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16.08.2021
TN

CPAN 409 of 2020
IA No: CAN 1 of 2020
(Old No: CAN 5583 of 2020)

With
CPAN 522 of 2020

Sri Saibal Basu
Vs.
Smt. Sudeepta Basu

Mr. Kallol Basu,
Mr. Bratin Kumar Dey

.... for the applicant/petitioner

Mr. Saumyen Datta,
Mr. Tapas Singha Roy

.... for the alleged contemnor

Taking a cue from the order dated August 13, 2021, it is evident from the record that, despite getting adequate opportunity, the contemnor chose not to file any affidavit-in-opposition. As such, the allegations made in the contempt application stand un rebutted by non-traverse.

Although learned counsel appearing for the alleged contemnor submits that affidavit could not be filed due to talks of settlement going on between the parties and that, on the relevant date, as directed in the order of the court below, the child of the parties

fell ill, there is nothing on record to establish such contentions. Moreover, the ample time given to the contemnor to file affidavit-in-opposition was wasted by the contemnor and, hence, such flimsy excuse cannot be accepted.

Thus, it is clearly evident that the orders dated September 5, 2019 and September 19, 2019 passed by the Additional District Judge, Fifteenth Court at Alipore, District: South 24 Parganas were clearly violated by the contemnor by not making the child of the parties available for visitation by the petitioner, as per the directions incorporated in the said order.

As such, the contemnor is held guilty of contempt of court by willful and deliberate violation of the aforementioned orders of the Additional District Judge by not allowing visitation to the father.

As far as the punishment is concerned, it is high time that it percolates to litigants that even orders of the Civil Judge (Junior Division) are equally sacrosanct and binding as that of the Supreme Court. The hierarchy of administration of justice is merely for the purpose of efficacious administration and to incorporate checks and bounds in the judicial system. Irrespective of the fact that only the High Courts and the Supreme Court are courts of record, the binding force of orders passed by each and every court of law

is equal. Irrespective of class, creed, gender and social position, all are equal in the eye of law and have to obey the specific directions issued by all courts of law, unless set aside by a competent appellate/revisional forum.

Keeping that in mind, it may be noted that it was clearly given out to the contemnor that the contemnor would be committed to a week's imprisonment, during which her child would be given in the custody of the petitioner-father.

Such specific impression and the prospect of imprisonment and being parted with her son has created sufficient trauma in the mind of the contemnor, which is evident from the behaviour of the contemnor in court today as well. Since the respondent is a first-time contemnor, it is deemed that such trauma was adequate punishment for the contumacious act and actual imprisonment would not only be disproportionate with the violation but also may create a further trauma in the mind of the minor child of the parties, as was rightly submitted by the learned senior advocate appearing for the contemnor.

However, the contemnor is specifically warned not to repeat her contumacious act by violating any order of courts of any stratum of the hierarchy of the justice delivery system.

With such observations, the contempt applications bearing CPAN No. 409 of 2020 and CPAN No. 522 of 2020 are disposed of without any order as to costs.

CAN 1 of 2020 (Old No: CAN 5583 of 2020) is disposed of accordingly.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)