



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CONTEMPT PETITION NO.34 OF 2025
IN
CRIMINAL WRIT PETITION NO.392 OF 2023

Shri Ishwarlal S/o Chandanlal Jaiswal, Chhatrapati Nagar, Nagpur and anr.

-vs-

Shri Chandkhan S. Pathan (IO), The State of Maharashtra, Thr. PSO, Ambazari Police Station,
Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri D. V. Mahajan, Advocate for petitioner.

Shri I. J. Damle, Assistant Government Pleader for respondent.

CORAM : NTIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : February 11, 2025

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1. Heard.

2. The contempt petition is taken out by the petitioners in Criminal Writ Petition No.392/2023 alleging non-compliance of order dated 08/09/2023.

Vide order dated 08/09/2023, it is claimed by the petitioners that this Court has directed the Investigating Officer to file charge-sheet. It is claimed that instead of filing charge-sheet, the Investigating Officer has filed B-summary and that being so it is alleged that the Investigating Officer acted contrary to the order dated 08/09/2023. Our attention is also invited to another order dated 19/07/2024 wherein this Court after referring to the issue of awaiting report of the handwriting expert has observed that the Investigating Officer can take further course under Section 173 of the Code of Criminal Procedure.

3. Shri Mahajan, learned counsel appearing for the petitioners submits that the act of filing B-summary to which the petitioner has lodged an objection by itself supports the stand of the petitioner that the Investigating Officer/Contemnor has aggravated the contempt by filing B-summary instead of filing charge-sheet. He would draw support from the Apex Court Judgment in the matter of *Prithawi Nath Ram vs. State of Jharkhand and ors. (2004) 7 SCC 261*, so as to claim that it is not open for the Court to decide the legality of the order of which contempt is alleged.

4. As against above, Shri I. J. Damle, learned Assistant Government Pleader would support the act of filing B-summary, as according to him, it is within the powers of the Investigating Officer to make out whether the case is made out for filing charge-sheet. He would further submit that the Court is not causing any observation on the legality of the order of which contempt is alleged and as such, he sought discharge.

5. We have considered the submissions.

No doubt, vide order dated 08/09/2023 this Court after going through the investigation papers noted that after seizure of certain documents and considering the grievance, the Investigating Officer was directed to record supplementary statement of the petitioner which was duly recorded. The alleged contempt is based on the issue of not filing

charge-sheet.

6. Subsequent to the order dated 08/09/2023, on 19/07/2024 when the very same petitioner was heard, this Court in paragraph 2 of the order has made following observations :

“2. Learned Advocate for the petitioner also points out communication by the Investigating Officer to the Petitioner on 25.09.2023 regarding the specimen signature taken of one Shamrao Thuturkar, which was then sent for the opinion of the handwriting expert and now the Investigating Officer informs that the specimen handwriting and signature taken in view of the order passed by this Court on 01.04.2024 has also been given to the State Examiner of Documents C.I.D Government of Maharashtra, Nagpur. Thus, what we could get is that in respect of two opinions, the matter is pending with the handwriting expert. We, therefore, direct the State Examiner, C.I.D Government of Maharashtra, Nagpur to give his opinion on both the proposals as expeditiously as possible within a period of one month from today. After receipt of the opinion and in the meantime carrying investigation, if any, the Investigating Officer to decide the further course under Section 173 of the Code of Criminal Procedure.”

7. The fact remains that the documents which were seized were sent for report of handwriting expert and the report speaks of the signature on the document, which has formed basis of registration of offence, is that of petitioner No.2 who is a friend of petitioner No.1.

In such an eventuality, the counsel for the petitioners has not disputed the signature of the petitioner on the document which has resulted into not only executing Will Deed in favour of the alleged

accused person but it appears that by virtue of such document, they are trying to claim right over the property which by itself is inferred to be not leading to making out of an offence as the investigation reflects that the issue pertains to the immovable property and the dispute pertains to contractual obligation. This Court vide order dated 19/07/2024 virtually modified the order of this Court dated 08/09/2023 thereby giving leverage to the Investigating Officer to decide further course of action under Section 173 of the Code of Criminal Procedure.

8. In the wake of above development of report of handwriting expert, the Investigating Officer has decided to file B-summary which is duly objected by the petitioners. In such an eventuality, it cannot be inferred that the Investigating Officer has acted intentionally in contravention and in violation of the orders dated 08/09/2023 passed by this Court.

That being so, no case of contempt is made out. The contempt petition as such fails. Stands dismissed.

Contempt notice stands discharged.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)