

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**VASANT
ANANDRAO
IDHOL**

CONTEMPT PETITION NO. 310 OF 2024

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Date: 2024.07.03
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Shashank Manohar Joshi

...Petitioner

Versus

State Of Maharashtra & Ors.

...Respondents

Mr.Valmiky Narvekar with Mr.Ateet Mhambrey i/b Mhambrey & Co. for the Petitioner.

Smt.V.R. Raje, A.G.P. for the Respondent No.1 – State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 3rd JULY 2024

P.C.:

1. Heard Mr.Narvekar, the learned counsel for the petitioner. The petition claims contempt against the respondents for having violated the order dated 23.6.2023 (81) and the subsequent order dated 20.1.2023 passed by the Metropolitan Magistrate, 12th Court, Bandra, Mumbai (12th MM Court). Learned counsel for the petitioner submits, that inspite of the orders, the amounts indicated therein has not been handed over to the petitioner, as a result of which, there is a contempt committed.

2. Learned AGP for the State – respondent no.1 supports the

action of the respondent by contending that the order dated 20.11.2023, was without jurisdiction, and therefore is *non-est* in the eyes of law, on account of which, no contempt in the eyes of law can be said to have been committed.

3. Insofar as the first order dated 23.6.2023 is concerned, it is necessary to note that it is passed under Section 457 of the Code of Criminal Procedure (Cr.P.C.) for release of property and all that it directed was for the concerned police officer i.e. respondent no.1, to request the officers of the concerned banks, to transfer the amounts of Rs.61,51,659/- lying in various accounts of the petitioners on executing an indemnity bond of Rs.65.00 lakhs. It is not in dispute that in pursuance to this, the respondent no.1 has written a letter to the concerned banks in consonance with the direction, as contained in the order dated 23.6.2023. Since the same did not elicit any response, the petitioner again approached the learned MM 12th Court for a direction against the various banks, in pursuance to which, by an order dated 20.11.2023, learned MM 12th Court directed the respondent nos.2 to 6 to transfer the amounts, as indicated in the order, to the applicant. It is necessary to note that the bank accounts, in which the amounts as indicated in para (a) of the order dated

20.11.2023 were lying, had been frozen by the banks upon orders being passed by the Investing Officer. The Nodel Officers i.e. respondent nos.2 to 6, are not the accused in CR No.36 of 2023, in which the aforesaid orders have been passed. Section 457 of Cr.P.C. applies to property, which is seized by the police officer under the Cr.P.C. and reported to the Magistrate. It is only in respect of the property, as seized under Section 457 (1) of Cr.P.C. and reported to the Magistrate that the jurisdiction of the Magistrate under Section 457 of Cr.P.C. can be invoked. Admittedly the amounts in the aforesaid bank accounts were not seized and reported to the Magistrate, on account of which the subsequent order dated 20.11.2023, contempt of which is being alleged, cannot be said to be within the jurisdiction of Magistrate under Section 457 of Cr.P.C. That being the position, in my considered opinion contempt jurisdiction cannot be invoked. The petition is therefore dismissed. No costs.

(AVINASH G. GHAROTE, J.)