay Kumar or his grandfather, Satya Narayan Yadav or his mother, Neelam Yadav or his maternal grand parents, he has stated that now he has become major and he shall take his decisions by his own and since he is pursuing his graduation so he may be permitted to live with any of the above persons as per his sweet will. He has further submitted that he wishes to live with his father and with his grand father as well as his mother but how much time he will consume with them should be left open to him keeping in view that his studies are not compromised.

10. On the aforesaid proposal, the parties who are present

before this Court are agreeable and have said that it is up to Sri Sachin Yadav to live with any of the persons with whom he wishes to live and they will not create any hindrance of any kind whatsoever in his peaceful living or in his studies.

11. Having considered aforesaid submissions and having regard of the aforesaid developments, I do not find any fruitful purpose in keeping this contempt petition any longer. Accordingly, the present contempt petition is dismissed. Notices, if any, are discharged.

12. However, it is expected that the petitioner no.2 shall get the Fixed Deposit prepared at the earliest, as per his undertaking so given before this Court, and shall hand over the Fixed Deposit Certificate to his son, Sachin Yadav, forthwith. Further, all the parties shall live their life in terms of the settlement agreement. So far as the wish of son of sole opposite party and petitioner no.2, namely Sachin Yadav is concerned, his wishes shall be considered and respected by the parties and no hindrance of any kind whatsoever, in his peaceful life, may be created by any of the parties and the parties shall ensure that the studies of Sri Sachin Yadav are not disturbed.

13. It is always open for the parties to file for appropriate application in this contempt petition for revival thereof, if any of the conditions are disobeyed or flouted by the parties.

Order Date :- 20.12.2023

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