

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 401 OF 2022

Binod Agarwal S/o. Sitaram
Agarwal, Ex-Indian Navy

... Petitioner

Versus

Union of India & Ors.

... Respondents

.....

Mr. Pradeep Havnur for the Petitioner.

Mr. B.M. Chatterji, Senior Advocate with Mr. Shreyash Shah, Ms. Kavita Singh and Mr. Udayan Mukherjee for Respondent Nos. 1 to 6.

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CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATED : 29 AUGUST 2022

P.C. :-

On 26 July 2022, the following order was passed :

“ The learned counsel for the Respondent Nos.1 to 6 seeks further time to file reply.

2. Irrespective of the rival contentions recorded earlier, the question would still arise as to the appropriateness of contempt proceedings in respect of the consent terms filed while disposing of the original criminal writ petition. The scope of power the court exercises while quashing FIR is limited. Even if the Complainant consents, not in case of all cognizable offence, it would automatically result in

quashing the FIR. The consent of Complainant is merely one of the factors. The court does not go into or adjudicate the grounds on which the the Complainant has given consent and only ensures that the consent is obtained with his free will and without coercion. The court does not adjudicate inter se civil rights between the parties. When this was expressed, the Petitioner-in-person states that he will engage an advocate to represent him.

3. At the request of Petitioner-in-person, stand over to 29 August 2022”.

2. The learned Counsel for the Petitioner appears and states that he has examined the issue stated in the order dated 26 July 2022. The Petitioner will take steps in the appropriate proceedings and states that the contempt petition be disposed of.

3. The learned Senior Advocate for the Respondent Nos. 1 to 6 states that there are certain statements made in the petition, more particularly, in paragraph 43, which are highly objectionable and slanderous to the persons named in the petition, and taking serious objection for the same, he prays that they should be expunged. The learned Counsel for the Petitioner states that the petition was drafted by the Petitioner-in-person and he has ill advisably incorporated certain pleadings, which the Petitioner-in-person now has realized would be slanderous and open to action. The learned Counsel for the Petitioner states that indulgence be granted to delete the said averments.

4. We accordingly grant leave to amend to delete the averments made in paragraph 43 of the contempt petition. Amendment to be carried out forthwith. As regards the annexures, which are objected to by learned Senior Advocate for Respondent Nos. 1 to 6, in light of deletion of pleadings, annexures cannot be taken as a part of the record and be removed.

5. The contempt petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)