

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved for Order on 06.02.2019

Order Passed on : 27.02.2019

CONTEMPT CASE No. 1121 of 2018

Ramesh Kumar Sharma, S/o. Late Shri Satyanarayan Sharma, Aged About 59 Years, R/o. C/17, Sector 1, Avanti Vihar Colony, Telibandha, Raipur Chhattisgarh.

---- Petitioner

Versus

1. Manish Sharma, Superintendent Of Police, Anti-Corruption Bureau, State Economic Offences Investigation Bureau, Anand Nagar, In Front Of Jai Jawan Petrol Pump, Telibandha, Raipur, Chhattisgarh.
2. D.S. Parihar, Station House Officer, State Economic Offences Investigation Bureau and Anti-Corruption Bureau, Raipur Chhattisgarh.
3. Ravi Shankar Sharma, Secretary, Law and Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Kishore Bhaduri, Advocate
For Respondents No.1 & 2	: Mr. Dheeraj Kumar Wankhede, Advocate
For Respondent No.3	: Mr. S.C. Verma, Additional A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

27/02/2019

1. Petition has been brought by the petitioner with prayer to draw contempt proceeding against the respondents.

2. The order dated 11.04.2018 that was passed by this Court in W.P. (Cr.) No.223/2018, is as under :-

“3. After due consideration, the petition is disposed off at the motion stage with the directions to respondents No.4 & 5 to consider the representation already made by the petitioner and also allow him to make additional submissions or produce additional documents in objective manner after duly verifying the source of information so produced before respondents No.4 and 5 before taking any action against him. The matter is said to be pending before respondent No.2 and it is also directed that respondent No.2 shall take into consideration the directions issued by this Court with respect to the respondents No.4 and 5 before passing any order.”

3. It is submitted by the learned counsel for the petitioner that respondent No.2 has not given any consideration to the representation made by the petitioner and have not decided the same according to the clear directions of this Court. The respondent No.3 has also not taken care of the order passed by this Court, thus the order of this Court has not been complied with and willfully disobeyed by the respondents.
4. It is submitted that petitioner had already submitted his representation to the respondent No.3 on 18.05.2018 containing detailed explanation regarding assets found in his possession, even then respondent No.3 has not take care to consider the case against the petitioner for passing the order of sanction, therefore, the contempt proceedings be drawn against the respondents.

5. Counsel for the respondent No.1 and 2 submits that investigation was already closed before the date, the W.P.(Cr.) No.223/2018 was filed on 04.04.2018 and sanction for prosecution was already granted by the respondent No.3 on 27.03.2018. Representation that was made by the petitioner subsequent to the order dated 11.04.2018 have been considered and decided by the respondent No.1 and 2 and rejected. The petitioner himself has suppressed that sanction for prosecution was already granted against him and had obtained the order of this Court, therefore, this petition is not maintainable.
6. On behalf of the respondent No.3, it is submitted that the order of sanction was already passed before the date of order passed by this Court. Therefore, it is apparent that order was obtained by the petitioner from this Court suppressing this fact that the order of sanction was already existing.
7. Reliance has been placed on the order dated 20.09.2016, passed by the Supreme Court in case of **Gyani Chand Vs. State of A.P.** in **Civil Appeal No.5728 of 2005**, in which it was held that to hold somebody guilty for contempt of Court, it should be found that such persons has willfully disobeyed any judgment, decree, direction, order writ or any other process of a Court. Reliance has also been placed on the judgment of Supreme Court in case of **Mohd. Iqbal Khanday Vs. Abdul Majid Rather**, reported in **(1994) 4 SCC 34**, that no contempt is committed, if the, order is incapable of execution, therefore, it is submitted that the petition is not maintainable.

8. Respondents No.1 and 2 have made statement in their reply that subsequent to the order passed by this Court, the representation made by the petitioner was considered and rejected on 10.07.2018 vide Annexure R-2-1, they have considered it rightly or wrongly, it will be looked into by the trial Court. Thus the order of this Court has been duly complied with. Therefore, there was no requirement to place the matter before the respondent No.3 for reconsideration on the order of sanction passed against the petitioner.
9. After considering all the submissions made and the facts and circumstances of the case I am of this opinion that the order passed by this Court has been complied with by the respondent No.1 and 2 and the order was incapable of being implemented by the respondent No.3, therefore, no contempt has been committed in this case.
10. Accordingly, the petition has no merit and it is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge