

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1621 of 2021 (O&M)
Date of decision: 06.12.2022

Rishi Sharma and others

..Petitioners

Versus

Anju Sharma and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sushil Bhardwaj, Advocate
for the petitioners.

None for the respondents.

ANIL KSHETARPAL, J(Oral)

Despite the service of notice, respondent no.1 has failed to enter appearance. This revision petition under Article 227 of the Constitution of India has been filed, challenging the issuance of notice on an application filed by the respondents under Section 11 and 12 of the Contempt of Courts Act, 1971.

The petitioners claim that the Principal Judge, Family Court, Gurugram, had no jurisdiction to entertain the application filed under Section 11 and 12 of the Contempt of Courts Act, 1971.

Section 11 and 12 of the Contempt of Courts Act, 1971, read as under:-

11.Power of High Court to try offences committed or offenders found outside jurisdiction.—

A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.

12. Punishment for contempt of court.—

(1) Save as otherwise expressly provided in this Act or in

any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court.

Explanation.—An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

(2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.

(4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.

(5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

Explanation. —For the purpose of sub-sections (4) and (5),—(a) “company” means any body corporate and

*includes a firm or other association of individuals; and
(b) “director” , in relation to a firm, means a partner in
the firm.”*

It is evident that the proceedings under Section 11 can only be initiated by the High Court. Hence, the order dated 29.04.2021, is set aside.

The revision petition is allowed.

All the pending miscellaneous applications, if any, are also disposed of.

December 06, 2022
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(ANIL KSHETARPAL)
JUDGE

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