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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 02nd December, 2019*

+ CONT.CAS(C) 1124/2016

OM PRAKASH SINGH Petitioner

Through: Mr.R.P.Luthra and Mr.Sourabh
Luthra, Advs.
Mr.Saqib, *Amicus Curiae*.

versus

GOVT OF NCT OF DELHI & ORS. Respondents

Through: Mr.Rahul Mehra, Standing Counsel
(Crl.) with Mr.Chaitanya Gosai and
Mr.Amarpreet Singh, Advs. for the
State.
Mr.Anuj Aggarwal, ASC for GNCTD
with Mr.Deepak Mishra, Adv.
Mr.Ajay Digpaul, CGSC for UOI
with Mr.Aaryan Verma, Adv.
Mr.Ajjay Aroraa and Mr.Kapil Dutta,
Advocate for North DMC.
Mr.Avninder Singh, Advocate for
Delhi Police.
Mr.Anil Grover, Standing Counsel
with Mr.Mishal Vij, Adv. for NDMC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S.SISTANI, J. (ORAL)

CM.45013/2017 (delay in filing affidavit)

1. For the reasons stated in the application, delay in filing the affidavit is condoned. Affidavit dated 06.09.2017 be taken on record.
2. The application stands disposed of.

CONT.CAS(C) 1124/2016

3. This is a petition under Section 12 of the Contempt of Courts Act, 1971 alleging willful disobedience and non-compliance of directions passed by the Court.

4. The following prayer has been made by the petitioner:

“1.Direct the Government of NCT of Delhi as well as NDMC to provide names of the officials who were responsible to comply with the directions of the orders dated 24.09.2014, 11.02.2015, 18.03.2015, 09.12.2015, 17.02.2016, 02.03.2016 passed in W.P.(C). 4733/2014.

2.Based on the names provided of the responsible officials, notice of contempt be issued and they be dealt in accordance with law.

3.Any other or further order(s), as this Hon'ble Court may deem fit and proper in the interest of justice and in favor of the applicant.”

5. Mr. Luthra, learned counsel for the petitioner relies heavily on the short note prepared by him in compliance with the order of the Court dated 12.08.2014, which he has extracted in the contempt petition. He submits that the background of the matter is of immense importance. He submits that initially he was representing the family of the deceased, Shri Raj Kumar, who after his arrest, died on 09.12.2013 while in judicial custody. The submission of Mr. Luthra is that Raj Kumar's life could have been saved if proper medical treatment had been provided to him. He further contends that at the time of his arrest, Raj Kumar was hale and hearty. In the year 2009, the family of the deceased came to know that the deceased was suffering from a serious

ailment. Therefore, a complaint dated 23.11.2009 was made by Shri Jitender Singh, brother of the deceased to the Director General (Prisons). In the month of July, 2010 the deceased was admitted to Raja Babu Institute for Pulmonary Medicine and Tuberculosis, where it was revealed that he was suffering from Tuberculosis, which was at an advanced stage.

6. Learned counsel for the petitioner highlights that the treatment meted-out to him was not proper and accordingly the concerns that arise are a) whether the person inmates are exposed to transmissible diseases which are serious in nature; b) whether inmate suffer from diseases, are not properly treated; c) whether inmates are harassed/ humiliated/ ill-treated by the jail staff and even in hospitals; d) whether there is rampant corruption; and e) whether, if complaints are made to the authorities, the degree of harassment is multiplied.
7. The order of which disobedience and non-compliance is alleged is order dated 24.09.2014 passed in W.P.(C) No. 4733/2014, the relevant para of which is reproduced as below:

“With regard to the aspect of medical facilities being made available to the prisoners (both under trial and convicted), the learned counsel appearing for Government of NCT of Delhi, shall also file an affidavit indicating as to whether proper facilities are provided and as to whether there are any norms for providing such facilities in all the jails under their control. The affidavit shall also indicate the manner in which the representations / letters from prisoners and / or their family members concerning the health of the prisoners are dealt with.”

8. Mr. Luthra submits that despite this direction having being issued by the Court, a proper affidavit was not filed by the respondents. Learned counsel for the petitioner places reliance on order dated 11.02.2015, passed by this court in W.P.(C) No.4733/2014, the relevant para of which is reproduced below:

"The compliance affidavit handed over by Ms. Zubeda Begum is taken on record. Although the same is titled as a compliance affidavit, we do not actually find any compliance of the directions given by us. The learned counsel shall ensure that the directions given by this Court are complied with in letter and spirit."

9. Learned counsel for the petitioner also places reliance on order dated 18.03.2015, which order deals with numerous aspects such as the condition of the jail hospital in Central Jail No. 3, Tihar and the dispensaries in other jails at Tihar, the hospital mortuary, the time fixed by hospitals for carrying out tests, etc. However, the aspect that we are concerned with, as pointed out by Mr. Luthra, are the directions that were issued vide order dated 18.03.2015. The order reads, *"The learned counsel appearing for the Government of NCT of Delhi shall give an adequate response to the complaints filed by Mr. Luthra's client."* The next order dated 09.12.2015 was with regard to non-payment of compensation. By order dated 17.02.2016, this court observed that the directions given with regard to Mr. Luthra's client shall be adequately addressed by Mr. Rahul Mehra before the next date of hearing.
10. Reliance is also placed on order dated 02.03.2016, wherein this court issued the following directions:

"Mr. Mehra appearing on behalf of the Govt. of NCT of Delhi informs us that a personal hearing was granted to Mr. Luthra who appears on behalf of the father of deceased Raj Kumar. He also informs us that an order has been issued on 22.02.2016 whereby a medical board has been constituted to look into the negligence in treatment of the deceased Raj Kumar. The medical board has been directed to submit its report latest by 21.03.2016. Mr. Luthra submits that apart from the medical negligence issue, he has raised the issue of corruption also which needs to be addressed. Mr. Mehra shall take instructions and appropriate directions be given to examine that issue also and to give a conclusive finding on the same."

11. Additionally, Mr. Luthra contends that although affidavits have been filed by the concerned departments, the remedies enunciated in the affidavits are cosmetic in nature and have not dealt with the correct position at in the jails. He further submits that even the court has observed in orders so passed that the affidavits filed are not adequate and therefore the orders and directions issued by the court have not been complied with. Accordingly, the respondents should be held guilty for non-compliance of court orders and be punished.
12. *Per contra*, Mr. Rahul Mehra, learned standing counsel for GNCTD and Mr. Avninder Singh, learned counsel for Delhi Police, at the very outset, submit that the petitioner has failed to show that there has been any willful disobedience or non-compliance of orders. They submit that there has been substantial compliance of all the orders, which have been passed by this Court from time-to-time. Learned counsel have drawn the attention of the Court to two orders dated 07.09.2016 and 5.10.2016, which have been passed in the connected writ petition being

W.P.(C) No.4733/2014 titled *Courts on its Own Motion vs. Govt. of NCT of Delhi, MCD, NDMC & Others*, to highlight that the writ petition filed is to be pursued as a Public Interest Litigation, for which an *amicus curiae* has been appointed in the matter.

13. Learned counsel for the respondents further submit that in compliance with the orders passed by this Court from time-to-time, a status report was first filed on 17.11.2016. Attention of this Court has been drawn to paragraphs 2 and 3 of the said status report, which we reproduce as under:

“2. That it is pertinent to mention that as per the jail records the deceased inmate was admitted in Delhi Prison in Central Jail No.3 on 27.10.2007 in case FIR No.1491/2007, U/S 302/498A IPC, PS - Sultan Puri and remained in judicial custody till 04.08.2011. The deceased was released on bail on 04.08.2011 after receiving Bail order/Release warrant from the Hon'ble Court of Sh. Sanjeev Aggarwal, Additional Sessions Judge, Rohini Courts, Delhi.

3. That as per jail records, the deceased inmate readmitted into Delhi Prisons after a period of over 2 years i.e. on 23.10.2013 when from the very next day his treatment commenced and he was referred to the RBTB Hospital, Kingsway Camp. It is further submitted that the deceased inmate was convicted on 24.10.2013 by the Hon'ble Court of Sh. Raj Paul Singh, ASJ, Rohini Court to undergo life imprisonment.”

14. It is submitted that as per the jail records, after he was re-admitted into prison after a period of more than two years, i.e. on 23.10.2013, from the very next day itself, i.e. 24.10.2013, his treatment commenced and he was referred to RBTB Hospital, Kingsway Camp, New Delhi and he continued to receive treatment from the said hospital. Learned counsel

has further relied upon a compliance report dated 29.10.2013 submitted by the Jail Superintendent, which was filed before the Sessions Court in compliance with directions issued by the Sessions Court.

15. Learned counsel for the respondent has emphasized that, as seen from the records, the deceased inmate remained out of judicial custody for a period of more than two years from 04.08.2011 to 22.10.2013. It is submitted that during this period, his condition appears to have deteriorated; and he finally died in prison on 09.12.2013. Reliance is placed on two reports dated 24.06.2011 and 12.08.2011, that were submitted to the Additional Sessions Judge, which we reproduce below:

“Report dated 24.06.2011

Subject: Medical Status Report of Inmate patient Rajkumar s/o Omprakash

Hon’ble Sir,

In compliance to your hon’ble court order in reference to the subject cited above, this is to submit that the inmate patient Rajkumar s/o Omprakash, is K/c/o MDR TB on MDR treatment & is admitted in Central Jail Hospital since 16.10.10. He is under treatment from RBTB hospital & had multiple admissions in RBTB Hospital in the past. He was last admitted in RBTB hospital from 08.06.11 to 21.06.11. On discharge from RBTB Hospital, he was advised to follow up in LRS Hospital for surgical opinion regarding recurrent hemoptysis. Patient was referred to LRS Hospital on 23.04.11 & there he has been advised to follow up with CECT chest. He is planned for review in DDU Hospital radiology OPD to CECT chest/date for CECT chest on 25.06.11. However, the patient has continued with his non-compliant behavior & he often refuses for his treatment. He has been advised to stay in casualty ward of Central Jail

Hospital for regular monitoring & better patient care but he has refused to stay there. He even misbehaved with medical & paramedical staff posted at Central Jail Hospital when he was advised to take his medicine regularly. Presently he is staying in TB Ward of Central Jail Hospital.”

“Report dated 12.08.2011

Subject: Report regarding Inmate Patient Rajkumar s/o Omprakash

In reference to the letter No.4931/SCJ-3 Dt-12.08.11, regarding subject cited above, this to submit that the inmate patient Rajkumar s/o Omprakash, is admitted in Central Jail Hospital since 16.10.10 as a case of MDR TB with recurrent hemoptysis on MDR treatment. He is under treatment from RBTB Hospital & had multiple admissions in RBTB Hospital in the past. Patient was advised to follow up in LRS Hospital for surgical opinion regarding recurrent hemoptysis from RBTB Hospital. Patient was referred to LRS Hospital on 23.04.11 & there he has been advised to follow up with CECT chest. He was referred to DDU Hospital for CECT Chest & there he was advised to follow up for same on 22.07.11. He is non compliant patient & often refuses for his treatment, examination & blood tests. He has been explained regarding the serious nature of his disease and need for regular treatment many times by treating doctor but then also he is non-compliant in his treatment. Information regarding non-compliant behavior of patient has been given to the Hon’ble Court of Sh.Sanjiv Aggarwal, Addl. Session Judge-V (Outer), Rohini Court, Delhi & Jail administration in the past.

As per orders of hon’ble court of Sh.SANJIV AGGARWAL, Addl. Sessions Judge-V (Outer), Rohini Court, Delhi, inmate patient was referred to RBTB Hospital on 20.07.11 & since then he is admitted there.”

16. Mr.Mehra, learned counsel for the respondent, further submits that the respondent had filed a detailed affidavit dated 05.12.2014; and

therefore, the first order of this Court, of which contempt is alleged, has in fact duly been complied with. Reliance is also placed on paragraph Nos.6, 7 and 8 of the affidavit dated 05.11.2014, filed on behalf of Delhi Prisons, which we reproduce below:

“6.That following medical facilities are available in Delhi Prisons. Inmates (both under trial and convicted) are provided round the clock medical attention in Delhi Jails for which there is a 150 bedded hospital, known as Central Jail Hospital in Central Jail No.3 and dispensaries equipped with MI Rooms in all other jails. At Rohini District Jail, there is 10 bedded hospital for treatment of prisoners. For women prisoners there is a separate dispensary and a MI Room, all managed by female staff. Ayurvedic, Unani, Homoeopathic and Naturopathy treatments are also available to prisoners in addition to allopathic system. The main features of health facilities in Delhi prisons are as follows:

- 150 bedded Hospital with medical, surgical, tuberculosis and psychiatric wards.*
- A 120 bedded de-addiction centre functioning in Central Jail Hospital.*
- De-addiction Centre (CJH) is ISO 9001-2008 certified.*
- One integrated Counseling and Testing Centre for HIV, functioning in Central Jail Hospital.*
- Opioid Substitution Therapy for drug addicts.*
- Special diet for HIV/AIDS, Tubercular and other deserving inmates.*
- Cases of seriously sick inmates are taken up with the concerned court for their bail/early disposal of case.*
- DOTS centre for T.B.*
- Complete Dental Unit in Central Jail Hospital, CJ-4, CJ-6 and Distt. Jail, Rohini.*
- Dental Camp held for inmate prisoner patients requiring partial/ complete denture with the help of NGOs.*
- Pulse Polio immunization programmes are carried out regularly as per Pulse Polio schedule of Delhi Government, in CJ-6.*

- *The prisoners suffering from various contagious diseases are kept separately.*
- *Prisoners are referred to various specialty and super specialty hospitals for providing medical care.*
- *Various NGO's also working with Tihar Prisons and contributing towards medical services.*
- *110 sanctioned posts of Doctors and 189 of paramedical staff.*
- *70 Doctors and 150 paramedical staff presently posted for prison health care.*
- *Round the clock casualty services in Central Jail Hospital.*
- *A minor O.T. in Central Jail Hospital.*
- *Investigation facility for Biochemistry, Pathology , X-Ray, ECG available.*
- *Round the clock dispensaries in all the Jails including Distt. Jail Rohini.*
- *Biomedical waste management is done as per rules of DPCC.*
- *Various specialists/Senior Residents in the fields of Medicine, Ophthalmology, Orthopedics, Chest and TB, Skin, Psychiatry and Pathology are available.*
- *HIV + Prevention and Management of Drug Abusers*
- (a) *Drug Abuse and Monitoring System Drug de-addiction and rehabilitation programme in collaboration with UNODC (United Nations Office on Drugs and (Crime) are carried out in systematic way in Delhi Jails since 6 to 8% of the prisoner populations at the time of admission are drug addicts. All inmates, who are reported to be drug addicts, are identified on the very first day of their admission and sent to DAC where they are initially treated for withdrawal symptoms and after de-toxification process is over, they are sent to specially earmarked Rehabilitation ward, being run in collaboration with NGOs for further counseling and rehabilitation.*
- (b) *ICTC Centre*
- Drug abusers are vulnerable to HIV particularly those who are injecting drug users. Prison administration has set up an Integrated Counseling and Testing Centre (ICTC) in*

Central Jail Hospital for detecting HIV positive inmates and their treatment is started immediately.

The main functions of an ICTC are:

- (i) Conducting HIV diagnostic tests.*
- (ii) Providing basic information on the modes of HIV transmission, and promoting behavioral change to reduce vulnerability.*
- (iii) Link people with other HIV prevention, care and treatment services.*

7. That as per Delhi Prisons Act-2000 the health of the prisoners is being taken care of. The extract of the relevant provisions are reproduced as below: -

37. (1) The names of prisoners desiring to see the Medical Officer or Medical subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer-in-charge of such prisoners, to the Deputy Superintendent.

(2) The Deputy Superintendent shall, without delay, call the attention of medical Officer or medical subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical subordinate respecting alternation of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical subordinate in relation to any prisoner, with the exception or orders for the supply of medicines, or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history ticket, or in such other records as the Government may by rule direct, and the Deputy Superintendent shall make an entry in its proper

place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Deputy Superintendent thinks fits to make, and the date of the entry.

39. In every prison a hospital/dispensary or proper place for the reception of sick prisoners shall be provided.

8. That the representations/letters from prisoners and/or their family members concerning the health of the prisoners are being promptly dealt by the concerned Jail Superintendent by bringing it to the notice of the concerned medical officer of the jail. Generally, after examining the concerned inmate the medical officer informed the jail Superintendent about his/her health status.”

17. Reliance is further placed on an affidavit filed on 10.10.2017, wherein complete details have been provided with respect to the manner in which the inmates are provided medical treatment.
18. Reliance is also placed on para 11 of the affidavit filed in the CP dated 17.11.2016, which deals with the grievance redressal mechanism, which we extract below:

“11. That so far as the Grievance Redressal Mechanism in the Jail is concerned, it is respectfully submitted that the Answering Respondent has an exclusive grievance Redressal mechanism for the convicts through complaint box system installed in every ward of the jail. There are exclusive complaint boxes for Jail Visiting Judges, DC of the concerned District, DG(Prisons) and Jail Superintendents. Each Box is opened only by the concerned officer and petitions are disposed of after thorough examination and in consultation with the concerned Jail Superintendents. Further, for instant disposal of grievances

addressed to Director General (Prisons) at the Prison headquarters, a Petition officer has been deputed to deal with all such petitions and grievances and also for keeping record thereof. It may be mentioned here that considering to the gravity of complaint the Petition officer also visited the jails to verify the veracity of the complaint and to ensure its effective disposal. Apart from him, on the directions of DG(Prisons) A- /AIG(Prisons), other senior officers regularly and routinely visit the Jails to interact with the prisoners and to hear their problems for necessary resolution. In a nut shell the grievances of the prisoners are being monitored and redressed by following practices:

i. Visits by Session Judges/Jail Visiting Judges and Representatives of NHRC to see the living conditions and interact with prisoners on a regular basis.

ii. Complaints/ suggestions/ feedback boxes available in each ward for Session Judges, Deputy Commissioners and Director General (Prisons).

iii. Active participation of prisoners in "Prisoners' Panchayats".

iv. Regular visit of Senior Officers to the prison and interaction with prisoners.

v. In each jail a Grievance Redressal Committee has already been established, pursuant to Section 57 of the Delhi Prisons Act-2000 whereby following officers/officials constitute a Quorum to redress the complaints moved/placed before them:

- 1. Superintendent - Chairman*
- 2. Dy. Superintendent - Member*
- 3. Sr. Medical officer - Member*
- 4. Welfare officer - Member*

A copy of the Standing Order No.51 is annexed herewith as Annexure-C.

vi. A Board of Visitors has also been constituted by the Govt. of NCT of Delhi vide notification No.F.9/83/2012- Home(G)/1553 dated 18.03.2014 according to which 21 Non-official visitors have been

appointed for Delhi Prisons. For each Jail, two Non-official Visitors, of which one is a practicing doctor have been nominated to inspect each and every aspect of the jail concerning the inmates and to submit their suggestions to Jail Superintendent as well as DG(Prisons), if any.”

19. Mr. Mehra has further drawn the attention of the Court to a status report in compliance of order dated 24.09.2014 filed by the Standing Counsel, North Delhi Municipal Corporation. More particularly, it is pointed-out that Annexure A to the affidavit, where all complaints have been examined and dealt with, specifically containing observations about this case, wherein it has been observed that *“hospital authorities did not receive any such complaint as has been alleged now during these court proceedings”*
20. Mr. Mehra has submitted that order dated 09.12.2015 has also been complied with. In support of this submission, he has relied on affidavit dated 15.02.2016 filed by the Delhi Police, more particularly paragraph 5, which we reproduce below:

“5. It is most respectfully submitted that during the period from 01.01.2015 to 31.12.2015, total 10247 dead bodies were found in Delhi. Out of these 10247 dead bodies, the post mortem of 8756 dead bodies was conducted and the postmortem of remaining 1491 dead bodies was not required as per prescribed procedure. Total 4767 dead bodies were preserved for 72 hours and 1520 dead bodies were preserved for more than 72 hours for the purpose of identification and other reasons. The inquest papers concerning to the dead bodies preserved in the mortuaries were mostly put up before the autopsy surgeon at the time of post mortem as per standing procedure. The detail of action taken under section 174 (3) (i) to 174 (3) (v) Cr.P .C. is

attached at Annexure -A. For consideration of the Hon' ble Court, the form Nos. 25.35 (1) (A), 25.35 (1) (8) and 25.35 (1) (C) are enclosed hereto and marked as Annexure. B (Colly)."

21. We have heard learned counsel for the parties and considered their rival submissions.
22. We have extracted in detail the submissions made by the counsel for the parties. The complaint of the petitioner is with regard to non-compliance of orders dated 24.09.2014, 11.02.2015, 18.03.2015, 09.12.2015, 17.02.2016 and 02.03.2016 passed in W.P.(C) No. 4733/2014. Mr.Luthra highlights that the position remains unchanged in the jails. However, upon a careful examination of the affidavits filed by the various departments from time-to-time, we are of the considered opinion that there has not been any willful disobedience or non-compliance with any order passed by this Court.
23. The law is well settled that invoking the provisions of the Contempt of Courts Act, 1971 is a very grave matter and that such proceedings cannot be initiated on mere conjecture. The Apex Court in the case of ***Three Cheers Entertainment Private Limited and others Vs. CESC Limited***, reported as (2008) 16 SCC 592, more particularly in paragraphs 29 and 30, held as under:

"29. Contempt of court is a matter which deserves to be dealt with all seriousness.

In Mrityunjoy Das v. Sayed Hasibur Rahaman (2001) 3 SCC 739, this Court held:

"13. Before however, proceeding with the matter any further, be it noted that exercise of powers under the

Contempt of Courts Act shall have to be rather cautious and use of it rather sparingly after addressing itself to the true effect of the contemptuous conduct. The court must otherwise come to a conclusion that the conduct complained of tantamounts to obstruction of justice which if allowed, would even permeate in our society (vide Murray & Co. v. Ashok Kr. Newatia. This is a special jurisdiction conferred on to the law courts to punish an offender for his contemptuous conduct or obstruction to the majesty of law."

30. In Chhotu Ram v. Urvashi Gulati & Anr., this Court held that a contempt of court proceeding being quasi criminal in nature, the burden to prove would be upon the person who made such an allegation. A person cannot be sentenced on mere probability. Willful disobedience and contumacious conduct is the basis on which a contemnor can be punished. Such a finding cannot be arrived at on ipse dixit of the court. It must be arrived at on the materials brought on record by the parties.

Yet again in Anil Ratan Sarkar & Ors. v. Hirak Ghosh & Ors, it was opined :

"15. It may also be noticed at this juncture that mere disobedience of an order may not be sufficient to amount to a 'civil contempt' within the meaning of Section 2(b) of the Act of 1971 – the element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act and lastly, in the event two interpretations are possible and the action of the alleged contemnor pertains to one such interpretation – "the act or acts cannot be ascribed to be otherwise contumacious in nature. A doubt in the matter as regards the willful nature of the conduct if raised, question of success in a contempt petition would not arise."

24. In ***Dinesh Kumar Gupta v. United India Insurance Co. Ltd.*** reported as (2010) 12 SCC 770, the Apex Court held as under:

“23. Besides this, it would also not be correct to overlook or ignore an important statutory ingredient of contempt of a civil nature given out Under Section 2(b) of the Contempt of Courts Act, 1971 that the disobedience to the order alleging contempt has to satisfy the test that it is a wilful disobedience to the order. Bearing this important factor in mind, it is relevant to note that a proceeding for civil contempt would not lie if the order alleged to have been disobeyed itself provides scope for reasonable or rational interpretation of an order or circumstance which is the factual position in the instant matter. It would equally not be correct to infer that a party although acting due to misapprehension of the correct legal position and in good faith without any motive to defeat or defy the order of the Court, should be viewed as a serious ground so as to give rise to a contempt proceeding.

24. To reinforce the aforesaid legal position further, it would be relevant and appropriate to take into consideration the settled legal position as reflected in the judgment and order delivered in Ahmed Ali v. Supdt., District Jail as also in B.K. Kar v. High Court of Orissa that mere unintentional disobedience is not enough to hold anyone guilty of contempt and although disobedience might have been established, absence of wilful disobedience on the part of the contemnor, will not hold him guilty unless the contempt involves a degree of fault or misconduct. Thus, accidental or unintentional disobedience is not sufficient to justify for holding one guilty of contempt. It is further relevant to bear in mind the settled law on the law of contempt that casual or accidental or unintentional acts of disobedience under the circumstances which negate any suggestion of contumacy, would amount to a contempt in theory only and does not render the contemnor liable to punishment and this was the view expressed also in State of

Bihar v. Rani Sonabati Kumari and N. Baksi v. O.K. Ghosh.”

25. Applying the foregoing position of law to the facts of the present case and having regard to the affidavits placed on record, we are of the considered opinion that willful disobedience has not been made-out in the present matter.
26. In view of the above, no ground is made-out to issue notice of contempt. The contempt petition is accordingly disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

DECEMBER 02, 2019

uj/rb