

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CONTEMPT PETITION NO.2 OF 2020
IN
CRIMINAL WRIT PETITION NO.521 OF 2019

- Petitioner** : 1] **Sou. Snehal W/o Shekhar Malvi,**
Aged 30 years, Occ. Nil.
- 2] **Ku. Anyukta D/o Shekhar Malvi,**
Aged 4 years, (Minor – through Natural
Guardian Mother/Petitioner No.1).
Both residents of C/o Leena Pachkawade, Near
Jain Temple, Gandhi Square, Chandur Rly.,
District Amravati.
- Versus –
- Respondents** : 1] **Shekhar S/o Prakash Malvi,**
Aged 35 years, Occ. Service.
- 2] **Smt. Pratibha Prakash Malvi,**
Aged 70 years, Occ. Household.
Respondents No.1 and 2 residents of State Bank
Square, Gedam Nagar, Yavatmal
- 3] **Sou. Aarti Rajeshrao Bodhankar,**
Aged 44 years, Occ. Household,
Resident of Chapmenwadi, Yavatmal.
- 4] **State of Maharashtra,**
through Police Station Officer, Chandur Rly.
Police Station, District Amravati.

Mr. R.J. Shukla, Advocate for the Petitioners.

Mr. D.V. Thakre, Advocate for Respondent Nos.1 to 3.

Mr. H.D. Dubey, A.P.P. for Respondent No.4.

CORAM : VINAY JOSHI, J.
DATE : 1st JULY, 2022.

ORAL JUDGMENT :-

Heard finally by consent of the parties.

02] The petitioners seek for initiation of contempt proceedings in terms of Sections 11 and 12 of the Contempt of Courts Act for disobedience of the common order, dated 12/07/2019 passed in Writ Petition Nos.521 and 522 of 2019. It is contended that this Court while disposing both writ petitions directed to pay certain amount of cost, which has not been complied and, therefore, the contempt.

03] The learned Counsel appearing for respondent Nos.1 to 3 would submit that the common order dated 12/07/2019, of which contempt is claimed, has been modified by this Court by two even date orders by which the cost amount has been reduced and the same has been complied.

04] The respondent-husband has filed two transfer applications seeking transfer of the D.V. Case No.12/2018 and criminal case R.C.C. No.157/2017 under Section 489-A of the Indian Penal Code. Both the applications were rejected against which two writ petitions bearing Criminal Writ Petition

Nos.521 and 522 of 2019 have been filed. The coordinate bench of this Court observed that both the petitions carry no merits and, accordingly, dismissed the petitions by imposing cost of Rs.25,000/- each. This Court further ordered that the cost of Rs.25,000/- shall be deposited in D.V. Case No.12/2018 to be paid to the respondent-wife and another cost of Rs.25,000/- shall be paid to the Taluka Legal Services Authority, Chandur Railway in R.C.C. No.157/2017. Later on, both the orders were modified on 5th August, 2019 by which this Court has reduced the cost to the tune of Rs.10,000/- instead of Rs.25,000/- in each proceedings.

05] According to the learned Counsel appearing for the petitioners, this Court, while disposing of both the writ petitions, has imposed cost of Rs.25,000/- in each writ petition and additional cost of Rs.25,000/- each is directed to be deposited in D.V. Case No.12/2018 and R.C.C. No.157/2012. He would submit that this Court has reduced the earlier cost of Rs.25,000/- in each petition to the tune of Rs.10,000/-, but there is no modification in subsequent direction of paying cost separately directed to be paid in two different proceedings.

06] On the other hand, the respondents' learned Counsel would submit that this Court has awarded cost of Rs.25,000/- in each petition and towards

clarification, merely stated the mode and manner in which the cost amount is to be paid. He would submit that after modification, the total cost amount comes to Rs.20,000/-. The said cost of Rs.10,000/- each has been deposited in both proceedings on 19/08/2019 of which receipts are produced.

07] There is no dispute that the respondents have deposited Rs.20,000/- towards the costs. The only dispute is about interpretation of the order of this Court. For the sake of convenience, the relevant portion of common order dated 12/07/2019 is reproduced as below:

“13. Criminal Writ Petition 522/2019 and Criminal Writ Petition 521/2019 are dismissed with costs of Rs.25,000/- to be paid by the petitioners in each petition.

14. The petitioners shall deposit Rs.25,000/- in D.V. Case 12/2018 within four weeks and the said amount shall be paid to the respondent herein.

15. The petitioners shall further deposit Rs.25,000/- in Regular Criminal Case 157/2017 which shall be paid to the Taluka Legal Services Authority, Chandur Railway or District Legal Services Authority, Amravati.”

08] There is no dispute that the figure of Rs.25,000/- is modified to the extent of Rs.10,000/-. Bare reading of the order postulates that this Court has awarded cost of Rs.25,000/- each as per paragraph 13 of the order. The

subsequent paragraphs 14 and 15 only states about the manner in which costs are to be paid. It does not mean that the reference of cost amount in paragraphs 14 and 15 is in addition to the cost which has been imposed in paragraph 13 of the order. The petitioners' learned Counsel has misread the order in different manner to hold that those were additional costs. Therefore, it is apparent that after modification total cost comes to the tune of Rs.20,000/-. Admittedly, the same has been deposited and order has been fully complied. Since, the said compliance is within couple of days from modifications, there is no element of willful disobedience of the Court order. In that view of the matter, the contempt petition carries no merit, hence dismissed.

09] Rule stands discharged with no order as to costs.

(VINAY JOSHI, J.)

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