

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 93 OF 2012

Goldie Sud	}	Petitioner
versus		
Prakash Mutyal and Ors.	}	Respondents

Mr. Goldie Sud-petitioner in person.

Mr. Yogesh Dabke-AGP for State.

**CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE :- FEBRUARY 14, 2018

P.C. :-

1. The petitioner appearing in-person complains that respondent nos. 1 and 2 are guilty of civil contempt, inasmuch as they have not abided by the order passed by this court in Criminal Writ Petition No. 447 of 2011, copy of which is at page 70 of the paper book.

2. The petitioner has instituted this petition alleging that he is a law abiding citizen and enjoys good reputation in the society. Respondent nos. 1 to 3 are the authorities under the Bombay Police Act, 1951. They are conferred with powers to pass an order of externment under that law. That was subject matter of challenge in the proceedings, in which the subject order, breach of

which is complained of, came to be passed. After this court recorded as to how that order is erroneous and illegal being made without affording any opportunity to the petitioner of being heard, while granting liberty to pass a fresh order, it is evident that this court's direction was to hear the petitioner and then make an order.

3. While making that order, the petitioner complains that, respondent nos. 2 and 3 did not abide by the same. It is stated that pursuant to the liberty granted by this court, the petitioner, along with relevant records and documents in his possession, attended the office of respondent nos. 2 and 3, where respondent no. 1 was presiding on that day. Respondent no. 1 refused to grant a personal hearing to the petitioner and simply adjourned the proceedings. To his further surprise, the second respondent too disregarded the order and instead of affording a hearing to the petitioner and his witnesses, as an eye wash, a fresh inquiry was conducted. Based on that inquiry, which was in the absence of the petitioner and concluded without his knowledge, respondent no. 2 passed an order dated 21st April, 2011.

4. It is fairly stated that this order is subject matter of challenge in a distinct writ petition and its operation was stayed.

5. The argument is that the order of this court has been defeated and disobeyed. This is willful and therefore, we must take the requisite action contemplated by the Contempt of Courts act, 1971.

6. Upon a perusal of the contempt petition, the subject order and the affidavit on record, we are unable to agree with the petitioner. If the petitioner was not afforded an opportunity of being heard and still an order of externment was made, then, coupled with the other grounds, the said order can be challenged by him for non compliance with the principles of natural justice so also that being in defiance with the orders and directions of this court. If we peruse the order of this court, we do not find any direction save and except a liberty being granted to pass a fresh order after the earlier was found to be not in accordance with law. We have to read the order of this court as a whole and so read, we do not find that proceedings for civil contempt can be initiated based on this alleged non-compliance. Since that order can be assailed on merits, we are disinclined to entertain this petition. It is disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)