

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No. 756 of 2019
Date of Decision: 30.01.2020

Jasbir Singh

...Petitioner

VERSUS

Mohit Bansal

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Sumeet Goel, Advocate
for the respondent.

SURINDER GUPTA, J.

The petitioner seeks initiation of contempt proceedings against Chief Judicial Magistrate, SAS Nagar Mohali for non-compliance of order dated 22.01.2018 passed in CRM-M-2308-2018 titled “Jasbir Singh vs. State of Punjab’. In that petition it was ordered that trial will continue but passing of final order shall remain stayed.

2. Learned counsel for the petitioner submits that CRM-M-2308-2018 is still pending. Interim order dated 22.01.2018 has not been modified or withdrawn and learned trial Court has finally decided the case on 19.12.2018 convicting the petitioner.

3. This fact is not disputed that CRM-M-2308-2018 is still pending and learned trial Court has finally decided the case vide judgment dated 19.12.2018.

4. The question, which arises for consideration, is as to whether there is willful disobedience of order dated 22.01.2018 calling for initiation of proceedings under the Contempt of Courts Act, 1971 against the

concerned judicial officer.

5. Learned counsel for the petitioner has argued that passing of final order was stayed by this Court. Copy of order was also on file but learned Magistrate without looking into that order proceeded to dispose of the case, which amounts to deliberate violation of order dated 22.01.2018.

6. In reply, the respondent has alleged that during proceedings before him order dated 22.01.2018 was not brought to his notice by counsel for the petitioner. The relevant part of his reply is reproduced as follows:-

“2. That it is submitted that the respondent had joined as Chief Judicial Magistrate at SAS Nagar on 02.05.2018. The file of the case titled as “State vs. Bhag Singh etc.” FIR No. 57 dated 14.11.2006, under Sections 420, 467 etc. IPC, Police Station Phase 1, Mohali was put before the undersigned for the first time on 18.05.2018. The case was fixed for prosecution evidence. The case remained fixed for prosecution evidence to various dates for hearing till 26.11.2018, when the prosecution evidence was closed by order. Copies of relevant zimni orders are annexed herewith as Annexure R-1 (colly). Thereafter, statements of accused Bhag Singh and Jasbir Singh under Section 313 Cr.P.C. were recorded on 05.12.2018. The case was adjourned for defence evidence of the accused to 13.12.2018, 17.12.2018 and 19.12.2018. The case was ultimately decided on 19.12.2018. It is submitted that during the above period i.e. 18.05.2018 to 19.12.2018, neither the accused Jasbir Singh nor his counsel at any point of time pointed out to the respondent that passing of final order has been stayed by this Hon’ble Court. It is only after the judgment was pronounced on 19.12.2018 the counsel for accused Jasbir Singh produced copy of order dated 22.01.2018 passed by this Hon’ble Court in CRM-M-

2308-2018. The respondent has passed another order on the very date i.e. 19.12.2018 that the judgment has already been pronounced. A copy of order dated 19.12.2018 is annexed herewith as Annexure R-2. The petitioner has deliberately not chosen to state before this Hon'ble Court that neither the petitioner or his counsel during the proceeding before the respondent had ever told the respondent regarding the stay order passed by this Hon'ble Court. In case, the petitioner Jasbir Singh or his counsel had told or brought to the notice of the respondent regarding passing of the order by this Hon'ble Court regarding staying of final order at any time before the pronouncement of the judgment by the respondent, the respondent would have just stayed the matter and not proceeded to decide the matter. In view of the above, it is prayed that respondent has never tried to challenge the majesty of this Hon'ble Court or any other Court of Law rather has always abided by the orders passed by this Hon'ble Court."

7. I have perused judgment dated 19.12.2018 and found that learned APP as well as defence counsel representing the petitioner have addressed detailed arguments before learned trial Court on merit. Arguments of learned APP have been discussed in paras 27 to 37 while arguments of learned defence counsel have been discussed in paras 38 to 45. This clearly implies that learned APP as well as learned defence counsel have addressed arguments before the trial Court instead of apprising it of order dated 22.01.2018. Sometimes, keeping in view the volume of files many pages on file skip attention of the Court. It is evident that order in question was produced on file when some other judicial officer was posted as Chief Judicial Magistrate, SAS Nagar Mohali. In case learned APP or learned defence counsel had brought to notice of learned trial Court that

passing of final order has been stayed, judicial officer had no reason to finally dispose of the case. It appears that while the judicial officer committed lapse in taking note of order dated 22.01.2018, learned APP as well as learned defence counsel had also failed in their duty to apprise the Court about that order.

8. From the facts discussed above, I am of the considered opinion that there is no deliberate violation of order dated 22.01.2018 passed in CRM-M-2308-2018. Judicial officer appears to have proceeded to finally decide the trial as this order never came to his notice.

9. Keeping in view the facts and circumstances of the case, I find no reason to initiate proceedings under the Contempt of Courts Act against the respondent. Consequently, this petition has no merit and the same is dismissed.

Rule discharged.

January 30, 2020

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No