

**RA-CR-114-CII of 2017 in
COCF No. 3188 of 2016**

Santosh Gupta vs. Surinder Mohan & ors.

Present : Mr. A.K. Walia, Advocate for the applicant-petitioner.

Mr. Harsimran Singh Sethi, Addl. A.G. Punjab.

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Applicant-petitioner seeks review of order dated 31.05.2017 passed by this court. He contends that in view of the fact that directions given by Hon'ble Apex court in judgment reported as *Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273* were not complied with. Respondents need to be proceeded under the Act. Notice of the application was issued to the State counsel. He has submitted that there was no specific direction in favour of the applicant-petitioner at any stage. In the contempt petition, petitioner has relied upon general directions given in *Arnesh Kumar's* case (supra). Thus, there is no ground to review the order. Besides, proceedings in instant case are not under Section 498-A IPC.

On due consideration of the matter, I find no ground to review the order dated 31.05.2017 which was passed in the presence of counsel for the petitioner. In the subsequent judgment reported as *Vitusah Oberoi & ors. vs. Court on its own motion (2017) 2 Supreme Court Cases 314*, Hon'ble Supreme court has clearly held as follows:-

“ 12. The power to punish for contempt vested in a court of record under Article 215 does not, however, extend to punishing for the contempt of a superior court. Such a power has never been recognized as an attributed of a court of record nor has the same been specifically conferred upon the High Courts under Article 215. A priori if the power to punish under Article 215 is limited to the contempt of the High Court or courts subordinate to the High Court as appears to us to be the position, there was no way the High Court could justify invoking that power to punish for the contempt of a superior court. That is particularly so when the superior court's

power to punish for its contempt has been in no uncertain terms recognized by Article 129 of the Constitution. The availability of the power under Article 129 and its plenitude is yet another reason why Article 215 could never have been intended to empower the High Courts to punish for the contempt of the Supreme Court. The logic is simple. If the Supreme Court does not, despite the availability of the power vested in it, invoke the same to punish for its contempt, there is no question of a court subordinate to the Supreme Court doing so. Viewed from any angle, the order passed by the High Court appears to us to be without jurisdiction, hence, liable to be set-aside.”

In view of above, no case for review of order dated 31.05.2017 is made out. Dismissed.

October 27, 2017

Ajay

(RAJAN GUPTA)
JUDGE