

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 304 OF 2024

Ajaay Shyam Jajodia (Party In Person) ...Petitioner
Versus
Sangram Balasaheb Kale @ S.B. Kale
(Metropolitan Magistrate) And Ors. ...Respondents

Mr. Ajaay S. Jaajodia, Petitioner in Person, present.

Mr. Shailendra Kanetkar, Advocate for Respondent No.1.

Mr. P.P. Kakade, Addl. G.P. a/w Mr. A.C. Bhadang, AGP for the
Respondent – State.

CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.

DATE : 17th FEBRUARY, 2025

P.C. :-

1. The Petitioner-in-person, Mr. Ajaay Shyam Jajodia, is now a practicing Advocate in this Court. On perusal of the pleadings in this Petition, we found that the Petitioner has used undesirable and harsh words while referring to a Judicial Officer, who is arrayed as Respondent No.1, in this Petition.

2. The learned Additional G.P. refers to an order dated 6th April, 2017, passed by this Court [Coram: Shri. A.S. Oka (as His Lordship then was) and Shri. A.K. Menon, JJ.] in Criminal Suo

Moto Contempt Petition No.9 of 2014 with Criminal Suo Moto Petition No.1 of 2015. He refers to Paragraph Nos.3, 4 and 5 of the said order, which read as under :-

“3. Though the allegations made by him were of very serious nature, considering the approach adopted by the contemnor which is reflected from the written submissions tendered today, his oral statements before the Court and his demeanor, in our view, this is a fit case to take a lenient view and to accept apology. He has shown remorse. The written submissions of the contemnor are taken on record and marked as ‘S1’ for identification.

4. Hence, by accepting the apology tendered in paragraph 2 of the written submissions and by taking a lenient view, we are of the view that contempt notices issued to the contemnor deserve to be discharged.

5. Accordingly, Suo Motu Contempt Petitions are disposed of by accepting the apology. Contempt notices issued to the Respondent are discharged.”

3. The Petitioner-in-person tenders an unconditional apology and submits that he would carefully read every paragraph of the pleadings in this Petition and wherever harsh words or undesirable words appear in the averments, the same shall be deleted. Besides doing so, he submits that henceforth, he would use such language, which would not appear offending to any Petitioner or Respondents. In view of the said statement, we accept his apology and permit him to remove/delete such words and sentences.

4. We have heard the Petitioner-in-person for a considerable time and with his assistance, we have perused the Petition paper book. His sole grievance seems to be that Respondent No.1, who is the learned Judge, 25th Court of the Metropolitan Magistrate, Mazgaon, Mumbai – 400010, does not advert to the Judgments, which are placed before him by way of citations and without referring to such citations, he passes short orders. He has tendered a compilation of 39 Pages, which are taken on record and marked as '**X-1**' for identification. This compilation contains written submissions.

5. He has then tendered a list of Judgments along with written notes of submissions. The same are without pagination. When called upon to paginate them, the Petitioner-in-person is reluctant. The said compilation is marked as '**X-2**' for identification.

6. The Petitioner-in-person has filed this Petition under Section 16 of the Contempt of Courts Act, 1971. The grievance is not about Respondent No.1, violating or disobeying any order or direction of this Court issued to him. The grievance is about the manner of writing Judgments and not referring to citations, while

dictating such Judgments. Section 16 of the Contempt of Courts Act, 1971, reads as under :-

“16. Contempt by judge, Magistrate or other person acting judicially.— (1) Subject to the provisions of any law for the time being in force, a judge, Magistrate or other person acting judicially shall also be liable for contempt of his own court or of any other court in the same manner as any other individual is liable and the provisions of this Act shall, so far as may be, apply accordingly.

(2) Nothing in this section shall apply to any observations or remarks made by a judge, Magistrate or other person acting judicially, regarding a subordinate court in an appeal or revision pending before such judge, Magistrate or other person against the order or judgment of the subordinate court.”

7. In the above context, the Petitioner-in-person has referred to a Judgment delivered by this Court in ***Yogesh Waman Athavale V/s. Vikram Abasaheb Jadhav and Others, 2021(2) Mh.L.J. 534***, which is in the compilation ‘X-2’.

8. We have gone through the above cited Judgment and the Paragraphs indicated by the Petitioner. This Court was dealing with the matter wherein the Petitioner had alleged that a Judge was not referring to Judgments and was delivering orders without considering the cited case law. This Court conclude that if a Judge

of the Court was to commit such error in discharge of his/her official or judicial duty or function, that *per se* cannot be the basis to proceed against a Judicial Officer. Unless there is a willful breach and willful disobedience of a direction, the Judge cannot be held in Contempt of Court.

9. The Petitioner-in-person informs us that he has already challenged the orders passed by Respondent No.1, by preferring appropriate proceedings before this Court. *Prima facie*, we find that if a Judge of a Court has not adverted to cited case law and has drawn his conclusion and if such a verdict is questioned/assailed by the aggrieved party before the Competent Forum, it is for such Forum to deal with the submissions of the Petitioner. We do not find that in a matter of this nature, there is any ground to conclude that Respondent No.1, has committed Contempt of the Court.

10. In view of the above, this **Contempt Petition is dismissed.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)