

210

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

COCP-2912-2015

Date of Decision: April 04, 2019

The Citizen Urban Cooperative Bank Ltd., Jalandhar

.....Petitioner

Versus

Kamaljit Shoor

.....Respondent

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Ashwani Prashar, Advocate for the petitioner.

Respondent in person with
Mr.Nimanyu Gautam, Advocate.

.....

NIRMALJIT KAUR, J. (ORAL)

The present contempt petition is filed for violation of the order dated 30.07.2013 which was disposed of in view of the statement made by the respondent that he would deposit a sum of ₹5.00 lacs within one month and the remaining amount of ₹31,55,861/- within 8 months thereafter. The writ petition was disposed of on the offer made by the respondent that whatever share money was lying with the bank, the same shall be adjusted in the remaining amount which was to be paid by him. While disposing of the writ petition it was observed as under:-

“In view of the aforesaid settlement, the present writ petition is hereby disposed of with a rider that in case the petitioner fails to pay the amount, as undertaken, not only the respondent No.4 would be entitled to initiate contempt proceedings against the petitioner but would also be entitled to file an application for revival of the present writ petition.”

However, the respondent failed to honour his undertaking and accordingly, in view of the liberty granted by the Court, COCP-3338-2013 was filed, wherein he was directed to remain present in the Court. On 05.11.2014, he paid ₹5.00 lacs in cash in the Court itself and undertook to pay the balance amount of ₹31,55,861/- within a period of four months and also stated that he would pay interest @8% for the delayed payment w.e.f. 30.07.2013 till the date of deposit. The Bank stood by its commitment and withdrew the complaint against the respondent on 10.12.2014 but the respondent failed to pay even a single rupee thereafter. While disposing of COCP-3338-2013, the undertaking/statement given in the Court by the respondent was held binding upon him and liberty was granted to the petitioner for revival of the contempt petition in case of breach of the undertaking/statement made by the respondent. However, the respondent failed to pay any amount towards his liability in spite of his statement made and undertaking given before the Court. Accordingly, the petitioner filed the present contempt petition. Notice in the present contempt petition was issued way back on 20.11.2015. The matter thereafter was being adjourned on one pretext or the other and especially on account of the statement of the respondent either by himself or by his counsel that the amount due to the petitioner shall be paid. On 27.10.2016, counsel for the respondent stated that an amount of ₹2,50,000/- would be paid on or before 27.12.2016 and the remaining amount, whatever due to the petitioner would be paid on or before 31.03.2017. It would be relevant to note that the order dated 09.01.2017 (wrongly written as 09.01.2016) vide which the conduct of the respondent-contemner was noticed but in spite of the same, one last opportunity was granted to clear the entire arrears. The said order reads as

under:-

“It is conceded that an amount of Rupees two and half lacs has been paid to the petitioner-decree holder whereas the remaining two and half lacs shall be paid before 31.3.2017 in compliance of order dated 27.10.2016.

On merits, it is further evident that the petitioner has backed out of his undertaking furnished at the time of passing of order dated 30.7.2013 by this Court whereby the respondent-contemner was required to pay a sum of ₹31,55,861/- over and above the amount of ₹5 lacs within next nine months from 30.7.2013.

The misconduct of the respondent-contemner does not warrant any leniency, however, at the time of hearing, the contemner prays for one last opportunity to clear the entire arrears as noticed in the order dated 30.7.2013 supplemented by order dated 05.11.2014.

List on 28.3.2017.”

In spite of the same, on 28.03.2017, although he was required to clear the entire arrears, but he prayed for last opportunity with the assurance that he shall bring a demand draft ₹5.00 lacs on the next date. On the next date, i.e. 05.04.2017, he brought a crossed cheque for a sum of ₹5.00 lacs, photo copy of which was retained on the record. However, the said crossed cheque bounced and was returned by the concerned Bank. Thereafter, the matter was adjourned each time again at the request of the respondent and finally on 23.08.2018, non-bailable warrants also had to be issued against the respondent for securing his presence as he not only failed to make the payment but also chose not to be present in spite of the directions issued by this Court. On 08.10.2018 the respondent again made a statement that an amount of ₹5.00 lacs by way of bank draft would be paid to the petitioner-

Bank on or before 14.11.2018. Accordingly, the case was adjourned to

16.11.2018. On 16.11.2018, the respondent handed over a bank draft amounting to ₹1.00 lac only and on his undertaking that he shall make the entire payment on or before 28.02.2019 with various installments as recorded in the said order, the following order was passed:-

“Counsel for the respondent has handed over a bank draft amounting to ₹1,00,000/- drawn in favour of the petitioner – Bank although he was required to bring an bank draft of ₹5,00,000/- as per his undertaking given to the Court on 08.10.2018. However, the respondent, who is present in Court, makes a statement that his co-sharers have agreed to sell the property and for that, he needs time upto February, 2019. He further undertakes to make payment of 25% of ₹40,00,000/-, which amount is payable by him, i.e. ₹9,00,000/- by way of bank draft in the month of January, 2019. He further undertakes to make the payment of remaining ₹30,00,000/- on or before 28.02.2019.

List on **11.01.2019** for further consideration.

Let the respondent be present in Court on the next date of hearing as well.”

No one came present on 11.01.2019. However, the matter was adjourned to 05.02.2019 on which date an application for extension of time was filed. Accordingly, the time was extended uptill 15.03.2019 subject to payment of at least ₹15.00 lacs by the said date.

Today, once again a request is made for adjournment. It is pleaded that time be granted to make the payment, whereas, on 05.02.2019, it was specifically ordered that in case the needful is not done, the respondent shall come present before this Court to face the order of punishment. Admittedly, even the time extended to pay only ₹15.00 lacs

has lapsed and the respondent has not paid any amount. Enough is enough.

The respondent has no intention to pay and he is only misleading the Court. Accordingly, this Court finds the respondent guilty of the contempt of Court order dated 30.07.2013 as well as the orders of undertaking given on 05.11.2014, 27.10.2016, 28.03.2017, 16.11.2018 and 05.02.2019 at various stages on various dates before this Court. It is apparent that the respondent has no intention to pay the amount as ordered and as undertaken by him to do so. He is, thus, held guilty of wilful contempt.

With respect to the quantum of sentence, the respondent pleads that as of now, his brothers are in hospital and if he goes in custody, he will not be in a position to arrange the money.

This Court has already observed in the earlier orders that the respondent is not entitled to any mercy and has been taking adjournments after adjournments and thus wasting time of the Court as well as taking the Courts for a ride. He even misled the petitioner-Bank to withdraw the complaint against him. Hence, taking into account the facts and circumstances of the case, this Court deems it appropriate to sentence the respondent to undergo simple imprisonment of only thirty days. Ordered accordingly.

The respondent shall surrender before the Chief Judicial Magistrate at Jalandhar within one week from today, who shall send him to judicial custody to undergo the sentence as above.

A copy of the order be sent to the Chief Judicial Magistrate, Jalandhar for information and necessary compliance.

April 04, 2019

meenuss

(NIRMALJIT KAUR)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No