

Santosh

***IN THE HIGH COURT OF BOMBAY AT GOA
CONTEMPT PETITION NO.37 OF 2016
WITH
MISC.CIVIL APPLICATION NOS.442 & 89 OF 2019***

Canara Bank, SME Branch. Petitioner.

Versus

Smt. Remediana D'Costa and ors. Respondents.

Ms. Priyanka Kamat, Advocate for the Petitioner.

Mr. Zeller De Souza, Advocate for the Respondents.

**Coram : S.C. Gupte &
Nutan D. Sardesai, JJ.**

Reserved on : 11th June, 2019.

Pronounced on : 12th July, 2019.

ORAL ORDER : (Per S.C. Gupte, J.)

. This contempt petition alleges disobedience or non-compliance with the order dated 26/10/2016 and the undertaking filed before this Court on 27/10/2016. The main contest between the parties before the Court concerned dues owed by the Respondents-contemnors to the Petitioner-Bank. The Respondents herein (original Petitioners in Writ Petition No.1027/2016) admitted their liability in the sum of ₹ 84,31,657.62 and offered to pay the amount within two months from 26/10/2013. The Petition was, accordingly, disposed of by this Court by directing the Respondents to deposit a part of the amount in the Court and pay the balance to the Petitioner-Bank, along with accrued interest

within two months and also to file an undertaking affirming their commitment towards such payment.

2. Since the Respondents defaulted in payment, the Contempt Petition was initiated. An order of committal was passed in the contempt petition against all four Respondents. Respondents No.3 and 4 have already undergone the sentence. So far as Respondents No.1 and 2 are concerned, the order could not be executed, since both were stated to be suffering from sickness. In pursuance of orders passed by this Court later in the matter, an investigation was ordered through the Police in Bangaluru about the genuineness of the Respondents' case and in particular, the medical certificate submitted by them in support of the sickness of Respondent No.2. The certificate was found to be genuine by the Police.

3. In the meantime, the Respondents had filed a Misc. Civil Application, seeking modification of the original order of committal passed by this Court in the Contempt Petition. The application was on the footing that Respondent No.2 had been partly paralyzed and bedridden, and Respondent No.1, despite her ill-health, was looking after him. The Respondents begged of mercy, in the premises.

4. Considering the fact that the fine imposed by the Court in its order in the Contempt Petition has already been deposited with the Registry, and that Respondents No.3 and 4, who were co-contemnors along with Respondents No.1 and 2, have already undergone a sentence and also considering the health and circumstances of Respondents No.1

and 2, this Court is of the view that the sentence of simple imprisonment should be modified to payment of further fine.

5. In the premises, the sentence awarded in the Judgment dated 25th October, 2018 passed in Contempt Petition No.37/2016 is modified by converting it into a sentence for fine alone. The Applicants (original Respondents No.1 and 2 to the Contempt Petition) are, accordingly, sentenced to pay a further fine of ₹ 25,000/- each. The fine must be paid within a period of four weeks from today.

6. The Misc. Civil Application No.442/2019 is disposed of accordingly.

7. In view of the disposal of Misc. Civil Application No.442/2019, Misc. Civil Application No.89 of 2019 does not survive and is disposed of accordingly.

Nutan D. Sardesai, J.

S.C. Gupte, J.