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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONTEMPT APPEAL NO. 1 OF 2018
WITH
CIVIL APPLICATION NO.9603 OF 2018**

Ganesh s/o Suryakant Dahale,
Age: 32 years, Occ: Legal Practice,
R/o. Bajaj Nagar, Aurangabad.

..APPELLANT

VERSUS

1. Mr. Sudhirkumar Shrivastava (Through)
The Principal Secretary,
Department of Home, Mumbai.

2. Smt. Renuka Vinayak Wagle (Dy. Sp.)
The Dy. Superintendent of Police, Selu,
Selu Police Station,
Tq. Selu & Dist. Parbhani.

3. Mr. Sohan Mhatre,
Inspector of Police,
Pathri Police Station, Pathri,
Dist. Parbhani.

4. G.B. Kadam,
Police Up-Nirikshak,
Pathri Police Station, Pathri,
Dist. Parbhani.

5. Balika D/o Ashok Tak (Then w/o Ganesh Dahale)
R/o. C/o. Ashok Waman Tak, Renuna Nagar,
Bharat Nagar, Nr. Ambika School,
Garkheda Parisar, Aurangabad.

..RESPONDENTS

Mr F.R. Tandale, Advocate for appellant

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**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 6th August, 2018

ORAL ORDER:

Heard Mr Tandale, learned Counsel appearing on behalf of the appellant.

2. This is an appeal styled as "contempt appeal under Section 19 of Contempt of Courts Act, 1971 against the judgment passed in CP-304 of 2018 by Hon'ble High Court Single Bench dated 03.07.2018."

3. It would be useful to refer to earlier orders passed by this Court. This Court on 27th July, 2018 passed order which reads thus :-

"Mr Tandale, learned Counsel for the appellant, at the outset, submits that the appellant, with an inadequate experience, framed ground No.8 in the appeal memo. He orally prays for amendment to the appeal by deleting the ground No.8 and permitting him to re-frame the ground No.8 and place it on record after re-framing the same.

2. The oral prayer for amendment is allowed. The necessary modification/correction be carried out during the course of the day.

3. Post the appeal for further consideration on Monday, i.e. on 30th July, 2018."

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This Court thereafter on 30th July, 2018 passed following order :-

"1. This appeal is filed by the appellant against order passed by the learned Single Judge dated 03.07.2018. The appellant submits that appeal is filed under section 19 of the Contempt of Courts Act, against the judgment passed in CP304/2018 by the Single Judge of this Court on 03.07.2018.

2. It would be necessary to refer to certain facts. The appellant-petitioner had filed Family Court petition and in that Family Court petition, the appellant filed contempt petition. Copy of the contempt petition is placed on record. The appellant submits before this Court that the respondents have committed wilful disobedience of the directions of the Hon'ble Apex Court and accordingly he prays for taking cognizance and initiate contempt of Court proceeding against these contemnors and further seeks declaration that the contemnors have committed deliberate, intentional and wilful contempt of the order of the Principal Judge, Family Court in Family Court Petition No. A192/2017.

3. Learned Single Judge of this Court in his detailed order found no merit in the petition. Learned Single Judge of this Court found that the petition is moved only with an intention to pressurize the authorities by misreading the judgment of the Hon'ble Apex Court. Then, learned Single Judge was of the opinion that the petitioner by filing such wholly unmeritorious petition, indulged in the act of wastage of time of Court. Resultantly, learned Single Judge imposed costs of Rs.25,000/ on the petitioner. Learned Counsel for the appellant submitted that the appellant recently entered in the field of advocacy and obtained Sanad recently and

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started his legal practice recently. Considering this submission, learned Single Judge of this Court though opined that the petitioner does not deserve any pardon to reduce the amount from Rs.25,000/ to Rs.15,000/, learned Counsel Mr. Tandale submitted that the petitioner is unable to comply order of this Court, as the amount of Rs.15,000/ is also exorbitant amount for the petitioner, who had entered in the field of advocacy recently.

4. The appeal is filed stating that it is Contempt Appeal under section 19 of the Contempt of Courts Act, 1971, but in view of provisions of the Act, namely, sections 2 and 12 of the Act, firstly it will have to be considered whether the appeal is maintainable. The learned Counsel for the appellant submitted that the stipulated period for depositing the costs as directed by the learned Single Judge would expire on 31.07.2018 and prayed for interim order. As it was submitted before us that the appellant is new entrant in the profession and facing financial difficulty, as such is unable to deposit the amount of Rs.15,000/, by way of interim order, we grant ad interim stay to the order passed by the learned Single Judge for a period of one week, subject to the appellant depositing an amount of Rs.7,500/ (Rupees Seven Thousand Five Hundred) within one week from today. Post the appeal for further consideration in the next week, subject to the appellant depositing amount of Rs.7,500/ in this Court within one week from today. We further make it clear that on the next date the appellant to satisfy to this Court about maintainability of appeal.

5. Stand over to 06.08.2018."

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4. We have referred to the facts in our aforesaid orders giving backdrop of the contempt petition filed by the appellant as well as the order passed by the learned Single Judge of this Court. Then we have also referred in the orders that though the appeal is filed stating it to be an appeal under Section 19 of the Contempt of Courts Act, 1971 (for short, "the Act") yet, in view of the provisions of the Act, namely, Sections 2 and 12, firstly it will have to be considered whether the appeal is maintainable. The appeal was then adjourned for one week and as the learned Counsel for the appellant made a submission that time frame fixed by the learned Single Judge to deposit an amount of Rs.15,000/- as costs would expire on that very day, the interim order may be passed. In view of the submissions of the learned Counsel for appellant which are recorded in our order dated 30th July, 2018, we thought it fit to protect the appellant for some time and accordingly we directed him to deposit an amount of Rs.7,500/- within one week from the date of the said order making it clear that on the next date the appellant shall satisfy this Court about maintainability of appeal.

5. Perusal of office record shows that in compliance of order dated 30th July, 2018, on 4th August, 2018 the appellant deposited an amount of Rs.7,500/- in this Court.

6. Learned Counsel appearing for the appellant submitted that the appeal is maintainable before this Court. He invited our attention to the provisions, namely, Sections 2, 12 and 19 of the Act as well as Rule 7 of the

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Contempt of Courts (C.A.T.) Rules, 1992. It was vehemently submitted by the learned Counsel that the appellant was before the learned Single Judge of this Court with a grievance that the respondents-alleged contemnors who are occupying various positions in the Government of Maharashtra as Principal Secretary, Deputy Superintendent of Police, Inspector of Police, Police Sub-Inspector and one private party have committed wilful disobedience of the directions of the Honourable Apex Court which was reflected in various judicial pronouncements of the Honourable the Apex Court. It was also an attempt made by the learned Counsel to submit that the learned Single Judge failed to consider the very aspect of respondents having committed wilful disobedience of the directions of the Apex Court and as such an action ought to have been initiated against them for their wilful disobedience. A copy of the contempt petition is placed on record along with the appeal. The appellant was the contempt petitioner before the learned Single Judge and the title clause of the contempt petition reads thus:-

"In the matter of Sec.10, 11 and 12 of the Contempt of Courts Act, 1971."

7. It may be useful to refer to the order of the learned Single Judge passed on 3rd July, 2018. Though we have referred to it in our earlier order, at the cost of repetition, we deem it appropriate to state relevant part of the said order. The very first paragraph of the said order reads thus :-

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" The petitioner in this petition contends that respondent No.3 and 4 along with respondent Nos.1, 2 and 5 have committed contempt of the directions of the Hon'ble Apex Court. "

Then it would be useful to refer to the further observations of the learned Single Judge in paragraphs 4 and 6 to 10 which read thus :-

"4. Upon going through the above reproduced portion, a case under the Contempt of Courts Act is said to have been made out. When called upon to state as to when was the petitioner arrested, it is stated that he has not been arrested and therefore reliance is not being placed upon the Arnesh Kumar judgment (supra)."

"6. The petitioner submits that though an investigation has been carried out against him by respondent No.3, the case has not been transferred to a Police Station at Aurangabad at Waluj since the alleged offence committed by the petitioner was at Aurangabad.

7. I do not find that merely because the petitioner has put forth a case of an investigating officer having not followed the due procedure of law and has not forwarded the case at Aurangabad since the alleged offence had occurred at Aurangabad, would amount to a contempt of the court under the Contempt of Courts Act, 1971.

8. I find that this contempt petition has been filed by the petitioner with oblique motives. The tendency to file such contempt petitions so as to terrorize the Police Authorities needs to be deprecated and curbed.

9. Therefore, for the wastage of the time of this Court and for having attempted to take a chance before the Court in the form of filing a contempt petition, this petition is dismissed by imposing costs of Rs.25,000/ (Rs.Twenty Five Thousand only) on the petitioner. He shall deposit the said amount, with the Government Medical College and Hospital, Aurangabad, through Medical Officer, High Court Dispensary, Aurangabad, either in cash or by Demand Draft (Demand Draft be drawn in the name of “ Dean, Government Medical College and Hospital, Aurangabad CSR Fund”), on or before 31/07/2018 for a public cause and shall report compliance of this direction by producing a receipt of having deposited the amount, before the Registrar (Judicial) of this Court on or before 07/08/2018, failing which, this Court would initiate suomotu proceedings, for the disobedience of the order of this Court, against the petitioner.

10. At this juncture, learned Advocate for the petitioner prays for leniency as the petitioner has obtained a sanad recently and has just started his legal practice. Though I find that this petitioner does not deserve any pardon, I am reducing the costs to Rs.15,000/-"

(Emphasis supplied)

8. Learned Counsel for the appellant made an attempt to submit before this Court that the contempt appeal is maintainable. The provisions to which the learned Counsel invited our attention are already referred to in the earlier part of this order. Section 2 of the Act refers to the definitions. The contempt of court is classified in two categories; civil contempt and criminal

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contempt. Section 2 (b) refers to civil contempt and reads thus:-

"civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of undertaking given to a court."

Section 2 (c) refers to criminal contempt.

9. It will be useful for to refer to the provisions of Section 12 of the Act which read thus:-

" Save as otherwise, expressly provided in this Act or in any other law, a contempt of Court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both :

Provided that the accused may be discharged or the punishment awarded may be remitted won apology being made to the satisfaction of the Court."

10. Even on re-look at or reading of the aforesaid provision with the assistance of learned Counsel for the appellant what emerges is, the said provision refers to punishment for the accused, meaning thereby, on arriving at a conclusion by the Court that the accused in the contempt petition has committed an act of wilful disobedience or any act which covers the compass of Section 2, the Court may accordingly punish him by exercising the powers under Section 12.

11. The other relevant provision is Section 19 of the Act which deals with appeals. The opening words of Section 9 (1) are ;

an appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt.

(a) where the order or decision is that of a single Judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court: Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

(2) Pending any appeal, the appellate Court may order that—

(a) the execution of the punishment or order appealed against be suspended;

(b) if the appellant is in confinement, he be released on bail; and

(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2)."

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12. Learned Counsel for the appellant placed heavy reliance on the provisions of sub-section (3) of Section 19 of the Act. It was the submission of the Counsel, appellant is aggrieved by the order passed by the learned Single Judge of this Court and as such he is in appeal. We are unable to accept this submission for the reason that a provision cannot be read in part but has to be read as a whole. It is the settled position of law and undisputed principles of the Interpretation of the Statutes that no provision can be read by picking up some part of the provision out of context and leaving behind the other part only to suit the purpose of a party. Reading of a provision is reading the provision comprehensively and complete provision and not selecting certain words from the same. Keeping this in mind, it would appear that the provision starts with sub-section (1) and reads that an appeal would lie when the High Court has exercised its powers to punish for contempt. Sub-Section (2) provides certain protection to the appellant, and the High Court, while admitting the appeal and during its pendency, may pass certain interim orders to protect the appellant.

13. Learned Counsel though placed reliance on Rule 7 of the Contempt of Courts (C.A.T.) Rules, 1992, on perusal thereof we find that it would be useful to refer to the very title of the Rules which reads thus :-

" The Contempt of Courts (C.A.T.) Rules, 1992 "

14. Learned Counsel relied on Rule 7 of the aforesaid Rules which reads thus:-

"7. Initiation of proceedings.—

(i) Every petition for “Civil Contempt” made in accordance with these rules shall be scrutinized by the Registrar, registered and numbered in the Registry and then placed before the Bench for preliminary hearing.

(ii) Every petition for “Criminal Contempt” made in accordance with these rules and every information other than a petition, for initiating action for criminal contempt under the Act on being scrutinised by the Registrar shall first be placed on the administrative side before the Chairman in the case of Principal Bench and the concerned Vice-Chairman in the case of other Benches or such other Member as may be designated by him for this purpose and he considers it expedient and proper to take action under the Act, the said petition or information shall be registered and numbered in the Registry and placed before the Bench for preliminary hearing.

(iii) When suo motu action is taken the statement of facts constituting the alleged contempt and copy of the draft charges shall be prepared and signed by the Registrar before placing them for preliminary hearing."

15. Having regard to the scope of the Rules, it is clear that these Rules deal with the orders passed by the Central Administrative Tribunal and as such, are of no help to the appellant.

16. On the backdrop of the peculiar fact in present case that the appellant who was the petitioner in the contempt petition is not punished by the learned Single Judge but costs is imposed on him, for his misconceived notions and utter failure before the learned Single Judge to make out any case for inviting an action of contempt against the respondents - authorities, appeal is not at all maintainable.

17. Learned Single Judge of this Court found that the appellant had approached this Court with an oblique motive and such tendency needs to be curbed. We are in agreement with the learned Single Judge on the issue that a tendency which tends to pressurize the officers must be curbed.

18. Considering all aspects as aforesaid, we are unable to persuade ourselves to accept the submission of the learned Counsel that the appeal is maintainable before the Division Bench of this Court.

19. At this stage, learned Counsel for the appellant prayed for some time, however, as we had already made it clear in our order dated 30th July, 2018 that on the next date we will hear the appeal on the issue of maintainability and sufficient time i.e. time of one week was granted to the appellant, we are not inclined to accept the request for grant of further time.

20. Having regard to all aspects discussed earlier, we are of the opinion that the appeal is devoid of any merits and is not maintainable in view of the provisions of the Act. We accordingly dismiss the appeal.

21. We, however, make it clear that while dismissing the appeal, we are not prohibiting the appellant to take recourse to such other remedy to which he may be entitled to, if so advised. We further make it clear that if the appellant fails to take recourse to other remedy as may be available within stipulated period of one week, the order of this Court would stand confirmed on expiry of period of one week from today. In the circumstances, we extend the interim order only for a period of one week from today.

22. In view of dismissal of the appeal, nothing survives in Civil Application No. 9603 of 2018 and the same is disposed of accordingly.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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