



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO. 164 OF 2025

Mrs. Kiran Nashine Choukase

... PETITIONER

Versus

Sanjiv Baliyara & Anr.

... RESPONDENTS

Dr. Mahendra Limaye, Advocate for Petitioner.

Mr. Bhushan Mohta, Advocate for Respondents.

CORAM : PRAVIN S. PATIL, J.

DATE : OCTOBER 09, 2025.

ORAL ORDER

. Heard Mr. Mahendra Limaye, learned Counsel for the Petitioner and Mr. Bhushan Mohta, learned Counsel for the Respondents.

2. By this Petition it is alleged that the Respondents have disobeyed the order below Exhibit-1 in Criminal Misc. Application No. 276/2024 passed by the Judicial Magistrate First Class (Court No.2), Gondia on 27/9/2024.

3. It is the case of the Petitioner that application under Section 503 of Bhartiya Nagrik Suraksha Sanhita, 2023 was filed before the learned Judicial Magistrate First Class stating that she had transferred the fund from her saving account maintained with ICICI Bank, base Branch – Krishna Apra

Royal PLA D-2, E(ACB), ALPHA-I, Grater Noida U.P. vide Account No. 041101506123 to purchase share, as per the directions given by the accused persons. During the period from 18/4/2024 to 20/6/2024 the Petitioner had transferred the total amount of Rs.1,69,38,222/- in the different accounts of the accused persons. Thereafter the Petitioner realised that online fraud has been committed. Accordingly, she lodged the complaint to Ramnagar Police Station which was registered as Crime No. 180/2024. It is further contended by the Petitioner that she came to know that amount of Rs.73,58,091/- is put on hold in various bank accounts. Therefore, the application for interim custody of the said amount was filed before the learned Magistrate. In the said proceeding, Investigating Officer submitted detail facts of the offence and further stated that the Petitioner along with other persons were cheated by the accused persons.

4. It is specifically pointed out by the Petitioner that State Bank of India, Axis Bank and Indian Bank through their Bank Officer filed their say to the application and made submission that amount claimed by the Petitioner is on hold in their respective Banks. Relying on the said submission, learned Magistrate, by order dated 27/9/2024 directed the Bank Officer of the respective Banks to release and transfer the amount in the Account No.

041101506123 maintained in ICICI Bank in the name of Petitioner – Mrs. Kiran Nashine Choukase.

5. It is stated that after the order was passed by the learned Magistrate directing various Banks to release and transfer the various amounts frozen by them in ICICI Bank Account No. 041101506123, Respondents ignored the same and have not transferred the amount in the account of Petitioner. Hence, according to the Petitioner, this is wilful disobedience of the order passed by the learned Magistrate.

6. In response to the notice issued by this Court, the Respondents have filed their reply in the matter. According to them, it is the policy of the Bank that, when Holds/Liens in the accused's account are removed and when the Home Branch is in a position to make the payment, if there are multiple court orders for making payment, then the payment should be made in chronological order of receipt of such orders. Accordingly, it is pointed out in paragraph No.3 of their reply calculation of amount maintained by the Bank in tabular form, which is reproduced as under:

Sr. No.	Date	Particulars (name of the court, opening and closing balance)	Amount
1.		Opening Balance	79,16,622.41/-

2.	16.08.2024	Transferred as per order dated 14.06.2024 passed by Hon'ble Judicial Magistrate No.1, Villupuram	9,57,000/-
3.	16.08.2024	Transferred as per order dated 14.06.2024 passed by Hon'ble Chief Judicial Magistrate, Moga.	17,37,000/-
4.	14.10.2024	Transferred as per order dated 06.06.2024 passed by Hon'ble JMFC, III Court, Belagavi.	43,967/-
5.	14.10.2024	Transferred as per order dated 15.06.2024 passes by Hon'ble JMFC, Gurugram.	51,78,655/-
6.	10.10.2024	Closing Balance	0.00/-

7. The Respondents have specifically stated that there is no wilful or intentional disobedience of the order. As there are the orders of various courts for making payment in chronological manner, the amount was required to be disbursed and the same has been done. Presently, there is no balance amount in the account of Petitioner, and therefore, they were unable to comply the order of the learned Magistrate.

8. The learned Counsel for Respondent has relied upon the Judgment of the Hon'ble Supreme Court in the case of *Dinesh Kumar Gupta V/s United India Insurance Company Limited and Others*, (2010) 12 Supreme

Court Cases 770, wherein the Hon'ble Supreme Court has observed in paragraph No. 17 as under :

“17. This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and circumstances of the instant case. In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this Court that contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance with the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct to be too speculative based on assumption as the Contempt of Courts Act, 1971 clearly postulates and emphasises that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature.”

So also in the case of **Ram Kishan V/s Tarun Bajaj and Others, (2014) 16**

Supreme Court Cases 204 the Hon'ble Supreme Court has observed in paragraph No. 12 as under :

“12. Thus, in order to punish a contemnor, it has to be established that disobedience of the order is "wilful". The word “wilful” introduces a mental element and hence, requires looking into the mind of a person/contemnor by gauging his actions, which is an indication of one's state of mind. “Wilful means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bona fide or unintentional acts or genuine liability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a "bad purpose or without justifiable excuse or stubbornly, obstinately or perversely.” Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. "Committal or sequestration will not be ordered unless contempt involves a degree of default or misconduct." (Vide S. Sundaram Pillai v. V.R. Pattabiraman, Rakapalli Raja Ram Gopala Rao v. Naragani Govinda Sehararao, Niaz Mohammad v. State of Haryana, Chordia Automobiles v. S. Moosa, Ashok Paper Kamgar Union v. Dharam Godha, State of Orissa v. Mohd. Illiyas and Uniworth Textiles Ltd. v. CCE).”

9. It is undisputed fact that in a Contempt Petition this Court has to see only if there has been wilful disobedience of the order or not and if there is

a disobedience, which proved to be wilful and intentional, then in that case only the powers can be invoked to initiate the contempt proceeding.

10. From the facts stated above, it is crystal clear that there is no wilful and intentional disobedience of the order passed by the learned Magistrate. The learned Counsel for Petitioner states that if certain documents are directed to be produced by the Respondent, then the factual position will be clear as to how the Bank is working in the matter. But in my opinion in Contempt Petition, it is not the concern of the Court to call documents and verify the other details of the matter. It is informed to this Court that criminal proceeding is pending, and therefore, remedy is available with the Complainant to redress her grievance by taking appropriate steps in the pending proceeding.

11. Hence, in the facts and circumstances of matter, I am of the opinion that there is no wilful and intentional disobedience of the order passed by the Judicial Magistrate First Class (Court No.2), Gondia. Resultantly, the Contempt Petition is dismissed. No order as to costs.

[PRAVIN S. PATIL, J.]