

#12

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 19.12.2018

CONT.CAS.(CRL) 12/2018

COURT ON ITS OWN MOTION

..... Petitioner

Versus

RAJ KUMAR KASANA

..... Respondent

Advocates who appeared in this case:

For the Petitioner :

For the Respondent : Mrs. Kajal Chandra and Mr. Viren Kapur, Advocates with
respondent in person

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present criminal contempt was issued *suo motu* by this Court, in view of the circumstance that, the contemnor, the respondent herein, had instituted a Public Interest Litigation (hereinafter referred to as the 'said PIL'), without making a fair and complete

disclosure, as warranted in law, in relation to other proceedings pending between him and the respondents in the said PIL.

2. A Division Bench of this Court presided over by Hon'ble the Acting Chief Justice vide order dated 19.04.2018, not only dismissed the said PIL with costs in the sum of Rs.25,000/- but also issued a notice to show cause to the petitioner, as to why action for criminal contempt be not initiated against him.
3. The contemnor has caused to be filed an affidavit dated 18.12.2018 and it is considered necessary and appropriate to extract the contents thereof in full, so as to effectively and efficaciously adjudicate present *suo motu* action for contempt.

“3. I state that I have filed a civil suit being CS(OS) No.2491 of 2014 titled as “*Raj Kumar Kasana vs. Gram Sudhar Sabha (Regd.)*” before this Hon'ble Court and the same was transferred to the Hon'ble Saket District Court, New Delhi, wherein Respondents No.2,8 and 8 herein are the members of Gram Sudhar Sabha, the Defendants therein. I state that I failed to disclose the pendency of the aforesaid case at the time of filing of the present Writ Petition being W.P.(C) No.98 of 2018, concerning Respondent Nos.2,8 and 9, the private parties involved in the present petition filed in public interest and apologize for the same. I further state that I had filed the civil suit against Gram Sudhar Sabha (Regd) and not against Respondent Nos.2,8 and 9 in their personal and individual capacity and that I deeply regret and humbly tender an unequivocal and categorical unconditional apology to this

Hon'ble Court for suppressing the pendency of Civil Suit being CS (OS) No.2491 of 2014 from this Hon'ble Court.

4. That the Deponent is bonafidely making unconditional apology to this Hon'ble Court and has full respect for the legal system and pray that no criminal contempt proceedings be initiated against me.

5. That I hold this Hon'ble Court in the highest esteem and have no intention whatsoever to show any disrespect to this Hon'ble Court. It is most respectfully submitted that further averments made in this affidavit are solely in order to most humbly set out the facts and bring to the gracious notice of this Hon'ble Court and not by way of justification or explanation.

6. That in compliance of order dated 19.04.2018 passed by this Hon'ble Court in W.P. (C) No.98/2018, I have duly deposited the cost imposed on me by this Hon'ble Court.

7. That in view of the submissions made above, the deponent most humbly submits that the efforts had all along been made bonafidely and the deponent has no intention to show any disrespect or dishonour to this Hon'ble Court. That under the foregoing circumstances the deponent humbly begs to be pardoned for the same.

8. That the deponent holds this Hon'ble Court in great respect and esteem and prays to this Hon'ble Court to graciously be pleased to accept the humble apology and exonerate the deponent from the purview of the contempt proceedings and discharge of show cause notice of contempt proceedings.”

4. A perusal of the above extracted paragraphs reflect that, the contemnor had prior to the institution of the said PIL, filed a civil suit being CS(OS) 2491/2014, titled as '*Raj Kumar Kasana vs. Gram Sudhar Sabha (Regd)*', *inter alia*, against respondent Nos.2, 8 and 9 in the said PIL as members of the Gram Sudhar Sabha.
5. It is further observed that, it is the submission of the contemnor that the said civil suit was not instituted against the said respondents in their personal and individual capacity but as members of the Gram Sudhar Sabha.
6. It is urged by Mrs. Kajal Chandra, learned counsel appearing on behalf of the contemnor that, it is in this view of the matter that, the contemnor did not disclose in the pleadings of the said PIL about the pendency of the said civil suit.
7. Mrs. Kajal Chandra, learned counsel would further urge that, the writ petitioner (contemnor herein) did not have any personal interest in instituting the said PIL and the same was necessitated by the rampant unauthorised construction being carried out in the premises where the respondents reside.
8. It is also urged that, it was not the intention of the contemnor to mislead this Hon'ble Court in the said PIL, and the non-disclosure of all material facts was purely on account of inadvertence.

9. Mrs. Kajal Chandra, learned counsel appearing on behalf of the contemnor would lastly urge that, the contemnor has from the very inception of the *suo motu* proceedings clearly, unequivocally and unconditionally expressed his apologies to the Court for his conduct in not making a full and complete disclosure, in relation to the said civil suit and deeply regrets having abused the process of law in this manner.
10. In the present proceedings, it is observed that the contemnor has deposited the cost imposed upon him by this Court at the earliest opportunity. It is further observed that, although the contemnor failed to make a complete disclosure of all the material facts in the main body of the said PIL, the disobedience in this regard, in our view, cannot be characterised as wilful.
11. In view of the foregoing, since the contemnor had already expressed remorse and regret at his conduct and further tendered a complete and unconditional apology, for his act of omission, we are of the considered view that the criminal contempt be not proceeded with any further.
12. Resultantly, the notice to show cause as to why criminal contempt be not drawn against the contemnor, is hereby discharged.
13. The contemnor is, however, directed to be careful in future, whilst instituting proceedings, in accordance with law.

14. No further directions are called for, the present *suo motu* proceedings is disposed of accordingly.

**SIDDHARTH MRIDUL
(JUDGE)**

**SANGITA DHINGRA SEHGAL
(JUDGE)**

DECEMBER 19, 2018

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