

2024:PHHC:111934

104 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COC-81-2020

Decided on:-29.08.2024

Sarvesh Kumar

....Petitioner..

vs.

Harbhajan Singh and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vaibhav Sehgal, Advocate for the petitioner.

Mrs. G.K. Mann, Senior Advocate with
Mr. Anmol Jeevan Singh Gill, Advocate,
for respondent No.2.Mr. Karan Singh, Advocate,
for UOI.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 12 of the Contempt of Courts Act, 1971, prayer has been made for initiation of contempt proceedings against the respondents on account of alleged non-compliance of order dated 03.12.2019 (Annexure P-1) passed by this Court in CRR-3236-2019 and the same is extracted hereunder:-

“Contends that petitioner is ready to deposit the 50% (Rs.8,55,000/-) of both the cheques amount within two weeks from today subject to final outcome of the criminal complaint, pending before learned trial Court. On instructions, further undertakes that the aforesaid amount be released in favour of the complainant in case he succeeds before learned trial Court and the petitioner would not raise any grievance against the same.

Notice of motion for 21.01.2020.

Dasti as well.

In the meantime, passing of the final order shall remain stayed.”

2. Learned counsel for the petitioner submits that the undertaking as regards deposit of Rs.8,55,000/- was made by the counsel in the presence of respondent No.2 (in COCP-81-2020) and the purpose of marking his presence was that the assurance was indirectly extended by him being the son of the petitioner (in CRR-3236-2019) and thus, he was to be held liable for breach of the said undertaking.

3. On the other hand, learned Senior counsel representing respondent No.2 submits that from the tenor of the order dated 03.12.2019, it is apparent that undertaking was made on behalf of the petitioner (in CRR-3236-2019) only and not on account of his son i.e. respondent No.2-Gurmeet Singh and thus, no case was made out against him.

4. I have heard learned counsel for the parties and gone through the paper book.

5. Undoubtedly, in the contempt proceedings, the charges based on allegations of willful disobedience, beyond reasonable doubt are required to be proved against the contemner as para materia with the principles in criminal prosecution.

6. In the present case, a perusal of order dated 03.12.2019 shows that the undertaking was inconclusively on behalf of Harbhajan Singh (petitioner in CRR-3236-2019 and respondent No.1 in the present case) and not on behalf of his son. Reading of the order further shows that respondent No.2-Gurmeet Singh nowhere extended any kind of undertaking on behalf of his father and his presence was marked along with the counsel merely

because he was there in the Court at the time of hearing. In such circumstances, on account of respondent No.1-Harbhajan Singh having died, no case for initiation of contempt proceedings is made out against respondent No.2. As such, the present petition is dismissed.

However, the petitioner would be at liberty to invoke his other remedies in accordance with law.

Rule discharged.

29.08.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No