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**IN THE HIGH COURT OF MADHYA  
PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE VIVEK RUSIA**

**&**

**HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI**

**ON THE 10<sup>th</sup> OF MAY, 2024**

**CONTEMPT REFERENCE No.1 of 2020**

**BETWEEN :-**

**IN REFERENCE**

**.....PETITIONER**

**(BY SHRI ANKUR MODY – ADDITIONAL ADVOCATE GENERAL)**

**AND**

**JAI KISHORE RAJORIYA, PRESENTLY  
POSTED AS SUB INSPECTOR, CYBER  
CELL, DISTRICT DATIA (MADHYA  
PRADESH).**

**.....RESPONDENT**

**(SHRI ARVIND DUDAWAT – SENIOR ADVOCATE WITH SHRI ARUN  
DUDAWAT AND SHRI PRADEEP KATARE – ADVOCATE FOR THE  
RESPONDENT).**

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*This petition coming on for admission this day, Justice  
Vivek Rusia passed the following:*

**ORDER**

1. This Contempt Reference is registered on a reference sent  
under Section 15 of the Contempt of Courts Act, 1971

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(hereinafter shall be referred to as the Act of 1971) r/w Section 2(c) of the Contempt of Courts Act seeking punishment of Jai Kishore Rajoriya Sub Inspector, Cyber Cell, District-Datia ( hereinafter referred to as **the contemnor**), arising out of the order dated 11-02-2020 passed by the First Additional Sessions Judge, Dabra, District-Gwalior ( hereinafter referred to as **the learned judge**) in MJCR No.23/2020 (State of M.P. Vs. Jai Kishore Rajoriya).

Brief facts of the case which led to send this reference are reproduced as under :-

2. That on 09.01.2020 at about 11.50 a.m., learned referral judge was giving necessary instructions to the civil reader in a pending civil case. At that time, the contemnor Jai Kishore Rajoriya Sub Inspector, who was a witness in SC DOCT No. 16/2016 (P.S. Antari Vs. Raghuraj and Ors), appeared before the court. The learned judge asked him how he was appearing late at 11.50 a.m. By showing a contemptuous gesture, he replied, "It is not late at 11.50 a.m." The court asked him that when he was required to be present in the court at 11.00 a.m., how it is not late at 11.50 a.m. Upon hearing, he became infuriated and in an

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enraged voice, said, "I also have ADJ in my family, I know the way the ADJ court works. There is no need to ask me questions in respect of my being late." When the learned judge warned him that a complaint could be made to his S.P. in respect of his arriving late in the court and about his such a conduct, Sub Inspector, Jai Kishore Rajoriya pointed finger towards the court and said, "Your complaint would be made to Shri Vishal Mishra ji and to your District Judge. I have never been asked so far in any ADJ court for being late at the time of evidence. I am not going to tolerate this." The learned judge warned him that his conduct falls in the category of insult of the court and causing interruption in the proceedings of the court and same is punishable u/s 228 of the IPC. Yet, the contemnor Jai Kishore Rajoriya did not restrain himself and in the presence of witnesses and advocates, showed utmost unruliness and created scene in the court."

**3.** After the aforesaid incident, a proceeding under Section 345 of Cr.P.C. was initiated against contemnor in respect of the offence under Section 228 of the IPC. Entire certified copy of the order sheets of the case SC DOCT No.16/2016 are filed as Annexure -I alongwith this Reference. The medical examination

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of the contemnor was carried out and thereafter he was given time till 2.30 p.m. to submit reply to the notice issued under Section 345 of Cr.P.C. At about 1:40 p.m. Dr. S.L. Mahore, the Medical Officer examined him and only blood pressure of the contemnor was found on higher side, but no consumption of liquor was found. He submitted a reply at 3:30 p.m. The reply was not found satisfactory by the Judicial Officer. Thereafter, he sent a second reply to the notice issued under Section 345 Cr.P.C. on 09-01-2020 through post accompanying a complaint against the Court. According to the learned judge, no valid explanation was given by him in the reply and there was no need to give second reply as the proceeding initiated under Section 345 of Cr.P.C. had already been dropped. The second reply is nothing but to cause insult, annoyance and intimidation to the Court.

4. Later on, a preliminary enquiry was set out in this case under Rule 5 (b) of the High Court of Madhya Pradesh (Contempt of Courts Proceedings) Rules, 1980. The statements of Court's staff were taken which are filed collectively as Annexure-VIII to Annexure-XV alongwith the Reference memo. All have affirmed the aforesaid incident and the conduct of the contemnor. Apart

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from the aforesaid conduct, the respondent/contemnor called the local media persons in the Court premises and gave a statement about the Court proceedings in order to get it published in the electronic as well as print media. The aforesaid fact was confirmed by Shri Salil Shrivastava, the local reporter of the Sahara Samay TV Channel. He produced the CD pertaining to the video recording and the statement of the respondent/ contemnor in two copies before the Court which are filed as Annexure-XVI. On the basis of the aforesaid incident and the material, *prima facie*, learned judge found that the contemnor committed Contempt of Court and a show cause notice was issued to him as to why the case should not be referred to the High Court for getting him punished for the Contempt of Court. Entire material was also forwarded to the Superintendent of Police for taking a disciplinary action against him. In response to the show cause notice, respondent/contemnor submitted a reply Annexure-XXI denying the aforesaid alleged incident, rather he levelled the allegations against the Court. According to the Presiding Officer, respondent/contemnor avoided the appearance before the Court for more than one and a half years, which reveals from the order-sheet dt.03-05.2018 (Annexure-XXII).

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5. On the basis of the aforesaid material, the learned Judge sent a Reference along with his affidavit before this Court seeking initiation of contempt proceeding for punishment under Section 15 of the Act of 1971 on 17-02-2020.

6. On 14-12-2021, Shri V. Sundarama, learned Panel Lawyer appeared on behalf of the respondent/contemnor and sought time to file reply. On 03-02-2022, complete set of reference petition was provided to Shri Ankur Mody - learned Additional Advocate General to assist the Court. On 21-04-2022, a notice was issued to the respondent/contemnor through Superintendent of Police. Shri Pradeep Katare, learned counsel appeared on behalf of the respondent/ contemnor on 30-01-2023 and sought time to file reply. Respondent filed the reply submitting an unconditional apology. Thereafter, additional reply was also filed with apology and prayer to drop the proceedings. However, he did not press the said application and wanted to contest the case on merits and sought further time to file reply.

7. Shri Arvind Dudawat, learned Senior Advocate appearing on behalf of the contemnor submits that he has already submitted an unconditional apology before this Court as well as before the

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learned judge. Learned senior counsel further submits that entire service record of the contemnor is clean. On the said date, the circumstances were beyond his control but he had no intention to insult the Court or downgrade the dignity of the Court and in future also he will not even dare to think to do the same thing. A criminal case registered for punishment of offence under Section 228 of IPC is still pending against the respondent for which he is ready to face the trial. The contemnor had already submitted an unconditional apology before the concerned Court on 09-01-2020. The learned Judge ought to have accepted the same and dropped the proceedings.

**8.** Shri Ankur Mody - Additional Advocate General submits that the conduct of the contemnor is not liable to be pardoned as he had not only misbehaved with the learned Judge once but repeated the same when he was sent for medical examination. His throughout appearance before this Court was also not apologetic. Hence, the Reference be proceeded against him and he be punished under Section 15 of the Act of the Act of 1971.

**9.** We have heard the learned counsel for the parties and perused the record.

10. It reveals from the order-sheet dt.11.02.2020 that learned First Additional Sessions Judge sent a Reference under Section 15 of the Act of 1971 before this Court for punishment under Section 12 of the Act of 1971. Before passing the aforesaid order, vide order dated 09.01.2020 the court formed an opinion that the conduct of the respondent made him liable to proceed under Section 345 of Cr.P.C. for adequate punishment. Even before proceeding for punishment under Section 12 of the Act of 1971 on 09.01.2020 learned judge after following the procedure under Section 345 of Cr.P.C., had already directed for registration of criminal case for punishing the contemnor under Section 228 of IPC by way of separate proceeding. The relevant part of the order sheet is reproduced below :-

“यहां यह उल्लेखनीय है कि उक्त जयकिशोर राजौरिया को हेतुक दर्शित करने हेतु सूचना पत्र दिये जाने के पश्चात भी उसके चिकित्सीय परीक्षण के समय न्यायालय को उंगली दिखाकर कहा गया है कि ‘मैं तुम्हें देख लूंगा’ जिससे स्पष्ट है कि जयकिशोर राजौरिया को अपने कृत्य पर कोई पश्चाताप नहीं है और वह न्यायालय की सतत अवमानना कर रहा है। उक्त तथ्य से यह भी दर्शित होता है कि जयकिशोर राजौरिया अत्यधिक उदंड प्रवृत्ति का व्यक्ति है एवं उसे कानून एवं न्यायालय की गरिमा का कोई आदर नहीं है। ऐसी स्थिति में दप्रस की धारा 345 के अंतर्गत विहित प्रक्रिया को अपनाते हुये समुचित दंड से दण्डित किया जाना संभव नहीं है। जयकिशोर राजौरिया का कृत्य अत्यधिक उदंडतापूर्ण एवं



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अवमाननापूर्ण होने के कारण उसे समुचित दण्ड से दण्डित किया जाना आवश्यक है। साथ ही उसे न्यायालय की अवमानना के संबंध में भी दण्डित कराया जाना अपेक्षित है। ऐसी स्थिति में जयकिशोर राजौरिया को द्रपस की धारा 345 को अपनाते हुये भादस की धारा 228 के अंतर्गत दण्डनीय अपराध से दण्डित किया जाना उचित नहीं है, बल्कि उसे दण्ड प्रक्रिया संहिता के अंतर्गत विहित सामान्य प्रक्रिया अपनाते हुये भादस की धारा 228 के अन्तर्गत दण्डनीय अपराध के लिये दण्डित कराया जाना उचित है। अतः जयकिशोर राजौरिया को भादस की धारा 228 के अंतर्गत दण्डनीय अपराध के लिये समुचित दण्ड से दण्डित कराये जाने के संबंध में कार्यवाही प्रचलित कराये जाने के लिये पृथक से आदेश पत्रिकायें चलायी जायें। साथ ही न्यायालय की अवमानना के संबंध में भी उचित कार्यवाही कराये जाने हेतु पृथक से प्रकरण प्रचलित किया जाये।

जयकिशोर राजौरिया को उपरोक्त कारण से अभिरक्षा से उन्मोचित किया जाता है।

प्रकरण प्रकरण में प्रचलित नियमित कार्यवाही हेतु कुछ समय पश्चात् पेश हो।

**11.** Section 10 of the Act of 1971 says that every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempt of courts subordinate to it. But as per the proviso to this section, no High Court shall take cognizance of contempt alleged to have been committed in respect of the court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.

12. Section 10 of the Act of 1971 is reproduced below :-

10. Power of High Court to punish contempts of subordinate courts.- Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself:

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (45 of 1860).

13. Therefore, for the alleged conduct the court had already directed for initiation of separate proceeding for punishment under Section 228 of the IPC and the said criminal proceedings are pending against the respondent. Therefore, now the High Court can not proceed against the respondent as the allegations and material for punishment under Section 228 of the IPC and Section 12 of the Act of 1971 both are same. Any findings recorded by this Court punishing under Section 12 of the Act of 1971 may prejudice the defence *prima facie* the contemnor to be taken in the pending trial. Therefore, on the basis of the same material and by virtue of proviso to Section 10 of the Act of 1971, this present reference is liable to be dropped.

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14. However, this proceeding is pending since the year 2020. The contemnor is regularly appearing before this Court. He has submitted an unconditional apology before the trial court as well as before this Court. Otherwise also, no adverse material has been produced by the State regarding his service record. He may have explanation for his conduct which he will explain before the Trial Court in the criminal proceeding. Therefore, this proceeding is hereby dropped against the contemnor.

Accordingly, this Contempt Reference stands **disposed of**.

**(VIVEK RUSIA)**  
**JUDGE**

**(RAJENDRA KUMAR VANI)**  
**JUDGE**

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