

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024.PHHC.158362-DB



LPA No.1939 of 2024
Date of Decision:28.11.2024

Dr. M.K. GahlautAppellant

Versus

State of Haryana and othersRespondents

Coram: **Hon’ble Mr. Justice G.S. Sandhawalia**
 Hon’ble Mrs. Justice Meenakshi I. Mehta

Present:- Mr. Mahipal S. Yadav, Advocate,
 for the appellant.

G.S. Sandhawalia, J. (Oral)

1. The present appeal is directed against the order dated 28.02.2024 passed in CWP No.4682 of 2018 whereby the learned Single Judge declined to initiate any proceedings against respondent no.2, who is another advocate as the appellant herein is also an advocate.
2. The appellant-petitioner was aggrieved against the order dated 22.12.2017 (Annexure P-8) passed by the Judicial Magistrate 1st Class, Faridabad whereby the learned Court declined to refer the matter to the High Court for initiation of contempt proceedings against private respondent no.2. The prayer made before the learned Magistrate was that private respondent No.2 obstructed in the administration of justice by assaulting the appellant and, thus, the contempt proceedings were sought to be initiated against him. However, the learned Magistrate decided not to refer the matter keeping in mind the fact that the assault

information of assault to the police which would certainly have taken the necessary action. Resultantly, the appellant-petitioner had approached the writ court.

3. The reasoning given by the learned Single Judge is that under the definition of Section 2(c) of the Contempt of Courts Act, 1971 (for short “the Act”), a criminal contempt can be initiated against any person, who is found guilty of scandalizing the authority of any court; prejudices or interferes with the due course of any judicial proceedings; or interferes or obstructs the administration of justice in any other manner. Reference was made to Section 15(2) of the Act which empowers the subordinate court to refer the matter to the High Court and further empowers the High Court to take action on a reference made to it by the subordinate court and that it was it is primarily the satisfaction of the concerned Court for initiation of contempt proceedings and once the concerned Court did not find it a fit case for making reference to the High Court for initiation of criminal contempt, the learned Single Judge dismissed the writ petition.

4. We have gone through Section 2(c) of the Act which talks of scandalizing or lowering the authority of the Court and prejudicing or interfering with the due course of any judicial proceedings or interfering or obstructing the administration of justice in any other manner. The cause of action as such is apparently, as per the appellant himself, was on account of attending the Court proceedings and the threat given by the Clerk of respondent no.2 and apparently there was an alleged assault as such only after the court proceedings were over. Thus, the said conduct would not come under the definition of Section 2(c) of the Act and, therefore, in such circumstances, the learned Magistrate had rightly declined to initiate any contempt proceedings while referring the matter to the High Court.

5. The learned Single Judge has also rightly upheld the order of the learned Magistrate while keeping in view the fact that it is only the discretion of the Court

in view the prevailing facts and circumstances. Perusal of the order passed by the learned Magistrate would also go on to show that the appellant has already reported the matter to the police and, thus, he has an alternative efficacious remedy to pursue the said complaint in accordance with the law.

6. Accordingly, we are in agreement with the opinion of the learned Single Judge in principle as such and find no tangible reason to entertain the present appeal and hence, the same is hereby dismissed, leaving the appellant-petitioner to avail his alternative remedy, in accordance with law, for the alleged assault regarding which he has already reported the matter to the police.

(G.S. Sandhawalia)
Judge

November 28, 2024
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(Meenakshi I. Mehta)
Judge

Whether Speaking:	Yes
Whether Reportable:	No