

*Before Rajesh Bindal, J.*

**COURT ON ITS OWN MOTION—Petitioner**

*versus*

**MALOOK SINGH - Respondents**

**COCP No. 1705 of 2011**

February 15, 2013

*(A) Contempt of Courts Act 1971 - S.2 - Sue motto action - Arrest of petitioner stayed by High Court in protection matter - Despite stay of arrest, investigation officer proceeding to arrest petitioner - Regular bail order also noticed earlier order of stay of arrest passed in protection matter and directed disciplinary action against arresting officer and report to be submitted to the High Court - SSP conducting inquiry absolving arresting officer - However, High Court charged arresting officer for contempt for deliberate defiance of Court order and playing with the liberty of a citizen - Plea of ignorance rejected - Justice delivery system impacted and hampered - Conduct reprehensible and condemned - Apology tendered rejected - Held, arresting officer guilty of contempt.*

*Held*, that further, a perusal of the explanation given by the respondent contemnor shows that he had deliberately defied the order passed by this court; played with the liberty of a citizen while arresting him despite stay granted by this Court and then tried to explain the same by attributing negligence on the part of the Law Officer. This has compounded the offence committed by the respondent-contemnor. The plea raised by the respondent contemnor that leniency be shown to him considering his long unblemished service cannot be accepted for the reason that earlier service is not a certificate for permitting any one to do a wrong at the fag end of his career. Every action of an employee has to be tested individually. However, past conduct may result in awarding him severe punishment, but will not absolve of the offence committed. Rather, the fact that the respondent contemnor had 34 years' service to his credit and in his service career, he may have dealt with hundreds of cases and still violated the order passed by this court shows that the action was deliberate. He cannot be permitted to plead

ignorance, especially being part of law enforcement agency. Arrest of an innocent person is certainly a blot in his career. He had to remain in jail till such time he was directed to be released on bail by this court on 18.5.2011 after his arrest on 26.4.2011.

(Para 9)

*Further held*, that it is a settled principle of law that contempt is a matter primarily between the Court and the contemnor. The Court has to take into consideration the behaviour of the contemnor, attendant circumstances and its impact upon the justice delivery system. If the conduct of the contemnor is such that it hampers the justice delivery system as well lowers the dignity of the Courts, then the Courts are expected to take somewhat stringent view to prevent further institutional damage and to protect the faith of the public in the justice delivery system. Where the conduct is reprehensible as to warrant condemnation, then the Court essentially should take such contempt proceedings to their logical end. There cannot be mercy shown by the Court at the cost of injury to the institution of justice system.

(Para 10)

*Further held*, that in the present case, the respondent-contemnor, in his reply affidavit, has not disputed the observations made by this Court in the show cause notice issued to him. He has only attempted to tender an unconditional apology for his acts and omissions which certainly were prejudicial to the administration of justice and have adversely affected the rights of Paras Sharma. The examination of the factual matrix of the present case and conduct of the respondent-contemnor, particularly the reply filed by him, places it beyond ambiguity that the charges framed against the respondent-contemnor, namely, arrest of Paras Sharma in violation of the interim protection granted to him are proved. The explanation of the contemnor is clearly not acceptable. The only conclusion which can be reached in the facts and circumstances of the case is that the contemnor had deliberately flouted the order passed by this court, hence, he is guilty of contempt of this court.

(Para 11)

**(B) Contempt of Courts Act 1971 - S.2 - Words and Phrases - "In the meanwhile" - Means up to happening of a particular event - Ad interim relief in the meanwhile to operate till application heard by Court or stay specifically vacated - Interim orders require extension only when interim order is passed for a fixed period, i.e., till next date of hearing.**

*Held*, that in the opinion of this Court, if Courts grant interim order saying meanwhile, then it would be in force till it is vacated or modified. On 4.3.2011, this Court has not granted interim protection till the next date of listing, however, on 15.3.2011, again this Court has not observed that interim order is extended till the next date of hearing. The only operative portion is "interim order to continue". On 18.4.2011, this Court had never vacated the order dated 4.3.2011. Since the order was already in existence, therefore, there was no need for this Court to extend the order again and again on every date fixed. Interim order requires extension only when interim is passed for the fixed period, i.e., till the next date of listing. I find support from the judgment of the Bombay High Court in the case of Govinda Bhagoji Kamable and others v. Sadu Bapu Kamable and others, reported in 2005(1) MLJ 651.

(Para 2)

APS Mann, Addl. Advocate General, Punjab.

SPS Sidhu, Advocate, for the respondent.

**RAJESH BINDAL, J.**

(1) It is a case in which this court had taken suo-motu notice for violation of the interim stay granted by this court by the respondent, whereby Paras Sharma, whose arrest had been stayed, was taken into custody.

(2) The facts of the case leading to issuance of suo-motu notice for contempt, as have been noticed in detail in the order dated 18.7.2011, passed in CRM No. M-15240 of 2011 are extracted herein below:

"Brief facts of the present case are that an FIR No. 25 dated 28.2.2011 for an offence under Sections 363/356 IPC was registered in Police Station Cantt. Ferozepur, District Ferozepur on the

statement of Sukhdev Raj son of Gian Chand stating that Samita aged about 16/17 years went for tuition in Bazar No. 1, Ferozpur Cantt. on 28.2.2011 at about 6/6.30 AM but she has not returned back home after her tuition; Sukhdev Raj is confident that Paras son of unknown by alluring under the pretext of marriage, has taken her away.

Samita as well as Paras Sharma have filed one petition under Section 482 Cr.P.C. being Criminal Misc. No. M-6835 of 2011, "Samita Sharma and another Vs. State of Punjab" in this Court for protection of their lives and liberties as they have married against the wishes of their parents. This Court on 4.3.2011 has passed the following order:

"This is a petition under Section 482 Cr.P.C. for protecting the life and liberty of the newly wedded petitioners from the hands of respondents No. 3 to 5 as they have married against their wishes.

Notice of motion.

At this stage, Mr. M. S. Sidhu, Advocate appears and accepts notice on behalf of respondents No. 3 to 5 and states that petitioner No. 1 is minor. Her date of birth is 14.7.1994.

Petitioner No. 1 is present in the Court along with her counsel. Learned counsel for the petitioners also admits that petitioner No. 1 is minor.

The petitioner No. 1 is not ready to go with her parents as she fears that they might her married to somebody else. However, she has not objected. if she is sent to Nari Niketan.

Learned counsel for respondents No. 3 to 5 also agree to the same.

Taking into account the facts and sensitive situation, the Superintendent/Warden of Nari Niketan is directed to take the present petitioner No. 1 in her custody. The SHO, Police Station, Sector 3, Chandigarh either himself or through some other police officer, shall make arrangements for the medical to be conducted of petitioner No. 1. He shall also ensure that

petitioner No. 1 (sic. 'medical') is safely conducted of petitioner No. 1. He shall also ensure that petitioner No. 1 is safely escorted to the Nari Niketan accompanied by lady constable along with officials of Nari Niketan, Sector 26, Chandigarh.

The parties are again to be present in the court on the next date of hearing i.e. 15.3.2011.

Meanwhile, the petitioner No. 2 shall not be arrested or harmed in any manner in case FIR No. 25 dated 28.2.2011 registered at Police Station Cantt., Ferozpur registered against him.

A copy of this order be given Dasti under the signatures of the Reader attached to this Court."

Again on 15.3.2011, this Court has passed the following order:

"In pursuance to the order dated 4.3.2011, the parties are present in Court.

Learned counsel for respondents No. 4 and 5 prays for time to file reply.

Reply be filed before the next date of hearing with a copy in advance to counsel opposite.

Taking into account the facts and circumstances of the case, petitioner No. 1 shall remain continued to be in the custody of Superintendent/Warden of Nari Niketan.

Adjourned to 18.4.2011.

Interim order to continu.

Copy of this order be given to the officials of the Nari Niketan under the signatures of Reader attached to this Court."

On 18.4.2011, this Court has passed the following order:

"In pursuance to the order dated 15.3.2011, the parties are present in Court.

To come up for arguments on 8.7.2011.

Meanwhile, petitioner No. 1-Samita Sharma shall continue to be in the custody of Superintendent/Warden of Nari Niketan.

Copy of this order be given to the officials of the Nari Niketan under the signatures of Reader attached to this court."

Paras Sharma, accused was arrested by S. I. Malook Singh on 26.4.2011 and was produced in the Court of the Chief Judicial Magistrate on 27.4.2011. Paras Sharma, accused has moved bail application being CrI. Misc. No. 15240 of 2011 before this Court, which was disposed of by this Court vide order dated 18.5.2011, which reads as under:

"This is a petition seeking regular bail in case FIR No. 25, dated 28.2.2011, under Sections 363/366 of the Indian Penal Code, registered at Police Station Cantt. Ferozepur, District Ferozepur.

Notice of motion.

On being asked, Mr. K. D. Sachdeva, learned Additional Advocate General, Punjab, accepts notice on behalf of the respondent-State.

With the consent of the learned counsel for the petitioner, as well as, learned Additional Advocate General, Punjab, present petitioner is being disposed of at the admission stage. Record reveals that a joint petition was filed by the petitioner and Samita Sharma before this Court being CrI. Misc. No. M-6835 of 2011 seeking protection. In CrI. Misc. No. M-6835 of 2011, this Court vide order dated 4.3.2011 (Annexure P/3) has observed that petitioner No. 1, i.e., prosecutrix is present in the court along with her counsel. It has further been observed by this Court that petitioner No. 1 is not ready to go with her parents as she fears that they might get her married to somebody else. This Court vide order dated 4.3.2011 has directed that meanwhile accused present petitioner (petitioner No. 2 in that petition) shall not be arrested or harmed in any manner in case FIR No. 25 dated 28.2.2011.

Learned counsel for the petitioner has vehemently argued that petitioner was arrested by the police on 26.4.2011 stating that stay order granted on 4.3.2011 was never extended after 15.3.2011, therefore, police is free to arrest the petitioner.

I have carefully perused order dated 4.3.2011, as well as, order dated 15.3.2011 passed by a Co-ordinate Bench of this Court in CrI. Misc. No. M-6835 of 2011.

Order dated 4.3.2011 nowhere says that interim protection was granted till the next date of listing, rather order shows that meanwhile, petitioner shall not be arrested. Admittedly, stay order was never vacated by this Court. Arrest of the petitioner, at the face of it, is in gross violation of the interim protection granted by this Court's order dated 4.3.2011.

Considering the totality of the facts and circumstances of the case, present petition is allowed. Let, petitioner be released on bail to the satisfaction of the Chief Judicial Magistrate, Ferozpur. Mr. K. D. Sachdeva, learned Additional Advocate General, Punjab has assured that he will recommend to the Director General of Police, Punjab, to take appropriate legal disciplinary action against the Arresting Officer who has arrested the petitioner in gross violation of the interim protection. This Court believes and trusts Mr. Sachdeva.

Let, copy of the order be forwarded to the Director General of Police, Punjab for taking appropriate action against the Arresting Officer and shall submit his report to this Court within one month from today positively."

The Senior Superintendent of Police, Ferozpur, in compliance of order dated 18.5.2011 has held an enquiry and has observed that this Court on 18.4.2011 in CrI. Misc. No. M-6835 of 2011 did not extend the interim protection granted to the accused on 4.3.2011 for further period. Therefore, arrest of Paras Sharma, accused by SI Malook Singh cannot be said to be in violation of this Court's order dated 4.3.2011. It has further been observed by the Senior Superintendent of Police that the order dated 4.3.2011, 15.3.2011

and 18.4.2011 passed by this court in CrI. Misc. No. M-6835 of 2011 were also produced before Shri M. S. Randhawa, Additional Sessions Judge, Ferozepur. Consequently, bail application of Paras Sharma, accused was rejected by the learned Additional Sessions Judge after perusing those orders. Therefore, SI Malook Singh has not violated any order of this Court.

Now, sole question before this court is as to whether SI Malook Singh has violated the order of this Court dated 4.3.2011 by arresting the accused on 26.4.2011, thereby committed any contempt of Court?

Relevant portion of the order dated 4.3.2011 passed by this Court in CrI. Misc. No. M-6835 of 2011 reads as under:

“Meanwhile, the petitioner No. 2 shall not be arrested or harmed in any manner in case FIR No. 25 dated 28.2.2011 registered at Police Station Cantt. Ferozepur registered against him.”

In the opinion of this Court, if Courts grant interim order saying meanwhile, then it would be in force till it is vacated or modified. On 4.3.2011, this Court has not granted interim protection till the next date of listing, however, on 15.3.2011, again this Court has not observed that interim order is extended till the next date of hearing. The only operative portion is “interim order to continue”. On 18.4.2011, this Court had never vacated the order dated 4.3.2011. Since the order was already in existence, therefore, there was no need for this Court to extend the order again and again on every date fixed. Interim order requires extension only when interim is passed for the fixed period, i.e., till the next date of listing. I find support from the judgment of the Bombay High Court in the case of *Govinda Bhagoji Kamable and others* versus *Sadu Babu Kamable and others (I)*. Learned Single Judge of the Bombay High Court in para 12 of the aforesaid judgment has observed as under:

“12. In view of this controversy, the question is whether the possession should be restored to the Appellants. Before I consider this question, it is necessary to consider the main



controversy whether the stay granted by this Court was operative only till the returnable date i.e. 9th December, 2002, or it was to continue till disposal of the Civil Application or till further orders. The first part of the order records that the notice is issued to the Respondents and 9th December 2002 is fixed as the returnable date of the notice. From the plain reading of the order, it is very clear that the order of ad-interim stay was not limited to any particular date. The first part of the order directs issuance of the notice to Respondents and it is ordered to be made returnable on a particular date. It is further stated that in the meanwhile ad-interim ex parte relief is granted. It is crystal clear from the order that the intention of this Court was to issue notice and to grant stay in the meanwhile. The phrase "in the meanwhile" is used in the order granting stay. The dictionary meaning of the word meanwhile is "till happening of a particular event" or "until something expected happens". When the stay was to be operative in the meanwhile, it was to operate upto happening of a particular event. The said event was hearing of the application after service of notice to the Respondents. Whenever this Court intends to grant ad-interim relief limited to a particular date, it is always mentioned in the order very specifically that the ad-interim relief will be operative till a particular date. When this Court issued notice and granted ad-interim relief in the meanwhile, it was obviously intended that the ad-interim relief will operate till the application was heard by this Court after service of notice. When this Court makes notice returnable on a particular date, it cannot be argued that the date mentioned in the notice is the date on which the application will be positively heard. The returnable date mentioned in the order is the returnable date fixed for the notice. It is a date fixed for appearance of the parties. It is not necessary that on the returnable date fixed by this Court, the case appears on the Board. When this Court issued notice to the Respondents and granted ad-interim relief "in the meanwhile" is obvious that the ad-interim relief was to operate till the Court heard the parties on the basis of the notice issued or till order of stay was specifically vacated by this Court. Whenever, the Court intends

that the ad-interim relief will operate till the returnable date, it is specifically mentioned in the order that ad-interim relief will operate upto a specific date or till the returnable date of notice. When ad-interim relief is granted "in the meanwhile" after issuance of notice to the Contesting Party the said relief continues to operate until the event of hearing of the Application. The order cannot be read to mean that the interim relief is operative only till the returnable date of the notice."

Thus, I am of the prima -facie view that SI Malook Singh has committed contempt of Court by arresting Paras Sharma, accused, in total violation of the interim protection granted by this Court to Paras Sharma.

Let this matter be placed before the Bench hearing contempt for appropriate directions on the judicial side after getting approval from Hon'ble the Acting Chief Justice."

(3) On 7.3.2012, after considering the reply filed by the respondent-contemnor, this court passed the following order framing charge against the respondent. The same is also extracted below:

"(1). In CRM-M-6835 of 2011, this Court vide order dated 04.03.2011 directed that petitioner No. 1 (Samita Sharma) be safely escorted to Nari Niketan, Sector 26, Chandigarh with a further direction that "*meanwhile, petitioner No. 2 shall not be arrested or harmed in any manner in case FIR No. 25 dated 28.2.2011 registered at Police Station Cantt. Ferozpur registered against him.*" On 15.03.2011, the case was adjourned to 18.04.2011 with a direction that "*interim order to continue*". The above-stated interim order staying arrest of petitioner No. 2 was never vacated or modified by this Court at any subsequent date. The second petitioner was admittedly arrested by SI Malook Singh on 26.4.2011, giving rise to these *suo motu* contempt proceedings.

(2). In para 3 of his reply/affidavit dated 02.11.2011, SI Malook Singh has rendered the following explanation:-

"3. That on 18.4.2011 after attending the Court, SI Malook Singh, presented the draft reply in the office of Advocate General, Punjab for vetting. The said reply was marked

*for vetting to Mrs. Neelam Birara, Id. AAG Punjab. She gave her remarks on the vetting noting sheet as well as on the draft reply that "Redraft reply. Make it clear what is the status of the investigation as the interim order is vacated on 18.4.2011 and case is fixed for arguments."*

(3) In view of the insinuation attributed by SI Malook Singh to a Law Officer working in the Office of Advocate General, Punjab, Mr. M. C. Berry, learned Addl. AG Punjab was asked to verify the facts and assist this Court.

(4) Mr. Berry, on verification of the records, rightly points out that Mrs. Neelam Birara, Assistant Advocate General, Punjab was not the arguing/assisting Counsel nor was present in Court when CRM-M-6835 of 2011 was taken up for hearing on 18.4.2011. She was rather assigned the duty of vetting the replies etc. SI Malook Singh himself attended the Court on 18.4.2011 and thereafter went to the Advocate General Office to get the reply vetted. It was SI Malook Singh who informed the learned Law Officer (Mrs. Neelam Birara) that this Court had vacated the order of interim protection earlier granted to petitioner No. 2 and the case was adjourned for final arguments.

(5) The factual explanation given by Mr. Berry has to be accepted for the obvious reason that Mrs. Neelam Birara, Assistant Advocate General, Punjab was not the Law Officer who represented the prosecution in the subject case on 18.4.2011 and in the absence of copy of the Court order, she obviously had no reason or knowledge to state on her own that the order of interim protection had been vacated. Since it was SI Malook Singh who admittedly presented the reply for vetting before the Law Officer, the so-called information regarding 'vacation of interim protection' was given to her by none else but SI Malook Singh only.

(6) The plea taken by SI Malook Singh in para 3 of his reply/affidavit is thus totally false, concocted and misleading and is liable to be rejected.

(7) The record further reveals that the then Senior Superintendent of Police, Ferozepur had sent an explanation/report dated 17.6.2011 to the Assistant Registrar (Crl.) of this Court defending the Investigating Officer SI Malook Singh on two counts, namely (i) the interim order dated 4.3.2011 was not expressly extended by this court on 18.4.2011 when the case was further adjourned to 8.7.2011, hence it stood vacated; (ii) SI Malook Singh acted upon the remarks given by Mrs. Neelam Birara, learned Assistant Advocate General, Punjab.

(8) Even before this, the Senior Superintendent of Police, Ferozepur had sent another report dated 10.6.2011 to the Additional Director General of Police (Crime), Punjab, Chandigarh, a copy whereof is also placed on record with the main case, wherein also he defended SI Malook Singh taking an additional plea that Mr. KD Sachdeva, learned Additional Advocate General, Punjab assured the High Court to recommend to the Director General of Police for appropriate legal disciplinary action against the arresting Officer 'at his own and without any authority.'

(9) All the three pleas taken by the then Senior Superintendent of Police, Ferozepur are prima facie false and contrary to the record.

(10) It is well-settled that an interim order once passed continues to operate unless expressly vacated. The said SSP did not deem it appropriate to seek legal advice from the District Attorney or the office of Advocate General, Punjab before jumping to a misconceived conclusion. His above-stated reports are apparently at the behest of SI Malook Singh. He has shown utter disregard to the rank, status and protocol of an Additional Advocate General while making irresponsible remarks against Mr. KD Sachdeva. The tone and tenor of his letters are bordering insult of a Senior Law Officer which deserves to be viewed seriously.

(11) It is stated by SI Malook Singh who is present in Court that one Kaustabh Sharma, IPS is the author of above-stated communications in his capacity as Senior Superintendent of Police, Ferozepur.

(12) Let there be a show cause notice to the said Kaustabh Sharma, IPS also as to why Contempt of Court proceedings under the Contempt of Courts Act, 1971 be not initiated against him. Since his place of posting is not known; let he be served through Director General of Police, Punjab who shall ensure that notice is duly served upon the said contemnor.

(13) He is directed to remain present in Court also.

(14) Meanwhile, the following specific charges are framed against SI Malook Singh:-

(1) SI Malook Singh, while acting as Investigating Officer in case FIR No. 25 dated 28th February, 2011 u/s 363, 366 IPC willfully and deliberately violated the order dated 4.3.2011 passed by this Court in CRM-M-6835 of 2011 and arrested petitioner No. 2 (Paras Sharma) in brazen violation of the interim protection against arrest granted to him;

(2) With a pre-meditated design to violate the Court order, with or without collusion with the private respondents, SI Malook Singh appeared before Mrs. Neelam Birara, Assistant Advocate General, Punjab for getting the draft reply vetted and gave a false information to the Law Officer that the interim order dated 5.3.2011 had been vacated.

(3) With a view to take false plea of *bona fide* mistake, SI Malook Singh has filed a totally false and misleading affidavit dated 2.11.2011 to give an impression as if he acted upon the written 'comments'/observations' made by the Assistant Advocate General, Punjab on the draft reply on 18.4.2011.

(15) Re-notify for further hearing on 16.4.2012.

(16) The additional affidavit in response to the specific charges, if any, be filed with an advance copy to Mr. MC Berry, learned Addl. AG Punjab who shall continue to assist the Court in the matter.

(17) Let a dasti copy of this order be handed over to Mr. MC Berry, learned Addl. AG Punjab for information and necessary compliance."

(4) A perusal of the aforesaid order shows that in addition to SI-Malook Singh, notice to show cause as to why proceedings for contempt be not initiated was also issued to Kaustabh Sharma IPS, the then Superintendent of Police. However, accepting his unconditional apology tendered in Court and withdrawal of the allegation regarding lapses attributed to the office of Advocate General, Punjab, the proceedings initiated against him were dropped vide order dated 28.5.2012. After framing of charge against contemnor-SI Malook Singh, he filed his affidavit dated 7.9.2012 tendering his unconditional apology stating that disobedience was not intentional and further stating that he had 34 years of unblemished service to his credit and going to retire within next six months. Mercy has been pleaded.

(5) I heard learned counsel for the parties and perused the record.

6. Hon'ble the Supreme Court in *T. N. Godavarman Thirumulpad v. Ashok Khot and another*, (2006) 5 SCC 1, while dealing with a case pertaining to dis-regard of the order passed by it, observed as under:

“The “King is under no man, but under God and the law”- was the reply of the Chief Justice of England, Sir Edward Coke when James-I once declared “Then I am to be under the law. It is treason to affirm it”-so wrote Henry Bracton who was a Judge of the King's Bench.

2. The words of Bracton in his treatise in Latin “quod Rex non debat esse sub homine, sed sub Deo et Lege” (That the King should not be under man, but under God and the law) were quoted time and time again when the Stuart Kings claimed to rule by divine right. We would like to quote and requote those words of Sir Edward Coke even at the threshold.

3. In our democratic polity under the Constitution based on the concept of ‘Rule of law’ which we have adopted and given to ourselves and which serves as an aorta in the anatomy of our democratic system. **THE LAW IS SUPREME.**

4. Everyone whether individually or collectively is unquestionably under the supremacy of law. Whoever he may be, however high he is, he is under the law. No matter how powerful he is and how rich he may be.

5. Disobedience of this Court's order strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. Hence, it is not only the third pillar but also the central pillar of the democratic State. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the Courts have to be respected and protected at all costs. Otherwise, the very corner stone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. That is why it is imperative and invariable that Court's orders are to be followed and complied with."

(7) In the facts of the present case, violation of the interim order passed by this Court, whereby arrest of Paras Sharma was stayed vide order dated 4.3.2011, which was directed to be continued on 15.3.2011, is writ large as the respondent-contemnor arrested Paras Sharma on 26.4.2011. The stand sought to be taken by the respondent-contemnor, while justifying arrest of Paras Sharma, was that after attending the court hearing on 18.4.2011, when he presented the draft reply in the office of Advocate General for vetting, the same was marked for vetting to Mrs. Neelam Birara, learned Assistant Advocate General, Punjab, on which she had given the remarks "Redraft reply. Make it clear what is the status of the investigation as the interim order is vacated on 18.4.2011 and case is fixed for arguments."

(8) The aforesaid plea raised by the respondent-contemnor to justify arrest of Pars Sharma has already been rejected by this court vide order dated 7.3.2012, when charges were framed against him, as noticed in paragraphs No. (3) to (6) of that order reproduced above.

(9) Further, a perusal of the explanation given by the respondent-contemnor shows that he had deliberately defied the order passed by this court; played with the liberty of a citizen while arresting him despite stay granted by this Court and then tried to explain the same by attributing negligence on the part of the Law Officer. This has compounded the offence committed by the respondent-contemnor. The plea raised by the respondent-contemnor that leniency be shown to him considering his long

unblemished service cannot be accepted for the reason that earlier service is not a certificate for permitting any one to do a wrong at the fag end of his career. Every action of an employee has to be tested individually. However, past conduct may result in awarding him severe punishment, but will not absolve of the offence committed. Rather, the fact that the respondent-contemnor had 34 years' service to his credit and in his service career, he may have dealt with hundreds of cases and still violated the order passed by this court shows that the action was deliberate. He cannot be permitted to plead ignorance, especially being part of law enforcement agency. Arrest of an innocent person is certainly a blot in his career. He had to remain in jail till such time he was directed to be released on bail by this court on 18.5.2011 after his arrest on 26.4.2011.

(10) It is a settled principle of law that contempt is a matter primarily between the Court and the contemnor. The Court has to take into consideration the behaviour of the contemnor, attendant circumstances and its impact upon the justice delivery system. If the conduct of the contemnor is such that it hampers the justice delivery system as well lowers the dignity of the Courts, then the Courts are expected to take somewhat stringent view to prevent further institutional damage and to protect the faith of the public in the justice delivery system. Where the conduct is reprehensible as to warrant condemnation, then the Court essentially should take such contempt proceedings to their logical end. There cannot be mercy shown by the Court at the cost of injury to the institution of justice system.

(11) In the present case, the respondent-contemnor, in his reply affidavit, has not disputed the observations made by this Court in the show cause notice issued to him. He has only attempted to tender an unconditional apology for his acts and omissions which certainly were prejudicial to the administration of justice and have adversely affected the rights of Paras Sharma. The examination of the factual matrix of the present case and conduct of the respondent-contemnor, particularly the reply filed by him, places it beyond ambiguity that the charges framed against the respondent-contemnor, namely, arrest of Paras Sharma in violation of the interim protection granted to him are proved. The explanation of the contemnor is clearly not acceptable. The only conclusion which can be reached in the facts and circumstances of the case is that the contemnor had deliberately flouted the order passed by this court, hence, he is guilty of contempt of this court.



(12) As far as punishment is concerned, I do not find this to be a fit case for acceptance of unconditional apology. Still leniency is shown considering his age. He is directed to undergo simple imprisonment for a period of 15 days and also pay a fine of Rs. 2,000/-. In case of default in payment of fine, the respondent-contemnor shall further undergo three days' more imprisonment.

(13) However, the sentence awarded to the respondent-contemnor shall remain suspended for a period of 15 days from today to enable him to avail of his remedy of appeal, if he chooses to. On the expiry of 15 days, in case the suspension of sentence granted by this court is not extended in any appeal filed by the respondent-contemner, he will present himself before Chief Judicial Magistrate, Ferozpur for undergoing the sentence.

(14) A copy of the order be sent to Chief Judicial Magistrate, Ferozpur through e-mail.

(15) The contempt petition stands disposed of.

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*S. Supta*