

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(234)

CACP-9-2023 (O&M)

Decided on : 09.01.2024

Suresh Kumar Satija

.....Petitioner(s)

Versus

Balwinder Singh Touri

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr. K.B. Raheja, Advocate for the appellant.
(Proceedings conducted through Video Conferencing).

G.S. Sandhawalia, J. (Oral)

The present contempt appeal which has been filed under Section 19(1) of the Contempt of Courts Act, 1971 (for short 'the Act') is directed against the order of the learned Single Judge passed in **COCP No.2490 of 2018** dated 12.04.2023.

2. Vide the said order the learned Single Judge while deciding the contempt petition filed by the appellant had directed the respondent to deposit a sum of ₹1 lakh with the Punjab and Haryana High Court Employee's Welfare Association. It was also noticed that costs having been deposited as per the receipt dated 12.04.2023 attached with the main file, the petition was disposed of.

3. A perusal of the order would go on to show that the respondent had agreed to pay ₹1 lakh to the petitioner, but the counsel for the petitioner/appellant herein had stated that he has instructions that the petitioner would not want any costs from the respondent, but he should be held guilty of the contempt of the directions of the Court. The learned Single Judge had also noticed that the allegations were of handcuffing the present appellant but it was only on account of the fact that a larger number of persons had gathered and tried to stop the Government vehicle from proceeding further when the Investigating Officer had taken the appellant to the shops of his sons at Abohar and thus, it was a preventive measure and even the Special Investigating Team has opined in favour of the respondent. It was in such circumstances no specific finding was recorded against the respondent and he was not held guilty and has not been convicted.

4. The appellant herein is aggrieved to the extent that the conviction was not recorded and neither any condition was put in the service book of the respondent, who is a police official.

5. We are of the considered opinion that the present appeal is not maintainable, in view of the law laid down by the Coordinate Bench in **Subhash Chander Sethi Vs. Sh. B.R. Kakkar, Commissioner, Municipal Corporation of Ludhiana, 1990(2) PLR 46** wherein while relying upon the judgment of the Apex Court in **D.N. Taneja Vs. Bhajan Lal, (1988) 3 SCC 26**, it has been held that an appeal would only lie when the Court imposes a punishment for contempt. Similar view has been taken by the Apex Court in **Midnapore Peoples Co-op. Bank Ltd. and others Vs. Chunilal Nanda and others, (2006) 5 SCC 399**, wherein the law regarding the appeals against the order under the contempt proceedings had been summarized and it had been held that an appeal under Section 19 of the Act would only be maintainable against the decision of the High Court to punish for contempt. The relevant part of the said judgment reads as under:-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :

I. An appeal under [section 19](#) is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under [Article 136](#) of the Constitution. III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the

exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under [section 19](#) of the Act, can also encompass the incidental or inextricably connected directions. V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under [Article 136](#) of the Constitution of India (in other cases).

The first point is answered accordingly.

6. In such circumstances, in the absence of any conviction having been recorded, the present appeal has to be dismissed on the ground of maintainability. Resultantly, the same is dismissed, in view of the settled law.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

09.01.2024
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No