

DINESHAN K.K.

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v.

R.K. SINGH & ANR.

(Contempt Petition (C) No. 422 of 2012)

IN

CIVIL APPEAL NO. 25 OF 2008.

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MARCH 11, 2014

[H.L. DATTU AND S.A. BOBDE, JJ.]

*Contempt of Courts Act, 1971: s.12; Constitution of India, 1950: Article 129 - Contempt jurisdiction - High Court while disposing of writ petition filed by petitioner had issued directions to the Union of India and its officer to re-designate the petitioner from rank of Hawaldar to Warrant Officer as recommended by Ministry of Home affairs - Appeal by UOI-respondent against the said directions dismissed by Supreme Court - Non-compliance with the directions issued by High Court as well as by Supreme Court in spite of lapse of considerable period - Contempt petition filed u/Article 129 of the Constitution r/w s.12 of the Contempt of Courts Act, 1971 against respondent officers - Maintainability of - Held: The judgment passed by High Court merged with that of Supreme Court when the appeal filed by the petitioner was dismissed by Supreme Court - Supreme Court had dismissed the appeal and, therefore, it was the direction passed by High Court which in fact was allegedly disobeyed by respondents/contemnors - In the interest of justice and to lessen the burden of Supreme Court in the current scenario, High Court requested to look into the grievance of the petitioner, if a petition is filed before them inter alia bringing to their notice and knowledge that their orders and directions have been disobeyed - This exercise would be beneficial to the parties because they were before the High Court in the writ petition wherein the directions were issued - The petitioner is directed to file an appropriate contempt petition before High Court for*

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A *alleged disobedience of the orders and directions issued by the High Court.*

*Oil and Natural Gas Corporation Ltd. vs. S.B.I. Overseas Branch, Bombay 2006 (6) SCC 385 - referred to.*

B **Case Law Reference:**

**2006 (6) SCC 385 referred to Para 8**

CIVIL ORIGINAL JURISDICTION : Contempt Petition (Civil) No. 422 of 2012.

C IN

Civil Appeal No. 25 of 2008.

Guru Krishna Kumar, Hiren Dasan, Avinash Singh, Sarla Chandra for the Petitioner.

D Rakesh K. Khanna, ASG, R. Balasubramaniam, Supriya Jain, B. Krishna Prasad for the Respondents.

The following Order of the Court was delivered

**O R D E R**

E 1. This contempt petition is filed by the petitioner inter alia requesting this Court to initiate contempt proceedings against the respondent Nos. 1 and 2 for alleged disobedience of the judgment and order passed by this Court in Civil Appeal No. 25 of 2008, dated 04.01.2008.

F 2. The High Court while disposing of the writ petition filed by the petitioner herein had issued certain directions to the Union of India and its officer to re-designate the petitioner from the rank of Hawaldar (Radio Mechanic) to Warrant Officer as recommended by the Ministry of Home affairs and also to extend the pay-scales as given to the rank counter parts in the Central Reserve Police Force (CRPF) and Border Security Force (BSF).

G 3. Being aggrieved by the order and directions issued by the High Court, the Union of India and Anr. through their H respective officer(s) had filed Civil Appeal No. 25 of 2008

before this Court inter alia questioning the judgment and order passed by the Gauhati High Court in Writ Petition No. 497 of 2001, dated 11.02.2005. The alleged contemnors herein Mr. R.K. Singh, Secretary, Government of India and Lt. General Ranvir Singh, Director General of Assam, Rifles were the respondent Nos. 1 and 2, respectively in the aforesaid appeal.

4. This Court has dismissed the appeal and held as under:

"On a conspectus of the factual scenario noted above, we do not find any infirmity in the impugned directions given by the High Court, warranting interference. There is no merit in this appeal and it is dismissed accordingly with costs."

5. The petitioner before us, being of the view that since the contemnors/respondents herein have not complied with the orders and directions issued by the High Court as well as by this Court in spite of lapse of considerable period of time from the aforesaid judgment and order of this Court and hence willfully disobeyed the judgment and order of this Court, has filed this contempt petition under Article 129 of the Constitution of India read with Section 12 of the Contempt of Courts Act, 1971.

6. The respondents have entered appearance and also filed their respective counter affidavits before this Court.

7. At the time of hearing of this contempt petition, we have deliberated on two questions: firstly, whether the contempt petition filed by the petitioner is maintainable before this Court and secondly, whether the petitioner could approach High Court which has disposed of the writ petition and issued certain directions to the alleged contemnors for the grant of prayer sought before us in this petition.

8. The learned senior counsel for the complainant/petitioner, Shri Kumar would bring to our notice the decision

A of this Court in the case of *Oil and Natural Gas Corporation Ltd. vs. S.B.I. Overseas Branch, Bombay*, (2006) 6 SCC 385 and submit that the judgment and order passed by the High Court has now merged with the orders passed by this Court when this Court dismissed the civil appeal filed by the petitioner  
 B and therefore, this Court has the jurisdiction to entertain the present petition as it is the order of this Court which has been willfully disobeyed by the respondents/contemnors.

C 9. We have carefully perused the decision of this Court. A reading of the judgment would certainly indicate that when the civil appeals and the special leave petitions are dismissed with reasons, the orders passed by the Courts below would merge with the judgment and order passed by this Court. The said decision has been followed by this Court in a catena of subsequent judgments of this Court.

D 10. In view of what has been said by this Court in the aforesaid decision, we cannot hold that the judgment and order passed by the High Court has not merged with the judgment and order passed by this Court when the civil appeal filed by  
 E the complainant/petitioner was dismissed.

F 11. The first question having been answered, the next question that would arise for our consideration and decision is whether the contempt petition requires to be entertained by this Court or could this Court request the High Court whose directions are said to have been disobeyed by the respondents to consider and decide the matter.

G 12. We requested Shri K.K. Venugopal and Dr. Rajeev Dhawan, learned senior counsel to assist us in the matter. Their view on the second question is that undoubtedly the order passed by this Court, while accepting the judgment and order passed by the Courts below, would merge with the judgment and order passed by the Courts below. However, this Court in exercise of its powers under Articles 129, 136 and 142 of the  
 H Constitution of India could direct the complainant/petitioner to

approach the High Court and bring to its notice and knowledge that their orders and directions have been disobeyed by the respondents/contemnors.

13. In the instant case, the complainant/petitioner had approached the High Court for certain reliefs. The High Court has granted those reliefs to the petitioner and while doing so the High Court has issued certain direction(s) to the respondents to do a particular thing in a particular manner. The respondents, namely, the Union of India and other officers disturbed by the order and directions issued by the High Court had filed the special leave petition which on grant of leave had converted into civil appeal. This Court after hearing the parties did not find merit in the appeal and therefore, dismissed it.

14. We are mindful of settled law that the orders passed by the High Court would merge with the order passed by this Court. This Court has dismissed the appeal only and, therefore, it is the directions passed by the High Court which in fact have been allegedly disobeyed by the respondents/contemnors. In our considered view, it would be in the interest of justice and to lessen the burden of this Court in the current scenario, it would be appropriate to request the High Court to look into the grievance of the complainant, if a petition is filed before them inter alia bringing to their notice and knowledge that their orders and directions have been disobeyed. In our opinion, firstly, this exercise would be beneficial to the parties because they were before the High Court in the writ petition wherein the directions were issued and secondly, by entertaining the petitions of this nature wherein this Court has passed an order of dismissal simplicitor and the alleged contempt arises out of the order passed by the High Court, this Court would saddle the dockets with cases which could otherwise be effectively disposed of by the Courts below.

15. In view of the aforesaid aspects of the matter, in our considered opinion, though we hold that when the judgment and order passed by the High Court has merged with the order

A passed by this Court while disposing of the civil appeal, we direct the complainant/petitioner to file an appropriate contempt petition before the High Court for the alleged disobedience of the orders and directions issued by the High Court within two months' time from today. If such a contempt petition is filed, the  
B High Court would consider the same in accordance with law after giving an appropriate opportunity of hearing to all the parties concerned.

C 16. With these observations, the contempt petition is disposed of.

17. We clarify that we have not expressed any opinion on the merits of the contempt petition.

Ordered accordingly.

D D.G. Contempt Petition disposed of.