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

+ CONT.CAS.(CRL) 8/2019

COURT ON ITS OWN MOTION

..... Petitioner

versus

SABRAN KAUR

..... Respondent

Through

Mr.MirAkhtar Hussain, Advocate
with respondent in person.
Mr.Rahul Mehra, standing counsel
(Crl.) for the State with Mr.Chaitanya
Gosain and Mr.Divyank Tyagi,
Advocates.

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Date of Decision: 02nd March, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J:- (Oral)

1. Since a writ of habeas corpus being W.P.(Crl.) No.2099/2019 had been filed on 29th July, 2019 on behalf of petitioner nos. 4 and 6 who were in custody by virtue of a Trial Court order dated 28th July, 2019, this Court was of the view that the averments in the aforesaid writ petition were apparently false and writ jurisdiction had been used by Ms. Sabran Kaur (*Parokar*) as a tool to scuttle the investigation in a murder case by putting “*fear of Court*” in the minds of police officials. Consequently, this Court had initiated *suo motu* criminal contempt proceedings against Ms. Sabran

Kaur [See: *Louis Vuitton Malletier vs. Mr. Omi & Anr.*, 2018 SCC OnLine Del 10343].

2. In the reply to the contempt notice, Ms. Sabran Kaur has stated that she had no knowledge about the production of Mr. Sumit [petitioner No.4 in W.P.(Crl.) No.2099/2019] before the learned Duty Metropolitan Magistrate on 28th July, 2019 at 8.30 p.m. It is further stated in the said reply that Ms. Sabran Kaur cannot be expected to know that the police had produced Mr. Sumit at the residence of learned Duty M.M. and this fact was never in her knowledge.

3. It is also stated in the reply that Ms. Chandan Kaur [petitioner no. 6 in W.P.(Crl.) No.2099/2019] had been kidnapped from Ajmer and later shown as arrested from Delhi. Ms. Sabran Kaur lastly prays that she wants to exercise her right to examine the petitioners in W.P. (Crl.) No.2099/2019 as her witnesses before this Court.

4. In the response affidavit dated 18th February, 2020, the SHO Police Station Sagarpur has stated that after Mr. Sumit had been arrested, his relative-Mr. Rohan [petitioner No.8 in W.P.(Crl.) No.2099/2019] had been informed and the same is recorded in the arrest memo of Mr. Sumit where the name, address and phone number of Mr.Rohan is mentioned. Even in the arrest memo of Ms. Chandan Kaur, the name, address and phone number of Mr. Rohan [petitioner No.8 in W.P.(Crl.) No.2099/2019] has been mentioned.

5. It is settled law that the contempt proceedings are separate and distinct from other criminal proceedings. In fact, contempt proceedings are *sui generis* and the Court is free to evolve its own procedure consistent with fairplay and natural justice. The elaborate procedure involving framing of

charge, recording of evidence, cross-examination etc. as followed in a criminal trial, need not be followed in contempt proceedings. The contemnor is not in the same position as an accused person. Consequently, this Court is of the view that Ms. Sabran Kaur cannot claim trial or examine witnesses in her favour as a matter of right – as she has done in the present case.

6. Also, the contention in the reply filed by Ms. Sabran Kaur that Ms. Chandan Kaur had been illegally shown to be arrested from Delhi was not even averred in the writ petition.

7. Further, this Court is of the opinion that Ms. Sabran Kaur cannot claim to be unaware of the fact that petitioner Nos. 4 and 6 in W.P. (Crl). No.2099/2019 were produced before the learned Duty Metropolitan Magistrate by the police after following due process. Ms. Sabran Kaur is certainly expected to discover and disclose all the facts pertaining to the case as it is the duty of the petitioner to exercise due diligence and find the true facts before approaching this Court for a writ of habeas corpus. The petitioner cannot come to Court with unverified facts and abuse the process of Court. The Supreme Court in ***Kishore Samrite vs. State of U.P. (2013) 2 SCC 398*** has held that judicial process cannot become an instrument of oppression or abuse to subvert justice by unscrupulous litigants. In the said case, the Supreme Court imposed heavy cost on the persons acting as next friends who had not approached the Court with complete facts. The relevant portion of the aforesaid judgment is reproduced hereinbelow:-

“46. It is a settled canon that no litigant has a right to unlimited draught upon the court time and public money in order to get his affairs settled in the manner as he wishes. The privilege of easy access to justice has been abused by these petitioners by filing frivolous and misconceived petitions. On

the basis of incorrect and incomplete allegations, they had created urgency for expeditious hearing of the petitions, which never existed. Even this Court had to spend days to reach at the truth. Prima facie it is clear that both these petitioners have misstated facts, withheld true facts and even given false and incorrect affidavits. They well knew that the courts are going to rely upon their pleadings and affidavits while passing appropriate orders. The Director General of Police, U.P., was required to file an affidavit and CBI directed to conduct investigation. Truth being the basis of justice-delivery system, it was important for this Court to reach at the truth, which we were able to reach at with the able assistance of all the counsel and have no hesitation in holding that the case of both the petitioners suffered from falsehood, was misconceived and was a patent misuse of judicial process. The abuse of process of court and not approaching the court with complete facts and clean hands, has compelled this Court to impose heavy and penal costs on the persons acting as next friends in the writ petitions before the High Court. This Court cannot permit the judicial process to become an instrument of oppression or abuse or to subvert justice by unscrupulous litigants like the petitioners in the present case.”

(emphasis supplied)

8. In view of the abovementioned mandate of law, this Court is of the view that the respondent—Ms. Sabran Kaur, without verification of facts, had made false averments in the writ petition being W.P. (Crl.) No.2099/2019, which amounts to interference with administration of justice. Consequently, this Court finds Ms. Sabran Kaur guilty of criminal contempt of Court.

9. However, keeping in view the fact that Ms. Sabran Kaur is an aged lady, this Court is of the opinion that ends of justice would be met if the contemnor—Ms. Sabran Kaur is sentenced to imprisonment till the rising of the Court along with a fine of Rs.2000/- to be deposited with the Registry of

this Court within one week. She is also directed to be more careful in future.

10. With the aforesaid directions, the present criminal contempt case stands disposed of.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

MARCH 02, 2020

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