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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCN No.3742 of 2019 (O&M)
Date of decision: 21.04.2023

Raman Kumar

....Petitioner

Versus

Astha Modi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Harsh Vardhan Shehrawat, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

On 16.03.2023, the following order was passed:-

“The petitioner alleges violation of the order dated 22.07.2019, passed by this Court in CRM-M-29778-2019, vide which, the following order was passed:

“...Since the petitioner has shown his intention to face trial, the present petition is disposed of with a direction that in case the petitioner surrenders/appears before the trial Court within 15 days from today and undertakes to appear before the trial Court regularly, unless exemption is granted, he shall be admitted on bail, provided that there is no other case against him except the present one. However, this will be subject to payment of an amount of Rs.25,000/- to Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Sciences (PGIMS), Rohtak, for the welfare of poor patients and furnishing of his bail bonds/surety bonds to the satisfaction of trial Court...”

Brief facts of the case are that the petitioner along with his parents, namely Sheela Devi (mother) and Joginder Singh (father), was named as accused in FIR No. 274 dated 12.11.2013, registered under Sections 498-A,

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406, 506 and 34 of the IPC at Police Station Ladwa, District Kurukshetra, on a complaint given by the wife of the petitioner.

The petitioner, who was working in Ireland, was declared a proclaimed offender, vide order dated 13.07.2015 by the Illaqua Magistrate and the parents of the petitioner, after facing full length trial, acquitted by the trial Court, vide judgment dated 19.01.2017.

The petitioner, upon returning to India, filed aforesaid petition bearing CRM-M-29779-2019, before this Court, praying for quashing of the order dated 13.07.2015, declaring him a proclaimed offender, as well as for quashing of the FIR and vide order dated 22.07.2019, the petitioner was granted bail, subject to the condition that he will deposit an amount of Rs. 25,000/- as costs with the PGIMS, Rohtak and will also furnish bail/surety bonds to the satisfaction the trial Court. In pursuance thereof, the petitioner appeared before the Illaqua Magistrate on 30.07.2019 and he was granted the concession of regular bail in the presence of the Public Prosecutor, who was appearing for the State.

A perusal of the order dated 30.07.2019 shows that after the petitioner appeared before the Illaqua Magistrate, the case file was summoned and a notice was given to the Public Prosecutor, which is a notice to the police station concerned as well and after hearing both the sides, the petitioner was admitted to regular bail.

The petitioner is alleging that in willful defiance of the order passed by this Court on 22.07.2019, granting him bail on deposit of aforesaid costs, as well as the order dated 30.07.2019, passed by the Illaqua Magistrate, admitting him to regular bail, two police officials, namely HC Mahender Singh and SI Dalbir Singh, respondent Nos.

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3 and 4, respectively, who were posted in P. O. Staff at Police Station Pipli, have arrested the petitioner.

Learned counsel for the petitioner submits that not only the petitioner was arrested but on the next day i.e. 05.09.2019, a news was published in Amar Ujala daily newspaper that the aforesaid two police officials have arrested a proclaimed offender i.e. the petitioner and he has been sent to jail, as per order of the Court.

Reply, filed by way of the affidavit of the Superintendent of Police, Kurukshetra, is on record. In paragraph No.4 of the reply, it is stated that the petitioner was arrested by the P.O. Staff on 03.09.2019 and as the petitioner did not give any order passed by the Court, however, when on the next day, the petitioner gave the orders to the police, after completion of necessary formalities, he was released by the police.

In paragraph No. 9 of the reply, it is specifically stated that the petitioner was arrested by SI Dalbir Singh and HC Mahender Singh early morning on 04.09.2019 and he was released on the next day.

After hearing learned counsel for the parties, this Court finds that the explanation given by the then Superintendent of Police, Kurukshetra that the petitioner has not shown the order dated 22.07.2019 passed by this Court or the compliance order dated 30.07.2019 passed by the Illaqua Magistrate is unbelievable as the no person of an ordinary prudence would like to go to judicial/police custody, when he has already been granted the concession of bail and the action on the part of the aforesaid two police officials is apparently in willful disobedience and violation of the orders passed by this Court as well as by the Illaqua Magistrate.

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The affidavit filed by the then Superintendent of Police, Kurukshetra, defending the aforesaid two police officials, is not appreciated as on coming to know the said fact, the Superintendent of Police, Kurukshetra should have immediately initiated disciplinary proceedings against them.

In view of the above, both the aforesaid police officials, respondent Nos. 3 and 4, are held guilty under Section 12 of the Contempt of Courts Act.

Respondent Nos. 3 and 4 are directed to remain present in person before this Court on the next date of hearing for pronouncement of sentence.

List again on 21.04.2023.”

In pursuance thereof, the affidavit of the contemnors namely Mohinder Singh and Dalbir Singh, are taken on record.

In the affidavits, it is stated that in September, 2019, both the respondents No.3 and 4, were posted in P.O. Staff Unit of CIA-1 (Crime Investigation Agency), Kurukshetra and the name of the petitioner was depicted at Serial No.197 in the record of the proclaimed offenders maintained by the District Police, Kurukshetra. It is stated that on 04.09.2019, the deponents were deputed for the search of the petitioner as some information regarding his presence was received. Thereafter, a DDR of departure was recorded on 04.09.2019 and the petitioner was apprehended. It is also stated that the brother of the petitioner was informed telephonically, however, no bail order was shown either by the petitioner or his brother. It is further stated that after handing over the custody of the petitioner to SI Vijay Kumar in Police Station Ladwa, the deponents returned to CIA Staff at

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Kurukshetra at 07:45 AM as per the return DDR dated 04.09.2019 and later on, the petitioner was formally arrested by SI Vijay Kumar. It is also submitted that the deponents have not committed any contempt intentionally or willfully as they were assigned only a duty of arresting a proclaimed offender and the petitioner, after obtaining the bail order never intimated the P.O. office where the deponents were posted that he has been granted the concession of anticipatory bail. It is also stated that even at the time when the petitioner was apprehended, an information was given to his brother, however, no such bail order was shown and the deponents, within 03:00 hrs of arresting the petitioner handed over the custody to the local police i.e. SI Vijay Kumar of Police Station Ladwa, who was the Investigating Officer of the FIR and therefore, they have not committed any willful disobedience of the order.

Counsel for the State has submitted that the Superintendent of Police, Kurukshetra has intimated that in order to enquire into the case, a departmental enquiry is initiated.

During the course of arguments, counsel for the respondents submitted that without prejudice to their right of defence and without prejudice to their service record, an out of Court settlement has been arrived at between the parties and the respondents have paid Rs.1.00 lac towards the costs for causing mental pain and agony to the petitioner.

Counsel for the petitioner has not disputed this fact and argued that this contempt petition may be disposed of having been

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rendered infructuous, in view of out of Court settlement arrived at between the parties.

Accordingly, the reply submitted to show cause notice is accepted and the present petition is disposed of having been rendered infructuous.

However, it is made clear that nothing observed in this case will have any bearing on the service record of the deponents and the enquiry dated 05.04.2023, initiated by the Superintendent of Police, Kurukshetra, is also liable to be dropped.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

21.04.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No