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IN THE COURT OF MS. ANKITA MITTAL, JMIC, LUDHIANA.

Mukesh Thakur
Vs.
ASI Swaran Singh and others

In re: Petition under sections 2(b), 2(c) and 15(2) of Contempt of Courts Act, 1971 for willful disobedience by the respondent of judicial decision pronounced by the Hon'ble Supreme Court of India in the case of "D.K. Basu Vs. State of West Bengal"

Application for dismissal of the present petition qua the respondent No. 3

Respected Madam,

It is submitted as under:-

1. That the above said contempt petition is pending before this Hon'ble Court and is fixed for today.
2. That the above said petition is not maintainable on the ground of jurisdiction, as the petitioner has filed this contempt petition u/s 2(b), 2(c) and 15(2) of Contempt of Courts Act, 1971 but from the bare perusal of the above said stated provisions it is crystal clear states that this Hon'ble Court does not have jurisdiction pertaining to this contempt petition as this power lies with the Hon'ble High Court and Supreme Court only. The verbatim reproduction of the above stated provisions for the ready reference of the Hon'ble Court are as follows:-

2(b) "civil contempt" means willful disobedience to any judgment, decree direction, order, writ or other process of a Court or willful breach of an direction, order, writ or other process of a Court or willful breach of an undertaking given to a court; or

(c) "criminal contempt" means the publication (whether by words spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(i) scandalizes or tends to scandalize, or lower or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course or any judicial proceedings; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

15. Cognizance of criminal contempt in other cases-

(1) In the case of a criminal contempt, other than a contempt, referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by-

(2) In the case of any criminal contempt of a subordinate Court, the High Court may take action on a reference made to it by the

subordinate Court or on a motion made by the Advocate-General or, in relation to a Union Territory by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

From the bare perusal of the above said provisions it becomes amply clear that the power of criminal contempt lies with Hon'ble High Court and Supreme Court only and this present petition is merely filed against the respondent/applicant just to harass him. The petitioner has cleverly mentioned in the petition that section 2(b) of the Contempt of Courts Act, 1971 is applicable whereas section 2(b) pertains to Civil Contempt and even in that scenario the power lies with the Hon'ble High Court only. Here it is pertinent to mention here that the petitioner has even overlooked the section 11 of the Contempt of Courts Act which states that:-

"11. Power of High Court to try offences committed or offenders found outside jurisdiction-A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any Court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction and whether the person alleged to be guilty of contempt is within or outside such limits."

Thus from the above said provision it becomes amply clear this contempt petition cannot be moved before this Hon'ble Court.

3. That the present petition is also liable to be dismissed on the ground that no where any allegation against the respondent No. 3 have been leveled anywhere in the whole petition and even otherwise the applicant was never enquiry /investigation officer in the matter of the petitioner. Moreover, nor any complaint was marked to the applicant by any senior officers for the purpose of enquiry/investigation. Further he was also not involved in the alleged arrest of the petitioner.
4. That the present petition is also liable to be dismissed on the ground that the respondent is a public servant who is discharging his official duty in utmost sincere and honest manner and has been made party to this present petition on flimsy and vague grounds. Moreover, no stipulated notice as required under law has been served to the applicant.

It is, therefore, prayed that the present petition may kindly dismissed qua the respondent No. 3 with costs, in the interest of justice.

Dated:

Applicant/Respondent No. 3
Through Counsel

Anmol Jindal, Advocate