



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP-645-2025 (O&M)
Reserved on : 22.01.2026
Pronounced on: 01.04.2026
Uploaded on: 02.04.2026

Avtar Singh @ Avtar Mahey

....Petitioner

V/s

Mohinder Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Ms. Sheenu Rapriya, Advocate and
Mr. HPS Ishar, Advocate, for the petitioner.

Mr. Shashank Bhandari, Addl. Advocate General and
Mr. Anuj Garg, DAG, Haryana.

VIKRAM AGGARWAL, J.

The instant contempt petition, preferred under Article 215 of the Constitution of India and Section 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as the “1971 Act”) alleges willful disobedience of the directions issued by the Supreme Court of India in the case of *Arnesh Kumar V/s State of Bihar and another, (2014) 8 SCC 273* and further reiterated in the case of *Mohd. Asfak Alam V/s The State of Jharkhand and another, (2023) 10 SCALE 370*.

2. The case set up is that an FIR No.157 dated 18.09.2024 (Annexure P-3) was registered at Police Station Nawanshahr, District SBS Nagar, on the statement of one Ms. ‘X’ under Sections 74, 75 and 76 of the Bharatiya Nayaya Sanhita, 2023 (for short “the BNS”) against the present petitioner.

3. The allegations were that Ms. ‘X’ had got married on 12.06.2010 and had two children from the wedlock. She was employed as a

Computer Operator in a private immigration office “Gulf” in the year 2022. She, however, quit her job on account of ill health of her mother-in-law. One Baljinder Singh Hussainpur was running an organization called ‘Niroya Punjab’ in Nawanshahr. The complainant was desirous of working in the said organization as a result of which, she came in contact with the said Baljinder Singh Hussainpur. She was hired as a computer operator in February 2024 in the office opened by the said Baljinder Singh for the Shiromani Akali Dal party. It was alleged that after the Lok Sabha Elections 2024, the office was closed and the complainant lost her job.

4. It was further alleged that while working in the office, the complainant had got acquainted with the petitioner, who was also working for the said Baljinder Singh in his main office. On 24.08.2024, the petitioner called her on ‘whatsapp’ and invited her to work in his office. However, subsequently, the petitioner started calling her to his office for work. On 26.08.2024 at about 10:40 a.m., when she went to his office, the petitioner started a romantic conversation with her. The allegation was that thereafter, he locked the office from inside and committed obscene acts with her. Upon this, the complainant opened the office and left.

5. She initially did not file a complaint in the police but disclosed about the incident to one Makhan Singh, who also worked in ‘Niroya Punjab’. Subsequently, the FIR (Annexure P-3) was registered after the complainant consulted her husband.

6. The case of the petitioner is that the complainant and her husband had borrowed a sum of Rs.1 lakh from the petitioner on 04.05.2024, which he had withdrawn from his bank. Rs.50,000/- had been repaid but the balance amount was not being returned. It has been averred that the

that he should not demand money, failing which he would be implicated. He submitted a complaint to the SSP, Hoshiarpur on 07.08.2024 (Annexure P-4).

7. The matter is stated to have been amicably resolved and it was decided that the complaint submitted by the complainant would be withdrawn. A compromise is stated to have been arrived at on 08.09.2024 and a compromise deed (Annexure P-5) was executed.

8. It has been averred that on representation dated 14.09.2024 (Annexure P-6) having been submitted by the petitioner, an enquiry was also marked to the DSP, Nawanshahr.

9. The petitioner also filed a civil suit for recovery of the said amount (Annexure P-7). It has been averred that instead of waiting for the enquiry, the FIR in question was registered by procuring a fresh complaint dated 18.09.2024.

10. It has been averred that since all offences alleged to have been committed, for which the FIR in question was registered were punishable with an imprisonment of less than 7 years, it was mandatory for the respondents to issue a notice under Section 41A of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") (Section 35(3) BNS). However, the petitioner alleged that he was arrested without any such notice having been issued. Remand papers dated 14.10.2024 have been annexed as Annexure P-8.

11. In the reply submitted by respondent No.1 (Sub-Inspector Mohinder Singh), it has been averred that the investigation never remained with him nor was Avtar Singh (petitioner) arrested by him. It has further been averred that pursuant to the registration of the FIR, the petitioner had

Sessions Judge, SBS Nagar vide order dated 01.10.2024 (Annexure R-1). Thereafter, the facts which led to the registration of the FIR and other circumstances have been referred to, which are not relevant for the purpose of decision of the instant petition.

12. A separate reply by way of affidavit of ASI Surinder Kumar (respondent No.2) was also filed. Reference in this reply has also been made to the dismissal of the pre-arrest bail application. It has further been averred that since the allegations were serious and there was an apprehension that the petitioner may flee, the arrest was necessitated. Thereafter, the factual matrix has been given which has no relevance for the purpose of decision of the instant petition.

13. Learned counsel for the parties were heard.

14. Learned counsel for the petitioner strenuously urged that the directions in the case of **Arnesh Kumar** (supra) and reiterated in **Mohd. Asfak Alam** have been violated for, no notice was issued prior to the arrest of the petitioner.

15. *Per contra*, learned counsel for the State submitted that there has been no violation of the directions issued in the case of **Arnesh Kumar** (supra).

16. I have considered the submissions made by learned counsel for the parties.

17. In the case of **Arnesh Kumar** (supra), the Supreme Court of India issued the following directions :-

“13. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498A of the IPC is

registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.P.C.;

(2) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

(3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.P.C. be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

(7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.”

18. Direction No.7 clearly lays down that failure to comply with the directions shall, apart from rendering the police officer concerned liable for departmental action, also make them liable to be punished for contempt of Court to be instituted before the High Court having territorial jurisdiction.

19. Now, the question which arises for consideration before this Court is as to whether there has been willful disobedience of the directions issued by the Apex Court.

20. In the case of ***Jhareswar Prasad Paul vs. Tarak Nath Ganguly***, ***2002 AIR Supreme Court 2215***, the Apex Court explained the Object of the

1971 Act. It was held that the purpose of contempt jurisdiction was to uphold the majesty and dignity of Courts of law. It was held that the power under the said Act is special and needs to be exercised with care and caution and that it should be used sparingly by the Courts on being satisfied regarding the true effect of contemptuous conduct. The Apex court held that the contempt jurisdiction should be confined to the question whether there had been any deliberate disobedience of the order of the Court and whether the conduct of the party, who is alleged to have committed such disobedience was contemptuous. It was held that the Court exercising contempt jurisdiction would not be entitled to enter into the question which had not been dealt with and decided in the judgment or order, violation of which had been alleged. Paragraph 11 thereof, reads as under:-

“11. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. Since the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen and the democratic fabric of society will suffer if respect for the judiciary is undermined. The Contempt of Courts Act, 1971 has been introduced under the statute for the purpose of securing the feeling of confidence of the people in general for true and proper administration of justice in the country. The power to punish for contempt of courts is a special power vested under the Constitution in the courts of record and also under the statute, The power is special and needs to be exercised with care and caution. It should be used sparingly by the courts on being satisfied regarding the true effect of contemptuous conduct. It is to be kept in mind that the court exercising the jurisdiction to punish for contempt does not function as an original or appellate court for determination of the disputes between the parties. The contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious. The court exercising contempt jurisdiction is not entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have

contained. At the cost of repetition be it stated here that the court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original. proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes leveled against the courts exercising contempt of court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of courts."

21. In the case of *Shaila Beegum V/s Santosh Kumar J. (Con. Case (C) No.1080-2025, decided on 25.06.2025)*, a Division Bench of the Kerala High Court was dealing with a contempt petition wherein, there was an allegation of violation of the directions issued by the Apex Court in the case of **Arnesh Kumar** (supra). It was held that a contempt petition would not directly lie before the High Court unless and until there was an order in which there had been an adjudication that the guidelines laid down by the Apex Court had been violated. Paragraphs 9, 10 and 11 read as under:-

"9.On a bare reading of the aforesaid provisions, it is clear that as per Article 215, every High Court shall be a court of record and shall have all the powers of such court including the power to punish for contempt of itself. As per Section 11 of the Act, 1971, a High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction. Section 12 of the Act,

1971 provides for the extent of punishment which can be imposed under the Act of 1971, in case the contemnor is found guilty of wilful disobedience.

10. It is an admitted position that there is no order passed by the High Court under any of the proceedings. Non-compliance is alleged of the order passed by the Hon'ble Apex Court in Arnesh Kumar (supra). As per Article 215 of the Constitution of India, the High Court has power to punish for contempt of itself only. According to Section 11 of the Act, 1971, the High Court can punish for the orders passed by itself or by the subordinate courts.

11. In the present case, there is neither any order of the High Court or the subordinate court. It is only with regard to implementation of Arnesh Kumar (supra). Moreover, there has been no adjudication as to whether the guidelines laid down in Arnesh Kumar (supra) have been violated in any of the proceedings before the High Court or of the subordinate court. In such a situation, a contempt petition directly before this Court would not lie.”

22. A similar view was taken by a Division Bench of the Karnataka High Court in the case of ***Ladlesab s/o Maktumsab Sumbad V/s Sri Om Prakash Director General and Inspector General of Police, Nrupathunga Road, Bangalore-02***, (CCC No.200011 of 2016 (Civil), decided on 14.06.2017). In this case, there was an allegation of willful disobedience of the directions issued by the Apex Court in the case of **Arnesh Kumar** (supra). The Division Bench held that in the case which was being dealt with by a Division Bench, there was no fact which had been established that there was non-compliance of the directions issued by the Apex Court. It was held that as to whether there was compliance or non-compliance of the directions was a question of fact which would require a trial. It was held that it is only after establishing that there had been a failure on the part of the police officer to comply with the directions issued by the Apex Court, could a petition for contempt of Court be instituted. It was held that since the petitioner therein had not established before any judicial or other competent authority that there had been a failure on the part of the police officer in

complying with the directions of the Apex Court, while arresting him, he could not straightaway institute a contempt petition before the High Court.

“6. The aforesaid directions were issued in the context of the petitioner therein, who happened to be the husband of respondent No. 2 therein, being unsuccessful in securing anticipatory bail, knocked the door of the Apex Court by way of Special Leave Petition. The Hon'ble Supreme Court considered and took note of the fact that there is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country Section 498A of IPC was introduced with an avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498A of IPC is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under that provision. Therefore, there has been misuse of Section 498A of IPC and the fact that, the police officers would brazenly use the power of arrest even innocent citizens. Hence, the Hon'ble Supreme Court issued the aforesaid directions While issuing the said directions at Paragraph No. 117, it observed that failure to comply with the directions would render the police officer liable for departmental action and further, they could be punished for contempt of Court to be instituted before the High Court having territorial jurisdiction. When the Hon'ble Supreme Court has issued a two fold direction in Paragraph No. 117, it implies that the person arrested must first establish that there has been a failure to comply with the directions issued by the Hon'ble Supreme Court by the concerned police officer, in which case he would be liable for departmental action. Once the non compliance of directions issued by the police officer is established by a person, then such a person could also initiate contempt of court proceedings.

7. In the instant case, there is no such fact, which has been established by the complainant either in his case or vis-a-vis any other case to the effect that there is non-compliance of the direction issued by the Hon'ble Supreme Court. Further, in this contempt proceeding, whether there is compliance or non-compliance of the directions cannot be established, as it is a question of fact which would require a trial. It is only after establishing that there has been failure on the part of the police officer to comply with the directions issued by the Hon'ble Supreme Court can the petition for contempt of Court by any such officer be instituted Under the circumstances, we find that the complainant herein, not

having established before any judicial or other competent authority that there has been failure on the part of the police officer/s in complying with the directions issued by the Hon'ble Supreme Court, while arresting him, he cannot straight away initiate this contempt of court proceeding against respondent No. 3 herein and seek to establish the same before this Court.

8. That apart, we find that the complainant has appended Annexure-E to this contempt petition, which is a Circular issued by the Director General and Inspector General of Police, Bangalore and all the concerned authorities of the Department of Police, including Superintendent of Police of every District, in order to bring to their notice, the direction issued by the Hon'ble Supreme Court and also by adverting to the fact that incase there are any violation in the said directions, contempt of the Court proceeding also could be initiated. The Hon'ble Supreme Court has directed that the State Government must instruct its police officers as to how the arrest has to be made under Section 498A of IPC The Circular dated 23.07.2014 precisely refers to that aspect of the matter.

9. In the circumstances, we hold that the police officers have been instructed by virtue of Circular dated 23.07.2014, to comply with the directions issued by the Hon'ble Supreme Court. If in any particular case, there has been non-compliance with the said directions, then it is only after establishing that fact could the concerned police officer be liable for departmental action or could result in contempt of court proceeding being instituted against the police officer. Therefore, at this stage, we see no good reason to consider further this contempt petition filed by the petitioner herein. Hence, contempt proceeding is closed."

23. This view was also taken by another Division Bench of the Karnataka High Court in the case of **Mr. Kuldeep V/s Mr. Suthesh KP and others, (CCC No.1146-2022, decided on 23.02.2023).**

24. Many other Courts have also taken a similar view.

25. Reverting to the facts of the present case, the anticipatory bail application of the petitioner was rejected by the Court of Additional Sessions Judge, SBS Nagar, vide order dated 01.10.2024. It has also come on record that the petitioner had been arrested. Final report has been submitted and even charges have been framed on 17.05.2025. No order of the Area

Magistrate vide which remand was granted has been produced nor has any order been produced stating that there had been some violation of the directions issued by the Apex Court in the case of **Arnesh Kumar** (supra).

26. That being so, it would not be for this Court to enter into the said arena. Keeping in mind the view taken by Kerala High Court in **Shaila Beegum** (supra) and Karnataka High Court in the case of **Ladlesab s/o Maktumsab Sumbad** (supra), this court is not inclined to entertain the present petition. The petitioner may, however, avail other remedies as shall be admissible in law.

26. Under the circumstances, this Court does not find any good reason to entertain the instant contempt petition any further. Accordingly, the proceedings are closed and the petition is dismissed.

Pronounced on: 01.04.2026
vcgarg

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No