IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE TWENTY EIGHTH DAY OF NOVEMBER TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN
AND
THE HONOURABLE SMT JUSTICE K. SUJANA

CONTEMPT CASE NO: 214 OF 2024

Contempt Case filed Under Sections 10 & 12 of Contempt of Courts Act, 1971 to punish the respondents herein for Willful disobedience of the Orders of the High Court dated 09-08-2023 passed in WP No.20129 of 2023.

Between:

Kasula Abhitej, S/o.K.Vidyasagar, Aged 33 years, Occ. Software Employee, R/o. A-217, AV Info Pride Apartments, Medipally, Ranga Reddy District, Telangana State-098. **...Petitioner/Petitioner in W.P. No. 20129 of 2023**

AND

1. Kasula @ Sangem Manvita, W/o. Kasula Abhitej, Aged 31 years, Occ. Software Employee, R/o. Flat No.303, Malathi Apartment, V.V. Nagar, Hubsiguda, Uppal Mandal, Medchal Malkajgir District, Presently residing at 62, Lindsey Street, Apartment No.1, New Bedford, Massachusetts State - 02740, The United States of America.

   Rep. by her GPA Holder Sangem Madhusudhan, S/o. Brahmaiah, Aged 69 years, Occ: Retd. Employee, R/o. Flat No. 303, Malathi Apartment, V.V. Nagar, Hubsiguda, Uppal Mandal, Medchal Malkajgiri District. Permissions granted to GPA Holder to Represent R1 as Per Court Order 08.08.2024 in IA No. 03/24 in CC. No. 214/24

2. Sangem Madhusudhan, S/o. not known to the petitioner, Age 69 years, Occ. Retd. Employee, R/o. Flat No.303, Malathi Apartment, V.V. Nagar, Hubsiguda, Uppal Mandal, Medchal Malkajgir District.

3. Sangem Madhavi Latha, W/o. Sangem Mahusudhan, Aged 56 years, Occ. Private Employee, R/o. Flat No.303, Malathi Apartment, V.V. Nagar, Hubsiguda, Uppal Mandal, Medchal Malkajgir District

...Respondents/Respondents 5,6 & 7 in W.P. No.20129 of 2023

Counsel for the Petitioner : Mr. Soma Srinath Reddy representing Mr. Nageshwar Rao Pujari

Counsel for the Respondents : Mr. K. Jagadishwar Reddy

The Court made the following: ORDER

HON'BLE SRI JUSTICE K. LAKSHMAN

AND

HON'BLE SMT. JUSTICE S. SUJANA

CONTEMPT CASE No.214 OF 2024

ORDER: (Per Hon'ble Sri Justice K. Lakshman)

Heard Mr. Soma Srinath Reddy, learned counsel representing Mr. Nageshwar Rao Pujari, learned counsel for the petitioner and Mr. K. Jagadishwar Reddy, learned counsel for the respondents.

2. This Contempt Case is filed alleging willful and deliberate violation of the order dated 09.08.2023 in W.P. No.20129 of 2023.

3. *Vide* the aforesaid order, this Court directed the respondents herein not to leave the Country with minor during pendency of G.W.O.P. No.38 of 2022 without obtaining prior permission of the Court below in GWOP No.38 of 2022.

4. According to the petitioner, respondent No.1 left the Country with the minor child on 11.01.2024 without obtaining prior permission from the Court below in GWOP No.38 of 2022. Therefore, the respondents violated the aforesaid order willfully and deliberately.

5. The respondents filed counter contending that after going to USA, respondent No.1 applied for another Passport for the minor daughter, US Government has issued a second passport to the minor child. The US Citizen Services granted 'Exit Permit' to the minor girl so as to exit on or before 31.01.2024. Therefore, she came back to India and took the minor girl to USA on 11.01.2024. She was compelled to come down to India in the month of December, 2023 and took the minor girl to USA on 11.01.2024 as petitions seeking permission to travel abroad seem to take some time before disposal which would put the minor child under grave loss and sufferance.

6. It is apt to note that the petitioner and respondent No.1 are the husband and wife, while respondent Nos.2 and 3 are the parents of respondent No.1. The marriage of the petitioner with respondent No.1 was performed on 01.03.2017. It is an arranged marriage. They were blessed with a baby girl, named 'Kasula Medha Sree' on 27.06.2019. She is Citizen of USA. Thereafter, disputes arose between them. According to respondent No.1, the petitioner harassed her and, therefore, she came back to India from USA on 06.11.2021 along with the child on the occasion of wedding anniversary of the parents of the petitioner. The mother of petitioner filed a complaint under Section - 200 of Cr.P.C. and

the same was referred to the police against respondent No.1 for the offences punishable under Sections - 223, 306 and 294 of IPC. Even on the complaint lodged by respondent No.1, a case in Crime No.399 of 2022 was registered against the petitioner. On completion of investigation, the Investigating Officer laid charge sheet and the same was taken on file *vide* C.C. No.4267 of 2022.

7. Thereafter, the petitioner filed a petition under Section - 9 of the Hindu Marriage Act *vide* FCOP No.693 of 2022 against respondent No.1 seeking restitution of conjugal rights. He has also filed a petition *vide* GWOP No.38 of 2022 under Sections - 10 and 25 of the Guardian and Wards Act seeking custody of the minor child. The same is pending. However, the trial Court granted visitation rights and also *interim* custody in favour of the petitioner herein. Respondent No.1 left USA by keeping the child with her parents i.e., respondent Nos.2 and 3 herein. Thus, according to the petitioner, the minor child is in illegal custody of respondent Nos.2 and 3 and respondent No.1 in collusion with respondent Nos.2 and 3 is trying to take the minor child to USA to defeat visitation rights granted to him *vide* order dated 30.06.2023 in I.A.No.29 of 2022 in GWOP No.38 of 2022.

8. It is trite to note that *vide* the aforesaid order, the trial Court permitted the petitioner to take the minor child on every second and fourth Sunday in a month to his house from respondent No.1 between 10.00 A.M. and 5.00 P.M. and drop her at the house of respondent No.1 after 5.00 P.M. Therefore, he filed the aforesaid writ of *habeas corpus* vide W.P. No.20129 of 2023, to direct the Station House Officer, Osmania University Police Station, Hyderabad (respondent No.4) to produce the minor child whose current whereabouts are not known and declare the action of the Station House Officer, Osmania University Police Station in not taking action on the missing complaint lodged by him dated 20.07.2023 as illegal.

9. *Vide* the order dated 09.08.2023, this Court disposed of the said writ petition holding as follows:

"

i. Respondents 6 and 7 are directed to comply with the orders dated 30.06.2023 in I.A.No.29 of 2022 in GWOP No.38 of 2022 passed by the learned Principal District and Sessions Judge - cum - Family Court, Medchal-Malkajgiri District at Malkajgiri.

ii. They shall cooperate with the petitioner in taking the minor child by name 'Kasula Medha Srec' during the aforesaid period.

iii. They shall not create any hurdle including locking of house, non-availability of the minor child etc.

iv. They shall give custody of the minor child on 2nd and 4th Sunday in a month to the petitioner to enable him to take the minor child to his house from 10.00 A.M. to 5.00 P.M.

v. They shall bring the child to the house of the respondents 6 and 7 after 5.00P.M. on the aforesaid days in compliance with the order dated 30.06.2023.

vi. Liberty is granted to the respondents 5 and 6 to seek modification of the aforesaid order dated 30.06.2023 and also to challenge the said order.

vii. Violation if any of this order by the parties will be viewed seriously.

viii. Respondents 5 to 7 are directed not to leave the Country with minor child during the pendency of the aforesaid GWOP No.38 of 2022 without obtaining prior permission of the Court below in GWOP No.38 of 2022.

ix. This order is subject to result of CRP (SR) No.29709 of 2023 filed by the petitioner."

Thus, this Court directed the respondents herein not to leave the Country with minor child during pendency of GWOP No.38 of 2022 without obtaining prior permission of the Court below in GWOP No.38 of 2022.

10. According to the petitioner, respondent No.1 left the Country along with minor girl on 11.01.2024 and thus she has violated the said order willfully and deliberately.

11. Respondent No.1 has executed a General Power of Attorney dated 06.01.2023 in favour of her father, respondent No.2 herein who

filed counter on his behalf and on behalf of respondent Nos.1 and 3. Paragraph No.6 of the said counter is relevant and the same is extracted below:

> "6. I submit that, after going to USA, the respondent No.1 has applied for another passport for the minor daughter and accordingly the US government has issued a second passport to the minor daughter. The petitioner herein, having come to know about the issuance of passport by the US government through his illegal spying on the respondent No.1, filed a petition before the Hon'ble Family court feigning innocence by seeking to direct the respondent No.1 to deposit the 2nd passport before the court and also filed another petition by permitting him to deposit the passport which was in his custody. The petitioner has illegally kept the passport of the minor in his custody for more than one year and deemed it beneficial to him for depositing the passport so that the respondent No.1 will also be compelled to do the same. At the same time the respondent No.1 herein filed a petition seeking permission to leave the country. It is pertinent to mention here that the US Citizen Services have granted Exit Permit to the minor girl so as to exit on or before 31-1-2024. As such, the respondent No.1 herein has and was compelled to come down to India in the month of December, 2023 and took the minor with her to USA on 11-01-2024 as the petitions seeking permission to travel abroad seemed to take some time before disposal which would put the minor child under grave loss and sufferance. Subsequently all the petitions filed before the Hon'ble Family Court were withdrawn by the respective

parties. The respondent No.1 seeks unconditional apology for her actions, but the minor daughter's welfare and future endeavours were at stake and if the respondent No.1 had not done what she did, the minor daughter would still be at India and suffer for no fault of hers."

12. Thus, respondent No.1 admitted that she has obtained second passport of the minor daughter from US Government and also 'Exit permit' as per which she has to take the minor child to USA on or before 31.01.2024. According to her, petitions seeking permission to travel abroad seem to take some time before disposal which would put the minor child under grave loss and sufferance. Thus, she took the minor child keeping her welfare and future in mind. She sought unconditional apology for the said actions. Thus, respondent No.1 admitted that she left the Country on 11.01.2024 along with minor child without obtaining prior permission from the Court below in GWOP No.38 of 2022. She is also aware of the order dated 09.08.2023 in W.P. No.20129 of 2023. She has not even filed a petition in W.P. No.20129 of 2023 seeking modification of order dated 09.08.2023.

13. Learned counsel for the respondents placing reliance on the order dated 29.12.2023 in C.R.P. No.2336 of 2023, would contend that this Court found fault with the attitude of the petitioner. According to

learned counsel, the petitioner has already filed SLP against the said order and the same is pending before the Hon'ble Supreme Court.

14. This is a contempt case filed by the petitioner under Sections - 10 and 12 of the Contempt of Courts Act, 1971 against the respondents alleging willful and deliberate violation of order dated 09.08.2023 in W.P. No.20129 of 2023. Therefore, the scope of contempt is very limited. This Court cannot travel beyond the scope of the present contempt case.

15. In **Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai**[1], the Apex Court laid the following conditions to be satisfied before a person can be held to have committed civil contempt:

i. there must be a judgment, decree, direction, order, writ or other process of a court;
ii. there must be disobedience to such judgment, decree, direction, order, writ or other process of a court; and
iii. such disobedience of the judgment, decree, direction, order, writ or other process of a court must be willful.

[1]. (2008) 14 SCC 561

16. In **Kanwar Singh Saini v. High Court of Delhi**[2], the Apex Court also held that contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt.

17. Relying on the aforesaid decisions, in **Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor (deceased) rep. by LRs.**[3], the Apex Court laid down certain principles governing the exercise of contempt jurisdiction. Paragraph Nos.41, 42, 44, 45, 47 and 48 are relevant and the same are extracted hereunder:

> "40. The object of the discipline enforced by the court in case of contempt of court is not to vindicate the dignity of the court or the person of the Judge, but to prevent undue interference with the administration of justice.
>
> 41. Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay Pvt. Ltd. and Others reported in (1988) 4 SCC 592).

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2. (2012) 4 SCC 307
3. 2023 INSC 805

42. If a party, who is fully in the know of the judgment/order of the Court, is conscious and aware of the consequences and implications of the order of the Court, acts in violation thereof, it must be held that disobedience is wilful. To establish contempt of court, it is sufficient to prove that the conduct was wilful, and that the contemnor knew of all the facts which made it a breach of the undertaking.

43. xxxxx

44. It behoves the court to act with as great circumspection as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt. [Kanwar Singh Saini v. High Court of Delhi reported in (2012) 4 SCC 307].

45. The sanctity to judicial proceedings is paramount to a society governed by law. Otherwise, the very edifice of democracy breaks and anarchy reigns. The Act 1971 is intended to

correct a person deviating from the norm and trying to breach the law/assuming law on to himself. It intends to secure confidence of the people in the administration of justice by disciplining those erring in disobeying the orders of the Court/undertaking given to court.

46. xxxxx

47. The Constitutional Bench of this Court in the case of Supreme Court Bar Association (supra), while discussing the ambit of powers under the Act 1971 and the principles to be followed while punishing a party held as under:

"28. An analysis of the above provision shows that sub-section (1) of Section 12 provides that in a case of established contempt, the contemner may be punished:

(a) with simple imprisonment by detention in a civil prison; or
(b) with fine; or
(c) with both.

A careful reading of sub-section (2) of Section 12 reveals that the Act places an embargo on the court not to impose a sentence in excess of the sentence prescribed under sub-section (1). A close scrutiny of sub-section (3) of Section 12 demonstrates that the legislature intended that in the case of civil contempt a sentence of fine alone should be imposed except where the court considers that the ends of justice make it necessary to pass a sentence of imprisonment also. Dealing with imposition of punishment under Section 12(3) of the Act, in the case of Pushpaben v. Narandas V. Badiani [(1979) 2 SCC 394 : 1979 SCC (Cri) 511] this Court opined: (SCC p. 396, para 6)

"6. A close and careful interpretation of the extracted section leaves no room for doubt that the

legislature intended that a sentence of fine alone should be imposed in normal circumstances. The statute, however, confers special power on the Court to pass a sentence of imprisonment if it thinks that ends of justice so require. Thus before a Court passes the extreme sentence of imprisonment, it must give special reasons after a proper application of its mind that a sentence of imprisonment alone is called for in a particular situation. Thus, the sentence of imprisonment is an exception while sentence of fine is the rule."

Xxx xxx xxx

34. The object of punishment being both curative and corrective, these coercions are meant to assist an individual complainant to enforce his remedy and there is also an element of public policy for punishing civil contempt, since the administration of justice would be undermined if the order of any court of law is to be disregarded with impunity. Under some circumstances, compliance of the order may be secured without resort to coercion, through the contempt power. For example, disobedience of an order to pay a sum of money may be effectively countered by attaching the earnings of the contemner. In the same manner, committing the person of the defaulter to prison for failure to comply with an order of specific performance of conveyance of property, may be met also by the court directing that the conveyance be completed by an appointed person. Disobedience of an undertaking may in the like manner be enforced through process other than committal to prison as for example where the breach of undertaking is to deliver possession of property in a landlord-tenant dispute. Apart from punishing the contemner, the court to maintain the majesty of law may direct the police force to be utilised for recovery of possession and burden the contemner with costs, exemplary or otherwise.

Xxx xxx xxx

36. In deciding whether a contempt is serious enough to merit imprisonment, the court will take into account the likelihood of interference with the administration of justice and the culpability of the offender. The intention with which the act complained of is done is a material factor in

determining what punishment, in a given case, would be appropriate.

Xxx xxx xxx

42. The contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. This jurisdiction may also be exercised when the act complained of adversely affects the majesty of law or dignity of the courts. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. It is an unusual type of jurisdiction combining "the jury, the judge and the hangman" and it is so because the court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. It is a matter between the court and the contemner and third parties cannot intervene. It is exercised in a summary manner in aid of the administration of justice, the majesty of law and the dignity of the courts. No such act can be permitted which may have the tendency to shake the public confidence in the fairness and impartiality of the administration of justice."

(Emphasis supplied)

48. To hold a person guilty of civil contempt, "wilful disobedience" is an indispensable requirement. Whether the conduct of contemnor is deliberate and wilful can be considered by assessing the material on record and attendant circumstances."

18. The Apex Court also considered what willful disobedience is. The Apex Court held that the expression or word "willful" means an act or omission which is done voluntarily or intentionally and with the specific intent to do something which the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say with bad purpose either to disobey or to disregard the law. It signifies a deliberate action done with evil intent or with a bad motive or purpose.

19. In the light of the aforesaid principle, coming to the facts of the case on hand, as discussed above, respondent No.1 herself admitted that despite a direction by this Court *vide* order dated 09.08.2023 in W.P. No.20129 of 2023 not to leave the Country along with minor child without prior permission of the Court below in GWOP No.38 of 2022, she left the Country on 11.01.2024 along with minor child. The only explanation offered by her is that as per the Exist Permit, she has to take the minor child to USA on or before 31.01.2024. Petition filed seeking permission to travel abroad in Court is taking time. Therefore, she left the Country along with the minor on 11.01.2024 itself.

20. In paragraph No.6 of the counter affidavit, she has specifically stated that on obtaining second passport and exit permit, she came back to India in December, 2023 i.e., after the order dated 09.08.2023 in W.P.

No.20129 of 2023, took the child to USA on 11.01.2024. Thus, she is aware of the order dated 09.08.2023 and the direction of this Court not to leave the Country along with minor child without obtaining prior permission of the Court below in GWOP No.38 of 2022. Even then, she went abroad. She has not filed a petition in W.P. No.20129 of 2023 seeking modification of the order dated 09.08.2023 bringing the aforesaid facts to the notice of this Court. The explanation offered by respondent No.1 is not satisfactory and the same cannot be accepted.

21. In the light of the aforesaid discussion, this Court is of the considered view that respondent No.1 has committed willful and deliberate violation of the order dated 09.08.2023 passed by this Court in W.P. No.20129 of 2023 and she is liable for punishment in terms of Section - 12 of the Contempt of Courts Act, 1971.

22. As far as respondent Nos.2 and 3 are concerned, in view of the aforesaid discussion, the petitioner failed to make out any case to punish them under the provisions of the Contempt of Courts Act, 1971 and, therefore, this contempt is liable to be closed against respondent Nos.2 and 3.

23. The present Contempt Case is accordingly allowed in part sentencing respondent No.1 to suffer simple imprisonment for a period

of two (02) months and to pay a fine of Rs.2,000/- (Rupees Two Thousand Only) within 04 (four) weeks from today. As far as respondent Nos.2 and 3, this Contempt Case is closed against them. In the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in this Contempt Case shall stand closed.

Sd/- P. CH. NAGABHUSHAMBA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Kasula Abhitej, S/o.K.Vidyasagar, R/o. A-217, AV Info Pride Apartments, Medipally, Ranga Reddy District, Telangana State-098.
2. Sangem Madhusudhan, S/o. Brahmaiah, GPA Holder of Kasula @ Sangem Manvita, W/o. Kasula Abhitej R/o. Flat No.303, Malathi Apartment, V.V. Nagar, Hubsiguda, Uppal Mandal, Medchal Malkajgir District.
3. The Registrar (Judicial-I), High Court for the State of Telangana at Hyderabad.
4. The Section Officer, O.S. Section, High Court for the State of Telangana at Hyderabad.
5. The Section Officer, Accounts Section, High Court for the State of Telangana at Hyderabad.
6. One CC to Mr. Nageshwar Rao Pujari, Advocate [OPUC]
7. One CC to Mr. K. Jagadishwar Reddy, Advocate [OPUC]
8. Two CD Copies

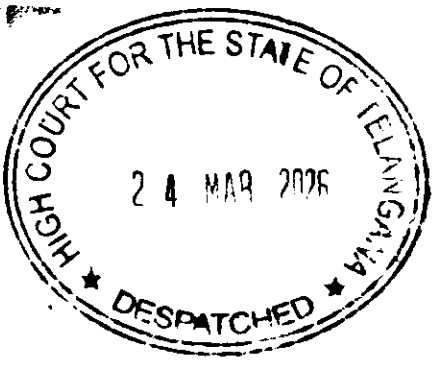
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HIGH COURT

DATED:28/11/2024

ORDER

CC.No.214 of 2024



C.C. IS ALLOWED IN PART

(10)

kpr

23/3/26