

#102

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 14.08.2018

CCP (REF) 2/2016

COURT ON ITS OWN MOTION

..... Petitioner

versus

INSPECTOR DEVENDRA RATHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Gautam Narayan, Advocate (Amicus Curiae with Ms. Shivani Gij,
Advocate
For the Respondent : Ms. Shradha Karol, Advocate along with Respondent-in-Person

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present Reference for Contempt was preceded from the Court of Mr. Ajay Kumar Malik, learned Metropolitan Magistrate, Central-04, Tis Hazari Courts, Delhi.

2. The Reference was predicated on the violation of the order dated 19.01.2016, whereunder it had been recorded that Inspector Devendra Rathi, Station House Officer Police Station-Sarai Rohilla, at the relevant time, had failed to comply with the directions, issued by the Court vide order dated 15.01.2016, to register an FIR within 24 hours. It is also founded on a subsequent order dated 08.02.2016, on the footing that respondent No.1, upon registering an FIR, in terms of the earlier direction, had failed to mention the name of the accused therein.

3. The learned Metropolitan Magistrate had initially made the Reference for the institution of criminal contempt in the present proceedings, but it has been registered as a civil contempt on the directions of Hon'ble the Chief Justice, acting in administrative capacity.

4. Having heard the learned amicus curiae, as well as, learned counsel appearing on behalf of the parties, and perused the record, there are two questions that need to be answered in the present proceedings:-

- “(i) Whether the respondent No.1 disobeyed a specific direction of the concerned court; and
- (ii) Whether the disobedience was willful.

5. Insofar as, the first issue is concerned, it is observed that upon a

direction issued by the learned Metropolitan Magistrate, in this behalf, an FIR was registered, albeit belatedly. The learned Metropolitan Magistrate has made the subject Reference, predicated on the refusal by the respondent No.1 to register the said FIR against a particular individual.

6. In this behalf, it is trite to state that, investigation and registration of an FIR, is within the exclusive jurisdiction of the Investigating Officer or the Station House Officer, as the case may be, and the Courts' do not, in the normal circumstances, direct the registration of an FIR against a specific individual.

7. In that view of the matter, the respondent No.1 cannot be said to have violated a lawful direction of the concerned Court.

8. Insofar as, the other issue is concerned, even assuming for a moment that the refusal by respondent No.1 to register the subject FIR against a particular individual was violative of a direction of the learned Metropolitan Magistrate, I am of the view that keeping in mind the legal position, as elaborated hereinabove, and in the peculiar facts and circumstances of the case, the violation, if any, was not willful.

9. In view of the foregoing, the present Contempt Reference is closed and notice for contempt is discharged.

10. I would be failing in my duty, if I do not place on record my appreciation for the assistance rendered by Mr. Gautam Narayan, Advocate, learned Amicus Curiae, as well as, Ms. Shradha Karol, learned counsel appearing on behalf of respondent No.1.

11. The Contempt Reference is accordingly disposed of.

**SIDDHARTH MRIDUL
(JUDGE)**

AUGUST 14, 2018
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