

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CACP No.2 of 2013 (O&M)

Date of decision: August 06, 2013

SI Malook Singh

...Appellant

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sant Pal Singh Sidhu, Advocate
for the appellant.

Mr.H.S.Brar, Addl. Advocate General, Punjab
for the respondent-State.

HEMANT GUPTA, J. (ORAL)

Challenge in the present appeal under Section 19 of the Contempt of Courts Act, 1971 is to an order passed by learned Single Judge on 15.02.2013, whereby the appellant was found guilty of Contempt of Court, when he arrested Paras Sharma on 26.04.2011.

Paras Sharma and Sumita Sharma filed a petition under Section 482 Cr.P.C. before this Court for protection of their lives and liberty as they had married against the wishes of their parents. This Court granted protection against the arrest of Paras Sharma on 04.03.2011. The said order was ordered to continue on 15.03.2011, when the case was adjourned to 18.04.2011. There was no specific order of continuation of the interim order on 18.04.2011. It appears that the appellant believing that order of arrest has been vacated, arrested Paras Sharma on

26.04.011. Paras Sharma was produced before the competent Court, which declined his application for bail. It was at the stage of consideration of regular bail application of Paras Sharma, this Court found that arrest of Paras Sharma, after the case was adjourned to 18.04.2011, amounts to violation of the order of the Court as the interim order passed earlier would continue in the absence of any specific order of vacation of interim order granted.

The question, as to whether, an interim order passed by the Court, if not extended, will be deemed to continue came up for consideration before one of us (Hemant Gupta, J.) in C.R. No.947 of 2006 titled “Punit Ahluwalia Vs. Arjan Singh & others” decided on 10.10.2006. In the said case, the ad-interim injunction was being extended from time to time. The same was not extended on a particular date. The sale deed was executed, when there was no order of injunction. This court observed as under:

“Another reason which weighed with the learned trial Court is that the sale has been effected in contravention of injunction granted in the suit filed by Arjan Singh. A perusal of the records of the said suit shows that plaintiff Arjan Singh has sought extension of injunction from time to time till 12.08.1996. It is pertinent to mention that Arjan Singh has even moved an application before the learned District Judge for extension of injunction when the Presiding Officer was on leave. Thereafter, the application for injunction was adjourned for arguments, but the order of injunction was not extended. On the other hand, there was injunction in the suit filed by Sanjeev Sharma after hearing counsel for the parties, the suit in which was Arjan Singh was also impleaded as a party. Therefore, I do not find that the sale has been effected in violation of the said injunction. Therefore, an ex parte injunction order which was granted on 22.11.1995 cannot be deemed to be in operation during the pendency of the suit.”

The appeal against the said order was partly allowed in a judgment reported as **Arjan Singh Vs. Punit Ahluwalia, (2008) 8 SCC 348**. The said part

of the order was upheld. The Court observed as under:

“17. Was the order of injunction operative so as to attract the provisions of Rule 2-A of Order 39 of the Code of Civil Procedure or invoking the inherent jurisdiction of the court under Section 151 thereof? The learned trial Judge opined that it was so because it was for the court to pass an appropriate order thereunder. The High Court, however, differed with the aforementioned finding of the learned trial Judge to hold that no order of injunction was operative. It, furthermore, held that any transaction carried out in violation of the order of the court is void; it would be a nullity. The decision of the High Court is based on the decisions of different High Courts including *Pranakrushna v. Umakanta Panda* AIR 1989 Ori. 148, *Phani Bhusan Dey v. Sudhamoyee Roy* 91 CWN 1078 and *Harbalas v. State of Haryana* 1973 Punj. L J 84. We agree with the High Court on this issue. If the order of injunction was operative up to a particular date, technically the order of injunction shall not remain operative thereafter.

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20. However, as in this case, no order of injunction was breached, the said principle has no application. The deed of sale, therefore, need not be set aside. It will have its own effect having regard to Section 52 of the Transfer of Property Act and Section 19 of the Specific Relief Act.”

In another judgment reported as **Ashok Kumar Vs. State of Haryana, (2007) 3 SCC 470**, the injunction granted by the Civil Court was not extended in a matter pertaining to land acquisition. The Court held that the period during which, the injunction was in force alone is required to be excluded. The court observed as:

“11. The short question which arises for consideration in this appeal is as to whether the order of ad interim injunction granted by the learned Civil Judge, Senior Division, Panipat, was operative till 9.9.1998 or 19.8.2000. We have noticed hereinbefore the nature of the orders passed by the learned Civil Judge. Although in its order dated 30.8.1997, the learned Civil Judge, used the term “in the meantime”, which was repeated in its order dated 24.9.1997, but in the subsequent orders beginning from 29.11.1997, the expression used was “till then”.

12. The term of the order of the learned Judge, in our opinion, does not leave any manner of doubt whatsoever that the interim order was only extended from time to time. The interim order having been extended till a particular date, the contention raised by the respondents herein that they were under a bona fide belief that the injunction order would continue till it was vacated cannot be accepted.

13. In our considered opinion, the purport of the order passed by the learned Civil Judge, Senior Division, Panipat, in extending the order of injunction is absolutely clear and explicit. It may be true that the date was preponed to 28.7.1998, but from a bare perusal of the order passed by the learned Civil Judge, Senior Division, it is evident that the order of injunction was not extended. Even on the subsequent dates, the order of injunction was not extended. In fact, no order extending the period was passed nor any fresh order of injunction was passed by the learned Civil Judge, Senior Division, subsequent thereto.

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18. There is no warrant for the proposition, as was stated by the High Court that unless an order of stay passed once even for the limited period is vacated by an express order or otherwise; the same would continue to operate.”

It has also come on the record that the appellant in fact reported to the Assistant Advocate General, Punjab that the the order of interim protection granted to the Paras Sharma has been vacated on 18.04.2011. The undisputed fact is that on the day of arrest there was no protection available to Paras Sharma. In view of the aforesaid judgments, there can not be deemed extension of the interim order, if the order was to remain operative up to a particular date. Thus, when the proceedings taken by this court are capable of interpretation, the order of holding the appellant guilty of contempt is not sustainable. There is nothing on the record to show that the appellant had any motive in arrest of the accused Paras Sharma on 26.04.2011. As an Investigating Officer, he was duty bound to take steps to logical end in pursuance of the report lodged.

It may be noticed that the appellant has since retired from the service and the order of conviction would affect the payment of his terminal benefits though there is no blot on his earlier service.

In view of the fact that even the learned trial Court declined application for regular bail of Paras Sharma, we find that order of learned Single Judge holding the appellant guilty of violation of the order of the Court is not justified.

Consequently, we allow the present appeal and set aside the order impugned in appeal. Rule is discharged accordingly.

(HEMANT GUPTA)
JUDGE

(INDERJIT SINGH)
JUDGE

August 06, 2013
Vgulati/Vimal