

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE NO.603 OF 2019

ORDER:

This Contempt Case is filed alleging willful disobedience of the order dated 07.02.2019 in I.A.No.1 of 2019 in W.P.No.2326 of 2019.

The said order reads as under.

“Having regard to the law laid down by the Supreme Court in *Lalitha Kumari v. State of Uttar Pradesh*¹, 5th respondent is directed to forthwith register FIR basing on the complaint of the petitioner, and proceed to investigate the matter in accordance with the provisions of Cr.P.C.”

Alleging that this order has not been complied with, the petitioner in the said Writ Petition has filed this Contempt Case on 09.04.2019 contending that the petitioner had personally handed over copy of this order to the respondent herein and also sent the same by RPAD on 05.03.2019 but the respondent did not register the FIR as directed in the said order and has thus willfully violated the said order.

Counter affidavit was initially filed by the respondent taking the plea that the petitioner had lodged a complaint on 18.01.2019 with the Station House Officer, Rajendranagar Police Station, Cyberabad, against the 6th respondent in the Writ Petition; that the respondent made an entry in the General Diary and enquired into the complaint; that he came to know that the 6th respondent and another party filed O.S.No.2124 of 2007 against the petitioner and the said suit was decreed; that the 6th respondent then filed an execution application for recovery of possession

¹ (2014)2 SCC 1

and in that execution application an order of police aid was granted by the Court of the II Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, to the 6th respondent. He stated that he provided police aid to the 6th respondent in November, 2018 and possession of the property was handed over to the 6th respondent from the possession of the petitioner. He stated that he was discharging his duties legitimately and he did not evict the petitioner illegally as the petitioner has alleged.

When it was pointed out to the Government Pleader for Home that the direction in the Writ Petition was to register the FIR against the 6th respondent on the complaint made by the petitioner and the plea in the counter does not meet the said allegation at all, an additional counter affidavit was filed subsequently.

In the additional counter it is stated that on 07.08.2019, exactly six months after the order was passed in the Writ Petition, Crime No.1101 of 2019 under Sections 447, 427 and 506 read with Section 34 of the Indian Penal Code was registered against the 6th respondent in the Writ Petition and others. Reference is again made to the proceedings in O.S.No.2124 of 2007. It is alleged that the petitioner played fraud on the Court and suppressed the material facts, and that fraud vitiates everything.

It is not the case of the respondent that any application to vacate the interim order dated 07.02.2019 had been filed on his behalf or on behalf of other respondents in the Writ Petition till date. So, the order in the Writ Petition continues to subsist.

It is also not the case of the respondent that he is not aware of the order passed in the Writ Petition. Admittedly, the said order was passed in the presence of Government Pleader for Home who represents for the respondent in the Contempt Case (the fifth respondent in the Writ Petition).

The Government Pleader for Home submits that the respondent was of the opinion that the order passed by the Civil Court referred to above granting police aid to the 6th respondent in the Writ Petition requires to be obeyed and was an impediment for registering the FIR.

In my considered opinion the order passed by the Civil Court referred to supra cannot in any way be said to have inhibited the respondent in the Contempt Case from implementing the interim order granted by this Court on 07.02.2019.

It is the duty of the respondent to obey the interim order issued by this Court and it is not for him to decide for himself whether the said order is valid order or invalid order. The explanation given by the respondent for delay in compliance with the above order does not appear to be *bona fide*.

In ***Tayabbhai M. Bagasarwalla v. Hind Rubber Industries Pvt. Ltd.***², the Supreme Court has held that every person against, or in respect of whom an order is made by a Court of competent jurisdiction has to obey it unless and until that order is discharged; and that it would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null or valid – whether it was

² AIR 1997 SC 1240

regular or irregular; and that they should come to the Court and not take upon themselves to determine such a question. Such party must apply to the Court that it might be discharged and as long as it existed, it must not be disobeyed. It followed the decision of the Court of Appeal in *Hadkinson v. Hadkinson*³.

Therefore, applying the said ratio, I am of the opinion that it was not for the respondent to decide the correctness or otherwise of the interim order dated 07.02.2019 in I.A.No.1 of 2019 in W.P.No.2326 of 2019 passed by this Court and the respondent therefore ought to have immediately complied with the said direction and registered the FIR against the 6th respondent as per the complaint given by the petitioner.

Accordingly, this Contempt Case is allowed and the respondent is sentenced to pay a fine of Rs.2,000/- (Rupees two thousand only) which shall be paid within four (4) weeks from the date of receipt of a copy of this order in default, he shall suffer Simple Imprisonment for one (1) month. Also an adverse entry shall be made in the Annual Confidential Report of the respondent for willfully disobeying the order passed by this Court on 07.02.2019 in I.A.No.1 of 2019 in W.P.No.2326 of 2019.

Miscellaneous applications, if any, pending shall stand closed.

(M.S.RAMACHANDRA RAO, J)

13th September 2019
RRB

³ (1952)2 All ER 567