

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

BEFORE

**HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 20th OF SEPTEMBER, 2022

CONTEMPT PETITION CIVIL No. 1987 of 2022

BETWEEN:-

1. MAJID BEG, S/O SAJID BEG, R/O VILLAGE GHISI P.S. BARGHAT, DISTRICT SEONI (MADHYA PRADESH)
2. SHAKIR, S/O HAFEEZ KHAN, R/O VILLAGE LALPUR, P.S. BARGHAT, DISTRICT SEONI (MADHYA PRADESH)
3. AARIF, S/O HAFEEZ KHAN, R/O VILLAGE LALPUR, P.S. BARGHAT, DISTRICT SEONI (MADHYA PRADESH)
4. MAJID, S/O RAJIK KHAN, R/O VILLAGE GHISI, P.S. BARGHAT, DISTRICT SEONI (MADHYA PRADESH)

.....PETITIONERS

***(BY SHRI VISHAL VINCENT RAJENDRA DANIEL - ADVOCATE FOR
PETITIONERS)***

AND

**SHRI TEJ PRATAP SINGH, CHIEF JUDICIAL
MAGISTRATE SEONI, DISTRICT SEONI (MADHYA
PRADESH)**

.....RESPONDENT

This petition coming on for admission this day, Hon'ble Shri Justice Ravi Malimath, Chief Justice passed the following:

ORDER

This petition is filed seeking initiation of proceedings for contempt against the respondent herein for willfully disobeying the order dated 9th July, 2022 passed in Miscellaneous Criminal Case No.27507 of 2022.

2. Shri Vishal Vincent Rajendra Daniel, learned counsel for the petitioners contends that the respondent has violated the aforesaid order. He submits that the order passed by this Court in paragraph-9 has been disobeyed. He submits that even though the impugned order therein dated 10.05.2022 was set aside, the trial judge is proceeding to recall the witnesses and record their evidence. It is his submission even though he brought it to the notice of the trial judge, he was told that there was no order to restrain him not to summon the witnesses. Therefore, in view of the fact that there is no specific order restraining him not to summon the witnesses, there is no disobedience of the aforesaid order. Therefore, it is pleaded that since the contempt has been committed in disobeying the directions contained in paragraph-9, appropriate action be taken against the respondent.

3. Heard petitioners' counsel.

4. Paragraph-9 of the order, which is said to have been disobeyed by the respondent reads as follows:-

“9. Therefore, in view of the above, present petition is allowed. Order dated 10.05.2022, passed by the learned Chief Judicial Magistrate, Seoni is set aside and learned Chief Judicial Magistrate is directed to decide the matter afresh after granting an opportunity of hearing to the petitioners/accused and to raise all such objections as are available to them, in accordance with law. Criminal case is pending for more than 9 years. Therefore, learned CJM is expected to dispose of this case as early as possible

preferably within a period of six months from the date of receipt of copy of this order.”

5. It is the further plea that the trial judge has stated that there was no order passed by the High Court directing him not to recall any of the witnesses. What was ordered by the High Court was to decide the matter afresh after giving an opportunity of hearing to the petitioners/accused etc. Therefore, what is being done by the trial judge is in accordance with the directions especially given in paragraph-9. Hence, there is no contempt.

6. On considering the contentions, we are of the considered view that no contempt would arise in this matter. There is no specific order directing the trial court not to summon the witnesses or anything of the like nature. This Court after setting aside the order dated 10.05.2022 which is an order under Section 311 of the Cr.P.C., directed the CJM to decide the matter afresh after granting opportunity. ‘Afresh’ necessarily means from the beginning. Opportunity has already been granted. Therefore, we do not find any willful disobedience as pleaded by the petitioners. Hence, the petition is liable to be dismissed on this ground itself.

7. So far as the contentions being advanced are concerned, we do not appreciate the same. Apparently, the plea of the petitioners is that in spite of the order of the Court, the trial judge has disobeyed the same. We have hereinabove held that the same does not amount to contempt. Every order that is passed by a superior court, is liable to be followed by the lower court. Even assuming the case of the petitioners is to be accepted of certain misapplication of the law, that does not amount to contempt. The understanding of the trial court is quite a different issue than disobedience. One has to show that the disobedience is willful to the orders passed by the superior courts. If there is any scope for any interpretation in the directions being issued then that cannot constitute a

contempt. In the instant case, the impugned order therein was set aside with a direction to consider the matter afresh. Therefore, the trial court has to consider the matter afresh. As to how that amounts to contempt, we are unable to follow. Therefore, we are of the view that this is nothing but a pure adventurism by the petitioners in making such reckless allegations against the trial judge. We deprecate such attitude. We do not appreciate that every wrong order passed by the trial court is to be brought under contempt and the concerned judge has to be proceeded against. Trying to threaten the judges with petitions for contempt, in our considered view, is not going to be accepted. Since this matter is arising for the first occasion we have restrained ourselves from taking strict action but only direct a warning to the petitioners to desist from such adventurism.

8. Petition is accordingly dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE

taj.