

COCP No.635 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP No.635 of 2015
Date of decision:17.03.2015**

Purshottam Dass

...Petitioner

Versus

Mr. Yogesh Choudhary

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. S.K.Tripathi, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

This petition has been filed under Section 16 of the Contempt of Courts Act, 1971 for willful disobedience of the orders dated 18.02.2014 and 13.02.2015 passed by this Court in Crl. Misc. No.M-5961 of 2014 titled as “Purshotam Das v. State of Haryana”.

In brief, the petitioner's mother lodged an FIR No.143 of 2007 against the petitioner under Sections 420/448/380 IPC in which, after the challan was put in, the Magistrate framed the charges on 23.11.2007. The prosecution evidence was closed on 11.11.2013. The complainant also filed a revision petition against the order dated 11.11.2013 by which the prosecution evidence was closed. The said revision petition was allowed on 24.01.2014 by the Additional Sessions Judge, Rewari directing the trial Court to examine the evidence mentioned by the complainant but the application filed by the complainant under Section 311 of the Code of Criminal Procedure, 1973 (here-in-after referred to as the “Cr.P.C.”) was

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dismissed on 08.01.2014.

Aggrieved against the order dated 24.01.2014, the petitioner filed Crl. Misc. No.M-5961 of 2014 in which notice of motion was issued on 18.02.2014 and the trial Court was directed to adjourn the proceedings pending before it beyond the date given by this Court.

It is averred that on 21.02.2014, the proceedings were adjourned to 11.03.2014, in compliance of the order dated 18.02.2014 but on the adjourned date, the present respondent asked the petitioner to file an affidavit that the order passed by the High Court on 18.02.2014 was still in operation. An affidavit was filed by the petitioner in that regard and the case was adjourned to 02.09.2014 for awaiting further orders from the High Court. On 17.11.2014, the case was further adjourned to 23.12.2014 to await the order of the High Court but it is alleged that on 28.11.2014, the hearing of the case was *suo motu* preponed to 05.12.2014. The said order dated 28.11.2014 reads as under:-

“From the perusal of the file, it came into my notice that no stay order passed by the Hon'ble High Court is placed on file. Hence, notice to the accused and his counsel be issued for 5.12.2014.”

On 24.12.2014, the witness PW3 Beshaswar Singh was examined and the case was adjourned to 14.01.2015 for remaining prosecution evidence and the remaining PWs were summoned. On 14.01.2015, further evidence was recorded and the prosecution evidence was closed. The statement of the accused was also recorded under Section 313 Cr.P.C. and the case was adjourned for the evidence of DWs for

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19.01.2015. Thereafter, the defence witnesses were examined. Thereafter, this Court passed the order dated 13.02.2015 in Crl. Misc. No.M-5961 of 2014 in the following manner:-

“Adjourned to 16.03.2015 for arguments, at the request of learned counsel for the petitioner.

At the same time, passing of the final judgment by the trial Court is hereby stayed, till further orders.”

On 18.02.2015, order of conviction was announced and the case was listed for 19.02.2015 for hearing the petitioner-convict on the quantum of sentence.

Counsel for the petitioner has submitted that the respondent, who happened to be the Chief Judicial Magistrate, Rewari, has committed the contempt for disobeying the order passed by this Court both on 18.02.2014 and 13.02.2015. However, he has fairly admitted, during the course of hearing, that a certified copy of the order dated 13.02.2015 was produced before the respondent only on 19.02.2015, though it is tried to be argued that the respondent was orally informed about the order passed by this Court on 13.02.2015. It is also argued that there was no occasion for the respondent to proceed with the case despite the order dated 18.02.2014.

I have heard learned counsel for the petitioner in detail and perused the available record.

Insofar as the order dated 18.02.2014 is concerned, it was passed at the time when notice of motion was issued in Crl. Misc. No.M-5961 of 2014 and the trial Court was directed to adjourn the proceeding pending before it beyond the date fixed i.e. 07.03.2014 for which the notice

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was issued by this Court. It is not mentioned in the petition that this order was repeated by this Court on the request of the petitioner, therefore, it was observed by the respondent that there is no stay of proceedings and hence, he started the proceedings again. If the petitioner was so aggrieved, he should have filed the contempt petition immediately thereafter or filed an application for stay rather, he participated in the proceedings inasmuch as got recorded his statement under Section 313 Cr.P.C. and also examined his witnesses in defence. Therefore, he has no right to make complaint against the respondent of violating the order dated 18.02.2014.

As regards the order dated 13.02.2015, it is admitted by the petitioner that the certified copy of the order dated 13.02.2015 was not produced before the respondent before passing the order dated 18.02.2015 rather it was produced before the Court on 19.02.2015, therefore, the mere statement of the petitioner could not have been accepted by the Court below for the purpose of adjourning the case.

Thus, in view of the aforesaid discussion, I do not find that the respondent has committed any kind of contempt by willfully violating the orders passed by this Court on 18.02.2014 and 13.02.2015.

In view thereof, the present contempt petition is found to be totally frivolous and hence, the same is hereby dismissed with costs of ₹10,000/- which shall be deposited by the petitioner with the Legal Services Authority, Rewari within 30 days from the date of receipt of certified copy of the order.

March 17, 2015
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(Rakesh Kumar Jain)
Judge