



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL CONTEMPT PETITION NO.9 OF 2017

Dr. Manohar B. Rawate]
Residing at A-19 Sangli Vaibhav Co-op. Hsg.]
Soc. Ltd., 5 Natwr Nagar, Jogeshwari(E),]
Mumbai-400 060] ...Petitioner-in-person
vs.
1. Mr. Justice Anoop Mohta]
Bombay High Court,]
Mumbai- 400 032]
2. Mr. Justice G. S. Kulkarni,]
Bombay High Court,]
Mumbai- 400 032]
3. State of Maharashtra]
Ground Floor, High Court Extension Building,]
Mumbai-400 032]
4. Ld. Registrar General]
Bombay High Court,]
Mumbai- 400 032]
5. The Advocate General of Maharashtra]
1st floor, High Court Extension Building,]
Mumbai-400 032]

6. The Attorney General of India,]
A-234-1 Greater Kailash-I]
New Delhi-110 048]

7. Union of India,]
Income Tax Bldg., 2nd floor,]
Marine Lines, Mumbai] ...Respondents

Mr. Manohar B. Rawate for the Petitioner.
Mrs. P. P. Shinde, APP for the Respondent-State.

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.**
RESERVED ON : 01/02/2019
PRONOUNCED ON : 20/02/2019

JUDGMENT: (Per B. P. Dharmadhikari, J.)

1. By this Criminal Contempt petition filed under Article 215 of the Constitution of India, petitioner in person seeks action against respondent Nos.1 and 2 for playing fraud on Court by preparing order purportedly dated 29/9/2016 which is claimed to be forged one. Prayer clause also challenges the decision dated 27/10/2017 taken by Respondent No.5 declining to grant consent for moving motion/application under section 15 of the Contempt of Courts Act.

2. Respondent No.5 is the office of Advocate General for the State of Maharashtra. Respondent No.6 is the Attorney General of India. Respondent No.1 is the Judge of this Court but has superannuated during pendency of this proceeding. Respondent No.2 is the sitting Judge of this Court. Both these Judges have passed the order dated 29/9/2016 in Writ Petition Nos.2814/1992, 1716/2003, 1723/2006 and 2076/1996. These

petitions are filed by the present petitioner and said order records that after hearing him and after perusal of written submissions filed in W.P. No.2814/1992, the Court found it in the interest of justice to adjourn the matter till the conclusion and the decision of the criminal proceedings pending before learned Metropolitan Magistrate. Writ Petitions, therefore came to be adjourned sine die with liberty to the petitioner to move application for hearing after criminal proceedings are over. Petitioner has filed criminal complaint before the learned Metropolitan Magistrate alleging that annual confidential reports of the year 1989-99 were fabricated by respondent in writ petitions and that Court had issued notice on that complaint.

3. The case of petitioner is he got knowledge of order dated 29/9/2016 only on 3/12/2016 when he downloaded it.

4. His grievance about the said order springs from his allegations that the above mentioned 4 petitions came up for final hearing on 29/9/2016 in the Court presided over by Respondent Nos.1 and 2. He then states that he was not permitted to read out the papers or composite synopsis. Respondent No.1 did not permit him to read those papers and respondent No.2 stated that the said petitions be dismissed and he has to pursue criminal case as evidence is not acceptable in Writ Petition. He was not permitted to urge anything on forged confidential reports while respondent's senior counsel Mr. Talsaniya was allowed to submit "anything". The respondent Nos.1 and 2 then declared hearing to be over and stated that petition was dismissed. The petitioner therefore demanded certificate under Article 132 read with 133 of the Constitution of India for appeal to Hon'ble Supreme Court. The petitioner in his contempt petition states that "Faces of Contemnors herein turned pale, they put heads down and Contemnor leading the Bench waved hand at other Contemnor on the

Bench and with head down raised voice and said that appeared to have read some and 'pressurizing us' and that matters would be after 8 weeks (computer showed 24/11/2016)". He states that on 7/10/2016 he addressed a letter to the office of the Chief Justice of High Court requesting Hon'ble Chief Justice not to list the matters before Respondent Nos.1 and 2 and one more Judge. He then states that the matter appeared on board of other Court on 24/11/2016. He adds that thereafter the petitions were not placed for hearing and on 3/12/2016 he learnt about the order dated 29/9/2016. He claims that this order is *ex post facto* and forged one. He submits that on 4/1/2017 he addressed communication to the office of the Hon'ble Chief Justice and other higher authorities making that grievance.

5. It appears that when the said petition was presented on 11/9/2017, the order of the Advocate General dated 27/10/2017 was not in existence and hence prayer was amended later on to incorporate challenge to that order. Grounds also have been added in the petition accordingly.

6. It is in this background that we have heard the petitioner.

7. The office report by the Registrar Judicial 1 shows that the petitioner does not have sufficient knowledge of law and procedure and therefore would not be in position to assist the Court. It appears that on 3/12/2018 the petitioner claimed to be advocate enrolled with Bar Council of Maharashtra and Goa. The then Division Bench found that the Committee which denied him permission to appear in person has also noted this fact. Said Division Bench permitted the petitioner to amend his petition and also observed that the petitioner, subject to following decorum and propriety, is entitled to appear in person.

8. When petitioner started addressing this Court, we were required to tell him to stop using unnecessary adjectives while describing alleged incident dated 29/9/2016. Accordingly, he refrained himself from using those adjectives. However, the same find mentioned in his petition as also representations.

9. After he finished his arguments we asked him whether he wanted to add anything else and he replied that he had completed his arguments. Thereafter we closed the matter for passing of orders. When the matter was closed the petitioner sought certificate for filing appeal in the Hon'ble Apex Court under the provisions of Articles 132 to 135 of the Constitution of India, in case the order was to go against him.

10. It is to be noted that during arguments before this Court, the petitioner did not refer to the decision dated 27/10/2017 passed by the Advocate General and did not utter a word to point out why it is not in accordance with law. He also did not point out why in absence of said refusal by the Advocate General, this proceeding under section 15 should be entertained.

11. He has not invited our attention to any other order passed in these four petitions adjourning the hearing on 29/9/2016. No such orders signed by respondent No.1 and 2 is pressed into service. The order alleged to be fabricated is the only order available on Court record. The copy placed on record of Contempt Petition by the petitioner shows that it is downloaded by him on 3/12/2016. It is important to note that in memo of Contempt Petition he claims that the said order came to his knowledge on 3/12/2016. This disclosure of date of knowledge by the petitioner therefore appears to be apparently irrelevant.

12. The order signed by Respondent Nos.1 and 2, Judges came to be uploaded on 7/10/2016 itself. Peittioner has also not pointed out any other order dictated to Personal Assistant (Stenographer) on dias and signed by the Judges. Thus, order dated 29/9/2016 is the only order available on record of the Writ Petitions.

13. The petitioner has relied upon the judgment of the Hon'ble Apex Court reported in *Dr. Vimal vs. The Delhi Administration*¹ but in above facts, we find reliance upon it as misconceived. The Petitioner could not demonstrate how the signed order which postponed consideration of challenge in the Writ petition till adjournment in relation to annual confidential reports is injurious to him.

14. Learned counsel appearing for Respondent No.4 the Registrar General has urged that statement of facts regarding proceedings and developments in the Court in the Court order is conclusive and not open even in appeal to be contradicted. He submitted that only Court recording the said factual position is itself competent to rectify the alleged error and that it must be approached immediately.

15. In present facts, as we do not have any other order except the order dated 29/9/2016 on record of Writ Petition No.2814/1992 and other connected matters, we find the effort of the petitioner in present Criminal Contempt Petition unsustainable.

16. We are therefore not inclined to issue notice of this matter to any of the respondents. We reject the Criminal Contempt Petition. Request for any certificate to approach Hon'ble Apex Court is also rejected as no substantial question of law as to interpretation of the Constitution is either

1. AIR 1963 S.C. 1572

This Order is modified/corrected by Speaking to Minutes Order dated 04/03/2019

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involved or arises for determination.

(REVATI MOHITE DERE, J.)

(B. P. DHARMADHIKARI, J.)