

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CONTEMPT CASE No. 2713 OF 2017

ORDER:

This contempt case is filed alleging non-implementation of the order, dated 06.10.2017, passed by this Court in W.P.No.33305 of 2017.

While disposing of the above said writ petition, this Court directed the respondent to follow the law laid down by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar**¹ in strict sense. One of the directions of the Hon'ble Supreme Court is that in the cases relating to matrimonial disputes, indiscriminate arrest shall not be effected and before resorting to arrest, the Investigating Officer shall issue notice under Section 41-A Cr.P.C. and conduct enquiry.

The case of the petitioners is that no enquiry as such was conducted and respondent No.2 along with the complainant visited their house only to harass them. They filed photographs evidencing the same.

Respondent Nos.1 and 2 filed separate counter-affidavits denying the allegation of harassment. Respondent No.2 stated in her counter-affidavit that as per the instructions of respondent No.1, she visited the house of the petitioners only to serve notice under Section 41-A Cr.P.C. and since they have refused to receive the same, notice could not be served and enquiry could not be conducted.

¹ AIR 2014 SC 2756

The petitioners have not filed any reply-affidavit denying the specific allegations mentioned in the counter-affidavit filed by respondent No.2.

In view of the above, the averment of respondent No.2 that as per the instructions of respondent No.1, she visited the house of the petitioners to serve notice under Section 41-A Cr.P.C. cannot be disbelieved. However, as the petitioners specifically asserted that there is no attempt on the part of the respondents to serve notice under Section 41-A Cr.P.C., if situation demands or warrants, the respondents shall issue notice to the petitioners through Registered Post with Acknowledgment Due giving sufficient and ample time to approach them. Without following the due procedure, no coercive steps shall be taken against them.

Subject to the above, the contempt case is closed.

Consequently, miscellaneous applications, if any shall stand closed.

CHALLA KODANDA RAM, J

Dt:07.06.2018

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