

IN THE HIGH COURT OF JUDICATURE AT PATNA
Or. Criminal Miscellaneous No.4 of 2023

Arising Out of PS. Case No.-10 Year-2012 Thana- MAHILA PS District- Buxar

SAKINA BEGUM W/O ABID HUSSAIN D/O LATE ABDUL SATTAR R/v-
Chousa Near Durga Mandir, P.S.- Buxar (Muffasil), District- Buxar At present
115/241 Maswanpur, P.S.- Kalyanpur, District- Kanpur (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar
2. ABID HUSSAIN S/O MD. EKBAL R/v- Durga Chousa Near Mandir, P.S.-
Buxar (Muffasil), District- Buxar
3. JUBAIDA BEGUM W/O MD. EKBAL R/v- Durga Chousa Near Mandir,
P.S.- Buxar (Muffasil), District- Buxar
4. MD. EKBAL S/O LATE ABDUL SAMMAN R/v- Durga Chousa Near
Mandir, P.S.- Buxar (Muffasil), District- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Bachan Jee Ojha, Advocate
For the State	:	Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 19-06-2026

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present case has been filed for willful and
deliberate disobedience of the order dated 05.09.2019 passed in
Cr. Rev. No. 521/2018 by the Coordinate Bench of this Hon'ble
Court, which has not been complied with by O.P. No. 2 of Cr.
Rev. No. 521/2018.



3. Learned counsel for the petitioner submits that the present Original Criminal Miscellaneous case has been filed under the Original Criminal Miscellaneous jurisdiction for initiation of contempt proceedings against the private respondent/private O.Ps.

4. The office has pointed out certain defects. The first defect is that the learned Advocate General has refused to grant consent for filing this petition. Secondly, the provision of law mentioned on the first page is required to be verified and corrected.

5. Learned counsel for the petitioner submits that the order in question was passed in a criminal revision and, therefore, a petition for criminal contempt would lie. Accordingly, the present criminal contempt petition has been filed.

6. With regard to the refusal of the learned Advocate General to grant consent for filing the present petition, learned counsel submits that he has nothing to say on the opinion rendered by the learned Advocate General and prays that an appropriate order may be passed. However, he fairly submits that the present petition has been filed on account of the alleged disobedience of the order passed by this Court in the criminal



revision.

7. After hearing learned counsel for the petitioner, it transpires to this Court that a legal question is involved in the present matter, namely, whether, in a case where an order passed under the criminal jurisdiction has not been complied with or has been disobeyed, a petition for civil contempt would lie or a petition for criminal contempt would lie.

8. Another question which requires consideration is whether, once the learned Advocate General, in exercise of his powers under Section 15(1)(b) of the Contempt of Courts Act, 1971, has opined that no case of criminal contempt is made out, this Court can take cognizance of criminal contempt or not.

9. In order to answer these two questions, it is necessary to examine the definitions of civil contempt and criminal contempt as provided under the Contempt of Courts Act, 1971. The definition of "civil contempt", as contained in Section 2(b) thereof, reads as follows:

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a Court or wilful breach of an undertaking given to a Court;

10. Whereas, the definition of "criminal contempt", as



contained in Section 2(c) of the Contempt of Courts Act, 1971,
is reproduced hereinbelow:

(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any Court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

11. Upon a bare reading of the definition of "civil contempt", it transpires to this Court that the situations in which civil contempt may arise are as follows:

- (a) willful disobedience to any judgment;
- (b) willful disobedience to any decree;
- (c) willful disobedience to any direction;
- (d) willful disobedience to any order;
- (e) willful disobedience to any writ; and



(f) willful disobedience to any other process of a court

(g) willful breach of an undertaking given to a court.

12. In the present case, in Cr. Revision No. 521 of 2018, the Coordinate Bench of this Hon'ble Court issued directions in paragraph 6 of the order, which read as follows:

6. Having regard to the aforesaid, the application stands disposed off in terms of the compromise arrived between the parties which is recorded hereinunder:

(i) The opposite parties no. 2 to 4 shall pay Rs. 2 lakhs to the petitioner, either in one go or in installments, but the same shall be paid latest by 30th April, 2020. Thereafter, an affidavit shall be filed on behalf of the opposite parties no. 2 to 4, latest by 10th May, 2020, by way of an Interlocutory Application in the present case itself bringing on record materials showing payment of Rs. 2 lakhs.

(ii) In the meantime, the opposite party no. 2 shall not press the Divorce case and the petitioner shall not press her Maintenance case.

(iii) After the entire amount of Rs. 2 lakhs is paid by 30th April, 2020, the petitioner shall file a petition in Divorce case with regard to her not opposing the divorce. The Court below shall pass



appropriate orders in terms thereof within one month from the date of filing of the compromise petition.

(iv) The petitioner shall also, upon receiving Rs. 2 lakhs withdraw her Maintenance case filed before the Court below within one month of Rs. 2 lakhs being paid to her.

13. It transpires to this Court that O.P. Nos. 2 to 4 in the aforesaid Cr. Revision No. 521 of 2018 (who are O.P. Nos. 2 to 4 in the present Original Cr. Misc. No. 4 of 2023) were directed to pay a sum of Rs. 2,00,000/- to the petitioner, either in one lump sum or in installments, latest by 30th April, 2020. However, the said amount has not been paid.

14. Therefore, learned counsel for the petitioner has filed the present Original Cr. Misc. application seeking initiation of criminal contempt proceedings against O.P. Nos. 2 to 4.

15. From a plain reading of the definition of "criminal contempt", it transpires that the essential ingredients for initiation of criminal contempt proceedings are as follows:-

Publication (whether by word, spoken or writing, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(a) scandalises the court; or



- (b) tends to scandalise the court; or
- (c) lowers the authority of, any court; or
- (d) or tends to lower the authority of, any court; or
- (e) prejudices the due course of any judicial proceedings; or
- (f) interferes the due course of any judicial proceedings; or
- (g) tends to interfere the due course of any judicial proceedings; or
- (h) interferes with the administration of justice in any other manner; or
- (i) tends to interfere with the administration of justice in any other manner; or
- (j) obstructs the administration of justice in any other manner; or
- (k) tends to obstruct the administration of justice in any other manner.

16. In the present case, this Court is of the considered view that the case of the present petitioner does not fall under any of the categories enumerated under Section 2(c) of the Contempt of Courts Act, 1971. Hence, the present case does not constitute criminal contempt.



17. On the other hand, the facts of the case may fall within the category of willful disobedience of the order or willful breach of the undertaking given to the Court at the time of passing the order in Cr. Revision No. 521 of 2018.

18. By virtue of the aforesaid discussion, it transpires to this Court that disobedience may occur in proceedings arising out of criminal jurisdiction as well as civil jurisdiction, however, the ingredients for civil contempt or criminal contempt are based on different horizons.

19. This Court is unable to accept the contention of learned counsel for the petitioner that since the order passed in exercise of criminal jurisdiction has not been complied with, therefore, the same would amount to criminal contempt.

20. This Court is in full agreement with the opinion of the learned Advocate General, which is quoted hereinbelow:

“ I have gone through the contents of this petition and after due consideration in my opinion no criminal contempt is made out and the facts stated in the petition, no case is made out for grant of consent for making a motion under section 15(1)(b) of the contempt of Court Act and accordingly



consent is refused.”

21. However, this Court is conscious of the second question as to, whether this Court is bound by the opinion of the learned Advocate General or not? In order to answer this question, it is necessary to examine Section 15 of the Contempt of Courts Act, 1971, which provides as follows:-

15. Cognizance of criminal contempt in other cases.-(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by-

(a) the Advocate-General, or

*(b) any other person, with the consent in writing of the Advocate- General,
²[or]*

2[(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.]

(2) In the case of any criminal contempt of a subordinate Court, the High Court may take action on a reference made to it by the subordinate Court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as



the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation. In this section, the expression "Advocate-General" means-

(a) in relation to the Supreme Court, the Attorney-General or the Solicitor-General;

(b) in relation to the High Court, the Advocate-General of the State or any of the States for which the High Court has been established;

(c) in relation to the Court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

22. Section 15 of the Contempt of Courts Act, 1971 deals with the cognizance of criminal contempt in other cases. The said provision is clear that, in the case of a criminal contempt, other than a contempt referred to in Section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by-

(a) the Advocate-General, or



(b) any other person, with the consent in writing of the Advocate-General.

23. In the present case, the situation falls within the category of Section 15(1)(b) of the Contempt of Courts Act, 1971 wherein the petitioner, being "any other person", has filed the present Original Cr. Misc. application, for which the written consent of the learned Advocate General is required. However, the opinion of the learned Advocate General is in the negation.

24. The question which arises for consideration is whether the Hon'ble High Court or the Hon'ble Supreme Court can ignore the opinion of the learned Advocate General given in writing or not. The answer to this question is already provided under Section 15(1) of the Contempt of Courts Act, 1971. It is well within the power of the Hon'ble Supreme Court or the Hon'ble High Court to take action on its own motion, however, if the opinion of the learned Advocate General is ignored, the same would amount to the Hon'ble Supreme Court or the Hon'ble High Court taking action on its own motion. The second question is answered accordingly.

25. It is relevant to mention here that a similar issue has been decided by a Coordinate Bench of this Court in the case of *Anand Kumar Singh v. The State of Bihar & Ors.*, on



05.04.2023 in MJC No. 26 of 2023 arising out of Cr.WJC No. 723 of 2022. In the said case, the Stamp Reporter had pointed out Defect No. 16. The relevant extract of the said order is as follows:-

Perused the stamp report defect. The Stamp Reporter has pointed out defect no. 16 in the following terms:-

"As per para-1 of M.J.C. petition, the present matter arises from cr.w.j.c. no.- 723/2022 vide order dated 29.09.2022. For proper remedy, it may perhaps be filed in original criminal miscellaneous cases as per provision contained in U/S 3(1) of chapter XXVIII of the rules of Patna High Court Act."

This Court finds that the present application has been filed seeking initiation of a proceeding of contempt for willful disobedience and disregard shown to the order of this Court. This Court is a Court of Record. Reference in this regard may be made to Article 215 of the Constitution of India. This Court is well empowered to initiate a contempt proceeding for willful disobedience and disregard shown to the



order of this Court.

In the nature of the grievance of the petitioner, he is not required to file a criminal contempt in terms of Section 15 of the Contempt of Court Act. Therefore, the stamp report defect saying that this application should be filed as original Criminal Miscellaneous as per the provision contained under Chapter XXVIII of the Patna High Court Rules is not correct.

This Court has noticed that the Stamp Reporter has mentioned 'Rule' 3(i) as 'Section' 3(1) and he has further written "Chapter XXVIII of the rules of Patna High Court Act". To this Court, it appears that the Stamp Reporter should be more cautious while submitting their report and such mistakes which give an impression that he has not looked into the Patna High Court Rules would not be in a good taste. The stamp report defect no. 16 is overruled.

26. Hence, this Court, on the basis of the discussions, reasoning, and the ratio laid down hereinabove, reaches the conclusion that the Original Cr. Misc. is not required to be filed against an order/judgment passed in Cr. WJC jurisdiction. Rather, the question of civil or criminal contempt has to be decided in terms of the definitions of "Civil Contempt" and



"Criminal Contempt", as the case may be, defined in Sections 2(b) and 2(c) of the Contempt of Courts Act, 1971.

27. Learned counsel for the petitioner submits before this Court that permission may kindly be granted to convert the present Original Cr. Misc. petition into an MJC petition and treat the present case as an MJC case by allowing such conversion.

28. This Court, at this juncture, may grant permission to convert the present petition, however, such conversion at this stage may adversely affect the petitioner for the reason that this Court, while exercising jurisdiction under the Original Cr. Misc. jurisdiction, may not examine the maintainability or entertainability of the MJC petition. Further, learned counsel for the petitioner is also not in a position to demonstrate that all the ingredients necessary for initiation of civil contempt proceedings are available in the pleadings of the present case.

29. Therefore, this Court restrains itself from passing any further order, save and except observing that the present Original Cr. Misc. application is not maintainable.

30. This Court grants permission to the petitioner to withdraw the present application with liberty to file a petition for civil contempt, if the petitioner is so advised and the



ingredients of civil contempt are available to him.

31. Since the matter has remained pending since 2023, the period during which the Original Cr. Misc. case remained pending shall not be counted for the purpose of limitation.

32. With the aforesaid observations, the present Original Cr. Misc. application is hereby dismissed as not maintainable.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24.06.2026
Transmission Date	NA

