

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP No. 2548 of 2016

Date of decision : 01.06.2018

Ojasvi Bhatia

...Petitioner

V/s

ASI Jagwati & anr.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Y.S. Turka, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G. Hry.

Mr. Shilesh Gupta, Advocate as amicus curiae.

RAJAN GUPTA J.

Petitioner invoked the contempt jurisdiction of this court alleging violation of order dated 19.08.2016 passed by this court. It appears that an FIR No. 434 dated 23.07.2016 was registered against the petitioner and his parents at police station Mujesar, Faridabad under sections 498-A/354A/406/506/34 IPC. Petitioner approached this court by filling CRM M-28527 of 2016 seeking pre-arrest bail and following order was passed by this court:-

“The parents of the petitioner were granted regular bail and petitioner got married to respondent No. 2 in April, 2016. Keeping in view that the marriage was solemnized in the year 2016, an attempt at this stage can be made for an out of Court settlement.

Subject to deposit of Rs. 25,000/- as litigation expenses by the petitioner, notice be issued to the respondents, returnable by 22.11.2016.

In the meantime, petitioner shall not be arrested”

It appears that petitioner was thereafter arrested on 20.08.2016 despite aforesaid order dated 19.08.2016. Petitioner asserted that he informed the police officials about the stay of his arrest. However, they refused to pay any heed. As he was an employee in a private firm, his arrest casts stigma on him in his organization. Assertion was disputed by State counsel. He submitted that petitioner never produced any document in support of his plea that his arrest had been stayed. Petitioner filed counter affidavit refuting this stand. Para 5 thereof reads as under:-

“5. That however, still the respondent no. 2 ACP Pooja Dabla asked the respondent no. 1 to arrest the petitioner and forget about this Hon’ble Court’s order while boasting that they had arrested number of such persons in the past and none of them could do anything and that they could take care of this Hon’ble court as well.”

In view of rival stand taken before this court, it was deemed necessary that a fact finding inquiry was to be conducted in the matter. Accordingly, District and Sessions Judge, Faridabad was asked to conduct an inquiry. Report dated 01.02.2017 was submitted by him. Relevant part thereof reads as under:-

“From the overall perusal of the statements of petitioner and respondents, it transpires that ACP Pooja Dabla has nothing to do with alleged violation of the order dated 19.08.2016 handed down by the Hon’ble High Court, as neither she was present at the time of arrest of petitioner nor she directed ASI Jagwati to arrest the accused in violation of the order dated 19.08.2016 handed down by the Hon’ble High Court. Though, Ojasvi Bhatia could not produce the copy of anticipatory bail order dated 19.08.2016 of the Hon’ble High Court to the Investigating Officer ASI Jagwati at the time of his arrest, but it is established that the fact of grant of anticipatory bail to the petitioner was brought to the notice of the

respondent ASI Jagwati. The Investigating Officer ASI Jagwati in her statement during enquiry has also admitted that the petitioner has informed her regarding grant of anticipatory bail to him by the Hon'ble High Court. In such situation, the Investigating Officer ASI Jagwati was required to confirm and verify the factum of grant of anticipatory bail to the petitioner from the official website of the Hon'ble High Court before his arrest, if the petitioner was unable to produce the copy of order dated 19.08.2016."

It appears that aforesaid report has been submitted by District and Sessions Judge, Faridabad after conducting detailed fact finding inquiry. This court has no reason to disbelieve the same. In view of the stand that ASI Jagwati acted in stark violation of the order passed by this court and went ahead to arrest the petitioner, her guilt is established. Respondent no. 1 ASI Jagwati did not try to verify the claim of the petitioner despite the fact that she was informed about the order passed by this court.

In view of the circumstances, I find the said official guilty. However alternate course of saddling her with punitive costs is adopted. She would, thus, pay punitive costs of ₹50,000/- which would be remitted to petitioner as compensation. Petition is disposed of in these terms.

June 01, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No