

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CONTEMPT CASE NO: 251 OF 2024

Contempt Case filed under Sections 10 to 12 of Contempt of Courts Act, 1971 to punish the respondents herein for their willful and deliberate disobedience of the Orders of the High Court dated 11-12-2023 made in Crl.P.No. 12012 of 2023.

Between:

Golasu Narsaiah @ Golasu Narsaiah, S/o. G. Komaraiah, Aged 55 years, Occ. Business, C/o. M/s. UK Agri Seeds India Pvt Ltd., Flat No. 1004, 10th Floor, Babukhan Estate, Basheerbagh, Hyderabad

...Petitioner / Accused No 2

AND

1. M. Sairamana, Circle-Inspector of Police, Narmetta Circle, Narmetta, Jangaon District, Telangana 506224
2. Naresh Yadav, Sub-Inspector of Police, Tharigoppula Police Station, Warangal, Telangana 506224
3. Vithal Nayak, Police Constable, Tharigoppula Police Station, Warangal, Telangana 506224
4. Venkateshwarlu, Police Constable, Tharigoppula Police Station, Warangal, Telangana 506224

Leave granted to file the Present Contempt Case against RR 1 to 4 as per Court Order dt 04/09/24 in IA No 1/24 in CC No. 251/24

(Respondent Nos. 1,3 and 4 are not necessary parties to this contempt case)

...Contemnors

Counsel for the Petitioner : Sri T Surya Satish

Counsel for the Respondents : GP for Home (Not Present)

The Court delivered the following Judgment :

THE HON'BLE SRI JUSTICE K.SURENDER

CONTEMPT CASE No. 251 OF 2024

JUDGMENT:

This Contempt petition is filed under Sections 10 & 12 of the Contempt of Courts Act to punish the respondent Police officer for deliberate and willful violation of this Court's order dated 11.12.2023 passed in Crl.P.No.12012 of 2023.

2. Petitioner herein was arrayed as Accused No.2 in Crime No.137 of 2023 registered for the offences under Section 409 and 420 of the Indian Penal Code. Petitioner moved this Court and filed Criminal Petition 12012 of 2023. This Court by order dated 11.12.2023 passed the following order;

"This Criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.) by the petitioner/accused No.2 to quash the proceedings in Crime No.137 of 2023 on the file of the Tharigoppula Police station, Warangal. The offences alleged against the petitioners are punishable under Sections 409 and 420 of Indian Penal code.

2. *Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent No.1-State. Perused the record.*

3. *The case of the defacto complainant is that total quantity of paddy of 100 tons, which is valued at*

Rs.22,50,000/- was handed over to the petitioner/accused No.1. However, Rs.3,50,000/- was paid and Rs.19,00,000/- is still pending.

4. *Prima facie*, since as per the transaction, the petitioner does not fall within the persons mentioned in the Section 409 of Indian Penal Code, this Court deems it appropriate to direct the police to follow the procedure laid down under Section 41-A Cr.P.C and also the guidelines formulated by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar (2014) 8 SCC 273**, scrupulously. However, the petitioner shall co-operate with the Investigating Officer by furnishing information and documents as sought by him in concluding the investigation.

5. Accordingly, this Criminal Petition is disposed off."

3. The petitioner was arrested on 15.12.2023 early in the morning at 7:00 a.m. at Hyderabad and was taken to Tharigoppula Police Station, Jangaon District and produced before the Judicial First Class Magistrate at Jangaon who remanded him to 14 days judicial custody. According to the petitioner, he informed the respondent No.2 Naresh Yadav, Sub-Inspector of Police at the time of arrest that he obtained orders from the High Court to follow 41-A Cr.P.C. procedure and also informed to the Magistrate regarding the orders of this Court when he was produced before the Magistrate.

4. Petitioner filed the present Contempt Petition to punish the contemnor/respondents under Sections 10 and 12 of the Contempt of Courts Act for deliberate and willful violation of the order dated 11.12.2023 and also for not following the guidelines of the Honourable Supreme Court in **Arnesh Kumar's case**.

5. Though, the case was filed against four officials of Tharigoppula Police Station, however, cognizance was taken only against Naresh Yadav, Sub-Inspector who is 2nd respondent, since he was responsible for the arrest of petitioner. The counsel endorsed that he is not pressing the application insofar as the other respondents 1, 3 and 4 are concerned in contempt petition.

6. Counter affidavit dated 04.06.2024 was filed by the Contemnor Sub-inspector Naresh Yadav. In his counter affidavit he stated at para-4 that the order was not communicated by this Court or by the petitioner or his counsel. The said order was dispatched from this Court on 18.12.2023. At para-5 he stated that the respondent-Police tried to serve 41-A Cr.P.C. notice to the petitioner but the petitioner was absconding. Subsequently, on 15.12.2023, the petitioner/A2 was apprehended after informing the grounds of arrest. Paras 4 and 5 of the counter are reproduced;

"4. In reply to Para No.5 of the above Criminal Petition, it is respectfully submitted that the above said order was

neither communicated to the Respondent No.2 by the Hon'ble Court nor by the Petitioner herein or his counsel. The said order was dispatched from the Hon'ble Court on 18.12.2023.

5. In reply to para No.6 of the above criminal petition, it is respectfully submitted that as stated supra the above said order was neither communicated to the respondent No.2 by the Hon'ble Court nor by the petitioner herein or his counsel. However, the respondents Police tried to serve the Notice under Section 41-A Cr.P.C to the petitioner but the Petitioner was absconding. Subsequently, on 15.12.2023, the petitioner/A2 was apprehended after informing the grounds of arrest to him as well as his relatives by issuing Notice U/s.50 Cr.P.C. and 50(A) Cr.P.C. on 15.12.2023 and produced the petitioner/A2 before the Hon'ble IV M.M In-charge Court at Warangal. That the Respondents Police conducting the investigation into the above case in fair and transparent manner by strictly following due process of law more particularly the guidelines framed in **Arnesh Kumar's** case."

7. This Court questioned about the affidavit filed by contemnor, claiming following the procedure under section 41-A of Cr.P.C and asked the Officer to produce the CD file to know whether any attempts were made to serve notice on to the petitioner herein. At that juncture, the contemnor represented by the Government Pleader informed that they need time to file a better affidavit.

8. The second affidavit was filed by the Contemnor on 30.10.2024. In the said affidavit also the contemnor again stated the very same facts which were in the affidavit dated 05.06.2024. When this Court questioned about the assertion of the contemnor at paras-7 and 12 of the affidavit that 41-A Cr.P.C. procedure and guidelines framed in **Arnesh Kumar's case** were followed and asked to file the CD file in the case, the Contemnor again sought time to file a better affidavit. In both the affidavits dated 05.06.2024 and 30.10.2024, the contemnor stated that he had no knowledge about the orders passed by the Court and also submitted his unconditional apology.

9. The contemnor filed 3rd affidavit dated 23.11.2024. In the 3rd affidavit, the paragraphs in the earlier affidavit pertaining to following the procedure under Section 41-A Cr.P.C and **Arnesh Kumar** guidelines were removed and stated that he was not aware of the order being passed by this Court directing the Police to follow the procedure under Section 41-A of Cr.P.C.

10. This Court questioned the Public Prosecutor about the manner in which the Police are informed about the criminal appeals or petitions being filed. The Public Prosecutor stated that in all quash petitions once notice is received in the Public Prosecutor's office, the same is transmitted to the concerned police station. Even

after the orders are passed, the said intimation is given to the concerned police station.

11. The version of the contemnor in the first and second affidavits that he tried to follow the procedure under Section 41-A of Cr.P.C and the petitioner/accused was not available, is not acceptable. It is not explained by the Contemnor as to reasons for not being able to find the petitioner for serving notice under Section 41-A Cr.P.C. but arrested him on 15.12.2023. If the Contemnor wanted to serve notice as stated by him in his first two affidavits, he ought to have served it on 15.12.2023.

12. Any person who has obtained an order protecting his personal liberty restraining the Police from arrest initially, directing the police to follow the procedure prescribed under Section 41-A of Cr.P.C, would inform the police officer invariably when the police officer wants to arrest him. The petitioner/accused has specifically stated in his affidavit that he had informed the contemnor about the order of this Court to follow procedure under Section 41-A of Cr.P.C.

13. The petitioner/accused also stated that he informed the concerned Magistrate on the date of remand i.e. 15.12.2023. However the Magistrate had ordered for remand. Before the Magistrate Court also the contemnor had prepared the remand

report citing the provision of law under Section 409 of IPC, and also suppressing the order of this Court. The said penal provision is punishable up to life imprisonment as such the provision of 41-A of Cr.P.C. would not apply. For the said reason, though this Court had deemed it appropriate to issue *suo motu* notice to the Magistrate for remanding the petitioner/accused, however, restrained from doing so since the remand report was prepared under Section 409 and 420 of IPC and bail petition was not filed on the same day but filed on 18.12.2024 informing about this Court's order. Further, on 21.12.2023, the Magistrate referred to the order of this Court and granted bail.

14. The petitioner/accused was remanded on 15.12.2023. However, the bail petition was filed on 18.12.2023. In the bail petition at para-6 it was specifically mentioned that the High Court in the Criminal Petition No.12012/2023 by order dated 11.12.2023 directed the Police, Tharigoppula, to follow the procedure laid down under Section 41-A of Cr.P.C. To the said bail petition, counter was filed by the prosecution which was signed by the Contemnor on 19.12.2023. Contemnor stated in all the three affidavits filed by him that the order was dispatched on 18.12.2023. In the counter dt.19.12.2023 which was signed by the contemnor though the bail petition mentioned regarding the orders of this Court, in the counter

there is no averment. It is apparent that the contemnor had knowledge of the orders and has deliberately arrested the petitioner/accused in flagrant violation of the orders of this Court. Such deliberate violation by the contemnor and his conduct clearly reflects his arrogance and willful disobedience of the direction of this Court to follow the procedure under Section 41-A of Cr.P.C.

15. After the contempt petition was filed the contemnor in the first two affidavits asserted that he tried to serve 41-A Cr.P.C. notice on the petitioner/accused. The contemnor is again lying on oath in the affidavit. It is not explained as to how the petitioner/accused could be arrested on 15.12.2023 and the contemnor has not issued any notice under Section 41-A of Cr.P.C. but, arrested the petitioner/accused. As claimed by the contemnor in the two affidavits, if at all he had the intention to serve Section 41-A notice, it should have been done on 15.12.2023 without arresting the petitioner/accused and given time to the petitioner to explain as required under Section 41-A Cr.P.C. The version in the affidavits that he wanted to follow Section 41-A Cr.P.C. procedure and also **Arnesh Kumar** guidelines is false and made up to wriggle out of the contempt proceedings.

16. I have no hesitation to hold that the contemnor is guilty of civil contempt for deliberate and willful disobedience of the orders of this

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Court dated 11.12.2023. As already discussed, i) the contemnor having knowledge of the orders of this Court resorted to arresting the petitioner/accused without serving 41-A Cr.P.C notice as claimed in both the affidavits, ii) filed counter before the Magistrate Court on 19.12.2023 without adverting to this Court's orders though it was specifically mentioned in the bail petition of the petitioner/accused and according to the Contemnor the orders of this Court were dispatched on 18.12.2023 itself. The Public Prosecutor's office informs every officer concerned about the quash petition being filed and also the orders of this Court.

17. The unconditional apology tendered by the contemnor is unacceptable. His conduct as discussed above clearly reflects his deliberate and arrogant approach in violating this Court's order and coming up with a false version that he tried to follow procedure under Section 41-A of Cr.P.C., when questioned by this Court. There is absolutely no remorse or contrition and therefore the apology does not merit acceptance.

18. The deliberate act of the contemnor in violating this Court's order resulted in the petitioner being jailed for seven days. Under Article-21 of the Constitution, personal liberty is a fundamental right and can only be deprived in accordance with procedure established by law. It is the duty and responsibility of a public

servant to uphold the law and not misuse his official position to deprive an individual of his personal liberty by deliberately flouting Court orders. The State is responsible for the acts of public servants. However keeping in view the manner in which the contemnor acted undermining the order of this Court, the petitioner has to be compensated at the cost of the Contemnor. The Contemnor shall pay compensation of Rs.50,000/- to the petitioner.

19. The contemnor is sentenced to one week imprisonment and also shall pay fine of Rs.2,000/-. In addition, the contemnor shall pay compensation of Rs.50,000/- to the petitioner in his personal capacity.

20. Accordingly, Contempt Case is ordered. The Contemnor is absent at the time of pronouncing the Judgment and there is no representation by the Government Pleader on behalf of the Contemnor, who appeared earlier. The Registry is directed to take steps to see that the Contemnor shall serve out the sentence of one week as ordered.

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Sd/- K. SAILESHI
DEPUTY REGISTRAR

SECTION OFFICER

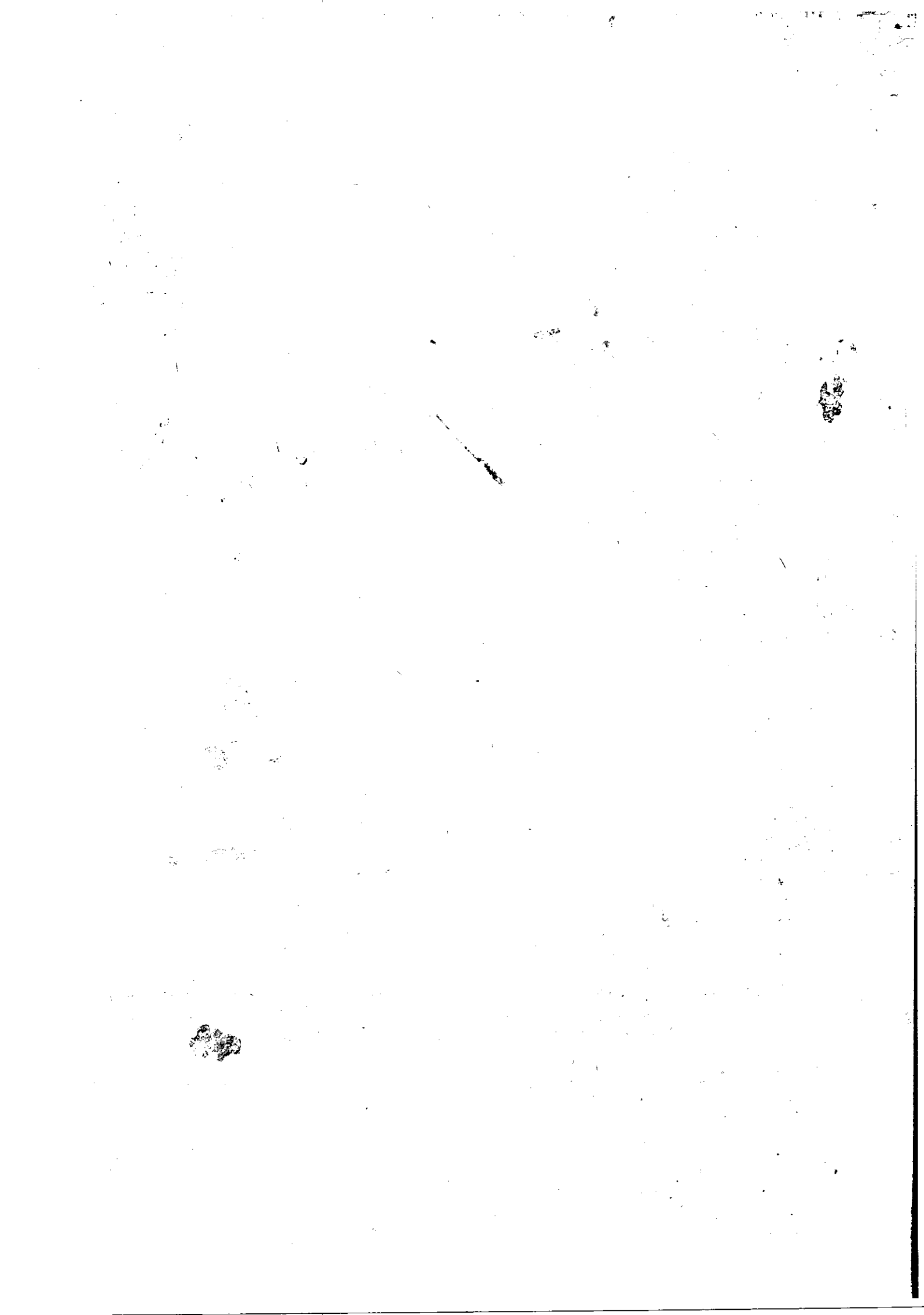
To,

1. The Golasu Narsaiah @ Golusu Narsaiah, S/o. G. Komaraiah, Occ. Business, C/o. M/s. UK Agri Seeds India Pvt Ltd., Flat No. 1004, 10th Floor, Babukhan Estate, Basheerbagh, Hyderabad
2. The Registrar Judicial-I, High Court for the State of Telangana at Hyderabad

3. The Section Officer, OS Section, High Court for the State of Telangana at Hyderabad
4. The Section Officer, Accounts Section, High Court for the State of Telangana at Hyderabad
5. Two CCs to the GP for Home, High Court for the State of Telangana, Hyderabad [OUT]
6. One CC to Sri T Surya Satish, Advocate [OPUC]
7. Two CD Copies

VA

A handwritten signature in black ink, appearing to be 'Bj' with a stylized flourish.

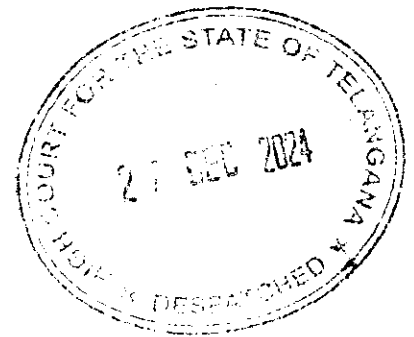


HIGH COURT

DATED:27/12/2024

JUDGEMENT

CC.No.251 of 2024



ORDERING THE CONTEMPT CASE

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27/12/24
bcs

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

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(Respondent Nos. 1,3 and 4 are not necessary parties to this contempt case)

...Contemnors

Counsel for the Petitioner : Sri T Surya Satish

Counsel for the Respondents : GP for Home (Not Present)

The Court made the following Order :

Mr. Mahesh Raje, learned Government Pleader for Home was not present in the morning session (10:30 A.M.) when the orders were pronounced. However, he appeared before this Court at 2:15 PM and requested to suspend the sentence so as to enable the contemnor to file an appeal. Contemnor is not present.

However, keeping in view the representation made by the learned Government Pleader, sentence of imprisonment of one (01) week is suspended for a period of ten (10) days to enable the contemnor to prefer an appeal.

//TRUE COPY//

**Sd/- K. SAILESHI
DEPUTY REGISTRAR**

SECTION OFFICER

To,

1. Naresh Yadav, Sub-Inspector of Police, Tharigoppula Police Station, Warangal, Telangana 506224
2. The Section Officer, OS Section, High Court for the State of Telangana at Hyderabad
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VA



HIGH COURT

DATED:27/12/2024

ORDER ~~XXXXXXXXXX~~

CC.No.251 of 2024



ORDERING THE CONTEMPT CASE

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27/12/24
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