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**(2017) 12 SHI CK 0012**  
**In the High Court Of Himachal Pradesh**  
**Case No : 83 of 2017**

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|----------------------------------------------|------------|
| M/s Nuvision Commercial and Escorts Services | APPELLANT  |
| Vs                                           |            |
| A.K. Chaturvedi & Ors.                       | RESPONDENT |

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**Date of Decision :** 12-12-2017

**Acts Referred:**

**Citation :** (2017) 12 SHI CK 0012

**Hon'ble Judges :** Sanjay Karol, Ajay Mohan Goel

**Bench :** Division Bench

**Advocate :** Seema K. Guleria, Neeraj Gupta

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## Judgement

1. By way of present petition, petitioner has preyed for initiation of contempt proceedings against the respondents for allegedly wilful disobeying the orders which were passed by this Court in CWP No. 613 of 2017 on 03.04.2017.

2. We have heard learned counsel for the parties and have also gone through the record of the case.

3. A perusal of the record demonstrates that on 03.04.2017 while issuing notice in CWP No. 613 of 2017 title M/s Nuvision Commercial and Escorts Services Vs. Union of India & Ors., this Court had passed the following order:- "CMP No.2199/2017

Allowed and disposed of.

CWP No.613/2017 and CMP No.2200/2017

Notice. Mr. Ashok Sharma, learned Assistant Solicitor General of India appears and waives service of notice on behalf of the respondents. Response be positively filed within a period of two weeks and rejoinder, if any, within one week thereafter.

List on 8.5.2017. In the meanwhile, petitioner shall be allowed to continue to discharge the work already allotted to it. Copy Dasti."

4. Allegation of the petitioner is that despite order so passed by this Court having been brought into the notice of the respondents, they did not permit the petitioner to continue to perform its duties as permitted by this Court vide order dated 03.04.2017.

5. In the reply which stands filed to the contempt petition, interalia, it stands mentioned therein that the respondents did not disobey any order passed by this Court. It further stands mentioned in the reply that the petitioner was awarded contract from 01.04.2016 to 31.03.2017. Alongwith the reply, respondents have appended communication dated 01.03.2017 Annexure R-1 addressed by the Secretary of Indian Institute of Advanced Study, Shimla, to the petitioner intimating the petitioner therein that as the contract period of the petitioner was coming to an end on 31.03.2017, it stood decided by the Institute supra not to renew the contract of the petitioner after 31.03.2017. It is further mentioned in the reply that as per Annexure R-2 annexed with the same, on 31.03.2017 decision was taken by the Institute to award the work in favour of M/s M.S. Services Private Limited. 01.04.2017 was Saturday which was a holiday in the Institute and 02.04.2017 was Sunday. Formal award letter was issued in favour of M/s M.S. Services Private Limited on 03.04.2017, though the said party had already started discharging duties in favour of the Institute w.e.f. 01.04.2017 itself. To demonstrate this fact, the respondents have appended with the reply Annexures R-3 and R-4.

6. A co-ordinate Bench of this Court in COPC No. 932 of 2015 titled Ganesh Dutt Vs. R.K. Pruthi, decided on 18.09.2017 has held: "17. Yes, the Court cannot allow its majesty and authority to be compromised and be a mute spectator in seeing its order violated, but then it is also a settled principle of law that every act cannot be said to be willful disobedience and even if it were so, then also it is not the requirement of law that the Court must, under all circumstances, punish the alleged offender and send him behind the bars.

18. In Babu Ram Gupta v. Sudhir Bhasin and another, (1980) 3 SCC 47, the Hon"ble Supreme Court of India, has held that

"Even if an undertaking is given to the Court, it should be carefully construed to find out the extent and nature of the undertaking actually given by the person concerned. It is not open to the Court to assume an implied undertaking when there is none on the record. While it is duty of the Court to punish a person who tries to obstruct the course of justice or brings into disrepute the institution of the judiciary, this power has to be exercised not casually or lightly but with great care and circumspection and only in such cases where it is necessary to punish the contemner in order to uphold the majesty of law and the dignity of the Courts."

To similar effect is the judgment rendered by the Apex Court in Bank of Baroda v. Sadruddin Hasan Daya and another, (2004) 1 SCC 360 .

19. Power to punish for contempt has to be exercised not casually or lightly but

with great care and circumspection; and only where it is necessary to punish the contemnor to uphold the majesty of law and the dignity of the Courts, it must do so. (Babu Ram v. Sudhir Bhasin, (1980) 3 SCC 47 ).

20. Contempt jurisdiction is to uphold the majesty and dignity of the Courts. It is not aimed at protecting judicial officers from criticism. (Vishram Singh Raghubanshi v. State of U.P., (2011) 7 SCC 776).

21. True, the Judges should not be hypersensitive but that does not mean and imply that they ought to maintain angelic silence also. Immaterial it is as to the person but it is the seat of the justice which needs protection: it is the image of the judicial system which needs protection. Nobody can be permitted to tarnish the image of the temple of justice. The majesty of the Court shall have to be maintained and there ought not to be any compromise or leniency in that regard. (Prem Surana v. Addl. Munsif & Judicial Magistrate, (2002) 6 SCC 722).

22. The law of contempt stems from the right of the courts to punish by imprisonment or fine persons guilty of words or acts which either obstruct or tend to obstruct the administration of justice. This right is exercised in India by all courts when contempt is committed in facie curiae and by the superior courts on their own behalf or on behalf of courts subordinate to them even if committed outside the courts. Formerly, it was regarded as inherent in the powers of a Court of Record and now by the Constitution of India, it is a part of the powers of the Supreme Court and the High Courts. (E.M. Sankaran Namboodripad v. T. Narayanan Nambiar, (1970) 2 SCC 325).

23. The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned. (Chandra Shashi vs. Anil Kumar Verma, (1995) 1 SCC 421)

24. Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice. [Chandra Shashi (supra)].

25. Be it noted that exercise of powers under the Contempt of Courts Act shall have to be rather cautious and use of it rather sparingly after addressing itself to the true effect of the contemptuous conduct. The Court must otherwise come to a conclusion that the conduct complained of tantamounts to obstruction of justice which if allowed, would even permeate in our society. This is a special jurisdiction conferred on to the law courts to punish an offender for his contemptuous conduct or obstruction to the majesty of law. (Mrityunjoy Das vs Sayed Hasibur Rahaman, (2001) 3 SCC 739)

26. The other aspect of the matter ought also to be noticed at this juncture viz., the burden and standard of proof. The common English phrase "he who asserts must prove" has its due application in the matter of proof of the allegations said to constitute the act of contempt.

27. Now, it is one thing to say that the standard of proof in a contempt proceeding is no less rigorous than a criminal trial but it is something entirely different to insist that the manner of proof for the two proceedings must also be the same. It is now well settled and so also the High Court has held that the proceeding of contempt of court is sui generis. In other words, it is not strictly controlled by the provisions of the CrPC and the Indian Evidence Act. What, however, applies to a proceeding of contempt of court is the principles of natural justice and those principles apply to the contempt proceeding with greater rigour than any other proceeding. This means that the Court must follow a procedure that is fair and objective; that should cause no prejudice to the person facing the charge of contempt of court and that should allow him/her the fullest opportunity to defend himself/herself. (R.K. Anand v. Registrar, Delhi High Court, (2009) 8 SCC 106)."

7. When we apply the above test to the facts of the present case, we find that it cannot be said that the act of the respondents in the present case in any manner is contumacious. This we say for the reason that in order to punish a party for contempt of Court, the Court has to be satisfied that not only its order has been disobeyed but the said disobedience is coupled with wilful intent on the part of the contemnor to disobey the Court order.

8. We do not find that there is any wilful disobedience of the order passed by this Court as has been alleged by the petitioner. It is evident from the records that the contract period of the petitioner had ended on 31.03.2017 and with effect from 01.04.2017, the services in issue, were being provided by some other company.

9. We may observe that these facts were not so mentioned in the writ petition by the petitioner. Be that as it may, in our considered view, as the alleged act of the respondents are not contumacious, therefore, we do not find any merit in the present petition and the same is accordingly dismissed. Notices issued to the respondents are discharged. Miscellaneous applications, if any, also stand disposed of.