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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CCP(REF) 4/2016

COURT ON ITS OWN MOTION

..... Petitioner

Through:

versus

REHMAN AFTAB ALAM

..... Respondent

Through: Mr. Akshay Makhija, Sr. Advocate
Amicus Curiae with Mr. Adarh
Chamoli, Advocate
Respondent in person

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Reserved on: 02nd February, 2023

Date of Decision: 22nd February, 2023

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

1. The present contempt reference dated 29.09.2016 has been forwarded to this Court upon a reference made by Sh. Pulastya Pramachala, Additional Sessions Judge, Shahdara District, Karkardooma Court, Delhi ('the ASJ'). The ASJ in his order dated 26.09.2016 has observed that that the Respondent, during the course of trial arising from FIR No. 167/2011, filed successive applications seeking similar reliefs and upon being denied the said relief, habitually casted aspersions on the integrity of the Court.
2. This Respondent filed his reply affidavit dated 27.03.2017, which is on record and states as under: -

2.1. The Respondent herein had filed an FIR against his wife, Salma Bano, and her associates, with the P.S. Gokal Puri, which was registered vide FIR No. 348/09 under Section 323/372/376/120B/506/34 of the Indian Penal Code, 1860 ('IPC'). It is stated that in the said case, Salma Bano and her associates were arrested and sent to J.C. and thereafter, the Respondent divorced his wife Salma Bano on 14.09.2010.

2.2. It is stated that as a counterblast, Salma Bano also registered a FIR No. 167/2011, with the P.S. Gokal Puri, under Section 328/365/342/392/506 of IPC against the Respondent, which led to a criminal trial before the ASJ.

2.3. It is stated that in the said proceedings, anticipatory bail was granted to the Respondent on 04.08.2011.

2.4. It is stated that during the trial in FIR No. 167/2011, the Respondent filed an application under Section 91 of Code of Criminal Procedure, 1973 ('CrPC'), seeking production of the record register from P.S. Gokal Puri, which was allowed by the ASJ vide order dated 01.02.2016 and the concerned police officer was directed to bring the record register on the next date of hearing i.e., on 05.03.2016. It is stated that however, the said documents were not available on record by the ASJ inasmuch as when the Respondent, on 08.03.2016, applied for certified copies of the records requisitioned from the P.S. Gokal Puri, it was informed by the concerned court officer that the said documents are not on record.

2.5. It is stated that thereafter, on 07.05.2016, the Respondent filed an application seeking permission to place on record certain documents, which was allowed by the ASJ vide its order dated 17.05.2016. The Respondent believed that a RTI reply dated 11.08.2015 along with forwarding letter

dated 19.08.2015, filed by him now formed part of the record.

2.6. It is stated that in this view of the matter, the Respondent thereafter filed two applications under Sections 91 and 311 of CrPC. The Respondent *vide* application under Section 91 of CrPC sought issuance of summons to the SHO, P.S. Gokal Puri, to produce the records, which were earlier as well directed to be produced vide order dated 01.02.2016. However, the ASJ *vide* its order dated 23.05.2016 dismissed the application filed u/s 91 of CrPC; and further the application under Section 311 of CrPC, which was filed for the recall of PW-2 and PW-4 for further examination, was allowed, subject to payment of cost of Rs. 4,000/-.

2.7. It is stated that the Respondent filed 2nd application dated 30.07.2016 under Section 311 of CrPC, seeking presence of SHO, P.S. Gokal Puri to seek confirmation of the RTI Reply dated 11.08.2015, which was taken on record along with other documents on 17.05.2016. However, the said application was dismissed by the ASJ *vide* its order dated 20.08.2016.

2.8. It is stated that the Respondent herein believed that the proof of the said RTI reply dated 11.08.2015 was important for his defence in the trial.

2.9. It is stated that a 3rd application was filed for seeking a similar relief of confirmation of the RTI reply dated 11.08.2015 from the SHO, P.S. Gokal Puri.

2.10. It is stated that however, the said application was not taken up and instead the ASJ made a reference of contempt to this Court.

3. This Court on 27.04.2017, due to the inability of the Respondent to engage a counsel, appointed Mr. Akshay Makhija, Senior Advocate, as *Amicus Curiae*.

4. The learned *Amicus Curiae* states that during the pendency of the

present contempt proceedings, in the trial arising from the FIR No. 167/2011, another Sessions Judge, Shahdara District, Karkardooma Courts, Delhi, *vide* its judgment dated 24.07.2018, has acquitted the Respondent on the basis of the RTI reply dated 11.08.2015.

4.1. He states that the RTI reply dated 11.08.2015, was one of the documents, which was not allowed to be put to SHO Dharam Dev, P.S. Gokal Puri, by the ASJ who has made the present reference for contempt. He states that the said RTI reply dated 11.08.2015, has been relied upon by the subsequent Sessions Judge, while acquitting the Respondent.

4.2. He states that it seems that the ASJ was perturbed by the contents of the transfer application dated 06.05.2015 filed before the Court of District & Sessions Judge, Karkardooma Courts, Delhi.

4.3. He states that however, the Respondent herein was perturbed and concerned due to the denial of an opportunity to prove the said document i.e., RTI reply dated 11.08.2015, which he considered vital for proving his innocence.

4.4. He states that this Court may consider that the Respondent is a layman without any formal education of law and owing to the fact that the Respondent was defending his case, in person, and he has unfortunately used intemperate language in the application. He states that considering that the personal liberty of the Respondent was at stake in the said criminal trial the Respondent may have been anxious and fell in error.

4.5. He states that the Court may take a lenient view in the matter. He states that he has conferred with the Respondent in the past five years, since his initial appointment as an *Amicus Curiae* and has been given to understand that the Respondent herein is genuinely apologetic for the events

which transpired before the ASJ in 2016.

4.6. He states that the Respondent has tendered an unconditional apology for his inadvertent actions, by way of an affidavit dated 22.11.2022, before this Court stating that he never intended to undermine the majesty of the Court. He therefore, states that the Court may accept the unconditional apology tendered by the Respondent and not sentence him to any jail term.

4.7. He also submitted that this Court may exercise some leniency while taking its decision, given the fact that the Respondent has bare minimum earning; he is a single father and has to maintain his five children.

5. This Court has considered the submissions of the learned *Amicus Curiae* and perused the reply dated 27.03.2017, filed in the present proceedings. The averments of the said reply evidence that the Respondent has persisted in casting aspersions on the ASJ despite the fact that the transfer applications filed by the Respondent were dismissed as being without any merit.

6. This Court is of the opinion that the anxiety which the Respondent went through during the trial does not justify his actions of casting aspersion on the presiding Judge. The fact that the Respondent elected to defend his own case is no justification for being disrespectful towards the presiding Judge and therefore, the opinion of the ASJ that accused with a *mala fide* intent had started to quote him in such a manner, so as to show that he is deliberately trying to suppress the evidences of the criminal case and that the accused has been casting aspersions on the integrity of the Court in order to justify his act of moving one application after another, cannot be faulted with. If the explanation offered by Respondent for his intemperate pleadings is accepted, it would entitle every litigant to undermine the majesty of the

Court on the specious plea of anxiety. The relevant extract of the order dated 26.09.2016, passed by the ASJ, reads as under: -

“Now, the accused has gone a step ahead to use the term of justice and to continue with his practice of moving one application after another and seeking the same relief directly or indirectly despite the adjudication on the same being already done by two courts i.e. this court as well as High Court of Delhi. Accused has also gone ahead to start quoting this court (undersigned) in such manner, so as to show that the undersigned had been deliberately trying to suppress the evidences of this case. In my opinion, such conduct of the accused requires to be brought to the knowledge of High Court of Delhi as well, because I find that such conduct do smell of frivolity and mala fide intentions, especially in view of attempts taken by same accused, to seek transfer of this case before Id. District & Sessions Judge by making some personal allegations against the undersigned. Though, such application of the accused was not allowed by Id. District & Sessions Judge, but I am not perturbed with his moving such kind of application for transfer. I am more perturbed with the manner the accused is affording to make any kind of aspersion on the integrity of this court, in order to justify his experimentations and to justify the delay being caused by him, without any check. This practice of raising baseless questions to integrity of any Judge, must be stopped.”

(Emphasis Supplied)

7. The present contempt proceedings have been pending since 2016 and the criminal trial as well remained pending until 24.07.2018. Therefore, in view of the submissions made by the learned *Amicus Curiae*, as well as the fact that the Respondent is a single father, who is looking after his five children, this Court deems it appropriate to accept the unconditional apology tendered by the Respondent, with a warning to him to exercise restraint and refrain from casting any aspersion on the Court. The Petitioner is directed to deposit costs of Rs. 5,000/- with Delhi High Court Legal Services Committee within a period of two weeks.

8. It is further directed that if in future the Respondent herein similarly casts aspersion on the integrity of the Court, in any legal proceedings where he is a party, the record of the present contempt petition shall be read in

evidence and the subsequent conduct will be considered as an aggravated contempt of the Court within the meaning of Section 2(c) of the Contempt of Courts Act, 1971. It is directed that the Respondent herein will be under an obligation to disclose this order to the Court in which any subsequent contempt proceedings is filed against him.

9. With the aforesaid directions the present contempt petition is disposed of.

10. Before parting with the order, this Court would like to place on record its appreciation for the assistance rendered by Mr Akshay Makhija, learned *Amicus Curiae*.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 22, 2023

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