

C.A.C.P No.18 of 2023(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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C.A.C.P No.18 of 2023(O&M)
Date of decision: 19.12.2023

Jaspreet Kaur

...Appellant

Versus

Sh. Sukhjeet Pal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. V.K. Sandhir, Advocate,
for the appellant.

G.S. SANDHAWALIA, J. (Oral)

CM-23231-CII-2023

This is an application for condoning the delay of 125 days in filing the present appeal.

For the reasons mentioned in the application, which is supported by an affidavit, the same is allowed. Delay of 125 days in filing the present appeal is condoned.

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1. The challenge in the present contempt appeal filed under Section 19(1)(a) of the Contempt of Courts Act, 1971 (in short 'the Act') read with Rule 12 of Contempt of Courts Punjab and Haryana Rules 1974 is to the order dated 10.07.2023 passed by the Single Judge in COCP-3931-2018.

2. Contempt petition bearing COCP No.3931 of 2018 had been

dismissed by the learned Single Judge vide detailed order dated 10.07.2023 while deciding the bunch matter along with the writ petitions also, which were dismissed without issuing any direction to the State to issue appointment letters. Reference can be made to paragraph 57, wherein the contempt petition number had been wrongly mentioned as '3913' instead of '3931', whereas in the tabulated chart appended with the judgment at Sr. No.17, the correct contempt petition number has been mentioned. Therefore, there can be no grouse that her case has not been discussed as per the settled law.

3. The appeal, as such, under Section 19(1) (a) of the Act would not be maintainable, if the learned Single Judge does not initiate the contempt proceedings and there is no conviction. Reliance is placed upon the judgment of the Apex Court in ***Midnapore Peoples Cooperative Bank Ltd. and others vs. Chunilal Nanda and others, 2006 (3) SCT 115.***

4. The Apex Court in ***Midnapore Peoples Cooperative Bank Ltd.'s case (supra)*** has, in very categorical terms, held that the appeal is not maintainable against an order declining to initiate proceedings for contempt. The relevant portion reads thus:-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :

I. An appeal under section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for

contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intracourt appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

The first point is answered accordingly.”

5. Similar view has also been taken by a co-ordinate Bench way back in ***Subhash Chander Sethi vs. Sh. B.R. Kakkar, Commissioner, Municipal Corporation of Ludhiana, 1990 (2) PLR 46*** wherein reliance

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was placed upon *D.N. Taneja vs. Bhajan Lal, (1988) 3 SCC 26.*

6. Faced with the situation, learned counsel for the appellant wishes to withdraw the present appeal.

7. Dismissed as withdrawn.

(G.S. Sandhawalia)
Judge

19.12.2023
monika

(Lapita Banerji)
Judge

Whether reasoned/speaking: Yes
Whether reportable: No