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

Date of Decision: 27th January, 2020

+ **CONT.CAS(C) 66/2020 and CM APPL. 3249/2020**

M/S CNA EXPORTS (P) LTD Petitioner

Through: Ms. Neelima Tripathi and Ms. Mansi
Sharma, Advocates. (M:
8390370303).

versus

MANSI SHARMA & ORS Respondents

Through: Mr. Deepak Khosla, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present contempt petition has been filed by M/s. CNA Exports (P) Ltd seeking compliance of orders dated 20th September, 2019 and 20th December, 2019. In the said contempt petition, the Petitioner has chosen to make a junior counsel – Ms. Mansi Sharma appearing on behalf of Mrs. Sushma Ravidas in CM (M) 867/2018, as contemnor No. 1. The allegations made against the said counsel are as under: -

“3. That the Respondents/Contemnors are the following:

a) Respondent No. 1 is advocate (Ms.) Mansi Sharma, as the direction(s) of this Hon'ble Court was issued not so much to her client as to her, to enable her to discharge the onus placed upon her shoulders as the advocate in the matter entering appearance on behalf of the Petitioner (Respondent No. 5 hereto), but which Petitioner (Respondent No. 5 hereto) has purported to be acting through a powers-of attorney holder, who is

Respondent No. 2 hereto. (The aspect of the onus being on the advocate rather than on the client is dealt with separately in greater detail at para 9 below, similar to the analogy that when an advocate enters appearance for a client, the onus to file the vakalatnama is not on the client but on the advocate.) She is arrayed because as many as 5 emails were sent to her (i.e. on 26-12-2019, 27-12-2019, 08-01-2020, 15-01-2020 and, eventually, 18-01-2020), but not only did she not even bother to reply to any of these 5 emails, but; on 15-01-2020, had the audacity to inform the counsel appearing for the applicant that there is no intention whatsoever of filing the original powers-of-attorney and/or providing a copy of the same to the applicant because there is no such order to this effect from this Hon'ble Court.

Copies of the 5 emails addressed to her, and copied to her "clients", are appended hereto, and a marked as Annexure 3-7.

In fairness, it is clarified that this Respondent has been named only in the event this Hon'ble Court is of the view that the onus for the compliance of its order dated 20-09-2019 and 20-12-2019 fell on the shoulders of the advocate, and not the client; whereas, if this Hon'ble Court is of the view that the onus for the compliance of the aforementioned orders fell on the shoulders of the client (who are the other Respondents), and not the advocate, this Hon'ble Court may be pleased to drop this particular Respondent from the array of proceedings

b) Respondent No. 2 is Mr. Sudarshan Kumar, who claims to be the (alleged) powers-of-attorney holder of the Petitioner (Respondent No. 5 hereto), Mrs. Sushma Ravi Das, but who, in terms of the conversation held by the deponent hereto with the daughters of the Petitioner (Respondent No. 5 hereto), has nothing to do

with this litigation, and has never known, met or spoken to this particular Respondent. The fact that this Respondent has never met, spoken or known the Petitioner (Respondent No. 5 hereto) in any manner has also been confirmed by the Delhi police in terms of their Status

*Reports dated 07-08-2019, 14-10-2019 and 11-12-2019 filed by them before the Hon'ble Delhi High Court in WP (CRL) No. 2475 of 2019, in which they have informed the Hon'ble Delhi High Court that this particular Respondent, in a statement recorded by the Delhi police under Section 161 of the CRPC, has categorically stated that he has never met or spoken to the Petitioner (Respondent No. 5 hereto) ever, and is acting on the instructions of his own employer, Janak Datwani (Respondent No. 3 hereto), who is also providing the funds to this particular Respondent to bear the cost of this litigation (which costs include the fees being paid by this Respondent to Respondent No. 1 hereto). This particular Respondent was marked in copy of each of the 5 emails transmitted to Respondent No. 1, but never took any action thereupon. In evidence of his never having met, spoken or otherwise in contact with the Petitioner (Respondent No. 5 hereto) being self-evident from the status reports filed by the Delhi police before the Hon'ble Court, a copy of the same are appended hereto, and a marked as **Annexure 11.**"*

2. The Court has perused the contempt. The primary issue in the main petition is in respect of the legality and validity of the alleged Powers of Attorney in favour of Mr. Sudarshan Kumar on behalf of Mrs. Sushma Ravidas. That issue has to be adjudicated in CM(M) 867/2018. Under such circumstances, the making of the above allegations against a junior counsel appearing on behalf of Mrs. Sushma Ravidas - the Petitioner in CM(M) 867/2018 are completely uncalled for and are in bad taste. The same would

in effect result in `browbeating' junior counsel which is impermissible.

3. Further, the question as to whether there is compliance of the said orders is to be adjudicated by this Court and as part of the contempt petition, levelling allegations and writing of repeated e-mails, in a manner so as to create a threat to junior counsel, cannot be permitted. The remedy for alleged non-compliance of orders, if any, is to approach this Court rather than to address such e-mails to the counsels for the opposing side and make allegations against them. Moreover, making of such allegations and using of language such as “*audacity of the counsel*” is not appreciated by this Court. Such language crosses the boundaries of legal pleadings especially against counsels who act in their professional capacity.

4. The contempt is infructuous as the Powers of Attorney have been handed over today in Court and have been taken on record.

5. Considering the nature of the allegations and the repeated e-mails which have been written almost on a daily basis to the junior counsel for the other side, the contempt is dismissed with costs of Rs.1,00,000/- to be paid to Ms. Mansi Sharma, Advocate, by the Petitioner in the contempt petition. The said amount be paid within 4 weeks from today. *Dasti*.

PRATHIBA M. SINGH
JUDGE

JANUARY 27, 2020
MR