

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

104

CROCP-13-2018 (O & M)
Date of Decision: 15.01.2019

Radhamohan Mishra

.....Petitioner

Vs.

Shrikant Surajdev Tiwari

..... Respondent

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL**

Present: - Ms. Kirti Ahuja, Advocate
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

At the time when this petition for initiating criminal contempt in terms of Section 2 (C) read with Sections 12 and 15 of the Contempt of Courts Act, 1971 ('Act' -for short) was filed by the petitioner, the Registry had raised the objection:- “as to how the present application/petition/appeal/revision is maintainable in the present form in this Hon'ble Court”.

The petitioner filed reply which is available on the reverse of Page 38 of the petition that “the present petition is maintainable in the present form as mentioned in Para No.10 and 11 of this petition and in view of the law laid down by the Hon'ble Apex Court in **Muthu Karuppan vs. Parithi Ilamvazhuthi, 2011 (5) SCC 496**”. Despite that the Registry has apprised us about the objection raised by it by putting up a note on the paper

for the petitioner with it. Section 15(1) (b) of the Act says that in case of a criminal contempt, other than a contempt referred to in Section 14, the High Court may take action on its own motion or “any other person, with the consent in writing of the Advocate General.” In this case, the consent of the Advocate General, Haryana was required to be obtained by the petitioner before approaching this Court for initiating action of contempt against the respondents who have allegedly concealed the facts before obtaining some orders.

We have heard learned counsel for the petitioner and are of considered opinion that since it is a case between two private parties in which facts are required to be gone into in detail, therefore, the petitioner may approach the Advocate General, Haryana at the first instance for taking his consent for the purpose of filing this petition.

Thus, we uphold the objection raised by the Registry in this regard that the petition is not maintainable for want of consent in writing of the Advocate General, Haryana to maintain the same.

At this stage, learned counsel for the petitioner has prayed that she may be allowed to withdraw this petition with liberty to approach the learned Advocate General, Haryana for the purpose of seeking his consent for maintaining this petition. At the same time she has prayed that while relegating the petitioner to the office of the Advocate General, Haryana for this purpose some direction may also be issued to decide his application at the earliest or preferably within some prescribed period.

We have considered the request made by the learned counsel for the petitioner and allow her to withdraw the present petition with liberty

(1) (b) of the Act for the purpose of taking his consent in writing. It is further directed that if any such application is filed by the petitioner within a period of two weeks to the Advocate General, Haryana, then he shall also decide the same within a period of two weeks thereafter in accordance with law.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

15.01.2019
A.Kaundal

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No