

COCP-190-2020

Date of Decision :28.03.2022

Ram Singh

...Petitioner

Versus

Karan Bir Singh Sidhu

... Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Abdul Aziz, Advocate for
Ms. Sukham Kaur, Advocate for the petitioner.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiating action against the respondent for intentional and wilful defiance of order, Annexure P/1 dated 23.12.2016 in CWP No.26977 of 2016.

[2] Learned counsel for the petitioner has not been able to refer to any case law in terms of order dated 17.01.2020 to show that the petition filed by him is within limitation.

[3] A perusal of order, Annexure P/1 dated 23.12.2016 reveals that CWP No.26977 of 2016 was disposed of by directing the respondent to look into the matter, consider the grievance raised by the petitioner in his representation/complaint dated 21.05.2015 and decide the same at an early date by passing an appropriate order thereon, strictly in accordance with law but in any case within three months from the date of receipt of certified copy of the order.

[4] Learned Counsel contends that the respondent was required to comply with order, Annexure P/1 dated 23.12.2016 within three months i.e. upto March 2017 but failed to do the needful, therefore, the instant petition, consequently, the respondent is liable to be proceeded against under Sections 10 and 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India for intentional and wilful defiance of order, Annexure P/1 dated 23.12.2016 in CWP No.26977 of 2016.

[5] Section 20 of the Contempt of Courts Act, 1971 reads as under:-

“20. Limitation for actions for contempt.—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

[6] A perusal of Section 20 ibid reveals that no Court is authorized to initiate proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. CWP No.26977 of 2016 was disposed of vide order, Annexure P/1 dated 23.12.2016, by directing the respondent to look into the matter, consider the grievance raised by the petitioner in his representation / complaint dated 21.05.2015 and decide the same at an early date by passing an appropriate order thereon, strictly in accordance with law but in any case within three months from the date of receipt of certified copy of the order. Accordingly, the respondent was required to comply with order, Annexure P/1 dated 23.12.2016 upto March 2017 but failed to do the needful whereas the instant petition has been filed on 13.01.2020 i.e. much

beyond the period of one year stipulated u/s 20 of the Contempt of Courts Act, 1971.

[7] As per the decision of this Court in **Harbans Singh and Ors. vs. R.K. Millu**, Law Finder Doc ID # 127547, wilful disobedience of the order of the Court having taken place more than a year back, the contempt petition was dismissed in view of Section 20 of the Contempt of Courts Act, 1971.

[8] Faced with the aforementioned position, learned counsel for the petitioner contends that this Court is empowered under Article 215 of the Constitution of India to suo motu initiate proceedings for contempt of orders of this Court, Annexure P/1 dated 23.12.2016 in CWP No.26977 of 2016. The matter is no longer *res integra* and stands decided by Hon'ble the Supreme Court in **Maheshwar Peri and Ors. vs. High Court of Judicature at Allahabad Through Registrar General, 2016 (3) RCR (Crl.) 910**. In Maheshwar Peri's case (Supra) Hon'ble the Supreme Court was dealing with the question as to what was the period of limitation for suo motu initiation of contempt proceedings in the back ground of the Outlook Magazine in Edition dated 10.11.2008 having published an Article authored by the third appellant naming the Judges who had dealt with the infamous Provident Fund Scam on the basis of which on 18.11.2008, one Mr. Manoj Kumar Srivastava and Mr. Veer Singh, Advocates, practicing in the High Court of Allahabad, filed Misc. Application No. 21 of 2008 with the following prayer :-

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"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to proceed for

initiating Criminal Contempt proceedings on its own motion against aforesaid opposite parties and they be punished accordingly under Article 215 of the Constitution of India and or to pass any other order which this Hon'ble Court may deem fit and proper."

5. According to them, the article "has caused great insult to the Higher Judiciary. The remarks are derogatory and have lowered the authority of the Higher Judiciary." Learned Counsel appearing for the respondent / High Court of Allahabad submits that the petition was placed before a Single Judge of the High Court, and thereafter, before the Chief Justice. It appears, for about four years, nothing happened in the matter until it was listed before the Division Bench of the High Court leading to the impugned order dated 28.04.2015. It was held in the impugned order that:

"... The publication dated 10.11.2008 at page 56, 57, 58, 59 as mentioned above has caused great insult to the higher Judiciary. The remarks are derogatory and lower the authority of the higher Judiciary. Hence, it is a fit case to take 'suo motu' action by this Court. Accordingly, we take 'suo motu' action. Hence the name of the petitioner is not to be shown in the cause list."

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"Let a notice be issued to contemnor opposite party no. 2,3,4, namely, Mr. Maheshwer Peri, Mr. Bishwadeep Moitra, Sushri Chandrani Benerji through Chief Judicial Magistrate Ghaziabad to show cause why the charges be not framed against them for committing contempt of this Court and to punish them in accordance with law. They shall also appear in person on the next date."

[9] Aggrieved against the issuance of notice, the alleged contemnors invoked the jurisdiction of Hon'ble the Supreme Court. Before Hon'ble the Supreme Court, argument advanced by counsel for the appellants was that the High Court having initiated action only after four years of the alleged contempt, the whole proceedings were barred by Section 20 of the Contempt of Courts Act, 1971 which had prescribed period of limitation of one year for initiating any proceedings of contempt, be it suo motu or otherwise whereas on behalf of the High Court, submission was that being an action initiated by the High Court under Article 215 of the Constitution of India and the genesis of the initiation of the contempt being application dated 18.11.2008 filed by Mr. Manoj Kumar Srivastava and Mr. Veer Singh, Advocates and the High Court had considered the application within one year and had taken action by issuing notice though after six years, it was within time. Hon'ble the Supreme Court took into account paragraph No.44 of its decision in **Pallav Sheth vs. Custodian and others, 2001(3) RCR (Criminal) 781 : (2001) 7 SCC 549** case. Relevant extract of the same is reproduced as under:-

"44. Action for contempt is divisible into two categories, namely, that initiated suo motu by the court and that instituted otherwise than on the court's own motion. The mode of initiation in each case would necessarily be different. While in the case of suo motu proceedings, it is the court itself which must initiate by issuing a notice, in the other cases initiation can only be by a party filing an application. In our opinion, therefore, the proper construction to be placed on Section 20 must be that action must be initiated, either by filing of an application or by the court issuing notice suo motu, within a period

of one year from the date on which the contempt is alleged to have been committed."

[10] In the aforementioned background, Hon'ble the Supreme Court held that the impugned article having been published on 10.11.2008 and the High Court having initiated suo motu action only on 28.04.2015, the same was hit by limitation of one year prescribed under the Contempt of Court Act. Accordingly, the appeal was allowed and the impugned order was set aside.

[11] A perusal of the aforementioned decision of Hon'ble the Supreme Court reveals that an action is to be initiated either by filing of an application or by the Court issuing suo motu notice within one year from the date on which the contempt is alleged to have been committed.

[12] In the instant case, the petitioner has failed to invoke the jurisdiction of this Court within a period of one year from the date of accrual of cause of action.

[13] In the circumstances, the petition for initiating action against the respondent under the Contempt of Courts Act, 1971 / Article 215 of the Constitution of India, is not maintainable and is accordingly dismissed in limine.

[14] No order as to costs.

(B.S. Walia)
Judge

28.03.2022

'Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>