

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Case No. 101 of 2021**

Prashant Parakh, S/o Shri S.C. Parakh, Aged About 45 Years,
R/o Near State Bank of India, Balod, District Balod, Chhattisgarh.

---- Petitioner**Versus**

Mr. Subhash Choudhary, S/o Ajit Choudhary, R/o Near Old Post
Office, Budhwari Bazar, Balod, Police Station Balod, District
Balod, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Punit Ruparel, Advocate.
For Respondent	:	None.

Hon'ble Shri Justice Sanjay S. Agrawal**Order On Board****03.02.2021**

1. Heard on admission.
2. This Contempt Petition has been preferred for initiation of contempt proceedings against the respondent for non-compliance of the order dated 27.02.2020, as passed by this Court in Acquittal Appeal No.41/2011.
3. From perusal of the record, it appears that in Criminal Case No.383/2008 initiated under Section 138 of the Negotiable Instruments Act 1881 (hereinafter referred to as 'the Act of 1881'), the Respondent was acquitted by the Judicial Magistrate First Class, Balod, District Durg (C.G.) vide Judgment dated 23.11.2009. It appears that being aggrieved with the said

judgment, the acquittal appeal was preferred being Acquittal Appeal No.41/2011 before this Court and after considering the same, the Respondent has been convicted under Section 138 of the Act of 1881 and following order has been passed at para 12 which reads as under:-

“12. Accordingly, the appeal is allowed. Finding of the trial Court is hereby set aside. The respondent is convicted under Section 138 of the Act, 1881. The date of issuance of cheque is 02.8.2007. The appellant is entitled to interest 8% to the amount advanced by him. Accordingly, the respondent is sentenced to pay fine of Rs.1,60,000/- (Rupees One Lakh Sixty Thousand only) for offence under Section 138 of the Act, 1881. The trial court shall make effort to liquidate the amount as per provisions of Cr.P.C. It is made clear that if the respondent is sent to jail for non-recovery of amount, the payment of amount shall not be discharged because his detention in jail is a mode of recovery and same is not satisfaction of liability, therefore, his liability shall be discharged only when he pays the amount of Rs.1,60,000/-. It is directed that if the amount is not deposited within fifteen days the amount shall further carry interest @ 8% per annum in principle amount of Rs.80,000/- till the realization of the entire amount. The whole amount shall be paid to the appellant for discharge of liability.”

4. Immediately after passing the aforesaid order, the Petitioner herein, has moved an appropriate application on 19.05.2020 as

required under the Code of Criminal Procedure, before the concerned Court for the execution of the order as passed by this Court on 27.02.2020 and after registering the same, notice was issued to the Respondent. Since, the appropriate proceeding as required under the law has already been initiated by the Petitioner before the concerned Court and, as such, the instant Contempt Petition appears to be a frivolous one and, I am not inclined to entertain the same.

5. Accordingly, the Contempt Petition is dismissed. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
Judge