

(2021) 01 DEL CK 0007

In the Delhi High Court

Case No : CONT.CAS(C) No. 320 Of 2020, Civil Miscellaneous Application No. 13548 Of 2020

ICICI Bank Ltd

APPELLANT

Vs

Manish Goel & Ors

RESPONDENT

Date of Decision : 05-01-2021

Acts Referred:

Contempt Of Court Act, 1971 — Section 10, 12
Indian Penal Code, 1860 — Section 420

Citation : (2021) 01 DEL CK 0007

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Puneet K. Bhalla, ChetnaBhalla, Yatish Kumar Goel

Judgement

Sanjeev Sachdeva, J

1. Petitioner seeks initiation of proceedings under the Contempt of Courts Act, 1971 against the Respondents for having wilfully disobeyed the order

dated 30.04.2019 passed in Cont. Cas. (C) 102/2019, whereby Respondents were restrained from writing any email or from filing any complaint

against the petitioner bank and its officers.

2. As per the Petitioner, after the passing of the order dated 30.04.2019, though Respondents No. 1 and 2 did not write any email or approach any

forum against the petitioner, however, Respondent No. 3 who is the brother of Respondent No. 1 and son of Respondent No. 2 and also their

advocate, started writing emails on their behalf.

3. Petitioner bank had filed a suit against the respondents being CS. No. 1526 of 2018. By order dated 03.05.2018, the court restrained the

respondents from writing any email or complaint against the petitioner bank

before different fora or authorities.

4. It is contended that Respondent No. 3 intentionally, knowingly, and willingly in wilful defiance of order dated 03.05.2018 started writing emails,

raising false and frivolous disputes and allegations against the petitioner bank before different authorities.

5. It is contended that the petitioner bank thereafter filed a petition under Section 10 of the Contempt of Court Act, 1971 which was listed on

30.10.2018 before the Trial Judge. The court issued notice to show cause to the Respondents and despite being put to notice, Respondents did not stop

writing false and frivolous mails. It is contended that Respondent No. 3 wrote emails on behalf of Respondent No. 1 and 2 with their knowledge and

consent.

6. It is contended that despite the restraint, Respondents did not refrain from their conduct and accordingly, Petitioner bank filed a fresh contempt

petition before this court (Cont. Cas. (C) 102/2019) and also filed an application seeking restraint against the respondent from writing emails/raising

any grievance before different forums quathe loan account number LBDEL0000747368.

7. This court, by order dated 14.02.2019 in Cont. Cas. (C) 102/2019, issued notice to the respondents to show cause as to why contempt proceedings

under section 12 of the Contempt of Courts Act be not initiated against them and adjourned the case to 20.03.2019. On 20.03.2019, despite service,

none appeared for the Respondents and accordingly, bailable warrants were issued returnable for 30.04.2019.

8. On 30.04.2019, in the presence of the Respondents, this court once again directed respondents not to write any email/complaints against the

petitioner bank to different forums.

9. It is contended that Respondents, in complete defiance of order dated 30.04.2019, again sent defamatory emails on 15.06.2020 to the petitioner bank

and on this occasion even made false allegations against the advocates representing the petitioner bank. It is contended that this conduct was once

again repeated on 17.06.2020. As such, the petitioner has filed this petition seeking initiation of proceedings against the respondents for wilful breach

of order dated 30.04.2019.

10. Notice in this petition was issued to the respondents on 29.06.2020. By order

dated 29.06.2020, this court also restrained the respondents from committing any further breach of order dated 30.04.2019 passed in Cont. Cas. (C) 102/2019.

11. No reply has been filed to the petition by Respondents No. 1 and 3. Reply has been filed only by Respondent No. 2. Respondent No. 2 has filed his reply through Respondent No. 3 as his advocate.

12. On 20.07.2020, Respondent No. 3 appeared in person also and sought time to file reply, but no reply has been filed by him. On the other hand, he has filed a reply as an advocate for Respondent No. 2 on 27.07.2020.

13. On 19.08.2020, Respondent No. 3 made a statement that no separate reply was to be filed by Respondent No. 1 and 3 and they adopted the reply filed by Respondent No. 2.

14. In the Reply filed by the Respondent No. 2 and adopted by Respondent No. 1 & 3, no response has been given to the contentions of the Petitioner

raised in the petition that the Respondents despite there being a restraint from writing any email or make any representation to any forum, in respect of the subject loan account, have been writing emails making false allegations.

15. On the other hand, Respondents have sought to justify their conduct. No explanation has been given by the Respondents as to why they did not

comply with the order and refrain from writing any email. It is contended by the Respondents that they are justified in making the

representations/complaint to the senior management of the bank as it is their legal right. It is contended that the order was obtained by fraud and is void.

16. It is contended by the Respondents that an order of stay comes to an end on the expiry of 6 months unless extended by a speaking order. Reliance

is placed on the judgement of the Supreme Court in Asia Resurfacing Agency Private Limited versus Central Bureau of Investigation (2018) 16 SCC 299.

17. It is contended by the Respondents that they are victims of fraud and forgery committed by senior bank officials for which they have already been

summoned in a complaint case filed under Section 420 Indian Penal Code. It is contended that the advocates appearing for the petitioner are filing

multiple petitions on the same cause of action with the sole objective and

purpose, to pressurise and compel the respondents to withdraw the criminal case in which Senior bank officers have been summoned.

18. Apart from attempting to justify their conduct, the Respondents have not even responded to any of the allegations made in the petition.

19. One of the contentions raised by the Respondents is that the injunction order, restraining the respondent from writing any email or from filing any

further complaint, was passed in Civil Suit No. 1789/15, which Suit was dismissed in default on 20.12.2016 and thereafter, another suit on the same

cause of action being Suit No. 1526/2018, was filed and an injunction order was obtained in the said Suit also.

20. It is contended that Cont. Cas. (C) 102/2019 was filed alleging breach of the injunction order dated 10.06.2015 passed in Civil Suit No. 1789/2015,

which Suit stands dismissed in default on 20.12.2016 and as such, the restraint order does not survive.

21. To ascertain the veracity of the allegation made by the Respondents, records of Cont. Cas. (C) 102/2019 was summoned by this Court. Perusal of

records of Cont. Cas. (C) 102/2019 shows that said contempt petition was not filed because of wilful breach of order dated 10.06.2015 passed in Civil

Suit No. 1789/2015 but was filed for the wilful default and violation of order dated 03.05.2018 passed in Civil Suit No. 1526/2018.

22. It is an admitted position that Civil Suit No. 1526/2018 is still pending, and the interim order dated 03.05.2018, passed therein, is still subsisting.

23. Reliance placed by the Respondents on the judgement of the Supreme Court in Asia Resurfacing Agency Private Limited (supra) is not applicable

in the facts of the present case, in as much as in Asia Resurfacing Agency Private Limited (supra), the Supreme Court has held that stay of

proceedings should not continue beyond a period of 6 months. In the present case, there is no stay of proceedings and as such, the judgment is not

applicable to the facts of the present case.

24. By order dated 30.04.2019 passed in Cont. Cas. (C) 102/2019, this court had directed as under:

“Since, the matter is subjudice, the respondents are restrained from further writing any email/complaint against the petitioner bank to

different forums with regard to the agreement of home loan bearing No. LBDEL0000747368 entered between the respondent No. 1 & 2 and

the petitioner bank, till the next date of hearing.â??

25. The grievance raised by the Petitioner bank is with regard to repeated defiance by the Respondents of the restraint imposed upon them, from

writing any email or approaching any forum with regard to the subject loan account.

26. Despite there being an injunction, restraining the Respondents from writing any email, respondents continue to write emails to several entities and

individuals. Reference is drawn to emails dated 15.06.2020 and 17.06.2020. (annexed as annexure E (Colly) to the petition).

27. No explanation is forthcoming from the Respondents as to why they did not restrain from writing the said emails despite having been restrained by

order dated 30.04.2019 from doing so. On the other hand, Respondents have attempted to justify their conduct and the emails on merit. In case the

Respondent had any grievance, respondent should have approached the said court for vacation of the injunction order.

28. So long as the order is in force, Respondents have to abide with the same. Clearly, respondents have wilfully committed breach of the restraint

order dated 30.04.2019 passed against them.

29. Not only have the respondents committed breach of the restraint order dated 30.04.2019, but respondents have also sought to justify their conduct

in writing the emails dated 14.06.2020 and 17.06.2020.

30. Clearly, respondents have wilfully disobeyed order of this Court dated 30.04.2019 passed in Cont. Cas. (C) 102/2019.

31. Accordingly, notice of contempt is issued to the Respondents to show cause as to why they should not be punished for having wilfully disobeyed

order dated 30.04.2019 passed in Cont. Cas. (C) 102/2019. Reply to the Show Cause Notice be filed within four weeks.

32. List on 09.02.2021 for further proceedings. Respondents shall be personally present on the said date.

33. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.