

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 354 OF 2018
IN
CRIMINAL WRIT PETITION NO. 1179 OF 2016

RAMGOPAL RAMCHANDRAJI DARAK
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Petitioners : Mr. D.R. Jethliya.
AGP for Respondent : Mr. S.K. Tambe.

CORAM : RAVINDRA V. GHUGE, J.
DATE : 11th June, 2018

Per Court :

1. The Petitioner contends that Respondent No. 2 has violated the undertaking given to this Court dated 07th November, 2017, in Criminal Writ Petition No. 1179/2016. It is contended that Respondent No. 2 made this Court to believe that he would deposit Rs. 2,50,000/- before the Additional Sessions Judge-6 at Aurangabad. The said statement was accepted by this Court. As he has not deposited the said amount with the Investigating Officer, he has committed willful contempt of this Court.

2. Reliance is placed upon the observations of the Hon'ble Apex Court in paragraph No. 43 of its judgment delivered in the case of **Ram Narang (5) Versus**

Ramesh Narang and another [2009 16 SCC 126]

which read as under :

“In Rita Markandey v. Surjit Singh Arora this Court came to the conclusion that even if the parties have not filed an undertaking before the court, but if the court is induced to sanction a particular course of action or inaction on the basis of the representation of such a party and the court ultimately finds that the party never intended to act on such representation or such representation was false, even then the party would be guilty of committing contempt of court. The Court observed as under: (SCC p. 20, para 12)

“12. Law is well settled that if any party gives an undertaking to the court to vacate the premises from which he is liable to be evicted under the orders of the court and there is a clear and deliberate breach thereof it amounts to civil contempt but since, in the present case, the respondent did not file any undertaking as envisaged in the order of this Court the question of his being punished for breach thereof does not arise. However, in our considered view even in a case where no such undertaking is given, a party to a litigation may be held liable for such contempt if the court is induced to sanction a particular course of action or inaction on the basis of the representation of such a party and the court ultimately finds that the party never intended to act on such representation or such representation was false.”

3. The Petitioner has strenuously canvassed that Respondent No. 2 has committed a willful, intentional and deliberate disobedience of order of this Court and therefore, he is guilty of contempt of this Court.

4. I have considered the strenuous submissions of the learned Advocate and with his assistance, I have gone through the Petition paper book and the history of the litigation between the parties.

5. The Petitioner is an agriculturist. The accused assured the petitioner with regard to a business deal. Believing Respondent No. 2/accused, the Petitioner transferred Rs. 3,00,000/- to the account of the accused. When the Petitioner realized that the accused has defrauded him, he lodged a complaint with the Commissioner of the Police. Thereafter, the accused refunded only Rs. 50,000/-. Hence, the Petitioner registered the FIR bearing Crime No. 176/2016 with the MIDC Paithan, Police Station.

6. The accused sought anticipatory bail vide Bail Petition No. 1435/2016. The learned Additional Sessions Judge-6, Aurangabad, allowed the application vide order

dated 17th August, 2016 and imposed the following conditions :

“2) The ad interim anticipatory bail granted to the applicant on 03.08.2016, is hereby confirmed subject to following conditions :-

A) In the event of arrest of this applicants, in connection with C.R. NO. I-176 of 2016, for the offence u/s 420 of I.P.C. registered at M.I.D.C. Paithan Police Station, Dist. Aurangabad, he be released on anticipatory bail on his executing PR and SB of Rs. 15000/- in the like amount.

B) Applicant is further directed to deposit Rs. 2,50,000/- within 03 days from the date of this order with investigating officer.

C) He is further directed to hand over all the relevant documents to the investigating officer.

D) He shall not tamper prosecution witnesses and evidence.

E) Inform concerned I.O. accordingly.

F) If the condition no. 2 B is not followed, I.O. is at liberty to arrest the accused.”

7. It is, therefore, obvious that the learned Court while granting anticipatory bail on the condition that the

Applicant would deposit Rs. 2,50,000/- with the Investigation Officer, observed in Clause (3) that if this condition is not complied with, the Investigative Officer will be at liberty to arrest the accused.

8. The accused approached this Court in Criminal Writ Petition No. 1179/2016. By order dated 07th November, 2017, this Court has disposed of the Criminal Writ Petition without granting any relief to the accused. The accused made a statement before this Court that he would deposit Rs. 2,50,000/- with the Investigating Officer in accordance with the directions of the Additional Sessions Judge-6, Aurangabad, set out in order dated 17th August, 2016, reproduced above. This Court accepted the statement and disposed of the petition. No relief was granted by relying upon the said statement.

9. Grievance of the Petitioner is that the accused has not deposited the money and hence, he has committed a contempt of Court. It is well settled law that when an order has an inbuilt mechanism to punish a litigant on account of his failure to comply with a particular condition for granting bail, the proceedings under the

Contempt of Courts Act need not be initiated.

10. In the instance case, the learned Additional Sessions Judge has granted anticipatory bail by imposing the condition that the accused will have to deposit Rs. 2,50,000/- failing which the Investigating Officer would be at liberty to arrest him. This Court had not set aside the said condition and has disposed of the Criminal Writ Petition filed by the accused on 07th November, 2017, merely by recording his statement which was voluntarily made. This Court did not grant any relief to the accused.

11. In the light of the above, no case is made out. The non-compliance of Condition 2-B imposed while granting anticipatory bail would lead to the violation of the condition of anticipatory bail and as such the law would take its own course. This petition seeking issuance of notice under the Contempt of Court Act, is therefore, disposed of.

(RAVINDRA V. GHUGE, J.)