

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on : May 29, 2015

+ CONT. CASE (CRL.) No.9/2014

COURT ON ITS OWN MOTION

... Petitioner

Through:

Versus

DEEPAK KHOSLA

.....Respondent/Contemnor

Through: In person.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I. S. MEHTA

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JUDGMENT

KAILASH GAMBHIR, J.

1. Vide order dated 08.09.2014 passed by the Division Bench of this Court comprising of Hon'ble Mr. Justice S. Ravindra Bhat and Hon'ble Mr. Justice J. R. Midha, the respondent herein was charged with committing the Contempt of Court under Section 15 (1) of the Contempt of Courts Act, 1971 for making certain averments in the LPA No. 583/2014 preferred by him. The Division Bench after taking cognizance of the averments made in the said LPA, which tends to scandalize or lower the authority or prestige of the court as they directly attribute malice to the learned Single Judge opined that the same prima facie constitute the criminal contempt as defined under Section 2(c)(i) of the

Act. By the same order, the respondent was required to show cause as to why he should not be punished for committing such criminal contempt by making such averments. The said contempt proceedings were directed to be placed before the Roster Bench by the said Division Bench. Since one of the members of the Roster Bench could not hear the matter of the respondent, therefore, the same were placed before this Division Bench and accordingly the same were taken up by this Division Bench on 16.09.2014. No reply to the show cause notice dated 08.09.2014 was filed by the respondent and at the request of the respondent further eight weeks time was granted to him to file the reply and the matter was adjourned for 11.12.2014. On 11.12.2014, the respondent failed to cause his appearance in the matter and due to his absence, bailable warrants were directed against him returnable on 17.12.2014. On 17.12.2014, again the respondent did not appear and to secure the presence of the respondent in the contempt proceedings, non-bailable warrants were directed against him for 13.01.2015. In the meanwhile, applications vide CM APPL. Nos. 19755/2014 and 19756/2014 seeking cancellation of non-bailable warrants; for seeking extension of time to file reply to the contempt notice and change of the next scheduled date of the contempt proceedings from 13.01.2015 to some date in April, 2015 respectively

were moved by the respondent. Vide order dated 18.12.2014, non-bailable warrants directed against the respondent were cancelled while the other prayers made by the respondent in the said applications were rejected. The matter was directed to be listed on the date already fixed in the matter. On 13.01.2015, request for an adjournment was made on behalf of the respondent on the ground that the respondent had gone to Calcutta. The matter was accordingly adjourned for final hearing on 23.02.2015. On 23.02.2015, the matter was again adjourned at the request of the respondent expressing his inability to address arguments due to toothache. The matter was yet again adjourned for final hearing for 23.03.2015. On 23.03.2015, the respondent appeared in the matter and made a submission that in the other contempt proceedings, i.e. Cont. Case (Crl.) 12/2014, he has raised some preliminary objections and he is relying on the same preliminary objections in so far as the present contempt proceedings is concerned.

2. The preliminary objections which were raised by the respondent in other contempt proceedings and on which reliance has been placed by him in the present contempt proceedings are reproduced as under:-

***“A. Under Section 14(2) of the Contempt of Courts Act, 1971, the Court which had initiated the contempt proceedings cannot try him for the suo moto contempt proceedings rather it should be heard and decided by any other roster bench.*”**

B. This contempt proceedings can continue only after the disposal of CM No. 17483/2013 which was filed by him in LPA No. 16/2012 wherein he gave necessary clarifications with regard to the said expression of 'Dedh Bench' and the same has yet not been decided by this Court.

C. He cannot be proceeded solely by the Contempt of Courts Act in the absence of rules framed by this Court and any decision by the Court in the contempt case in the absence of the rules would be in violation of the fundamental rights of the respondent as have been granted under Article 21 of the Constitution of India.

D. The respondent being a practising Advocate, has to be tried for contempt proceedings by a Full Bench of this Court in terms of Volume V, Chapter 3, Part B Rule 2(1) of the High Court Rules."

3. In so far as the first preliminary objection is concerned, the same may not be available to him, as already the contempt proceedings were directed by the Division Bench comprising of Hon'ble Mr. Justice S. Ravindra Bhat and Hon'ble Mr. Justice J. R. Midha, who took cognizance against the respondent under Section 17 of the Contempt of Court , 1971 taking a prima facie view that the expressions and behaviour of Mr. Deepak Khosla, tends to scandalize or lower the authority or prestige of the Court as they directly attribute malice to the learned Single Judge. The ground for placing the present contempt proceedings before the other Bench in terms of Section 14(2) of the Contempt of Courts Act, 1971 thus will not be available to the respondent herein, however we feel that since by a separate order passed by this Court in other contempt proceedings being Cont. Case (Crl.) No. 12/2014 for being placed before Hon'ble the

Chief Justice for assigning the same to the appropriate Bench, we deem it just and proper to place this matter as well before Hon'ble the Chief Justice for assigning it to the same Bench that would be assigned the other contempt case so that the same Bench can take an overall view of conduct of this respondent.

4. So far as the second preliminary objection is concerned, the same being restricted to the other case, thus the same is not available to him in the present case. For the third and forth preliminary objections, we refer to our view taken in the other contempt matter.

5. In view of the above, we direct the Registry to place this Criminal Contempt before the Hon'ble Chief Justice for necessary orders. It is ordered accordingly.

KAILASH GAMBHIR, J.

I. S. MEHTA, J.

MAY 29, 2015

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