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

% ***Date of decision: 15th May, 2023***

+ **CONT.APP.(C) 11/2023 & CM APPL.10798/2023**

RAM PRAKASH CHOUDHARY Appellant

Through: Mr. Madan Lal Kalkal, Advocate

versus

THE STATE & ANR. Respondents

Through: Mr. Divyam Nandrajog, Panel
Counsel-GNCTD with Mr. Jatin Dua,
Advocate

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T (oral)

1. Vide present appeal, appellant is seeking setting aside of the impugned order dated 14.12.2022 whereby the Contempt Case (C) 1359/2022 and CM Application No.53955-56/2022 have been dismissed with cost of Rs.25,000/- to be paid to Delhi High Court Legal Service Committee; and to initiate contempt proceedings against the respondent No.1, the IO/ACP, PS. Model Town Sh. Ajay Kumar and respondent No.2 Ms.Sarita Batra for their deliberate and willful disobedience and act of contempt of Court committed in respect of order dated 15.11.2019 passed by this Court.

2. Pursuant to order dated 06.03.2023, learned counsel for respondents has appeared and submitted that the present appeal is not maintainable in view of Section 19 of the Contempt Court Act.

2. It is not in dispute that vide the impugned judgment dated 14.12.2022, the contemnor has already been discharged and appeal is not maintainable as decided by order dated 01.11.2022 of this Court passed in Cont. App. (C) 21/2022. The relevant paras of said order are as under:

“7. Alas as the position had not changed, there was no occasion for anyone, much less the respondents to be held guilty of contempt, as has been rightly held by the learned Single Judge. There were no circumstances giving rise to any suspicion of holding the respondents guilty of any offence. In essence, the respondents have not been held guilty of contempt and have certainly not been punished for the same. In such a case, no appeal under Section 19 of the Act shall lie. Such an order rejecting a petition for contempt in such circumstances is not open to challenge and as an appeal under Section 19 of the Act only lies when the Court has exercised its power to have held a contemnor guilty of contempt or when such contemnor has been punished and not when such power has not been exercised by the Court. In other words, denial of an order not holding a contemnor guilty or punishing a contemnor, is not appealable under Section 19 of the Act.

8. In view thereof, for an appeal to be maintainable under Section 19 of the Act there has to be a definite finding against a contemnor, or else there cannot be any right to appeal under Section 19 of the Act. The law of contempt is very clear. A plain reading of the Act reveals that the provision of appeal is extremely limited and according to us ‘regulated’. The availability and maintainability of an appeal under Section 19 of the Act is dependent upon a contemnor being guilty or being punished under the act and in no other case. The present case is not of that kind.

9. It is an established concept of law that a contempt is only between the alleged Contemner and the Court. Appellant by setting into motion the machinery of the Court for issuance of contempt has failed to bring to notice anything which constitutes contempt by respondents, therefore no act of contempt has been committed by them. As such the learned Single Judge had rightly held that the contempt petition was not maintainable and dismissed the same. So much so, the learned Single Judge has rightly expressed that it will be open to petitioners to file a writ petition before this Court, if not already filed, to establish their case as to entitlement to benefits of the judgment of this Court in Ajay Maken (supra).”

3. In view of above, the present appeal is not maintainable and the same is, accordingly, dismissed. However, in the interest of justice, we hereby set

aside order dated 14.12.2022 qua imposition of cost of Rs.25,000/- imposed upon appellant.

4. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(TUSHAR RAO GEDELA)
JUDGE

MAY 15, 2023/rk

