

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

2023:PHHC:162038-DB

CACP-17-2023

Date of Decision: 18.12.2023

Sourabh Soni

.....Appellant(s)

Versus

Nitika Dhir

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Sourabh Soni, petitioner-in-person.

G.S.SANDHAWALIA, J. (Oral)

1. The challenge in the present contempt appeal filed under Section 19(1)(a) of the Contempt of Courts Act, 1971 (in short 'the Act') is to the order dated 08.12.2023 passed by the Single Judge in COCP-3763-2023. Vide the said order, the Single Judge did not initiate the contempt proceedings which were prayed for regarding the disobedience of the order dated 26.05.2023 passed by the Additional District Judge, Chandigarh regarding the visitation rights of the minor child.

2. The Apex Court in ***Midnapore Peoples Cooperative Bank Ltd. and others vs. Chunilal Nanda and others, 2006 (3) SCT 115*** has, in very categorical terms, held that the appeal is not maintainable against an order declining to initiate proceedings for contempt. The relevant portion reads thus:-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :

I. An appeal under [section 19](#) is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for

contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under [Article 136](#) of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under [section 19](#) of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under [Article 136](#) of the Constitution of India (in other cases).

The first point is answered accordingly.”

3. Similar view has also been taken by a co-ordinate Bench way back in ***Subhash Chander Sethi vs. Sh. B.R. Kakkar, Commissioner, Municipal Corporation of Ludhiana, 1990 (2) PLR 46*** wherein reliance was placed upon ***D.N. Taneja vs. Bhajan Lal, (1988) 3 SCC 26***.

4. In such circumstances, we are of the considered opinion that the present appeal is not maintainable and resultantly we decline to interfere in the order dated 08.12.2023 passed by the Single Judge in COCP-3763-2023. and the present appeal accordingly stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

18.12.2023
shivani

(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No