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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: November 01, 2022***

+ CONT.APP.(C) 23/2022, CM APPL. 46568/2022 (stay)& CM APPL. 46569/2022(for exemption)
SANJAY GROVER Appellant

Through: Mr.Rahul Shukla and Mr. Sayantani,
Advocates

versus

KUMUD GROVER Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

1. The present appeal challenges the order dated 19.10.2022 passed in CONT.CAS(C) 957/2022 titled as *Kumud Grover vs. Sanjay Grover* wherein the appellant/husband has been held guilty of having committed contempt under *Section 2(b)* read with *Section(s) 10 and 12* of the Contempt of Courts Act, 1971¹ in view of non-compliance of orders dated 15.02.2018, 14.08.2020 and 29.07.2022 passed by the Metropolitan Magistrate-02, (Mahila Court), South-East District, Saket².

2. The facts of present case disclose that the parties after marriage were blessed with a male child and were residing together at House No. 98, Indira Vihar, Delhi-110009 till 2017, when the respondent/ wife left the house along with the male child to never return. Thereafter she filed C.C.

¹ Hereinafter referred as “Act”

² Hereinafter referred as “Mahila Court”

6505/2017 titled as ***Kumud Grover vs Sanjay Grover*** under Section 12 of the Protection of Women from Domestic Violence Act, 2005³ at Saket Courts. Admittedly, when the above Complaint was listed before the Mahila Court on 15.02.2018, the appellant willingly made a statement as under: -

“Ld counsel for respondent disputes that fact that the complainant was residing on the first floor of the property/shared household and submits that the same is ancestral property and, therefore, the complainant cannot claim as a right to stay on the first floor which shall eventually lead to commotion between the parties on each day. However, the respondent is willing to pay an amount of Rs. 15,000/- per month for having an alternate accommodation by the complainant”

3. Appellant contends to have continued to pay the aforesaid sum of Rs. 15,000/- per mensem till March 2020 i.e., till start of covid-19 pandemic. We are told that prior thereto, the appellant had been making other payments as well. However, admittedly, when CC 6505/2017 was listed before the Mahila Court on 14.08.2020, the appellant once again willingly gave an assurance to clear the dues within a month as under: -

“Learned counsel for the respondent, however, assures that the respondent shall pay the entire amount pursuant to order dated 15.02.2018, outstanding as on date, within a month.”

4. Respondent thus filed CONT.CAS.(C) 861/2020 alleging default in payment in terms of orders dated 15.02.2018 and 14.08.2020 passed by the Mahila Court. The same gave rise to a long history of cases by the appellant starting with filing of an application seeking revocation/ modification of the first order dated 15.02.2018, which according to appellant is still pending adjudication. The appellant pleads that though he paid a sum of Rs. 1,50,000/- to clear the amount of default for which the contempt petition was filed, the appellant was found guilty in contempt proceeding vide order

³ Hereinafter referred as “**Complaint**”

dated 08.12.2021 in CONT.CAS.(C) 861/2020 leading to preferring of an appeal, which was dismissed vide order dated 01.02.2022. The appeal thereagainst by appellant before the Hon'ble Supreme Court was also dismissed. Thereafter vide order dated 02.02.2022 in CONT.CAS.(C) 861/2020, appellant was sentenced to undergo simple imprisonment for one week, along with a fine of Rs. 2,000/-, as well as nominal costs of Rs. 15,000/- towards these proceedings.

5. Thereafter, Mahila Court on an application filed by the respondent herein for preponement of date of hearing, vide order dated 29.07.2022 directed the appellant to pay college fees of the child without issuing notice or providing any chance to him. Appellant was unaware of the said order and came to know when he was served with the summons in CONT.CAS.(C) 957/2022, wherein the order under challenge has been passed. Learned Single Judge vide order dated 08.09.2022, in addition to issuing notice, directed appellant to comply with the order dated 29.07.2022 passed by the Mahila Court regarding payment of college fee of the child. It is the case of appellant that the same is in violation of principles of natural justice.

6. Being aggrieved, appellant preferred C.A. No. 167/2022 against the order dated 29.07.2022 before the Additional Sessions Judge-02, South-East District, Saket, which has since been dismissed on 17.10.2022.

7. Prima facie, the appellant before us is a habitual offender, not only has he been held guilty of contempt of the aforesaid three orders dated 15.02.2018, 14.08.2020 and 29.07.2022 passed by the Mahila Court this time but he has already been held guilty of contempt once before, for which he went to civil prison for *seven days*. However, appellant, since then claims

to be suffering from prolonged illness due to typhoid and after being diagnosed with Tuberculosis, is undergoing treatment and has been advised complete bed-rest and thus unable to work and earn anything.

8. Be that as it may, alas the position has not changed as the appellant is still guilty of contempt, as has been held by the learned Single Judge. Though, in our opinion, the appellant cannot be held guilty of the order dated 29.07.2022 passed by the Mahila Court as the same can be faulted with but having said that, appellant can certainly not be absolved of the contempt of non-compliance of the earlier two orders dated 15.02.2018 and 14.08.2020 passed by the Mahila Court wherein he, willingly and admittedly, himself gave a statement and assured compliance thereof. It is nowhere the case of appellant that he never made such statements or that he was forced/ coerced/ pressurized into making them. In view of the afore-stated position, the challenge thereto under *Section 19* of the Act is nugatory and indeed futile.

9. The law of contempt is very clear. It is trite law that a contempt is only between the alleged Contemner and the Court. Respondent by moving the machinery of the Court for issuance of contempt has merely brought to notice the various orders passed by the Mahila Court which constitute contempt by appellant. A contemner cannot be allowed to retract or resile from his own statement made in a Court of law. In this case, appellant cannot withdraw his statement. In fact both orders dated 15.02.2018 and 14.08.2020 passed by the Mahila Court are recording only the statements made by appellant, so, unless set aside, he continues to remain bound by them. Appellant cannot undo the repeated wrongs committed by him.

10. At the end of the day, there is no respite for appellant as he continues to be guilty of having acted in repeated disobedience of the orders of the Court. In view thereof, in our opinion, there was ample evident material before the learned Single Judge to hold appellant guilty of contempt, having violated both orders dated 15.02.2018 and 14.08.2020 but not the order dated 29.07.2022 passed by the Mahila Court.

11. Accordingly, the present appeal, thus, fails and is dismissed. There will be no order as to costs.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

NOVEMBER 1, 2022/rr

