

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.A.C.P.No. 3 of 2015

Date of Decision : September 28, 2015

Naresh Kumar Sehgal

....Appellant

VERSUS

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE HARI PAL VERMA

Present : Mr. K.D.S. Hooda, Advocate
for the appellant.

T.P.S. MANN, J.

Aggrieved of the orders dated 30.7.2015 and 31.7.2015 passed by learned Single Judge, whereby the appellant was held guilty for contempt of Court and was directed to deposit costs of Rs.2,00,000/- with the Mediation and Conciliation Centre of this Court within a period of two months, the appellant has filed the present appeal.

The appellant had filed Criminal Misc. No.M-12231 of 2015 for issuance of directions to respondents No.1 to 11 to immediately provide appropriate police security cover alongwith vehicles to him, which had been provided earlier vide different orders of the State Government/DGP/ADGP (Security). He also sought issuance of directions to respondents No.1 to 11 to provide the security of CRPF or of any other independent agency, alongwith bullet proof vehicle, and pilot, alongwith

escort, permanently and provide security guards at his office and residence. On 23.4.2015, learned Single Judge recorded the statement made by the State counsel on instructions from Shri Baljit Singh, Deputy Superintendent of Police, Kotkapura that he had no objection in providing necessary security to the petitioner and it would be ensured that no untoward harm was caused to him when he would appear before the Court on 30.4.2015. The appellant then filed contempt petition, i.e. C.O.C.P. No.1083 of 2015 alleging non-compliance of the directions given by the learned Single Judge on 23.4.2015 but, instead of following that petition to its logical end, he chose not to appear and, accordingly, the contempt petition was dismissed for want of prosecution. He then filed Criminal Misc. No.M-17359 of 2015 with multifarious prayers, including the prayer for providing him with security. However, he did not disclose the factum of the pendency of Criminal Misc. No.M-12231 of 2015. He also filed miscellaneous application in Criminal Misc. No.M-17359 of 2015 with a number of prayers, including one to provide him with security. However, he did not disclose that Criminal Misc. No.M-12231 of 2015 filed by him with a similar prayer for grant of security, which was listed for 24.7.2015 and statement had already been made on 23.4.2015 by the police officials on their own ensuring the security of the appellant. The appellant also served advance copy of a miscellaneous application dated 22.7.2015 proposed to be filed by him in Criminal Misc. No. M-75494 of 2006, which was pending for 20.8.2015. In the said miscellaneous application, he made similar prayer that he was

apprehending danger to life and as such he be provided with security.

Vide impugned order dated 30.7.2015, learned Single Judge observed that concealment of facts by the appellant to procure orders favourable to him, was an act, which could hardly be condoned. The conduct of the appellant in filing repeated petitions with similar prayers and concealment of facts was an attempt to over reach the Court and the same was held to be contemptuous. Accordingly, the case was adjourned for 31.7.2015 for hearing the appellant on quantum of sentence. Vide impugned order dated 31.7.2015, learned Single Judge on noticing that the appellant had expressed his regrets on the earlier date of hearing found it appropriate to impose costs so as to deter him from filing vexatious litigations. The costs were, accordingly, determined at Rs.2,00,000/- to be deposited with the Mediation and Conciliation Centre of this Court within a period of two months, failing which the Chief Judicial Magistrate, Faridkot was directed to ensure its recovery from the appellant, even if resort was required to be made to coercive process.

Learned counsel for the appellant has submitted that even if the conduct of the appellant had been found to be contemptuous, it would amount to criminal contempt and after initiating the proceedings, the learned Single Judge was required to refer it to the Division Bench in terms of Section 18 of the Contempt of Courts Act, instead of himself holding the appellant guilty of contempt and passing the order

sentencing the appellant to pay costs of Rs.2,00,000/-. It has also been submitted that before holding the appellant guilty of contempt, may it be civil or criminal, learned Single Judge was required to issue show cause notice to the appellant. However, no such show cause notice has ever been issued. Prayer has, accordingly, been made for setting aside the impugned orders dated 30.7.2015/ 31.7.2015.

Having heard learned counsel for the appellant and on going through the impugned orders, this Court finds that on 30.7.2015, when the appellant was held guilty for committing contempt, he prayed for taking a lenient view. Further, in para 23 of the present appeal, the appellant has stated that while filing rejoinder he had tendered his apology for unintentional mistake of not mentioning about similar petition at the relevant place. Once the appellant had tendered his apology while filing the rejoinder and had also prayed for taking a lenient view in the matter of sentence, he cannot be heard saying that the proceedings before the learned Single Judge were without jurisdiction, viz. the criminal proceedings were required to be referred to the Division Bench and show cause notice has not been served upon the appellant before holding him guilty of contempt. Therefore, the impugned order dated 30.7.2015 holding the appellant guilty of contempt is upheld.

As regards the quantum of sentence, this Court finds that the costs of Rs.2,00,000/- imposed upon the appellant are on the higher side. The appellant has already tendered his apology for non-mentioning

about the pendency of the earlier petition when he filed subsequent petition for similar relief and had also prayed for taking a lenient view. Taking into consideration the totality of the circumstances, this Court is of the view that amount of costs deserves to be reduced to Rs.50,000/-.

Resultantly, while maintaining the impugned order passed by learned Single Judge in holding the appellant guilty of contempt, the impugned order of sentence is modified by reducing the costs of Rs.2,00,000/- to Rs.50,000/-. The costs of Rs.50,000/- shall be deposited by the appellant within a further period of three weeks from the date already stipulated in the order dated 31.7.2015. The consequences of not depositing the costs of Rs.50,000/- within time, as granted by this Court, shall be the same as stated in the order dated 31.7.2015.

The appeal is disposed of, accordingly.

(T.P.S. MANN)
JUDGE

September 28, 2015
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(HARI PAL VERMA)
JUDGE