

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Case/Petition(Criminal) No.08/2006**

High Court of Chhattisgarh, Bilaspur through Registrar General, High Court of Chhattisgarh, Bilaspur (CG)

---- Complainant /Petitioner

Versus

1. Shri Virendra Pandey, Chairman, Chhattisgarh Finance Commission, D-6, Civil Lines, Raipur (CG)
2. Shri Satish Ratanchand Ranka, Publisher, Central Chronicle, Nava Bharat Bhawan, Press Complex, GE Road, Raipur (CG)
3. Shri Anal Prakash Shukla, Editor, Central Chronicle, Nava Bharat Bhawan, Press Complex, GE Road, Raipur (CG)
4. Shri Rajeev Ranjan Shrivastava, Publisher & Editor, Deshbandhu, Deshbandhu Premises, Ramsagarpara, Raipur (CG)
5. Shri Sudhir Agrawal, Publisher, Danik Bhaskar, R. C. Printers, Rajbandha Ground, Press Complex, GE Road, Raipur (CG)
6. Shri Diwakar Muktibodh, Local Editor, Danik Bhaskar, R. C. Printers, Rajbandha Ground, Press Complex, GE Road, Raipur (CG)

---- Respondents/Contemnors

Present:-

Shri Praveen Das, counsel for the petitioner.

Shri U.N. Awasthi, Senior Counsel with Ms. Raksha Awasthi, counsel for respondent No.1.

Shri Y. C. Sharma, Shri Ajay Chandra and Shri Sachin Nidhi, counsel for respondents No.2 & 3.

Shri Umakant Singh Chandel, counsel for respondent No.4.

Shri Apurv Goyal, counsel for respondents No.5 & 6.

Shri Alok Bakshi, Additional AG with Shri Ankur kashyap, Panel Lawyer for the State.

Division Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava & Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

Per Manindra Mohan Shrivastava, J.

17/12/2020

1. In this contempt petition, respondent No.1 as also respondents No.5 & 6

have raised preliminary objection to the maintainability of the contempt petition.

2. Learned Senior Counsel appearing for the respondent No.1 has raised an objection that the criminal contempt petition filed before this Court is not in accordance with the provisions contained in Section 15(1) of the Contempt of Courts Act, 1971 (In short “the Act of 1971”). His submission is that the present is not even a case, where the High Court has taken suo moto cognizance of the alleged contempt. Relying upon the judgment of the Supreme Court in the cases of *P. N. Duda vs. P. Shiv Shanker and others*¹, *State of Kerala vs. M.S. Mani & others*², *Bal Thackrey vs. Harish Pimpalkhute and others*³, it has been argued that the cognizance of the contempt petition could not be taken except on a motion being made by the Advocate General. It is argued that as the Registrar General of the High Court is not the competent person under Section 15(1) of the Act of 1971, at his instance, this contempt petition is not maintainable.

3. Other objections to the maintainability are based on the submission that though, in the Full Court Resolution dated 12/12/2006, the Registrar General of the High Court was authorized to prepare a complaint and place it before the Hon’ble Chief Justice for further necessary directions, but, the petitioner has failed to place before this Court, despite specific direction, any material that the matter was placed before the Hon’ble Chief Justice for further necessary directions and under the orders of Hon’ble the Chief Justice, the matter was placed on the judicial side by the Registrar General. Relying upon the decisions referred to hereinabove, it is submitted that the Supreme Court has approved the procedure as laid down in the rules of the said High Court which require the matter to be placed before the Hon’ble Chief Justice, in case, it is necessary to take Suo Moto cognizance of a criminal contempt. Lastly, it is argued that the contemnors by way of affidavit, have clearly stated that they have not made any

1 (1988) 3 SCC 167

2 (2001) 8 SCC 82

3 (2005) 1 SCC 254

allegation against the Court or Judges and when they came to know that some parties are attempting to influence the Court proceedings, such apprehensions were expressed.

4. Learned Senior Counsel appearing for the respondent No.1 as also learned counsel appearing for other respondents have stated that no respondents have ever intended to interfere with the course of administration of justice or made any statement calculated to scandalize or to lower the authority of the Court. Learned counsel for the respondents has stated that all the contemnors in the very opening of the reply have expressed highest regards for the majesty of law and the Courts and they never, directly or indirectly, intended to scandalise or lower the authority of the Court.

5. In addition to the aforesaid common submissions made, learned counsel for the respondent No.1 as also learned counsel for the respondents No.5 & 6, reliance have placed on many judgments referred to in the preliminary objections.

6. On the other hand, learned counsel for the petitioner would submit that the present is not a case, where the complaint/contempt petition is moved by a private person without following the procedure mandatorily prescribed under Section 15(1) of the Act of 1971, but, this is a case where the Court has suo moto taken cognizance and thereafter, the matter was placed before the Court and after perusing the records, notices have been issued. Therefore, it is argued that there is neither contravention of provisions contained in Section 15(1) of the Act of 1971 nor violation of any of the directives issued by the Supreme Court in the decisions referred to hereinabove by the respondents/contemnors.

7. On the aspect, as to whether the matter was placed before the Hon'ble Chief Justice, as per the resolutions of the Full Court, learned counsel for the petitioner submits that though, there is no such material available on record to

show that the matter was ever placed before the Hon'ble Chief Justice in compliance of the resolutions of the Full Court, he would submit that only for that reason, the petition cannot be held not maintainable. Lastly, he would submit that the contents of the news publication prima facie show that reckless allegations have been levelled as if the institution was working under the influence of certain person in the matter of hearing of the cases, therefore, prima facie case is made out.

8. As far as first objection with regard to maintainability of the petition on the ground that the petition has been filed without motion being made by the Advocate General or any person with the permission of the Advocate General, such argument does not hold ground, because in the present case, as stated by the petitioner and it is also reflected from the Full Court Resolution dated 12/12/2006, it is a case where publications made in the newspapers were placed for perusal of the Full Court and the Full Court resolved to initiate contempt proceedings. The decisions, which have been cited at the bar, particularly the decisions in the case of ***P.N. Duda, Bal Thackrey and State of Kerala vs. M.S. Mani and others*** (supra), deal with a situation where no suo moto cognizance was taken, but the contempt petition was moved otherwise. Therefore, to that extent, the submissions made by the learned Senior Counsel for the respondent is not acceptable on this ground that the petition should be held as not maintainable. However, it is clear that no material has been placed before this Court that despite repeated directions, as to whether the matter was placed before the Hon'ble Chief Justice, in compliance of the resolutions dated 12/12/2006 of the Full Court. Therefore, this petition has been brought before this Court without placing the matter before the Hon'ble Chief Justice in compliance of the resolutions dated 12/12/2006 of the Full Court.

9. In the case of ***P. N. Duda*** (supra), while considering the issue with regard to maintainability of the contempt petition, the procedure to be followed, if any

information is lodged, inviting attention of the Court to take action under the provisions of the Act of 1971 or under Article 215 of the Constitution of India, it was held that the procedure laid down by the Delhi High Court in the case of **Anil Kumar Gupta vs. K. Subba Rao**⁴ should be followed. It was observed as below:-

54. --- XXX -----

“The form in which this request has to be sought and considered in such cases has also been touched upon by the Delhi High Court in **Anil Kumar Gupta v. K. Subba Rao**. This case, at the outset, pointed out that the information had been erroneously numbered by the office of the Court as Criminal Original No.51 of 1978 and concluded with the following observations:

“The office is to take note that in future if any information is lodged even in the form of a petition inviting this Court to take action under Section 15 of the Contempt of Courts Act or Article 215 of the Constitution, where the information is not one of the persons named in Section 15 of the said Act, it should not be styled as a petition and should not be placed before the judicial side. Such a petition should be placed before the Chief Justice for orders in chambers and the Chief Justice may decide either by himself or in consultation with the other judges of the court whether to take any cognizance of the information. The office to direct to strike off the information as "Criminal Original No. 51 of 1973" and to file it.”

I think that the direction given by the Delhi High Court sets out the proper procedure in such cases and may be adopted, atleast in future, as a practice direction or as a rule, by this Court and other High Courts. However, a petition having been filed and similar petitions having perhaps been entertained earlier in several courts, I do not suggest that this petition should be dismissed on this ground.

10. Subsequently, in the case of **State of Kerala vs. M. S. Mani and others** (supra) also, the decision in the case of **P. N. Duda** was followed.

4 I.L.R. (1974) 1 Del 1

11. In the case of **Bal Thackrey** (supra), earlier decisions in the case of **P.N. Duda and State of Kerala vs. M.S. Mani and others** (supra) was followed.

12. In view of decision in the case of **P.N. Duda (supra)** with regard to procedure to be followed, as observed in para 54 thereof, it is clear that in the present case, the matter was not placed before Hon'ble the Chief Justice before filing the contempt petition. Therefore, it has to be held that the petition has been filed without compliance of the directives as contained in the resolutions of the Full Court dated 12/12/2006 as also direction issued by the Supreme Court in the case of **P. N. Duda** (supra). It is also relevant to mention that at the time, this petition was filed, Chhattisgarh High Court Rules, 2005, were in force and Rules 362 to 380 were framed in exercise of powers under the Contempt of Courts Act, 1971. These rules were not amended to incorporate the direction issued in the case of **P. N. Duda** (supra), which were subsequently reiterated in the case of **Bal Thackrey** (supra).

Even otherwise, after going through various publications made, we find that there are statements issued alleging that attempts are being made to influence the Court proceedings. Amongst the publications, which have been made and whatever submissions have been made, appear to be intended to level allegations that attempts are being made to influence the judicial proceedings. However, beyond that, there is no specific allegation that the Court is acting under the influence of anybody. During the course of arguments before this Court, referring to the averments made in the affidavit in response to the contempt petition, learned counsel appearing for the respective respondents has stated that respondents have expressed highest regard to the authority of this Court and the statements which were issued by the respondent No.1 and published in the newspaper of respondents No.5 & 6 have only stated that certain persons are attempting to influence the Court proceedings, but they never intended much less stated anywhere that Courts were acting under such

influence. It is stated that by filing their reply, this fact has been clearly stated by each of the respondents.

13. Though, we find that while issuing various public statements, allegations are mostly related to attempts made to influence judicial proceedings, it falls short of any specific allegations against the judicial institution. At the same time, we are also find that other statements have also been made, but, in view of what has been stated before this Court in the affidavits filed by the respective respondents, we are satisfied and accept the submissions made by learned counsel for the respondents. We, however, express that due care and caution should always be taken while making any public statement that it does not partake the nature of equivocal statement. The respondent No.1 is expected to be more careful and cautious in future.

14. In the result, we are not inclined to proceed further in this matter as there are no sufficient ground for initiating contempt proceedings against the respondents.

15. Accordingly, the contempt petition is closed.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E

SD/-
(**Vimla Singh Kapoor**)
J U D G E