

16.08.2024
Sl. No. 29.
D/L.
B.P./Mithun
Ct.No.36

CPAN 1071 of 2024

**Rudra Bhattacharya & Anr.
Vs.
Mr. Debasish Karmakar & Anr.**

**In
WPA 12003 of 2024**

Mr. Rudra Bhattacharya,
..petitioner no.1 in person.

Mr. Ramesh Chandra Pursti,
Mr. Sanbjib Das
...for the Bank.

Mr. Mainak Bose, Sr. Adv.
Mr. Siddhartha Banerjee,
Mr. Sarvapriya Mukherjee,
Mr. N. Srinivas,
Mr. Prasenjit Pal,
Mr. Samrat Mukherjee,
Mr. Pankaj Mukherjee,
Ms. Sreya Basu,
Mr. A. Mishra,
Mr. Anindya Chowdhury,
Mr. Arya Nandi,
Ms. Ajanta Banerjee,
Mr. Sekhar Mukherjee,
Mr. Satyam Ojha,
Mr. Parikshit Lakhotia,
...for the alleged contemnor nos.2 and 3.

The present application for contempt was filed initially against three alleged contemnors, the first being the Presiding Officer of the Debts Recovery Tribunal, whose name was expunged vide an order dated July 12, 2024, and the other two being learned

Advocates practising before the Debts Recovery Tribunal, Kolkata.

The petitioner alleges, appearing in person with leave of Court, that by the order dated May 21, 2024 passed in WPA 13071 of 2024, this Court had set aside an order of the Debts Recovery Tribunal dated February 1, 2023 to the extent that the same rejected the petitioner's application under Section 340 of the Code of Criminal Procedure. This Court had remanded the matter to the Presiding Officer of the Tribunal with a direction to re-adjudicate the said application under Section 340 of the Code of Criminal Procedure.

It is contended that when the matter came up before the Tribunal on June 25, 2024, the petitioner went to the said Tribunal. However, as per the allegation contained in Paragraph 6 of the contempt application, some unknown persons threatened the petitioner that he would face serious difficulties.

The petitioner alleges in Paragraph 6 that he sent a letter complaining about the same to the Presiding Officer through speed post. A copy of the letter has been annexed to the present application for contempt. In the contempt application, several general allegations have been made to the effect that the Bar Association of the Debts Recovery Tribunal,

Kolkata, in the presence of the Presiding Officer, DRT-I, including the alleged contemnors, deliberately flouted the directives of the order dated May 21, 2024 of this Court.

The petitioner also places reliance on the certain orders passed previously by this Court in connection with other contempt applications filed by the petitioner as well as his writ petition. It is sought to be pointed out that on previous occasions, this Court had repeatedly directed the Debts Recovery Tribunal to dispose of the application of the petitioner. Despite the same, it is alleged, the Tribunal failed to dispose of the same in due time.

It is alleged that due to a cease-work called by the Bar Association of the Debts Recovery Tribunal at the relevant juncture, at one point of time the petitioner's application could not be heard out by the Presiding Officer then officiating in the said Debts Recovery Tribunal.

Learned Senior Counsel appearing for the alleged contemnors, at the outset, points out that there is no specific allegation against the present alleged contemnor Nos.2 and 3 in the entire contempt application. It is submitted that the purported letter to the Presiding Officer annexed at Page 29 of the

contempt application, dated June 27, 2024, was never served on the alleged contemnors. It is further pointed out that the petitioner has not annexed any photocopy or original of even any postal receipt to indicate that such service was sought to be effected on the alleged contemnors.

Learned Senior Counsel next contends, by placing reliance on a compilation of orders and case status, that even after June 25, 2024, several orders were passed by the Debts Recovery Tribunal which shows that the Tribunal, on several subsequent occasions, has been taking up the application of the petitioner. Thus, no impediment was caused to the hearing of the petitioner's application.

Also, in view of the alleged contemnors never being a party to the writ petition and/or being served with a copy of the order passed therein, they could not be hauled up for contempt of such order.

In any event, it is pointed out that as per the allegation in the contempt application, no case of civil contempt has been made out against the alleged contemnors.

Furthermore, it is submitted that in the order dated July 31, 2024 passed by the Tribunal, the learned Tribunal referred to an order of stay having

been passed in respect of the operation of the order of this Court dated May 21, 2024, which is the parent order in respect of which contempt has been alleged.

Learned Senior Counsel appearing for the alleged contemnors also places reliance on an order dated July 7, 2023 passed in RVW 118 of 2023 in CPAN 424 of 2023 in WPA 21278 of 2021 where a coordinate Bench had observed that leverage given by the Court to the writ petitioner merely because he is appearing in person has been abused and the petitioner was warned against such conduct in future. The Court recorded that the Government and the bank had been compelled to engage advocates repeatedly and incur expenditure, for which a token cost of Re.1/- was imposed on the petitioner, payable to the DRAT.

Thus, it is argued that the petitioner is in the habit of filing contempt applications against the Presiding Officer (already the petitioner has filed seven such applications) and also levelling wild allegations against the Bar Association of the Debts Recovery Tribunal.

On June 25, 2024, it is submitted, the petitioner had been similarly making wild allegations against the Bar Association in general and against advocates, which was protested by the learned

advocates present before the Tribunal on the said date, who had no connection with the present matter. It is submitted that the same is also reflected in the observations of the Tribunal in the order dated June 25, 2024.

It is thus submitted that no case of contempt having been made out, the contempt application ought to be dismissed in limine.

In reply, the petitioner submits that the letter annexed to the contempt application was served personally on the Presiding Officer. It is further contended that by repeatedly resisting the petitioner from moving his application before the Tribunal, the Bar Association of the Debts Recovery Tribunal in general and the alleged contemnors in particular have been willfully and deliberately violating the orders of this Court.

The petitioner also relies on certain judgments which were passed in favour of the petitioner by different Coordinate Benches of this Court at different points of time, observing that despite the directions of this Court, the Tribunal had not disposed of all the applications of the petitioner. Thus, it is sought to be portrayed before the Court that it was the petitioner who was the victim of circumstances, being compelled

to repeatedly come up with contempt applications before this Court, and not the Bar Association or the alleged contemnors, who have been harassing the petitioner at various points of time.

Upon hearing the petitioner, appearing in person, and learned Senior Counsel appearing on behalf of the alleged contemnors, the Court comes to the following conclusions:-

In so far as the present application is concerned, no specific case of contempt has been made out, either criminal or civil, against the alleged contemnor nos.2 and 3. Since the name of the alleged contemnor no.1, the Presiding Officer, has previously been expunged, the contentions of the petitioner with regard to such alleged contemnor are not being gone into.

I find from the four corners of the contempt application that there is not a single allegation by name against the alleged contemnor nos.2 and 3. The plinth of submissions of the petitioner is the purported letter dated June 27, 2024 which has been annexed at Page 29 of the contempt application. I find from the same that the copy of the said purported letter annexed to the contempt application does not carry any stamp or receipt by the office of the Presiding

Officer, nor is any postal receipt or other document annexed to the writ petition to indicate that any attempt was made to serve the same at any point of time on the said Presiding Officer of the Debts Recovery Tribunal-I. The petitioner submits during verbal submissions that he served it personally, which is belied by the averment in the contempt application that failing to serve personally, he served it by speed post.

That apart, even if the petitioner had made such allegations before the Debts Recovery Tribunal, making certain averments in respect of the alleged contemnor nos.2 and 3 seeking protection from the Debts Recovery Tribunal, the same can be dealt with by the Presiding Officer himself. Merely making such application before the Debts Recovery Tribunal does not automatically make such allegation a part of the contempt application so as to make out a case of civil contempt.

Learned Senior Counsel for the alleged contemnors is justified in arguing that even if the allegations sought to be made by the petitioner were held to be prima facie correct, there is no case made out for civil contempt, since the alleged contemnor

nos.2 and 3 were neither parties to the writ petition, nor were they in the know of the order passed therein.

In fact, even if the petitioner is permitted to file a supplementary affidavit, that cannot cure the implicit defect in the contempt application insofar as no specific allegation of civil contempt having been made out.

This Court chooses to abstain from making any comment on the conduct of the petitioner, since no generalization in that regard can be made at this juncture. In fact, although in the order dated July 7, 2023 it was recorded by a coordinate Bench that the petitioner had sought to abuse the leverage given to him because he was appearing in person by filing repeated contempt applications, such finding by itself cannot preclude the petitioner from taking recourse to remedies available to him in law, more so since in some of the orders passed by other coordinate Benches and the self-same Bench as well as on other occasions, it appears that the Tribunal has indeed been slow in implementing the orders and directions of this Court regarding disposal of the petitioner's application.

Be that as it may, such discussion would be entirely out of context, being beyond the ambit of the present contempt application.

Further, I find from the order sheet of the Tribunal which has been annexed here that even subsequent to June 25, 2024, the petitioner's application under Section 340 of the Code of Criminal Procedure was taken up on several occasions by the Debts Recovery Tribunal. For example, on the very next date i.e. on July 19, 2024, it was recorded that the petitioner appeared in person and placed MA No.17 of 2024.

The Presiding Officer officiating on that date observed that he was only in charge of the Court and as such adjourned the matter. On the adjourned date, i.e. on July 31, 2024, the matter was again taken up in due course, when learned Counsel for the bank intimated the Tribunal that a stay order had been passed on the operation of this Court's order dated May 21, 2024, which was the reason for which the Tribunal could not take up the matter.

I do not find from such subsequent orders that there was any hindrance to the petitioner's application being taken up by the Tribunal on the scheduled dates, let alone by reason of the actions of any of the members of the Bar Association of the Debts Recovery Tribunal in general and/or the alleged contemnors in particular.

In fact, I find from the latter portion of the order dated June 25, 2024 that the petitioner was directed by the Tribunal to maintain proper decorum and not to make any personal allegations. As such, there might have been strained relation between the petitioner and the members of the Bar of the Tribunal. However, coming to any concrete finding on such aspect of the matter would tantamount to entering into the realm of conjecture.

Be that as it may, in view of the above observations, I do not find that any case of willful or deliberate contumacious violation of the order of this Court dated May 21, 2024 has been made out in the contempt application. Accordingly, CPAN 1071 of 2024 is dismissed on contest.

However, it is made clear that the merits of the allegations and counter allegations made by the parties in the pending proceedings before the Debts Recovery Tribunal have not been entered into by this Court and it will be open to both sides to urge their respective contentions before the Debts Recovery Tribunal, being unfettered by the observations made hereinabove.

(Sabyasachi Bhattacharyya, J.)