

Gujarat High Court

Hitarth Atulkumar Chag vs Sunil Ishrani , Police Inspector on 1 May, 2023

Bench: Ashutosh Shastri

C/MCA/345/2023

JUDGMENT DATED: 01/05/2023

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/MISC. CIVIL APPLICATION NO. 345 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI

and

HONOURABLE MR. JUSTICE J. C. DOSHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?

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HITARTH ATULKUMAR CHAG
Versus
SUNIL ISHRANI , POLICE INSPECTOR

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Appearance:

MR YS LAKHANI SR. ADVOCATE with MR RAJESH K KANANI(2157) for the Applicant(s) No. 1

MR MITESH AMIN LD. PUBLIC PROSECUTOR with MR HK PATEL ASSISTANT GOVERNMENT PLEADER for the Opponent(s) No. 2,3,4

MR JAL S UNWALA SR. ADVOCATE with MS. KETKI P JHA(9864) for the Opponent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI
and
HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 01/05/2023

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE ASHUTOSH SHASTRI) C/MCA/345/2023 JUDGMENT
DATED: 01/05/2023

1. By way of this application under Section 12 of the Contempt of Courts Act, applicant (original complainant) has come forward with a relief to initiate process against respondent authorities under the provisions of Contempt of Courts Act by framing charge and punish them for willful disobedience of the directions issued by Hon'ble Apex Court in the case of Lalita Kumari v. State of Uttar Pradesh reported in (2014) 2 SCC 1. Following are the reliefs which are sought for in the contempt application:-

(A) This Hon'ble Court may be pleased to issue notice, frame charge, try and punish the respondent authority for the willful disobedience of the directions issued by the Hon'ble Apex Court in the case of Lalitakumari Versus State of Uttar Pradesh reported in 2014, SSC page no. 1 as stated in this petition, in accordance with the provisions of the Contempt of Courts Act in the interest of justice;

(B) Pending the admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to direct the respondents to follow the directions issued by the Hon'ble Apex Court in the case of Lalitakumari Versus State of Uttar Pradesh reported in 2014, SSC page no.1 and thereby be pleased to direct the Respondent No. 1 to register FIR as per the complaint dated 17.02.2022 in the interest of justice;

(C) Pending admission hearing and final disposal of this petition, this Hon'ble court may be pleased to direct departmental action to be initiated against the erring officers.

C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 (D) This Hon'ble Court may be pleased to grant such other and further reliefs as may be deemed fit by this Hon'ble Court, in the interest of justice;

2. Brief background of the case is that on 12.4.2023, father of present applicant committed suicide at his residential place and on the same day, suicide note was found from the place of incident which contained the reason for committing suicide. According to applicant, suicide note indicates that harassment on the part of accused persons, one of them is sitting Member of Parliament of Gir Somnath. On the same day, police authority recovered suicide note written by deceased father of applicant and recorded statement of family members and according to applicant, material indicates that it is a cognizable offence against accused, still however respondent No.1 has not registered First Information Report and thereby respondent No.1 has failed to discharge his duty. On account of this neglect of respondent No.1, applicant submitted a written complaint on 17.2.2023 for offence punishable under Sections 306, 114, 405, 406, 506(2) and 34 of Indian Penal Code and requested respondent No.1 authority to register complaint against accused C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 persons, still no actions are taken by respondent No.1. It is the case of applicant that he was called upon by respondent No.1 for taking further steps on 22.2.2023, but he was not present when applicant reached to police station and to the best of his knowledge,

respondent No.1 proceeded on medical leave and no steps have been taken for registration of FIR. On 22.2.2023, a detailed representation was made to respondent No.1 as well as respondent No.2 by pointing out clearly to register offence and also by drawing specific attention to the observations made by Hon'ble Apex Court in the case of Lalita Kumari vs. State of Uttar Pradesh reported in (2014) 2 SCC 1 and also notification of State Government dated 6.2.2016. So much so, along with said representation, copy of notification as well as order passed by Hon'ble Apex Court were also forwarded, still nothing was proceeded which has constrained the applicant to forward several representations to various authorities on their official email as also made a complaint by WhatsApp message to CMO, Gujarat bearing No.7030930344 and also made representation to Home Minister of State of Gujarat as well and it is the grievance of applicant that despite such series of C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 representations and requests, no actions were initiated and as such authorities are in clear defiance of the order passed by Hon'ble Apex Court in the case of Lalita Kumari (supra) and hence, they are to be dealt with and punished under the provisions of the Contempt of Courts Act for willfully disobeying the order Hon'ble Apex Court. Hence, by invoking contempt jurisdiction of this Court, present Misc. Civil Application is submitted.

3. On the basis of such assertion, Coordinate Bench was pleased to issue notice on 15.3.2023 and thereafter, after submission of affidavit-in-reply and rejoinder, it has come up for consideration before us, wherein learned senior advocate Mr. Y.S. Lakhani assisted by Mr. Rajesh Kanani has represented the applicant, whereas learned Public Prosecutor Shri Mitesh Amin with learned Assistant Government Pleader Mr. H.K. Patel has represented the State authorities and since substantial allegations are against respondent No.1, learned senior advocate Mr. Jal S. Unwala has represented respondent No.1.

4. Learned senior advocate Mr. Y.S. Lakhani appearing on C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 behalf of applicant has vehemently submitted that on 12.2.2023, father of the applicant had committed suicide at his residence and on the very same day, suicide note was found from the place wherein it has been indicated that on account of harassment on the part of the accused persons and one of them is sitting Member of Parliament, he committed suicide and as such ex-facie, there being a cognizable offence, police authorities were under an obligation to register First Information Report. Even police authorities have recovered suicide note written by father who committed suicide and also recorded statements of family members and material which was collected clearly indicated and disclosed cognizable offence and as such inaction on the part of police authority to register FIR is clearly in conflict with law laid down by Hon'ble Apex Court in case of Lalita Kumari (supra) and by drawing attention to the observations and directions which are mentioned in the said order, precisely in paragraph 120 onwards, it is submission of Mr. Lakhani that non registration of FIR is clearly a contempt and as such Hon'ble Court may kindly initiate steps under the provisions of the Contempt of Courts Act. Mr. Lakhani has C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 submitted that it has been clearly laid down by Hon'ble Apex Court that registration of FIR is mandatory under Section 154 of Code of Criminal Procedure if information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. It has been further contended that even inquiry if to be undertaken, same is restricted only to the extent of ascertaining whether cognizable offence is disclosed or not and nothing beyond that and by referring to other observations which are contained in paragraph 120 of

the decision, it has been submitted that in case where preliminary inquiry ends, in closing the complaint, a copy of entry of such closure must be supplied to first informant forthwith and thereto not later than one week. It must also disclose reasons in brief for closing the complaint and not proceeding further. Scope of inquiry is also enlisted in the said judgment and mere perusal of this entire direction apparently indicates that respondents have committed a serious contemptuous act for which they deserve appropriate punishment under the Act and as such has requested to grant the relief as prayed for in the petition. To substantiate his stand, Mr. Lakhani has referred to and relied upon decision dated C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 5.5.2014 passed in Misc. Civil Application (Contempt) No.856 of 2014.

5. To meet with this stand taken by learned senior advocate Mr. Y.S. Lakhani, learned Public Prosecutor Mr. Mitesh Amin who represented respondent Nos.2, 3 ad 4 has assisted the Court by submitting that there is no contempt committed by the police authority in any manner, on the contrary material gathered by authority clearly indicates that there is no cognizable offence committed and during the course of such inquiry, it has been on the contrary found that there are several monetary transactions and irregularities of deceased with other share brokers. Detailed report also tentatively prepared by an authority which discloses no cognizable offence and as such question of violation of direction is ex-facie not made out by applicant. Mr. Amin has placed a xerox copy of the tentative report prepared by authority in respect of the incident in question, if perused, it would indicate several financial transactions with other persons as mentioned therein and even the information which has been collected from the Chartered Accountant and Accountant of deceased reveal no such C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 cognizable offence against accused persons. On the basis of such report, it was also found that nowhere incriminating material is found against accused which may establish even prima facie offence of Section 306 of Indian Penal Code and with a view to find out truth, preliminary inquiry is on. Hence, when prima facie cognizable offence is not made out, apparently there is hardly any reason to initiate contempt proceedings against police authorities.

6. Mr. Amin has submitted that police authorities have tried to seriously examine the incident in question and when detailed efforts have been made, it was preliminary found that no offence of Section 306 of IPC is made out and due process permissible under law will be undertaken. In fact, by drawing attention to internal page 12, it has been submitted that till date, i.e. 26.3.2023, nothing incriminating is found so as to submit FIR and as such there appears to be no violation of order of Hon'ble Apex Court, however has candidly submitted that still authorities are open to obey any order that may be passed by the Court. To substantiate his stand, Mr. Amin has relied upon C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 the decision dated 13.9.2022 passed in Misc. Civil Application No.567 of 2022,.

7. As against this, learned senior advocate Mr. Jal S. Unwala appearing for respondent No.1 has vehemently contended that he is not for the moment on merit of any of contentions of Mr. Lakhani, but he is preliminary objecting to maintainability of this contempt petition itself before this Court. It has been vehemently contended by Mr. Unwala that directions which are said to have been violated are of Hon'ble Apex Court and as such by virtue of Article 129 read with Article 215 of Constitution of India, it is the Hon'ble Apex Court which can entertain or initiate contempt against respondents,

if committed, and as such this Court has no jurisdiction to entertain present petition. Mr. Unwala has pointed out that unlike the case, in case of Dilip K. Basu Etc., v. State of West Bengal & Ors., reported in [1997] 1 SCC 416 and in the case of Arnesh Kumar v. State of Bihar & Anr., reported in [2014] 8 S.C.R. 128, Hon'ble Apex Court has not clarified this case of Lalita Kumari (supra) that violation to comply with direction would lead to contempt or departmental action to be C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 instituted before the High Court having territorial jurisdiction and when this has not been clarified by Hon'ble Apex Court in the case of Lalita Kumari's (supra), this Court may not be in a position to entertain the contempt petition for violation of direction issued by Hon'ble Apex Court. Even in case of D.K. Basu (supra) also, Hon'ble Apex Court has clearly expressed an opinion that violation to comply with requirement, as stated in case of D.K. Basu (supra), officer concerned would be liable for departmental action under the provisions of Contempt of Courts Act which could be filed in any High Court of the country having territorial jurisdiction. So much so, by referring to afore- mentioned decision of D.K. Basu (supra) delivered on 1.8.1997 as well as Arnesh Kumar (supra), Mr. Unwala has submitted that having not made such observation in the case of Lalita Kumari (supra), there is hardly any reason justifiable to entertain the contempt petition here and as such since petition itself is not maintainable, no relief be granted in any form.

8. In addition to this, learned senior advocate Mr. Unwala has submitted few other decisions and by referring to said decisions, a contention is raised that exactly on a similar C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 situation as in the case on hand, Allahabad High Court as well as High Court of Bombay and High Court of Chhattisgarh have not entertained contempt petition and accordingly, requested the Court to dismiss the same as not maintainable. Following are the decisions referred by learned senior advocate Mr. Unwala to substantiate his submissions:-

- (1) In the case of Arnesh Kumar v. State of Bihar and Another reported in (2014) 8 SCR 128;
- (2) Judgment dated 1.8.1997 in the case of Dilip K. Basu etc. v. State of West Bengal and Others;
- (3) Judgment in the case of M. Subramaniam and Another v. S. Janaki and Another reported in (2020) 16 SCC 728;
- (4) Judgment in the case of Vitusah Oberaoi and others v. Court of its own Motion reported in (2017) 2 SCC 314;
- (5) Decision of High Court of Chhattisgarh at Bilaspur dated 2.8.2021 in the case of Vijay Laxmi Sharma v. State of Chhattisgarh and others (6) Judgment in the case of Shabina v. Shogun Gautam and Another reported in 2020 SCC OnLine All 1365;
- (7) Decision dated 31.8.2020 of High Court of Allahabad rendered in the case of Anand Dwivedi v. H.C. Awasthi and others.

By referring to the same, learned senior advocate Mr. Unwala has submitted that judicial discipline requires that if law does C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 not permit to entertain the proceedings on account of lack of jurisdiction, no relief can be granted in any form, hence has requested to dismiss present proceedings.

9. In rejoinder to his, learned senior advocate Mr. Y.S. Lakhani has tried to make out a case by filing affidavit-in- rejoinder but has fairly conceded that observations which are made by Hon'ble Apex Court in case of D.K. Basu (supra) as well as in case of Arnesh Kumar (supra), as referred to above are not visible in case of Lalita Kumari (supra) and as such has left it to the discretion of the Court without any countenance, but has tried to make out a case on the basis of material attached to the affidavit-in-rejoinder to initiate steps against respondent authorities under the provisions of the contempt of Courts Act. Hence, by reiterating the submission about alleged conduct of respondent authorities, a request is made to grant the reliefs as prayed for in the petition. According to Mr. Lakhani, police authorities are not in a position to even carry out preliminary inquiry and has submitted that police machinery has made an attempt to help out the accused persons, one of whom is a Member of Ruling party. According to Mr. Lakhani, prima facie, C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 when offence apparently is committed of cognizable in nature, it was obligatory on the part of police authority to register first information report as mandated by Hon'ble Apex Court and directions which are issued by Hon'ble Apex Court are to be applied as a part of precedent even by virtue of Article 141 of the Constitution of India and hence, has requested to grant the reliefs as prayed for. One additional submission is made that in recent past, when incident of suicide found nearby the area in Keshod, immediately offence is registered by police authority and here, though offence is clearly made out and suicide note is found by authority and though cognizable offence is ex-facie reflecting, no action is initiated of registering an FIR, on the contrary investigation is started as if authority is inclined to favour respondent accused persons. That being so, by applying the principle of precedent as well, direction issued by Hon'ble Apex Court in case of Lalita Kumari (supra), may be observed by initiating steps against respondent authorities for their willful disobedience, hence requested to allow the petition.

10. Having heard learned advocates appearing for the parties and having gone through the material on record, center issue C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 involved in the present petition is whether High Court is justified to initiate contempt proceedings against alleged erring officers for violation of directions issued by Hon'ble Apex Court in case of Lalita Kumari (supra) and to examine such center issue involved in the petition, before examining, few circumstances are not possible to be unnoticed by this Court.

11. First of all, relevant provisions contained under the Constitution of India and the Contempt of Courts Act, 1971 deserve to be considered:-

(1) Article 129 of the Constitution of India reads as under:

"129. Supreme Court to be a court of record: The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself."

(2) Article 215 of the Constitution of India indicates that High Court to be the Court of record. Said provision reads as under:-

"215. High Courts to be courts of record: Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself."

C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 (3) Whereas Section 10 of the Contempt of Courts Act, 1971 invests power in the High Court to punish contempt of subordinate Courts. We deem it proper to quote said provision hereunder:

"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 contempt 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)."

This provision of Section 10 indicates that every High Court shall have the power and authority to deal with contemptuous act under the provisions of contempt of Court subordinate to it and exercises in respect of contempt of itself. A plain reading of the aforesaid provisions would indicate that jurisdiction is clearly earmarked to deal with contempt proceedings by the Supreme Court and High Courts as the case may be and said demarcation is visible from the aforesaid provision. A plain reading of Article 215 read with Section 10 of Contempt of C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 Courts Act indicates that High Court shall have the power to initiate contempt of itself as well as Court subordinate to it and Article 129 has clearly indicated that Supreme Court to be a Court of record shall have all power of such a Court including the power to punish for contempt of itself and hence any violation which relates to direction issued by Supreme Court would be outside the purview of High Court's power and its authority. Hence, High Court would not have any jurisdiction to initiate contempt of orders or directions which are issued by Hon'ble Supreme Court.

12. In view of the aforesaid position, when we read Section 10 of the Contempt of Courts Act read with Article 215 of the Constitution of India, it gives a clear situation that for alleged violation of directions of Hon'ble Supreme Court, High Court would not have any jurisdiction to step in. Overstepping by the High Court would tantamount not only to tinkering with language of statutory provision but also would cross judicial discipline and as such we are of the opinion that if directions contained in an order passed by Hon'ble Apex Court if disobeyed, same can be taken care of by Hon'ble Apex Court.

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13. At this stage, we may refer to few observations made by the Full Bench of this Court in the case of R.P. Vaghela v. State of Gujarat rendered in Criminal Misc. Application No. 6572 of 2000 with Criminal Misc. Application Nos. 6831 and 6832 of 20011 decided on 01.02.2002. The relevant observations contained in few paragraphs, we may deem it proper to quote hereunder :-

38.1 There can be no doubt that willful breach of any direction given by Hon'ble the Supreme Court would amount to contempt of the Supreme Court, for which it alone can take appropriate action for its contempt. It is the prerogative of the Hon'ble the Supreme Court to consider whether there has been any willful breach committed, of its directions and if so, what action it should take against the contemner. The constitutional declaration under An. 129 that the Supreme Court shall be a Court of record expressly recognises the power of the Supreme Court to punish for contempt of itself. Similarly, every High Court is a Court of record with power to punish for contempt of itself under Article 215 of the Constitution of India. Part V of the Constitution makes provisions in respect of "The Union" which include "The Executive (Chapter I)", "Parliament (Chapter II)" and "Union Judiciary (Chapter IV)", while Part VI deals with "The States" and makes provisions in respect of "The Executive (Chapter I)", "The High Courts in the States (Chapter V)"

and "The Subordinate Courts (Chapter VI)". Thus, as per The Scheme of federalism adopted by the Constitution, separate provisions are made in it for the 'Union Judiciary' and the 'State High Courts' and its 'Subordinate Courts' in the State. Control over the subordinate Courts vests in the C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 High Court under Article 235 of the Constitution. The federal structure adopted in the Constitution of India forms the basis of the ambit of the powers of various Union and State organs so that each may function within the sphere allotted to it. Thus, when the constitutional provision of Article 129 recognizes the Supreme Court's power to punish for contempt of itself, High Court cannot encroach upon that power by resorting to Article 215 under which it has power to punish for contempt of itself. The independent powers allotted to these constitutional entities of the Union and the State are the hallmark of their high constitutional position and though the High Court is not made administratively subordinate to the Supreme Court in the same manner in which the State Executive or State Legislature are not made subordinate to their counterparts in the Centre i.e., the Union Executive or the Parliament in view of the federal nature of the Constitution, the High Court will have no power to take contempt action in respect of the breach, even if committed within its territorial limits, of directions of Hon'ble the Supreme Court which is the exclusive privilege of the Supreme Court under Article 129 of the Constitution of India. When the question of existence of constitutional power is in issue, its lack cannot be overcome by resort to any reasoning.

39. In Paragraph 21 of Citizens for Democracy case (supra), the Hon'ble Supreme Court has directed all the ranks of police and prison authorities to meticulously obey the directions mentioned in the earlier paragraphs. It is observed that, "Any violation of any of the directions issued by us by any rank of police in the country or member of the jail establishment shall be summarily punishable under the Contempt of Courts Act apart from other penal consequences under law". The Supreme Court obviously has exclusive power to initiate contempt proceedings for the breach of its directions

contained in this judgment as are referred to in Paragraph 21 and it would be presumptuous on the part of the High Court to initiate action under Article 215 of the Constitution or the C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 Contempt of Courts Act, 1971 on the ground that the directions of the Supreme Court have been violated in a given case. The final authority to decide whether there is breach of its directions in a given case will be the Supreme Court and if it holds that there is such breach, it alone can decide the nature and quantum of punishment. Any decision on ambit of power to initiate contempt proceedings will have a direct bearing in context of a variety of cases and circumstances in which the question for exercise of such power may arise and when the Constitution entrusts exclusive power to the Hon'ble the Supreme Court to punish for contempt of itself, the High Court should not venture to exercise such power on a spacious plea that there may otherwise be rise in the file of the Supreme Court. No such justification will warrant exercise of contempt jurisdiction by the High Court in respect of the contempt of Hon'ble the Supreme Court committed by reason of breach of directions issued by it in its decision. There can also not be raised any question of delegation of such constitutional power of Hon'ble the Supreme Court from the fact that the letter of the learned Joint District Judge & Additional Sessions Judge was sent back to the High Court by the Registry of the Supreme Court. I, therefore, hold that the High Court cannot initiate contempt proceedings for breach of any directions given by Hon'ble the Supreme Court which may amount to contempt of the Supreme Court.

47. For the reasons given hereinabove, this Court will have no jurisdiction to initiate contempt proceedings on the ground that there has been a breach of directions given by Hon'ble the Supreme Court and the Supreme Court alone can initiate such proceedings in exercise of its contempt jurisdiction. xxx xxx xxx.

48. The contempt proceedings against the respondents, are therefore, hereby dropped and the contempt notices issued against the respondents are discharged. The application stands disposed of accordingly."

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14. We have noticed that this proposition and the fact that in the case of Lalita Kumari (supra) the Hon'ble Apex Court has not observed anything which are reflecting in two other decisions i.e. in the case of Arnesh Kumar (supra) as well as D.K. Basu (supra) and which are not disputed by Mr. Y.S. Lakhani, learned Senior Advocate appearing for the applicant and as such, from the reading of the aforesaid observation as well, it would be difficult for this Court to exercise jurisdiction under the Contempt of Courts Act.

15. On such issue, we recollect one proposition laid down by Hon'ble Apex Court in the case of Vitasah Oberaoi and others v. Court of its own Motion reported in (2017) 2 SCC 314, wherein while analyzing the provisions relevant to the issue, Hon'ble the Apex Court has propounded that taking step by the High Court in direction of contempt of Hon'ble Apex Court would be without jurisdiction. Paragraphs 10, 11 and 12 of said decision we deem it proper to quote hereunder since relevant to the issue:-

"10. There is, from a plain reading of the above, nothing in the Contempt of Courts Act, 1971 or in Article 215 of C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 the Constitution which can be said to empower the High Court to initiate proceedings suo-motu or otherwise for the contempt of a superior Court like the Supreme Court of India. As a matter of fact, the Supreme Court under Article 129 and High Court under Article 215 of the Constitution are both declared to be Courts of Record. One of the recognised attributes of a court of record is the power to punish for its contempt and the contempt of courts subordinate to it. That is precisely why Articles 129 and 215, while declaring the Supreme Court and the High Courts as Courts of Record, recognise the power vested in them to punish for their own contempt. The use of the expression "including" in the said provisions is explanatory in character. It signifies that the Supreme Court and the High Courts shall, as Courts of Records, exercise all such powers as are otherwise available to them including the power to punish for their own contempt.

11. Whether or not the power to punish for contempt of a subordinate court was an attribute of a court of record fell for consideration of this Court in Delhi Judicial Service Association vs. State of Gujarat (1991) 4 SCC

406. The argument there was that the Supreme Court could not initiate contempt proceedings based on an incident that involved a subordinate court like a Chief Judicial Magistrate working in the State of Gujarat. That contention was examined and rejected by this Court. It was held that the language employed in Article 129 indicated that the Supreme Court is a Court of Record and was entitled not only to punish for its own contempt but to do all that which is within the powers of a Court of Record. This Court held that since the Constitution has designed the Supreme Court as a Court of Record, Article 129 thereof recognises the existing inherent power of a Court of Record in its full plenitude including the power to punish for its own contempt and the contempt of its subordinate. The Court said:

C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 "29. Article 129 declares the Supreme Court a court of record and it further provides that the Supreme Court shall have all the powers of such a court including the power to punish for contempt of itself (emphasis supplied). The expression used in Article 129 is not restrictive instead it is extensive in nature. If the Framers of the Constitution intended that the Supreme Court shall have power to punish for contempt of itself only, there was no necessity for inserting the expression "including the power to punish for contempt of itself." The Article confers power on the Supreme Court to punish for contempt of itself and in addition, it confers some additional power relating to contempt as would appear from the expression "including." The expression "including" has been interpreted by courts, to extend and widen the scope of power. The plain language of the Article 129 clearly indicates that this Court as a court of record has power to punish for contempt of itself and also something else which could fall within the inherent jurisdiction of a court of record. In interpreting the Constitution, it is not permissible to adopt a construction which would render any expression superfluous or redundant. The courts ought not accept any such construction. While construing Article 129, it is not permissible to ignore the significance and impact of the inclusive power conferred on the Supreme Court. Since, the Supreme Court is designed by the Constitution as a court of record and as the Founding Fathers were aware that a superior court of record had inherent power to indict a person for the contempt of

itself as well as of courts inferior to it, the expression "including" was deliberately inserted in the Article. Article 129 recognised the existing inherent power of a court of record in its full plenitude including the power to punish for the contempt of inferior courts. If Article 129 is susceptible to two interpretations, we would prefer to accept the interpretation which would preserve the inherent jurisdiction of this Court being C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 the superior court of record, to safeguard and protect the subordinate judiciary, which forms the very back bone of administration of justice. The subordinate courts administer justice at the grass root level, their protection is necessary to preserve the confidence of people in the efficacy of Courts and to ensure unsullied flow of justice at its base level."

12. The power to punish for contempt vested in a Court of Record under Article 215 does not, however, extend to punishing for the contempt of a superior court. Such a power has never been recognised as an attribute of a court of record nor has the same been specifically conferred upon the High Courts under Article 215. A priori if the power to punish under Article 215 is limited to the contempt of the High Court or courts subordinate to the High Court as appears to us to be the position, there was no way the High Court could justify invoking that power to punish for the contempt of a superior court. That is particularly so when the superior court's power to punish for its contempt has been in no uncertain terms recognised by Article 129 of the Constitution. The availability of the power under Article 129 and its plenitude is yet another reason why Article 215 could never have been intended to empower the High Courts to punish for the contempt of the Supreme Court. The logic is simple. If Supreme Court does not, despite the availability of the power vested in it, invoke the same to punish for its contempt, there is no question of a Court subordinate to the Supreme Court doing so. Viewed from any angle, the order passed by the High Court appears to us to be without jurisdiction, hence, liable to be set aside."

16. Now, in the case on hand, there is a specific plea by the applicant and prayer is also to that effect only that there is willful defiance of the direction of Hon'ble Supreme Court in C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 case of Lalita Kumari (supra). In paragraph 120 of the said decision, it has been clearly held that registration of FIR is mandatory under Section 154 of the Code. Preliminary inquiry to what extent is allowed and under which circumstance same is permitted, all these conclusions/directions are framed by Hon'ble Apex Court which circumstance is not at all in dispute and we have also noticed that for the purpose of issuing such directions, Hon'ble Apex Court was also assisted by several counsels representing the other States as well. In the case of Lalita Kumari (supra), Hon'ble Apex Court has not clearly observed that failure to comply would lead to a consequences and High Courts of the country having territorial jurisdiction can be approached. No-doubt, directions are issued are universally applicable by virtue of Article 141 of the Constitution of India, but then when question of initiating action under the provisions of Contempt of Courts Act arises, High Courts are under obligation to keep themselves within the bounds of their authority as clearly demarcated by virtue of afore-mentioned relevant provisions quoted herein-above and as such at this stage, we deem it proper to refer to observations C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 which are made by Hon'ble Apex Court in case of Arnesh Kumar (supra) as well as in the case of D.K. Basu (supra).

17. While going through the case of Arnesh Kumar, (supra) Hon'ble Apex Court while dealing with an issue related to arrest of accused persons in connection with the offences mentioned therein and after analyzing Section 41 and 167 of the Code, Hon'ble Apex Court has observed that police officers do not arrest accused unnecessarily and Magistrates do not authorize detention casually and mechanically and in order to ensure directions have been issued by the Hon'ble Apex Court as contained in paragraphs 14 and 15, which read as under:-

"14. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

(2) All police officers be provided with a check list containing specified sub- clauses under Section 41(1)

(b)(ii);

C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 (3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing; (7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

15. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine."

18. Aforesaid paragraphs are clearly indicating that all Chief Secretaries as also Director General of Police of all State Government and Union territories and Registrar General of all High Courts were transmitted such copies for its compliance and what is important is that in paragraph 14 in clause (7) and (8), it is specifically mentioned that failure to comply with this direction would render police officers liable for departmental action and they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction and even clause (8) has specifically made it clear that Judicial Magistrate concerned shall also be liable for departmental action by appropriate High Court. So, by virtue of these directions, High Courts have been specifically mandated by Hon'ble Supreme Court to issue and initiate steps as indicated above.

19. Similar is the case with respect to D.K. Basu (supra), wherein also, a clause perusal of said order would clearly C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 indicate that there is a specific mention similar to case of Arnesh Kumar (supra), as referred to above, and High Courts were permitted to initiate proceedings under contempt of Courts Act and simultaneously copies of the orders and directions were sent to all respective States and its police machinery. Since present controversy is attached to a significant central issue, we deem it proper to reproduce the directions here-under:-

"The following order of the Court was delivered:

On December 18, 1996 in D.K. Basu Versus State of West Bengal (1997 (1) SCC 416), this court laid down certain basic "requirements" to be followed in all cases of arrest or detention till legal provisions are made in that behalf as a measure to prevent custodial violence. The requirements read as follows.

"1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

2. That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 the time and date of arrest.

3. A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock- up, shall be entitled to have one friend or relative or other person know to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

4. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

5. The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

6. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

7. The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee and the police officer effecting the C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 arrest and its copy provided to the arrestee.

8. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.

9. Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illegal Magistrate for his record.

10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

11. A police control room could be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board."

This court also opined that failure to comply with the above requirements, apart from rendering the official concerned liable for departmental action, would also render him liable to be punished for contempt of court and the proceedings for contempt of court could be instituted in any High Court of country, having territorial jurisdiction over the matter. This Court further observed : "

The requirements mentioned above shall be forwarded to the Director General of every State/Union Territory and it shall be their obligation to circulate the same to every police station under their charge and get the same notified at every C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 police station under their charge and get the same notified at every police station at a conspicuous place. It would also be useful and serve larger interest to broadcast the requirements on All India Radio besides being shown on the national Network of Doordarshan any by publishing and distributing pamphlets in the local language containing these requirements for information of the general public. Creating awareness about the lights of the arrestee would in our opinion be a step in the right direction to combat the evil of custodial crime and bring in transparency and accountability. It is hoped and accountability. It is hoped that these requirements would help to curb, if not totally eliminate, the use of a questionable methods during interrogation and investigation leading to custodial commission of crimes."

More than seven months have elapsed since the directions were issued. Through these petitions, Dr. Singhvi, the learned Amicus Curiae, who had assisted the Court in the main petition, seeks a direction, calling upon the Director General of Police and the Home Secretary of every State/union Territory to report to this Court compliance of the above directions and the steps taken by the All India Radio and the National Network of Doordarshan for broadcasting the requirements. We direct the Registry to send a copy of this application, together with a copy of this order to respondents 1 to 31 to have the report/reports from the Director General of Police and the Home Secretary of the concerned State/Union Territory, sent to this Court regarding the compliance of the above directions concerning arrestees. The report shall indicate in a tabular form to which of the "requirements" has been carried out and in what manner, as also which are the "requirements" which still remain to be carried out and the steps being taken for carrying out those. C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 Report shall also be obtained from the Directors of All India Radio and Doordarshan regarding broadcasts made.

The notice on respondents 1 to 31, in addition, may also be served through the standing counsel of the respective State/union Territories in the Supreme Court. After the reports are received, copies of the same shall be furnished to the Advocate on Record for Dr. Singhvi, Ms. Suruchi Agarwal, Advocate.

The reports shall be submitted to this court in the terms, indicated above, within six weeks from today. The matters shall be put up on board for monitoring, after seven weeks."

20. Now, reverting back to the case on hand, what has been alleged is the conduct of respondent authority in not observing the directions issued by the Hon'ble Apex Court and therefore, request for initiating appropriate action under the provisions of Contempt of Courts Act and punish. A perusal of this entire judgment and order of Hon'ble Apex Court indicates that it is no-doubt a direction issued in a specific terms but then as has been clarified and explained in two previous decisions of Arnesh Kumar (supra) and D.K. Basu (supra), no such positive observations or directions are mentioned which would permit the High Court to initiate action under the provisions of the

Contempt of Courts Act and therefore, even if it is alleged that C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 there is a violation of these directions issued by Hon'ble Apex Court in case of Lalita Kumari (supra). It is not open for the High Court to overstep and travel beyond its jurisdiction which has already been confined by virtue of Section 10 of the Contempt of Courts Act read with Article 215 of the Constitution of India. It is also quite settled proposition of law that High Court cannot pass any order against the statutory provision.

21. If we see the line of approach by other High Courts on almost similar issue about violation of directions of Lalita Kumari's case, we have noticed that High Courts have circumscribed to their own peripheral limits of jurisdiction and did not initiate any action for contempt.

22. In light of the observations contained in the judgment of Allahabad High Court in the case of Shabina v. Shogun Gautam and Another reported in 2020 SCC OnLine All 1365, yet another decision of Allahabad High Court dated 31.8.2020 rendered in the case of Anand Dwivedi v. H.C. Awasthi and others and also the decisions of High Court of Chhattisgarh at Bilaspur dated 2.8.2021 in the case of Vijay C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 Laxmi Sharma v. State of Chhattisgarh and others, we are also of the opinion that entertaining this petition would tantamount to overstepping the jurisdiction. Since the main relief is only to the extent of framing of charge, trying the accused and punish the respondents for committing contempt of Hon'ble Apex Court, as indicated above.

23. We are conscious about the fact that directions issued by Hon'ble Apex Court have full force but when question of exercising contempt jurisdiction would arise, High Courts have its own limitation by virtue of aforesaid democratic provisions. Had it been a writ jurisdiction under Article 226 of the Constitution of India, probably, matter would have been viewed from a different angle, but when invocation by applicant is of contempt jurisdiction, we have our limitations in view of the aforesaid circumstances.

24. It is a trite law that contempt jurisdiction is a powerful weapon in the hands of the Courts of law, but that by itself operates as a string of caution as well. Proceedings are quasi criminal in nature and as such, said jurisdiction cannot be C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 exercised on mere probabilities and it is also a settled position of law that if two interpretations are possible, jurisdiction may not be desirable to be exercised and this power to punish for contempt is a special and rare power and this drastic power if misdirected, would result into miscarriage of justice on either way and Courts while exercising this jurisdiction must not travel beyond four corners of the order which is alleged to have been flouted or enter into, question that have not been dealt with or decided in the judgment or the order failure of which is alleged. Only such directions which are explicit in a judgment or the order or plainly self-evident ought to have been taken into account for the purpose of consideration as to whether there has been any violation and Courts while exercising this jurisdiction must ensure that while considering a contempt plea, jurisdiction available to the Court in other corrective powers like review or appeal is not trampled upon and as such, with this limits, which are well-defined, we are of the view that since Hon'ble Apex Court in case of Lalita Kumari (supra) having not clarified or directed or explained as to what has been done in the case of D.K. Basu (supra) and Arnesh Kumar (supra), we are C/MCA/345/2023 JUDGMENT DATED:

01/05/2023 of the opinion that in the absence of such, to entertain the contempt petition would be tinkering with jurisdictional limits which are well defined by virtue of provisions as indicated above. Hence, present contempt petition for want of jurisdiction is not entertainable.

25. We are not observing anything or examining on merit of the allegations which are leveled since we are not entertaining the petition on account of not being maintainable. We express no opinion on the allegations which are leveled by the applicant in the present proceedings, leaving it open for the applicant to take out appropriate steps as may be permissible in law. It may be that the applicant is aggrieved by action or response, but remedy is not present petition, it must be before appropriate forum.

26. At this stage, it would be profitable to quote hereunder the observations contained in paragraph 19 in the decision delivered by the Hon'ble Apex Court in the case of Sudhir Vasudeva v. M. George Ravishekar and others reported in (2014) 3 SCC 373:

C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 "19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Decided issues cannot be reopened; nor the plea of equities can be considered. Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the bar, namely, Jhareswar Prasad Paul and Another vs. Tarak Nath Ganguly and Others[3], V.M.Manohar Prasad vs. N. Ratnam Raju and Another[4], Bihar Finance Service House Construction Cooperative Society Ltd. vs. Gautam Goswami and Others[5] and Union of India and Others vs. Subedar Devassy C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 PV[6]."

27. In the light of this, we have also noticed that learned senior advocate Mr. Y.S. Lakhani for the applicant has initially tried to rely upon the judgment delivered by the Division Bench of this Court on 5.5.2014 in Misc. Civil Application No.856 of 2014, wherein no-doubt, the Division Bench has dealt with this issue with regard to non-registration of FIR, but then on a close perusal of facts contained therein would clearly indicate that in said case, first information report has already been

registered before Vallabh Vidyanagar Police Station and as such, facts are quite distinct from what is prevailing in the case on hand and as such, said judgment is of no assistance to the applicant.

28. Further, it is a cardinal principle of interpretation that when language of particular provision is plain and unambiguous, same should be read as such without importing foreign words into it. No Courts can import any such conclusion which is not envisaged in the provision. It is a trite law that it is not the function of the Court to add words or express merely to suit what the Court thinks it, supposed intention of legislature and Courts should avoid construction which has effect of C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 rendering any words used by legislature superfluous or redundant. At times, it may turnout to be inconvenience or hardship to the applicant who approaches but then role of the Court is to give effect to a plain reading of the Statute. A slight change in the facts would make a world of difference in applying the principle and as such that is being visualized by us from the aforesaid decisions in the case of Arnesh Kumar (supra) as well as D.K. Basu (supra) as compared with decision delivered by Hon'ble Apex Court in the case of Lalita Kumari (supra), we found a clear distinction in the observations and as such, looking to the demarcation of jurisdiction, which is spelt out, simply because it may cause hardship or little sense of not getting object for which application is submitted before us, we cannot give different meaning which may defeat the very object of provisions as well as orders passed by Hon'ble the Apex Court. This principle has been laid down by Hon'ble Apex Court in the case of Bihari Chowdhary and Another v. State of Bihar and others reported in AIR 1984 SC 1043, paragraph- 4 of which reads as under:

"4. When the language used in the Statute is clear and unambiguous it is the plain duty of the Court to give C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 effect to it and considerations of hardship will not be a legitimate ground for not faithfully implementing the mandate of the legislature."

29. At this stage, we may quote here-under the observations contained in the decision rendered by the Hon'ble Apex Court in the case of State of Madhya Pradesh Vs. Narmada Bachao Andolan and Another reported in (2011) 7 SCC 639, which has clearly indicated that while applying the principle, facts are to be taken note of since one additional fact may also at times make a world of difference in applying the ratio and as such keeping this proposition in mind also, we are of the opinion that it would not be desirable to entertain present petition since same is found to be not entertainable before this Court:-

"64. The Court should not place reliance upon a judgment without discussing how the factual situation fits in with a fact-situation of the decision on which reliance is placed, as it has to be ascertained by analyzing all the material facts and the issues involved in the case and argued on both sides. A judgment may not be followed in a given case if it has some distinguishing features. A little difference in facts or additional facts may make a lot of difference to the precedential value of a decision. A judgment of the Court is not to be read as a statute, as it is to be remembered that judicial utterances have been made in setting of the facts of a particular case. One additional or different fact may make a world of difference between the conclusions

in two cases. Disposal of cases by blindly placing reliance upon a C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 decision is not proper. (Vide MCD v. Gurnam Kaur, Govt. of Karnataka v. Gowramma and State of Haryana v. Dharam Singh)."

30. Yet another proposition on the line that one additional fact would make a world of difference in applying principle and having perused the observations which are made in the following decisions, we are of the clear opinion that a close perusal of the all the three decisions of Hon'ble Apex Court namely in the case of Arnesh Kumar (supra); D.K. Baus (supra) read with decision in the case of Lalita Kumari (supra), we are of the opinion that the facts situation and the observations contained are quite distinct at least in the case of Lalita Kumari (supra) for which violation is sought to be taken care of in the present proceedings. Hence, on this issue also, we are unable to exercise contempt jurisdiction in its strict form. A reference can be made to paragraphs 32 and 33 from the decision dated 05.05.2022 passed in Civil Appeal No. 3657 of 2022 which we deem it proper to quote hereunder :

"32. It will also be apposite to refer to the following observation of another three Judge Bench of this Court in the case of The Regional Manager and another vs. Pawan Kumar Dubey:

"7.Even where there appears to be some C/MCA/345/2023 JUDGMENT DATED: 01/05/2023 conflict, it would, we think, vanish when the ratio decidendi of each case is 7 (1976) 3 SCC 334 30 correctly understood. It is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts."

33. This Court has held that the ratio decidendi is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. It has been held that one additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts."

And the said principle is also reiterated in yet another Civil Appeal No. 689 of 2021, while deciding on 30.05.2022 by Hon'ble Apex Court. Hence, in view of the aforesaid proposition as well, we are of the opinion that the present proceedings before us are not entertainable.

31. There is another proposition laid down by Hon'ble Apex Court that High Court cannot pass any order against Statute. So when that be so, we are unable to entertain present application.

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32. Further, applicant is not remedy-less since there is an adequate protection provided to ventilate this grievance by way of resorting to other provisions available to the applicant under Code of Criminal Procedure and as such we found clearly that we are not in a position to exercise our contempt jurisdiction and we refrain ourselves from entertaining present Misc. Civil Application. However while parting with present judgment, we clarify that disposal of this contempt petition will not preclude the applicant from taking any other mode to ventilate the grievance permissible in law and we have not expressed any opinion on merits since at the threshold, we are not entertaining the petition for want of jurisdiction.

33. Accordingly, present Misc. Civil Application stands DISMISSED. Notice is discharged.

(ASHUTOSH SHASTRI, J) (J. C. DOSHI,J) omkar/phalguni