



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: January 10, 2024

+ CONT.APP.(C) 1/2024, CM APPL. 777/2024 & CM APPL.
778/2024 and CRL.M.(BAIL) 24/2024

AMAR SINGH BHALLA

..... Appellant

Through: Mr. Ronak Karanpuria,
Mr. Jai Wadhwa, Mr. Prateek Kumar
& Mr. Akarsh Jain, Advs.

versus

COURT ON ITS OWN MOTION AND ANR Respondents

Through: Mr. Rajeev K. Virmani, Sr. Adv.
(Amicus Curiae) with Ms. Deveshi
Madan, Ms. Gunjan Soni and
Mr. Mrigank Behl, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 778/2024

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM APPL. 777/2024

This is an application filed by the applicant / appellant
seeking condonation of 94 days delay in filing the present appeal.

For the reasons stated in the application delay in filing the
appeal is condoned.

Application stands disposed of.

**CONT.APP.(C) 1/2024**

1. The present appeal has been filed by the appellant with the following prayers:-

“In the premises as aforesaid, it is most respectfully prayed that this Hon’ble Court may pleased to:

a)Allow this appeal and set aside the impugned judgment Dated 15.09.2023 passed by Single Judge of Hon’ble High Court of Delhi at New Delhi In Cont. Cas(C) 1415/2022; or/and

b)Call for records of the case from Learned Single Judge of Hon’ble High Court in Cont. Cas(C) 1415/2022; or/and

c)Pass such other or further order/s as this Hon’ble Court may deem fit and proper in facts and circumstances of the case.”

2. In effect the appellant is seeking setting aside of impugned orders dated September 15, 2023 passed in Cont. Cas (C) No.1415/2022, whereby the Ld. Single Judge has sentenced the appellant/contemnor for Simple Imprisonment for a term of six months with a fine of Rs.2,000/-.

3. The brief facts are, the respondent herein filed claim before the Commissioner under Workmen Compensation Act, 1923 stating that her deceased husband, Mr. Jitendra / Jitu was employed as driver with appellant on the wages of ₹15,000/- per month. However, the appellant did not give wages to the husband since May 01, 2013 to January 01, 2015. The respondent No.2 alleged that, her deceased husband, Mr. Jitendra/ Jittu demanded his pending wages since May 01, 2013. Pursuant



thereto, the appellant assaulted the respondent's husband and pushed away from his office. It was the case of the respondent No.2 that on January 1, 2015, her husband disappeared and later on only his dead body was found hanging on a tree.

4. It is the case of the appellant that the respondent issued an illegal demand notice dated April 19, 2015 and the same was replied by the appellant on June 06, 2015. An application was filed by respondent No.2, under section 22 (2) of Workman Compensation Act, 1923 before the Workmen Compensation Commissioner, (South), Pushp Vihar, New Delhi, claiming compensation about ₹15 lakhs with interest @ 24%. The appellant herein filed a reply to the said application stating that the deceased Mr. Jitendra/Jittu was never employed with the appellant and the application was filed to blackmail and harass appellant to extort money. It was also his case that the police had investigated the matter and found no role of appellant in the said incident.

5. It is the case of the appellant that the Court of Commissioner, Employee's Compensation Labour Department, Govt. of NCT Delhi vide judgment dated October 17, 2017 allowed the application of respondent No.2 herein and directed the appellant to pay compensation amount of ₹8,73,880/- and penalty @ 50% of compensation amount ₹4,36,940/- and ₹5000/- towards funeral charges.

6. Thereafter, the respondent No.2 herein filed W.P.(C) No.8633/2019 for payment of compensation amount as awarded



by the Court of Commissioner. After issuance of notice, when nobody appeared on behalf of the appellant, this Court had on September 13, 2019 directed the issuance of Non-Bailable Warrant ('NBW', for short) against the appellant. Later on the appellant appeared and therefore the learned Single Judge suspended the order of issuance of NBW.

7. On September 27, 2019, the matter was further considered and the appellant was directed to file the affidavit of his assets on the date of the incident, i.e., January 1, 2015, on the date of the award, i.e., October 17, 2017 as well as on the date of passing of the order dated September 27, 2019. The appellant herein filed an affidavit of assets, income and expenditure. The matter was further taken up for consideration on March 6, 2020 and the order dated September 27, 2019 was slightly modified to the extent mentioned in the order dated March 6, 2020 and the appellant was directed to report the compliance on May 8, 2020. It appears that no substantial hearing had taken place on account of COVID-19 Pandemic.

8. When the matter was taken up for hearing on July 13, 2022, as nobody appeared on behalf of the appellant, court notice was issued to the appellant and his counsel. On September 21, 2022, this Court recorded that the appellant intentionally avoided his appearance and accordingly notice was issued through the concerned SHO. On October 12, 2022, the appellant appeared in person and undertook that, he would make the entire payment along with interest within two months. He was directed to file a



duly attested affidavit to the effect of his undertaking within a period of one week. The learned Single Judge noted that no affidavit has been filed by the appellant as recorded in the order dated October 12, 2022.

9. On December, 1, 2022, the learned Single Judge took note of the fact that the appellant remained absent and despite undertaking no payment was made. Therefore, the notice was again directed to be served through concerned SHO on the appellant. The matter was thereafter taken up for consideration on December 20, 2022 and the statement of the appellant was recorded that he would not be in a position to pay the amount notwithstanding the undertaking given by him on October 12, 2022. Therefore, the learned Single judge directed the issuance of contempt notice to the appellant and reply was directed to be filed. It is a fact that no reply was filed by the appellant despite the matter being taken up by the learned Single Judge on various occasions. Again when, the learned Single Judge took up the contempt petition for consideration on December 21, 2022, it was found that the appellant did not appear and accordingly fresh NBW was issued.

10. On January 5, 2023, the learned Single Judge noting the fact that NBW was not executed, further granted an opportunity to the SHO to execute the same. But, the Court vide order dated February 02, 2023 in Cont. Case No. 1415/2023 and W.P. No. 8633 of 2019, directed attachment of $\frac{1}{3}$ rd share of property of appellant. It is seen that the order of the NBW remained



unexecuted. The matter was again taken up for consideration on April 5, 2023, when it was again noted that the NBW has remained unexecuted. In fact, on May 3, 2023 certain directions were issued with respect to suspension of Aadhar Card of the appellant and with respect to the property situated in Agra. As the NBW remained unexecuted on May 26, 2023, the learned Single Judge directed that in case the warrant is not executed, the Commissioner of Police will have to examine the matter. On May 31, 2023, the NBW was executed and the appellant was produced in the Court. The continuation of his custody till June 1, 2023 was directed and appropriate directions were issued to the Delhi High Court Legal Services Authority to appoint a counsel on his behalf. It was then on June 1, 2023, the appellant again undertook that, he would pay a sum of ₹2 Lakh to the respondent No.2 within a period of one week. He also undertook that he would pay the remaining principal amount to the respondent No.2 in monthly instalment of ₹50,000/- commencing from July, 2023. He also assured the Court that monthly instalments would be paid on or before 5th of every month and he had produced sureties on his behalf. The appellant filed application u/s 7 of Provincial Insolvency Act, 1920 for declaring him as insolvent before Court of Senior Judge, Saket Court, New Delhi.

11. However, due to non-compliance of directions / undertaking, this Court vide order dated September 14, 2023 punished the appellant for imprisonment for six months. It is also



the appellant's case that he has challenged the Commissioner's decision before this Court.

12. Mr. Ronak Karanpuria, learned counsel for the appellant submits that there was no deliberate attempt to disobey the direction / undertaking. He submitted that contempt jurisdiction ought not to have been exercised by this Court for recovery of money decree passed by Ld. Commissioner. Further, there is specific provision in Employee Compensation Act, 1923 for recovery of money / award passed by that Court and the same should have been resorted to.

13. He states that, W.P (C) No. 8633/2019, itself was not maintainable. The contempt proceeding initiated were also bad in law. He referred to the judgment in the case of *R.N. Dey and other v. Bhagyabati Pramanik and others (2000) 4 SCC 4007* to contend that the Contempt Court should be slow to haul up officers for contempt for non satisfaction of money decree. He also relied on the judgment in the case of *Kanwar Singh Saini v. High Court of Delhi (2012) 4 SCC 307*, wherein, it was held that contempt jurisdiction is not substitute of the execution proceedings.

14. He states that the appellant was not the employer of respondent No.2's husband. She had not produced an iota of evidence to prove that her husband was ever employed by appellant. Further, husband of the respondent No.2 did not die in the course of employment and hence, the Workman Compensation Act, 1923 itself was not applicable in the instant



case. He also states that the appellant was not intentionally disobeying the Court orders / undertaking. Moreover, his assets have already been attached by the orders of this Court and the appellant has no financial capacity to comply with the Commissioner's orders.

15. Mr. Karanpuria states that the Commissioner made a significant error by entertaining the respondent No.2's application under section 22 of the Workman Compensation Act, 1923 when there is absence of evidence establishing any employer-employee relationship between the deceased and the appellant. Further, there was no substantiating proof, as the driver's license nor any documentation provided by the deceased to show that he was ever been employed as a driver by the appellant. He also states that the Commissioner incorrectly imposed liability on the appellant when the deceased's demise was due to natural causes and not related to the course of employment, thereby rendering the provisions of the Workman Compensation Act, 1923 irrelevant to this case. He states that the impugned order is liable to be set aside.

16. Mr. Rajeev K. Virmani, Senior Advocate, learned *Amicus Curiae*, appointed by the learned Single Judge is present pursuant to a notice issued by this Court.

17. Mr. Virmani submits there is no illegality insofar as the order passed by the learned Single Judge. He submits that the conduct of the appellant has been contumacious being willful disobedience of the undertaking given by the appellant.



18. He states that the genesis of the case is an award passed in favor of the respondent No.2, whose husband was an employee of the appellant, the proprietor of M/s Rahul Dampher & Tractor Service, who died while in service for which the respondent No.2 had made a claim before the Workmen Compensation Commissioner, South, Pushp Vihar. The Commissioner awarded the same in her favor but because of non-payment of the awarded amount made, she filed the writ petition being W.P.(C) 8633/2019, praying for the following reliefs:

"A- To direct the Respondents to investigate into the matter and find out as to what level the case has been hushed up and also punish the concerned erring Officers who have buried the Petitioner's case for the last more than four years.

B- To direct the Respondent no. 3 to disburse the said award to the petitioner without any further delay and with interest thereon @24% p.a.

C- Pass any such other or further orders which in the circumstances of the case the Hon'ble Court deem just and proper in the favour of the Petitioner as against the Respondents.

D- Award exemplary costs and damages in favour of the Petitioner as against the Respondents No. 3 to 5."

19. According to Mr. Virmani, it is not a case where the appellant is unable to pay the amount. In fact, the appellant owns a land in Agra and vehicles in his name, though it was stated that the same have been taken on lease. In any case, the amount being around ₹8,73,880/- is payable by the appellant. He also states that the issue which has been raised before the Ld. Single Judge is that the appellant had given undertaking to the Court to comply



with the award, but had violated the same resulting in the punishment.

20. Mr. Virmani submits that, in terms of the impugned order, the Ld. Single Judge has upheld the rule of law / majesty of justice delivery system. It is high time the Court ensure that a person giving an undertaking to the Court does not go scot-free. Any violation of an undertaking should be taken to its legal end, as has been taken by the Ld. Single Judge.

21. In fact, the Ld. Single Judge after pronouncing the order holding the appellant guilty of contempt and imposing punishment, but before sending the appellant to Tihar Jail, had, kept the matter pending, possibly to give a chance to the appellant to file an application for suspension of sentence. But the appellant had not filed it, resulting in the appellant sent to Tihar Jail for undergoing the punishment. So, he says the impugned order need no interference.

22. Having heard the learned counsel for the parties, there is no dispute that the learned Single Judge has passed impugned order under the provisions of the Contempt of Courts Act, 1971, because the appellant had violated the undertaking and assurance given by him to the Learned Single Judge. We agree with the conclusion arrived at by the learned Single Judge in that regard, more specifically to paragraphs No. 35 to 51, which we reproduce as under:-

“35. It can also be seen that the contemnor, during the course of hearing on 25.07.2023, once again undertook



to pay a sum of Rs. 20,000 in cash and Rs. 30,000 via UPI. However, even the said fraction of the total sum has not been paid in full, till date.

36. It is, thus, observed that the contemnor wilfully disobeyed his own undertakings, giving several false assurances on various occasions to the court. It is also to be noted that because of the contemnor's undertaking only, this court had taken a particular view to release the contemnor from the jail. Had the same not been done, the court would have proceeded with the matter at that stage itself.

37. This court is of the opinion that one cannot be allowed to trounce the majesty of law and pollute the streams of justice by brazenly engaging in contumacious conduct with an aim of hoodwinking the judicial system. The edifice of a vibrant constitutional democracy rests on the pillars of rule of law, which needs to be preserved with full vigour to maintain the sanctity of judicial proceedings.

38. Therefore, an unbridled interference with the administration of justice and wilful disregard for the judicial proceedings has to be checked on the anvil of contempt jurisprudence, lest it undermines the dignity of the judiciary in the eyes of the common man.

39. Having considered the entire sequence of facts and repeated undertakings being wilfully breached by the contemnor, this court finds that this is a fit case where the contemnor should be held guilty for commission of the contempt under the provisions of the Act of 1971. Accordingly, the contemnor is found guilty of committing the contempt of this court for wilfully disobeying his undertakings.

40. This court would now consider this matter for passing an appropriate order on the question of sentence. The case is adjourned till 15.09.2023. However, for the reasons recorded in the order, the contemnor is sent to judicial custody to be produced on 15.09.2023.



Proceedings dated 15.09.2023

41. The contemnor is produced before the court.

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43. Learned Amicus Curiae submits that in the instant case, it is not only once but at least for three occasions, the contemnor has violated the undertaking given before this court.

44. According to the learned Amicus Curiae, the contemnor actively participated in the MCD election of the year 2022. He also submits that his active participation can be seen from various advertisement material, including posters, some of them have been referred during the course of hearing. He also submits that the contemnor was operating a transport business in the name of M/s Rahul Dampher & Tractor Services. He further submits that the contemnor owns immovable properties at Agra. The details of those properties have already been taken note of in earlier proceedings.

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47. Even at this stage, had the contemnor offered any reasonable amount to the petitioner, this court would have been inclined to defer the factum of awarding punishment. Unfortunately, the contemnor has not even made miniscule of efforts to abide by his own undertakings and pay any reasonable sum to purge the contempt. Therefore, this court is duty bound to ensure that necessary consequences follow. The Hon'ble Supreme Court, in the case of Kapildeo Prasad Sah v. State of Bihar⁵, has held that the power to punish for contempt is necessary for the maintenance of effective legal system and the same is exercised to prevent perversion of the course of justice.

48. Under the facts of the instant case, for the purpose of awarding punishment, the sequence of events will have to be properly appreciated. This court has already



noted the same not only once, but on numerous occasions, that the opportunity was extended to the contemnor to obey the undertaking given before this court.

49. It appears that the contemnor has not made even a slightest of endeavour to obey the undertaking given to the court. He has brazenly violated the directions and the undertakings. It also appears that he does not have any respect for the court of law.

50. This court has taken note of the fact that the mere imposition of the fine would neither serve the purpose of maintaining the dignity of this court nor would be appropriate in the facts and circumstances of the present matter. Even in these contempt proceedings, this court had to issue NBW several times to ensure the presence of the contemnor as he was evading appearance. Therefore, this court is constrained to impose the maximum sentence as the contemnor has repeatedly breached his own undertakings.

51. Considering the facts of the instant case and the rule of law laid down in the foregoing decisions, it is deemed appropriate to punish the contemnor with simple imprisonment for a term of six months, commencing from 14.09.2023.

(emphasis supplied)

23. For the sake of brevity, we shall reproduce the relevant facts and orders (as recorded by the learned Single Judge), as under:-

a. On October 12, 2022, the appellant appeared in person and undertook that he would make the entire payment along with interest within two months. On December 01, 2022, learned Single Judge took note of the fact that the appellant remained absent and despite appellant's undertaking, no payment was made.



Therefore, notice was again directed to be served through concerned SHO to the appellant. The matter was thereafter, taken up for consideration on December 20, 2022 and the statement of the appellant was recorded that, he is not in a position to pay the amount, notwithstanding the undertaking given by him on October 12, 2022. The court, therefore, directed for issuance of contempt notice to the appellant and reply was directed to be filed. The order dated December 20, 2022, reads as under:-

"1. Pursuant to the directions issued to the concerned SHO, the respondent no. 5 is present in Court. While not denying that he had undertaken before this Court on 12.10.2022 to pay the due amount to the petitioner on or before 31.10.2022, he now submits that he is not in a financial position to pay the amount.

2. Mr. Rajeev K. Virmani, learned Senior Advocate, Amicus Curiae appointed in the matter, while disputing this position, hands over a copy of a Pamphlet which prima facie shows that the son of respondent no. 5 had participated in the recent MCD elections in Delhi. The said pamphlet also contains a picture of the respondent no.5, and is taken on record.

3. In these circumstances, this Court is inclined to accept the submission of the learned Amicus Curiae that the respondent no. 5 despite having the means to pay the amount due under the award, which has attained finality, is trying to deliberately mislead the Court and deprive the petitioner, a young widow with a minor daughter, who has been waiting for the amount for the last many years. It



therefore, prima facie appears that the respondent no. 5 is wilfully refusing to abide by its undertaking given to this Court, as record in the order dated 12.10.2022.

4. Issue contempt notice to respondent no. 5. Notice is accepted by respondent no. 5, as also his counsel, who prays for and is granted one day's time to file reply. The Registry is directed to allocate a separate number to the Contempt Petition.

5. List on 21.12.2022.

6. The contemnor/respondent no. 5 will remain present in Court on 21.12.2022. The concerned SHO will ensure that respondent no. 5 is present in Court tomorrow as well."

(emphasis supplied)

b. When the court took up the said contempt petition for consideration on December 21, 2022, it was found that the appellant did not appear and accordingly, a NBW was directed to be issued. The order dated December 21, 2022, which reads as under:-

"1. None appears for any of the respondents.

2. Issue Court Notice to Mr. Santosh Kumar Tripathi, learned Standing Counsel (Civil), GNCTD.

3. The respondent no. 5, who had appeared in the Court on 20.12.2022 after being served through the SHO of the area concerned, is again not present today.

4. Let respondent no. 5 be once again seiwed through the concerned SHO for 05.01.2023."

Multiple NBWs were issued by the learned Single Judge to comply with the undertaking. On May 31, 2023, the warrant was executed by the police and



appellant was produced before the learned Single Judge and was sent to judicial custody.

c. On June 01, 2023, in view of the undertaking and the sureties being produced by the appellant, the learned Single Judge directed for the release of the appellant subject to compliance of the directions and undertaking recorded in the order, the order is reproduced as under:-

“1. Mr.Jai Wadhwa, Advocate from the Delhi High Court Legal Services Committee enters appearance for Mr. Amar Singh Bhalla, who has been produced in Court.

2. Mr. Bhalla undertakes to pay a sum of Rs.2,00,000/- to the petitioner/Ms. Bala within one week. He further undertakes that the remaining principal sum of Rs.6,73,880/- will be paid by him in monthly instalments of Rs.50,000/- per month commencing from July, 2023 and assures the Court that this amount will be paid on or before 5th of every month. He further prays that after he pays the principal amount, this Court may, taking into account his financial position, appropriately reduce the rate of interest granted under the award. He, therefore, prays that he may be released from custody on the surety of Mr. Hariom, Mr.Sanjay and Mr.Hari Singh Pahadiya so as to enable him to make arrangements to make the payment to the petitioner.

3. Mr.Hariom, Mr.Sanjay and Mr.Hari Singh Pahadiya are present in Court and state that they will ensure that Mr.Bhalla appears in Court on the next date and on all dates as may be directed by this Court and also makes the payment in instalments as undertaken by him. They hand over



copies of registration certificates of their respective vehicles being no. HR38AA4476, HR13P0820 and HR13R4573 respectively and submit that they are aware that their vehicles may be sold for liquidating the amount to be paid to the petitioner. Copies of the three registration certificates of the aforesaid three vehicles are taken on record.

4. Mr. Rajeev K Virmani, the learned senior counsel appointed as Amicus Curiae assures the Court that the petitioner will abide by the orders as may be passed by this Court in respect of the rate of interest.

5. The aforesaid undertakings given by Mr. Bhalla and the three sureties are accepted. Mr. Bhalla is directed to be released from custody with a direction to him to report to the SHO, Sangam Vihar at 10:30 AM on every Monday and also to remain present before this Court on the next date.

6. A copy of this order be forwarded to the Jail Superintendent, Tihar Jail, Delhi as also to the concerned RTO Offices for compliance.

7. List on 25.07.2023.

8. A copy of this order be given dasti under the signature of the Court Master."

d. On July 25, 2023, when the matter was taken up in the first round, it was noted that nothing was paid to the respondent no. 2. However, when the matter was kept in the pass-over, the appellant arranged a sum of Rs.20,000/- which amount was paid to the respondent No.2. He also undertook that a sum of Rs.30,000/- would be deposited online in the respondent No.2's bank account. It was noted by the learned Single Judge



that, even the undertaking recorded on July 25, 2023 was not obeyed and except a sum of Rs.20,000/- in cash and Rs.10,000/- via UPI, no further amount was paid to the respondent no. 2 by the contemnor. The said order is reproduced as under :-

“1.0 As per order dated 01.06.2023, Mr. Amar Singh, the respondent had undertaken to pay a sum of Rs.2,00,000/- to the petitioner/Ms. Bala within one week. He further undertook to pay the remaining principal sum of Rs.6,73,880/- in monthly instalments of Rs.50,000/- per month commencing from July, 2023 and assured the Court that this amount will be paid on or before 5th of every month. However, no amount has been paid despite undertaking. Today, Ld. Counsel for the respondent submits that the respondent is making efforts to arrange further funds. This court remains unimpressed by the submissions made without any plausible explanation taking into account, the backdrop of the facts of this case.

2.0 Pass-over is sought to make arrangement for payment of Rs.50,000/- today.

3.0 Passed-over for 02:30 p.m.

At 03:15 p.m.

4.0 Ld. counsel for the respondent submits that the respondent could arrange a sum of Rs.20,000/- which has been paid to the petitioner in cash, which she confirms.

5.0. It is undertaken by the respondent that balance amount of Rs.30,000/- shall deposited online in the petitioner's bank account, details of which he has.

6.0 Ld. counsel for the respondent undertakes that the respondent shall pay a sum of Rs.2 lacs by 25.08.2023 and the instalment of Rs. 50,000/- for



the month of August, 23, shall be paid by 05.08.2023.

6.0 List on 14.09.2023.”

e. On September 15, 2023, when matter was called by the learned Single Judge, the appellant submitted that, he is not in a position to arrange for the amount as has been undertaken by him. The learned Single judge held that the contemnor, not only once but on numerous occasions, had undertaken that he would comply with the directions passed by this court and would make the entire payment as has been awarded to the petitioner. The appellant was not disputing about his undertaking. The Court also noted that there is no reply filed by the appellant, much less a satisfactory reply and no suitable answer has been given as to why the undertaking was given by him when he was not in a position to comply with the directions passed by this court. No efforts have been made to obey his undertaking, much less sincere efforts. He only says that he is the sole bread earning member of his family. A natural corollary of the said statement follows that the appellant must be doing some work to earn his livelihood. However, nothing is brought on record to satisfy this court about the reasons for non-compliance of his own undertaking.



24. We also note that the learned Single Judge has considered the position of law in support of his conclusion which cannot be contested. The only plea of the counsel is that the appellant has challenged the award before this Court.

25. Suffice to state, this Court is not concerned with the challenge to the order passed by the Commissioner. This Court is concerned with the order passed in proceedings initiated for violating the undertaking given by the appellant in a willful manner. Surely an undertaking given is violated, the consequence necessarily has to be a punishment under the Contempt of Courts Act, 1971, which includes imprisonment.

26. In this regard we may also refer to the latest opinion of the Supreme Court on identical facts in the case of **Satish P. Bhatt v. State of Maharashtra, 2024 SCC OnLine SC 16** wherein, undertaking given was violated by appellant. The Court while holding the contemnor guilty, has held as under:-

“1. The facts of this case bring to light a situation marked by a persistent disregard for judicial directives and a lackadaisical approach to legal and financial obligations. The behaviour of the Petitioner stands as a testament to how an individual's nonchalant attitude towards financial responsibilities and court orders can undermine the essence of judicial efficacy.

2. The High Court took a firm stance against the appellant's continued failure to fulfil his financial obligations, culminating in the cancellation of his bail and suspension of sentence. This decision, reflecting the frustration of the legal system with repeated non-compliance, sets the stage for our deliberation.

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17. We are not inclined to go into this question as to who is to pay how much amount. The fact remains that the total amount agreed to be paid has not been paid and as per the order of the High Court dated 20.03.2019 the revisionists being in default in payment of the agreed amount, the interim protection granted by way of bail and suspension of sentence, would stand withdrawn without reference to the Court. We find no infirmity in the impugned order.

18. There is a protection provided by this Court vide order dated 26.08.2019 regarding stay of arrest, as a result of which the appellant and the intervenor have still not undergone the sentence. On the other hand, the complainant has still not reaped not only the fruits of the order dated 03.07.2018 but also of the order of the Trial Court dated 26.08.2011. He agreed to receive a much lesser amount than he was entitled to under the order of the Trial Court. He has been litigating since 2007 almost 16 years by now.

19. We, accordingly, do not find any illegality in the order passed by the High Court. The appeal is accordingly dismissed with costs quantified at Rs. 5 lakhs to be paid to the respondent No. 2 (Complainant) within four weeks from today. It is clarified that this amount of costs will not be adjusted against the compensation awarded to the respondent No. 2 but will be in addition to it.

20. It is further directed that the appellant and the intervenor to surrender within a period of four weeks from today to undergo the sentence. If they do not surrender, the High Court to take appropriate coercive measures to get the sentence executed. The revisions before the High Court are still pending. The High Court will proceed to decide the revisions as also pending applications if any and ensure that the undertaking is fully complied with and the complainant is suitably compensated for the further harassment caused.

(emphasis supplied)



27. In view of the above conclusion, we are of the view that the impugned order of the learned Single Judge is justified. The appeal is dismissed. No Costs.

28. We express our appreciation to Mr. Rajeev K. Virmani, Senior Advocate, for rendering assistance before the Ld. Single Judge and this Court as *Amicus Curiae*.

CRL.M.(BAIL) 24/2024

In view of our order in the appeal, this application has become infructuous and is dismissed as such.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 10, 2024/ak/ds