

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CONTEMPT CASE (C). No. 85 of 2018**

Ajay Kumar Kawrey, S/o. Yama Kawrey, Aged About 47 Years, Occupation -Service and working as Ranger in Forest Range, Sukma, at present posted at Indrawati National Park, Bijapur, District -Bijapur, Chhattisgarh.

---- Petitioner**Versus**

1. Manish Sharma, Superintendent of Police, Anti Corruption Bureau, Raipur, District Raipur, Chhattisgarh.
2. Madan Lal Negi, Deputy Superintendent of Police, Anti Corruption Bureau, Jagdalpur, District Jagdalpur, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Awadh Tripathi, Advocate

For Respondents : Mr. Dhiraj Kumar Wankhede, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**09/03/2018**

1. This contempt petition under Section 12 of the Contempt of Court Act has been brought by the petitioner praying to draw a proceeding of contempt against the respondents/contemners.
2. In W.P.(Cr.) No.331/2016, filed by the petitioner, order dated 24.08.2017 was passed. The operative paragraph of the order is as under :-

“6. Considering the fact that the case against the petitioner is still under investigation it would be appropriate to dispose off this case by issuing directions to the respondent/Investigating Authorities in this case. Hence, respondents No.2 and 3 are directed to take into consideration all the documents submitted by the petitioner in support of his case and the explanation

offered by him before taking any decision with respect to the filing charge-sheet or final report as the case may be. It is made clear that while considering the documents and explanations offered by petitioner, the Investigation Authority need not be influenced by any of the observations made in this order.”

3. It is submitted by the counsel for the petitioner that order passed by this Court has not been complied in its letter and spirit by the respondent, although petitioner was afforded opportunity to submit documents in support of his case, but the same were not taken into consideration and the final charge-sheet has been prepared.
4. A report was called by the respondent from office of Tahsildar, Mahasamund. Copy of this report is annexed as Annexure C-13, which clearly mentions that the income of the petitioner during the check period was Rs.2,83,49,416/-. This is official report was called by the respondent but the same has been ignored without any reason.
5. It is also submitted that petitioner had informed the department about receipt of gifts, house hold articles and jeweleries of gold and silver at the time of his marriage. A copy of that intimation given to the department was supplied to the respondent. The receipt on the intimation itself shows the date 04.04.1999, but the same has not been taken into consideration and the information in this document has been rejected arbitrarily.
6. Petitioner placed reliance on the statement given by the respondent No.2 on 17.04.2015 in a similar case State Vs. M. Govind Rao, special case No.18/2005, in which, respondent No.2 has made statement that he has considered the explanation given by the proposed accused persons and by allowing the same final report was submitted. It is prayed that the same investigator can not maintain two different

standard for investigation while investigating the case against this petitioner.

7. Petitioner has submitted Form No.1, 2 & 3 as required in the investigation to explain the legal source, acquisition of assets in his possession that had been sufficient, but that has been ignored arbitrarily by the investigating officer. Hence, for these reason, it is submitted that respondents/contemnors have taken stand of total denial in investigating the case against this petitioner and the word 'consideration' used in the order passed by this Court implies due consideration, whereas, the respondent/contemnors have casually, cursorily and arbitrarily considered and rejected the explanation given by this applicant, about the lawful acquisition of the assets in his possession. Hence, it is the case, where the respondents/contemnors have totally failed to comply with the orders passed by this Court, for these reasons, it is prayed contempt proceedings be drawn against the respondents/contemnors.
8. Counsel for the respondents while opposing the contempt petition submits on the first point, that on a report called from Gramin Seva Sahkari Samiti, Jhalkhamhariya, Branch – Mahasamund, District – Mahasamund, it was informed that during the check period, no sale of paddy was made by the wife of this petitioner to the said society. Apart from that, income tax returns of the wife of this petitioner submitted before the respondents was also taken into consideration, according to which during the check period, the declared income from the agriculture by the wife of petitioner was merely about Rs.20.00 lakhs. Hence, the report that was submitted later on by the Tahsildar, which is based on projection and in accordance with support price that sale is

made to the society is imaginary report and can not be given any precedence, hence after due consideration, the explanation offered by the petitioner has been rejected by the investigating officer.

9. Replying the second point, the counsel for the respondents submits that the said copy of the information submitted by the applicant about the receipt of house hold articles and jeweleries in his marriage was verified from the department itself and the department has replied vide memo dated 30.04.2017, that no such receipt of information about receipt of gifts in the marriage of the petitioner is entered in the register available in the office of this applicant, neither the original copy of the said information was found in the department, hence on this basis, the presumption goes that these document has been created in defence because of which, the explanation on the basis of this ground has been rejected after due consideration.
10. Replying to the third point in the arguments submitted by the counsel for the petitioner, it is submitted that case against proposed accused persons and M. Govind Rao is differently based on different set of facts, in which, the investigation has been done accordingly according to the material found in the investigation. Hence, the investigation in two cases can not be compared and no blame can be put on the respondents that they have followed double standard in investigating the case against this petitioner. Hence, no case is made out for contempt proceedings in the contempt petition filed by the petitioner is totally without any merits, which may be dismissed.
11. In reply, counsel for the petitioner submits, that the proof that has been submitted by this petitioner about agricultural income of his wife that she was growing vegetables and such agricultural produce is not sold

in any society. Apart from that, agricultural income is not taxable, hence, it is not the requirement for the wife of the petitioner to mention her income from agricultural source in her tax papers. It is also submitted that, if the, information given about the receipt of gifts in marriage, is not found in the department, applicant can not be held responsible for that, because it was not his duty to make entry in the register of such receipt. Further it is submitted that double standard maintained by the respondents is clearly made out on the basis of the documents submitted about the investigation done in the case against the petitioner, hence, the arguments submitted on behalf of the respondents is without any force.

12. I have heard the learned counsel for the respective parties and perused the documents placed on record.
13. In the order passed by this Court in W.P.(Cr.)331/2016, dated 24.08.2017, it is directed that all the documents submitted by the petitioner along with explanation offered by him should be taken into consideration, before taking any decision about filing of charge-sheet or submitting final report as the case may be. It is not a case of the petitioner that, submission of the documents was not accepted by the respondents or the same has not been taken into consideration by the respondents. The only allegation is this that due consideration has not been given to the document and explanation submitted by the petitioner. This Court can not give any direction in this respect as in what manner, the investigation has to be made in the instant case. Investigation has been done rightly or wrongly is a question, which shall be determined by the trial Court. As a writ Court, this Court has no authority to go into the details of the investigation conducted and

give a finding so as to prejudice the investigation or the proposed trial against this petitioner.

14. Respondents have made submission explaining the reasons on what grounds, the explanations offered by the petitioner have been rejected. Hence, there is no reason to infer that the explanation offered by the petitioner has been rejected summarily and arbitrarily.
15. After due consideration it is found that no case is made out to proceed on contempt against the respondents. Hence, this petition is dismissed at the admission stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge