

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2978 of 2015

In

Cr.Misc. 40 of 2014

Ashish Narayan Jha, S/O Dr. Shree Narayan Jha, resident of Mohalla-Balbhadrapur, East of N.P. Mishra Chouk, P.O. and P.S. Laheriasarai, District-Darbhangha-846001.

.... Petitioner

Versus

1. The State of Bihar.
2. Shri Aditya Kumar, the then A.S.P. Darbhanga.
3. Reena Kumari, Sub-Inspector of Police and the then I.O., Mahila P.S. Laheriasarai, District-Darbhangha.
4. Seema Kumari, Sub-Inspector and the then S.H.O., Mahila P.S. Laheriasarai, District- Darbhanga.

.... Opposite parties

Appearance :

For the Petitioner : Mr. Shashi Anugrah Narayan Singh, Sr. Advocate, Suresh Pd. Singh No. 1 and Vitesh Kumar Singh, Advocates.

For the O. Ps. : Mr. Dinbandhu Singh, G.P. 9 and Mr. Rana B. N. Singh, A.C. to G.P. 9.

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

10 05-04-2016

Heard learned senior counsel for the petitioner and learned Government Pleader No. 9 for the State.

The present application has been filed for initiating proceeding of contempt against the opposite parties for violation of directions issued by the Supreme Court, although the specific case number and the date of order of the Supreme Court is not mentioned in the contempt application. The reference according to learned counsel for the petitioner is made in paragraph no. 1 of the



application by quoting from the decision of the Apex Court in the case of Arnesh Kumar Vs. State of Bihar & Anr: 2014(3)PLJR 314(SC), in paragraph no. 13(7) of which it has been held that failure to comply with the directions given in the judgment shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

The alleged contempt is stated to have been committed on 28.04.2014 when according to the petitioner he was present in the court campus for seeking legal remedies with respect to Mahila P.S. Case No. 40/2014 dated 22.04.2014 under Section 498(A) of the I.P.C. filed by his wife, Manisha Choudhary. When it was pointed out to learned counsel for the petitioner that the judgment of the Supreme Court itself was rendered on 02.07.2014 i.e., more than two months after the alleged occurrence, learned counsel for the petitioner relied upon the decision of the Apex Court in the case of D. K. Basu Vs. State of West Bengal: (1997) 1 SCC 416, in paragraph nos. 35 and 36 of which similar liability has been fastened upon the official concerned.

Learned G.P.9 appearing for the State has raised preliminary objection that the contempt application has been filed



beyond the period of one year provided under Section 20 of the Contempt of Courts Act, 1971 for initiating proceeding for contempt and thus according to him, the contempt application is not maintainable. The contempt application had been filed initially with defect on 24.09.2015. It is, thus, evident that the contempt application has been filed beyond the period of one year from the date on which the alleged contempt has been committed.

Learned counsel for the petitioner in support of his contention submits that Section 20 of the Contempt of Courts Act will not control the powers of the Court for punishing for contempt which is derived from Article 215 of the Constitution of India and thus it is open to the Court to initiate contempt proceedings even if the initiation of such proceeding is barred by Section 20 of the Contempt of Courts Act.

It is further submitted by learned counsel for the petitioner that on account of awareness of the Supreme Court judgment much later and thereafter within a period of one year of knowledge of the said judgment, the contempt application has been filed. Thus, for the said reason also the contempt application has been filed within time.

We are unable to accept the submission of learned counsel for the petitioner. It is true that the powers of this Court



for punishing the contemnor is derived from the Constitution of India but the powers of the Parliament (as also of the State Legislature) to legislate with regard to the subject matter of contempt of court is derived from Article 246 read with Entry 14 of List III-Concurrent List of the Seventh Schedule to the Constitution which reads as: “Contempt of court but not including contempt of the Supreme Court”. Thus, while it is true that the powers of this Court to punish the contemnor is derived from Article 215 of the Constitution of India and not from the Parliamentary statute but Parliament has been empowered to regulate the exercise of such powers by legislation by the Constitution, in terms of the aforesaid provisions. Thus, Section 20 of the Limitation Act is applicable to any contempt proceeding before this Court and such proceedings have to be initiated within a period of one year from the date on which the contempt is alleged to have been committed.

The provision of Section 20 of the Contempt of Courts Act is clear that it relates to the exercise of power of initiating the proceeding of contempt of court and has nothing to do with the knowledge of the person about any decision of the Supreme Court entitling him to move this Court.

In the light of the aforesaid discussions, we are of the

view that the present contempt application has been filed beyond the period prescribed under Section 20 of the Contempt of Courts Act and, therefore, is not maintainable. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

Sudip/U.K./-

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