

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Contempt Case No.1789 of 2017

Date: 30.12.2019

Between:

Eunice Lalnunmawii Chawngthu

..Petitioner

And

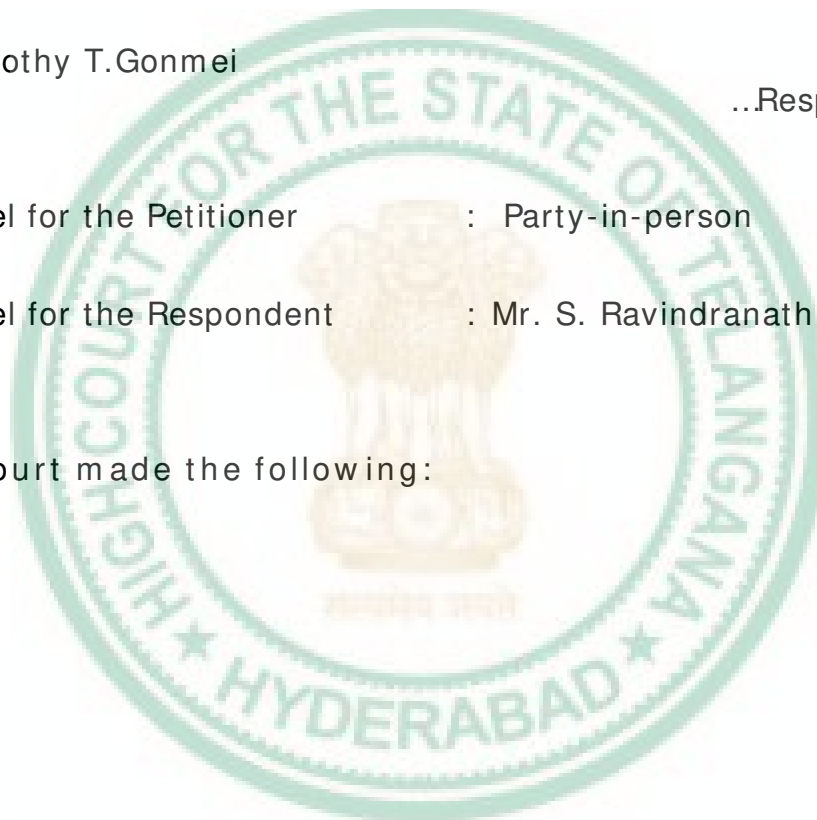
Mr.Timothy T.Gonmei

..Respondent

Counsel for the Petitioner : Party-in-person

Counsel for the Respondent : Mr. S. Ravindranath

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present Contempt Case is filed against the sole respondent alleging that he has deliberately and willfully disobeyed the orders of this Court, dated 23.04.2015, passed in F.C.A.M.P.No.199 of 2015 in F.C.A.No.124 of 2015.

2) The brief facts of the case are that the petitioner was married to the respondent on 11.10.2006 at BCM Town Church, Mizoram, as per the Indian Christian Marriage Act. The respondent had filed a petition under Section 10(1)(ix)(x) of the Divorce Act, 1869, to dissolve the marriage between the petitioner and the respondent herein; the O.P. was numbered as O.P.No.1349 of 2010, on the file of the Judge, Family Court, Hyderabad. In the said O.P., the petitioner herein remained *ex-parte*. Hence, vide Order, dated 01.04.2015, the Family Court allowed the O.P.No.1349 of 2010 filed by the respondent/husband, thereby dissolving the marriage between the parties.

3) Aggrieved by the order of the Family Court, the petitioner herein has filed a Family Court Appeal before this Court; the same was numbered as F.C.A.No.124 of 2015. In the said F.C.A., the petitioner sought AN interim suspension of the order passed by the Family Court in O.P.No.1349 of 2010. Vide order, dated 23.04.2015, in F.C.A.M.P.No.199 of 2015, this Court granted the interim suspension of the order in O.P.No.1349 of 2010, dated 01.04.2015. The interim orders were subsequently extended vide order, dated 10.06.2015.

4) The petitioner has filed the present Contempt Case on 28.08.2017, alleging that the respondent herein has re-married, and conceived a daughter during the subsistence of the interim orders granted in F.C.A.No.124 of 2015. Therefore, the respondent has deliberately and

willfully violated the orders of the Court. Hence, the respondent is liable to be punished under the provisions of the Contempt of Courts Act, 1971.

5) On the notice issued by this Court, the sole respondent has entered appearance and filed his counter. According to the respondent, after the decree of divorce was granted by the Family Court on 01.04.2015, he came to know of the order of this Court passed in F.C.A.M.P.No.199 of 2015 only on 06.05.2015 when the notice, dated 30.04.2015, issued by the petitioner was served on him. But by the date of service of the above notice, he had already gotten married on 02.05.2015. He has also raised a preliminary objection as to the maintainability of the Contempt Case on the ground that the contempt case is filed after a period of two years from the date of the alleged contempt, which is beyond the period of limitation prescribed by the Statute.

6) Heard the petitioner/party-in-person, and Sri S.Ravindranath, the learned Counsel appearing for the respondent.

7) It is the contention of the petitioner that the respondent is fully aware of the order passed by this Court and has deliberately violated the orders of this Court. Further, it is the case of the petitioner that even when the interim order granted initially in F.C.A.M.P.No.199 of 2015 by this Court was extended on 10.06.2015, the respondent was represented by an Advocate. But he has not informed this Court about the re-marriage of the respondent on 02.05.2015. Hence, there is not only a willful disobedience of the order of this Court, but also suppression of fact by the respondent. Therefore, the same amounts to gross abuse of the process of the Court and violation of the orders of this Court.

8) Per contra, the learned Counsel appearing for the respondent has submitted that the contempt case is filed after a lapse of two years from the date of the alleged contempt. Secondly, by the time the respondent was served with a notice issued by the petitioner informing about the passing of the interim orders by the High Court, the respondent had already re-married on 02.05.2015. Hence, the respondent is not liable for any punishment, as there is no deliberate, willful or intentional violation of the orders of this Court. Once it is proved that the respondent had no knowledge of the interim orders passed by this Court, the question of committing any contempt does not arise. Moreover, even for the sake of argument, if it is to be taken that his client had any knowledge of passing of the interim order, the present contempt case is barred by limitation as the same is not filed within a period of one year from the date of the alleged contempt.

9) We have gone through the record, and heard the arguments advanced by both the sides.

10) A bare reading of Section 20 of the Contempt of Courts Act, 1971, is reproduced hereunder:

Limitation for actions for contempt:-

*No Court shall initiate any proceedings for contempt, either on its own motion or otherwise **after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.*** (emphasis added)

11) Admittedly, in the present case, the order of this Court was passed on 23.04.2015 in F.C.A.M.P.No.199 of 2015; the said order of suspension was served on the respondent on 06.05.2015. It is well established principle of law that whenever an order is passed by the Court

either suspending or granting injunction, the same will come into effect only from the date on which the said order is served on the other side. In this particular case, admittedly, though the order was passed on 23.04.2015, the same was served on the respondent only on 06.05.2015. In the absence of any record to show that the respondent had knowledge of the order passed by this Court on 23.04.2015 prior to 06.05.2015, it cannot be said that he has deliberately or intentionally violated the orders of this Court. In order to hold a person as having committed the contempt of the orders of the Court, the date of knowledge acquired by the said contemnor has to be reckoned with. In this particular case, admittedly, the order passed by this Court was served on the respondent on 06.05.2015. The respondent, admittedly, has re-married on 02.05.2015. If it is to be held that he has committed any contempt of the Court by re-marrying on 02.05.2015, the present contempt case ought to have been filed within one year from the date of the alleged contempt i.e. 02.05.2015. In this particular case, the Contempt Case is filed after a lapse of more than two years, from the date of re-marriage by the respondent, and as such, the present Contempt Case is apparently barred by limitation.

12) The Hon'ble Supreme Court in the decision reported in **PALLV SHETH v. CUSTODIAN**¹ while dealing with the period of limitation under Section 20 of the Contempt of Courts Act, 1971, has held at paragraph No.44 as under:

Action for contempt is divisible into two categories, namely, that initiated suo motu by the court and that instituted otherwise than on the court's own motion. The mode of initiation in each case would necessarily be different. While in the case of suo motu proceedings, it is the Court itself which must initiate by issuing a notice, in the other cases initiation can only be by a party filing an application. In our opinion, therefore, the proper construction to be placed on Section 20

¹ (2001) 7 SCC 549

must be that action must be initiated, either by filing of an application or by the court issuing notice suo motu, within a period of one year from the date on which the contempt is alleged to have been committed.

13) The Hon'ble Supreme Court in **MAHESHWAR PERI v. HIGH COURT OF JUDICATURE AT ALLAHABAD**² while dealing with initiation of *suo motu* contempt proceedings initiated by the High Court against a magazine for publishing an article against the Judges of the High Court on the ground of limitation has held at paragraph No.15 as under:

... Thus, the impugned article, having been published on 10.11.2008 and the High Court having initiated the suo motu action only on 28.04.2015, the same is hit by the limitation of one year prescribed under the Act.

14) Though the petitioner has relied on the decisions reported in **SAVITRI PANDEY v. PREM CHANDRA PANDEY**³ and **SMT.KAJAL CHOWDHURY v. DILIP CHOWDHURY**⁴, the same do not deal with the question of limitation for filing the present Contempt Case, and as such they are of no use to the petitioner.

15) Admittedly, in the present case, the alleged contempt took place on 02.05.2015 when the respondent has re-married and the contempt ought to have been initiated within one year from the said date. But the present Contempt Case is filed after a lapse of more than two years. The present Contempt Case is liable to be dismissed on the ground of limitation alone in view of the law laid down by the Hon'ble Supreme Court in **PALLAV SHETH (1 supra)** and **MAHESHWAR PERI (2 supra)**. Therefore, the present Contempt Case is dismissed accordingly.

² (2016) 14 SCC 251

³ AIR 2002 SC, 591

⁴ AIR 2004 Calcutta 113

The miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

30th December, 2019
smr

