

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

CACP No.2 of 2017 (O&M)

Date of Decision : 08.08.2017

Ashwani Kumar

....Appellant

Versus

Sunita Rani

....Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

Present: Mr.Sunil Agnihotri, Advocate
for the appellant.

Mr.Satbir Rathore, Advocate
for the respondent.

Mr. H.S.Sullar, DAG, Punjab.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 27.04.2017 convicting the appellant under the provisions of the Contempt of Courts Act, 1971 for a simple imprisonment for 3 months and a fine of Rs.1,000/-.

Respondent-Sunita Rani, an aged widow of 75 years, had filed an ejectment petition against Megh Raj, father of the present appellant, seeking to retrieve possession of the shop on the ground of bona fide requirement which was granted by the Rent Controller on 04.09.2006 with a direction that Megh Raj would hand over the vacant possession of the demised premises to the landlady within a period of sixty days from the date of the order. The appeal against this order was dismissed on 13.09.2008 leading to execution proceedings

before the Rent Controller who directed that possession of the shop be handed over by breaking open the lock of the shop. Since the order could not be executed, the District and Sessions Judge requested the Senior Superintendent of Police, Hoshiarpur to provide police help with no tangible result being achieved. Thereafter COCP No.2686 of 2011 was preferred by the respondent/landlady, wherein the Senior Superintendent of Police filed an affidavit that possession of the demised premises had been handed over to the landlady. This contempt petition was then disposed of but liberty was granted to the Rent Controller to take coercive measures including attachment of the property of the tenant to recover arrears of rent along with interest. The Executing Court was also directed to complete the proceedings within three months.

Thereafter when the landlady had gone to Rajasthan after locking the premises, the tenant broke open the lock of the shop and took possession thereof on 28.08.2016 leading to an application before the Senior Superintendent of Police, Hoshiarpur by the landlady but no action was taken. She then again invoked the contempt jurisdiction and during the pendency of which Megh Raj, the original tenant, died. Amended Memo. of Parties to implead the present appellant was filed. The Deputy Superintendent of Police filed reply to the proceedings stating that the complaint of the landlady regarding illegal possession of the shop by the tenant Megh Raj as also the appellant is under investigation after registration of the FIR.

Today before us the Investigating Officer, who was

summoned under the orders of this Court to explain as to why the investigation had not been concluded so far, has stated that the investigation is now complete with deletion of Section 379 IPC from the array of offences but with affirmative finding of trespass under Section 447 IPC established against the present appellant.

The learned Single Judge exercising his contempt powers concluded against the appellant and ordered simple imprisonment for a period of three months and a fine of Rs.1,000/-. Subsequent thereto the appellant has now restored the possession to the landlady on 27.05.2017 which fact has been stated to be correct by the Investigating Officer present in Court as also the learned counsel representing the landlady.

This is the only redeeming feature in the case of the appellant whose conduct in any case we cannot overlook for having harassed a 75 years old widow and forcing her into repeated rounds of litigation to retrieve the possession of the shop and then repossessing it in complete violation of law. Learned counsel for the appellant though initially tried to defend the appellant but subsequently stated that since the possession has been handed over to the landlady, he be spared of the consequences of the order of the contempt court while placing unconditional and unqualified apology before us.

Considering the circumstances in totality when an apology has been expressed before us and in view of the restoration of possession to the landlady, we would waive of the imprisonment part as mandated by the contempt court but deem it appropriate to visit the

consequences of compensatory costs of Rs.50,000/- which would be paid to the landlady since the contempt of court has been established. In case the rent has not been recovered by the Chief Judicial Magistrate pursuant to the orders already in existence, we direct the needful be done forthwith. The appellant shall deposit the costs of Rs.50,000/- within a period of three weeks before the court of Chief Judicial Magistrate, Hoshiarpur for onward disbursal to the landlady.

Appeal stands disposed of.

(MAHESH GROVER)
JUDGE

08.08.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No