

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAN) NO.115 OF 2017

IN

CONTEMPT PETITION NO.303 OF 2015

IN

WRIT PETITION NO.1060 OF 2015(P)

(HIRAJI NATTHURAO BANGARE...VS.. KAWADUJI KHOBRAGADE, SECRETARY DYAN PRASARAK)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri B.B. Raipure, Advocate for Applicant/Respondent No.1A.

CORAM : Z.A.HAQ, J.

DATED : DECEMBER 18, 2017.

By this application the respondent No.1-A prays that the order passed by this Court on 8th December, 2017 directing issuance of non-bailable warrant against him be recalled.

2. The contempt petition was listed on 14th November, 2017 on which date after hearing the advocate for the petitioner and the advocate for the respondent No.1 Rule was issued and notice in Form No.I under Rules to regulate proceedings for Contempt under Article 215 of the Constitution of India and Contempt of Courts Act, 1971 was issued to the respondents, making it returnable on 23rd November, 2017. On 23rd November, 2017 the respondent No.1 and 1-A were present. The respondent No.1-A had made submission that he had not received copy of the notice issued by this Court in Form No.I as well as copy of the contempt petition also. The order dated 23rd November, 2017 records that the advocate for the petitioner was directed to

supply copy of the Contempt Petition to Shri H.R. Gadhia, advocate who represents the respondent No.1. From the tenor of the order it is clear that on 23rd November, 2017 it was represented to this Court that Shri H.R. Gadhia, advocate appeared for the respondent No.1-A also. On request of Shri H.R. Gadhia, advocate the matter was adjourned for 8th December, 2017.

3. On 8th December, 2017 Shri B.B.Raipure, advocate appeared for the respondent No.1-A and sought time on the ground that he is engaged just a day earlier and he required time to go through the papers. This Court noted that the respondent No.1-A had not filed reply and was not present inspite of the fact that the contempt petition is admitted and was fixed for 8th December, 2017. As per the Rules, the respondent No.1-A should have filed an application seeking exemption from remaining present on 8th December, 2017 but no such application was filed. Under these circumstances, this Court directed issuance of non-bailable warrant to secure presence of the respondent No.1-A.

4. On 12th December, 2017 this civil application is filed and absence on 8th December, 2017 is justified on the ground that the respondent No.1-A was at Pune and was not able to undertake journey to Nagpur because of back-ache and pain in both legs. To substantiate this fact the respondent No.1-A has filed certificate issued by Dr. Vikrant N. Patil on 25th November, 2017.

5. The respondent No.1-A was present before this Court on 23rd November, 2017. The certificate issued by Dr.Vikrant N. Patil is dated 25th November, 2017. The

certificate shows that the doctor had advised the respondent No.1-A not to travel. On the basis of this certificate dated 25th November, 2017 it cannot be said that doctor had advised the respondent No.1-A not to travel so as to reach Nagpur on 8th December, 2017. There is nothing on record to show that immediately before 8th December, 2017 the respondent No.1-A was not in a position to travel from Pune to Nagpur, if at all the respondent No.1-A was at Pune.

6. As I doubted the claim made by the respondent No.1-A, time was granted to him to produce relevant medical records on the basis of which Dr. Vikrant N. Patil had issued certificate dated 25th November, 2017.

Today, photocopies of certain medical record are produced along with affidavit, but none of these documents support the claim of the respondent No.1-A that immediately prior to 8th December, 2017 he was suffering from such ailment that he was not in a position to attend the Court.

7. In the above facts, following order is passed:

- i) The order passed on 8th December, 2017 directing issuance of non-bailable warrant to secure presence of the respondent No.1-A before this Court is recalled.
- ii) The respondent No.1-A, who is present in the Court, as identified by Shri B.B. Raipure, Advocate, shall furnish cash security of Rs.Fifty Thousand till 20th December, 2017 and shall furnish solvent surety for Rs.Twenty Thousand to the satisfaction of Registrar (Judicial) of this Court till 20th December, 2017.

8. List the contempt petition for further consideration on **21st December, 2017**, as already fixed by order dated **8th December, 2017**.

The respondent No.1-A shall remain present before this Court on 21st December, 2017 at 10.30 a.m.

JUDGE

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