

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CONTEMPT CASE No. 779 of 2017**

Akhilesh Sharma, S/o. Shri Rajandhari Sharma, aged about 49 years, R/o. Mini Basti Jarhabhatha, Bilaspur, Police Station – Civil Line, District – Bilaspur (C.G.)

---- **Petitioner****Versus**

Shri R.P. Sharma, The Station House Officer, Police Station – City Kotwali, District – Bilaspur (C.G.)

---- **Respondents**

For Petitioner : Mr. Rishi Rahul Soni, Advocate

For Respondents : Mr. Anil S. Pandey, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**28/03/2018**

1. Heard on application under Section 340 of the Code of Criminal Procedure, 1973.
2. It is submitted by the counsel for the petitioner, that in W.P.(Cr.) No.311/2017 vide order dated 30.08.2017, specific order was passed directing the respondent No.5, who is the respondent in this case to conclude investigation as soon as possible and submit report either in the form of charge-sheet or final report as the case may be, before the concerned Court preferably within a period of two months from the date of communication of that order.
3. It is submitted, that respondent though concluded the investigation but he has failed to file the final report before the concerned Court within the time granted in that order. Apart from that in the reply

submitted by the respondent, a false statement has been made in paragraph-4 that final report dated 28.10.2017 has been filed before the concerned Court within the time as directed by this Court and this statement is supported with an affidavit. It is further submitted that according the certified copy of the order-sheet of the concerned Court, which has been filed in this case, final report was presented before the concerned Court on 13.02.2018, which is well beyond the time. It is further submitted that no explanation has been given about delay in making compliance with the order passed by this Court, hence, the act and conduct of the respondent is malafide, hence enquiry may be ordered against the respondent for making false statement before this Court.

4. Counsel for the respondent submits that the order of this Court has been complied with. The investigation was completed within the time granted and the copy of the final report prepared (Annexure R-1) shows the date 28.10.2017, which was forwarded to the office of City Superintendent of Police for approval on 29.10.2017. Hence, it is submitted that respondent has not committed any intentional act in dis-regard to the order passed by this Court. Hence, no case of contempt is made out, neither the statement made in reply can be the ground for any prosecution against this respondent.
5. I have heard the learned counsel for both the parties and perused the documents placed on record.
6. The direction issued by this Court was added with word "preferably". The meaning of this word is that a preference has to be made to comply accordingly and it does not mean that there is a compulsion

but of course in case the direction is not complied with in the given time, an explanation for the same had to be made by the respondent.

7. On perusal of the documents filed by the respondent, it appears that final report was prepared well within time granted by this Court for compliance, but the next part of the direction for filing the final report before the Court concerned had been delayed. The question is whether this delay is bonafide or malafide is the key issue, which shall determine whether this contempt case should be admitted and order be passed for enquiring into the matter of making false statement.
8. In Section 340 of Cr.P.C., the opening sentence of the provision is this that when the Court is of opinion, that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court, in that case enquiry may be ordered.
9. In this case, there appears to be some inadvertence in the preparation of the reply by the respondent by simply referring to the date of preparation of the final report and not by making a statement about the filing of final report before the Court concerned in specific terms. In such case though it appears that some delay has occurred in compliance of the order of this Court due to inadvertence on the part of the respondent, but only on that basis it can not be made out that the act of respondent is malafide in any sense.

10. Hence, I am of this opinion that it would not be expedient in interest of justice to order any enquiry in such case so as to initiate the proceedings under Section 340 of Cr.P.C. Hence for this reason this application is rejected.
11. Resultantly after the finding given herein above, it is clear that order passed by this Court has been complied with, hence, the contempt petition is also not maintainable and it is also dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge