

(2002) 08 KAR CK 0068

In the Karnataka High Court

Case No : Contempt of Courts Case (Criminal) No. 11 of 2000

Ratan Chandra Sharma and Another

APPELLANT

Vs

Kum. Sheetal Sharma and Others

RESPONDENT

Date of Decision : 21-08-2002

Acts Referred:

Constitution of India, 1950 — Article 215

Contempt of Courts Act, 1971 — Section 10, 11, 15, 20

Citation : (2003) CriLJ 746 : (2002) ILR (Kar) 4149 : (2002) 5 KarLJ 365 : (2002) 3 KCCR 2075

Hon'ble Judges : M.S. Rajendra Prasad, J;H.N. Narayan, J

Bench : Division Bench

Advocate : Vasanth V. Fernandes, for the Appellant; Rajashekar B. Kanvi, for Respondent-1 and Shivaram Joshi, for Respondent-2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

H.N. Narayan, J.—This contempt petition is initiated by one Ratan Chandra Sharma and Prithvinath Sharma who are brothers and grandsons of late Smt. Dhanwati Devi Sharma against their senior uncle, wife and his children.

2. The dispute between the parties started somewhere in the year 1981 when the second accused filed a civil suit in O.S. No. 10357 of 1981 on the file of IV Additional City Civil Judge, Civil Station, Bangalore. That was the suit filed by the second accused against his mother Smt. Dhanwati Devi Sharma and his two brothers Ram Chandra Sharma (father of the complainants) and Ramesh Chandra Sharma for partition and separate possession of "A" and "B" schedule properties consisting of a shop premises and residential premises respectively. Smt. Dhanwati Devi Sharma expired on 31-3-1990 during the pendency of O.S. No. 10357 of 1981 filed by the second accused. During the pendency of that suit, she executed a registered Will dated 29-4-1982 bequeathing the suit schedule "B" property described therein, in favour of the complainants and that was her last Will made before her death. It is stated that the accused are residing in "B"

Schedule property. The other undisputed facts are that the father of the complainants preferred an appeal before this Court in R.F.A. No. 33 of 1995 questioning the correctness and legality of the judgment passed in O.S. No. 10357 of 1981. The Division Bench of this Court decreed the entire suit Schedule "B" property belonging to late Smt. Dhanwati Devi Sharma as herself acquired property and not as joint family property as claimed by the second accused in favour of the complainants. The Court also declared that the findings of the Trial Court that the Will made by her dated 29-4-1982 was valid and that therefore, the complainants became the absolute owners of the entire schedule property by virtue of the Will executed by their grandmother late Smt. Dhanwati Devi Sharma. The second accused who was plaintiff in the original suit, thereafter, challenged the judgment of this Court before the Hon"ble Supreme Court in S.L.P. (C) No. 19224 of 1995. The appeal was summarily dismissed by the Apex Court by its order dated 4-9-1995.

3. During the pendency of O.S. No. 10357 of 1981 and after the death of Smt. Dhanwati Devi Sharma on 31-3-1990, the executant of the Will dated 29-4-1982, the complainants filed a suit on O.S. No. 10350 of 1992 seeking a decree of declaration of their title to the "B" schedule property, a residential premises bearing No. 16 (now No. 14), Osborne Road Cross, Bangalore, possession and mesne profits. The said suit came to be decreed. The second accused herein who was one of the defendant in the said suit preferred an appeal before this Court in R.F.A. No. 333 of 1998 which was dismissed by a considered judgment dated 2-2-1999. Thereafter, the first accused, who is the daughter of the second accused, filed a suit for partition in O.S. No. 7206 of 1998 in respect of the same subject-matter and property which was the subject-matter of the two suits mentioned above. She obtained a stay of the judgment and decree passed in O.S. No. 10350 of 1992. It is alleged that she obtained the stay order by misrepresentation and suppressing material information to the Trial Court. This order of stay which is passed by the Trial Court in spite of the judgment and decree in O.S. No. 10350 of 1992 had already merged with the order of this Court in R.F.A. No. 333 of 1998. The effect of stay of the judgment and decree in O.S. No. 10350 of 1992 virtually stalled the execution proceedings initiated by the complainants in Execution Petition No. 10034 of 1998. Moreover, the accused filed caveat petitions before the City Civil Court claiming absolute right over the said property in spite of a judgment and decree by this Court in R.F.A. No. 333 of 1998 and confirmed by the Hon"ble Supreme Court in S.L.P.(C) No. 19224 of 1995. The first accused has deliberately furnished false address in the proceedings and obtained an ex parte stay order against her own father without service of notice to the other defendants in her suit. It is alleged that all the accused resided together headed by the second accused and they have colluded in suppressing the material facts to the Courts below and obtained not only the stay in her suit but also stalled the execution proceedings and the documents produced as enclosures to these petitions prima facie disclose a contempt committed by the accused persons. Thereafter, the complainants prayed this

Court to take suo motu cognizance of the criminal contempt against he accused 1 to 4 and take appropriate action against them under the Contempt of Courts Act, 1971.

4. The first accused and respondents 2 to 4 have filed separate statements of objections. The first accused only defended her conduct on the premise that she was ignorant of the judgments of this Court and the Apex Court granting decree in favour of the complainants. According to her, she had every right to seek partition and separate possession of her share in the schedule properties including the property in question from her father as it was an ancestral property which belonged to her grandfather, the husband of late Smt. Dhanwati Devi Sharma. According to her, those decrees were obtained by the complainants in collusion with their father. She has filed the suit in O.S. No. 7206 of 1998 against her father and uncles and obtained stay of the judgment and decree passed in O.S. No. 10350 of 1992 and thus prevented the complainants from taking legal possession of the suit schedule property. The complainants are required to justify the judgments and decrees obtained by them and they are the rightful owners of the property. Various allegations made in the complaint are baseless, they have alternative remedies open in law and the complainants cannot fetch them the reliefs based on speculative allegations. The complainants who came to know of the stay order passed in her suit in O.S. No. 7206 of 1998 and the copy of the same was produced in execution case, they had ample time to approach the Trial Court to get the same vacated, which they have not chosen to do so. The complainants are banking upon evidence which are subsequent to the filing of O.S. No. 7206 of 1998 when the caveat petitions have been filed nearly a year back. Allegations made in the complaint do not constitute contempt. It is also contended that the complainants have not obtained permission from the Advocate-General as required under law and taking cognizance under Article 215 of the Constitution does not merit any consideration when the complaint itself is devoid of merits and has been made only to harass and humiliate the respondents/accused. This complaint was not taken suo motu by the Court but on the contrary prior permission was obtained much later to the filing of this complaint. The present complaint petition is filed only to seek personal vendetta against the respondents and she being innocent has been subjugated to mental torture and physical harassment which the complainant should compensate heavily. She has denied any collusion between herself and her father. For these and other reasons stated in the objection statement, the first respondent prays this Court to dismiss the petition.

5. Respondents 2 to 4 have filed statements of objections virtually urging on the same lines as that of respondent 1. They have denied and disputed all the allegations made against them by the complainants. No prima facie proof is placed before the Court by the complainant for holding that they have committed contempt to the Court. The complaint is mischievous and is filed on unlawful grounds. The complaint is not maintainable. It is submitted that the stay obtained by the first respondent/accused in O.S. No. 7206 of 1998 even on the

allegation of misrepresentation and suppression of material information are required to be proved by the complainant. Even if the same is proved, it will amount to res judicata. The said suit filed by accused 1 is not at the instance of accused 2 as alleged. Filing of caveat petitions by accused/respondents which is not in the form of proceeding before the Court does not amount to contempt. On these and other grounds the accused/respondents pray the Court to dismiss the complaint.

6. Thereafter, the complainants let in evidence. One of the complainant is examined as P.W. 1 and closed their case. Respondents have not preferred to adduce any oral evidence. We have heard the arguments in this matter.

7. Learned Counsel for the complainants submitted that the proceedings initiated by the accused/respondents in various suits and appeals, copies of which are produced for perusal of the Court and the conduct of the accused persons in resisting the execution petition for delivery of the schedule property by filing suit and obtaining stay on false and misrepresentation, filing caveat petitions thereafter before the Civil Court, giving false addresses of the complainants, cumulatively indicate the mind of the accused to defeat the decrees of the Court and their conduct is ex facie contemptuous and are liable to be convicted. Insofar as the contentions urged by the respondents regarding the absence of consent of Advocate-General at the time of filing the contempt petition and the delay in initiating the contempt proceedings, it is submitted that the Advocate-General's opinion is not mandatory and the Court has taken suo motu cognizance of the contempt action against the accused. Since it is continuing wrong committed by the accused persons, the provisions of Section 20 of the Contempt of Courts Act, 1971 is not attracted.

8. The contentions canvassed on behalf of accused 1 is that she was not aware of the result of the previous proceedings especially in R.F.A. Nos. 33 of 1995 and 333 of 1998. She is married but separated herself from her husband and living alone. Therefore, the question of collusion with her father is not established. The mistake, if any, is liable to be condoned. No such argument is addressed on behalf of the second accused. The respondents have also raised the other legal question but Section 15 of the Act is mandatory and non-production of the consent of Advocate-General is fatal and that sanction obtained by the Advocate-General subsequently, during the proceedings is not contemplated u/s 15 of the Act. Since the proceedings before the Civil Court took place one year prior to the initiation of the present contempt petition, the petition is barred by Section 20 of the Act. Therefore, the petition is liable to be rejected on that ground.

9. In the light of these contentions, the questions that arise for our consideration are:

(a) Whether the contempt petition is not maintainable for want of consent of Advocate-General as contemplated u/s 15 of the Contempt of Courts Act, 1971?

(b) Whether the petition is barred u/s 20 of the Act?

(c) Whether the respondents are guilty of criminal contempt?

(d) What order?

10. Regarding Point No. (a).--This contempt petition is filed under Article 215 of the Constitution of India and Sections 10 and 11 of the Contempt of Courts Act, 1971. The same was filed on 7-7-2000. The office has raised four objections at the preliminary stage of filing the petition, one of which was that the consent of the Advocate-General had not been filed and the complainants had to obtain the consent of the Advocate-General. Learned Counsel for the complainant filed memo reporting compliance of office Objection Nos. 2, 3 and 4 but did not comply Objection No. 1 in view of the decision of this Court in the case of Erappa Vs. Channabasappa, and requested the office to post the case before the Court. The matter was placed before the Court on 28-7-2000 and the Court made the following order:

"Adjourned at request for four weeks for compliance, failing which, the matter shall stand dismissed automatically without further orders".

The matter was again placed before the Court with the office note that the complainant had obtained Advocate-General's permission and therefore, complied the direction of the Court. These particulars are relevant for appreciating the contentions canvassed on behalf of the respondents Counsel whether the consent of the Advocate-General obtained after the motion had been made is not in strict compliance of Section 15 of the Contempt of Courts Act, 1971, in view of the judgment of the Hon"ble Supreme Court in State of Kerala Vs. M.S. Mani and Others, We have already extracted the office objections raised in this case and in view of the objections and the contentions canvassed before us by the learned Counsel for the respondents, this question has virtually become a clinching issue in this petition.

11. Arguments were addressed at the bar on the premise that the petition is filed u/s 15 of the Contempt of Courts Act, 1971, but in fact, it is not so. At no stage, the complainants have invoked the provisions of Section 15 of the Contempt of Courts Act. It is relevant here to extract the provisions of Section 15 of the Act. The language used in Section 15 of the Contempt of Courts Act, 1971 is unambiguous:

"Clause (1).--Expressly provides that in a case of a criminal contempt, other than a contempt referred to in Section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by-

(a) The Advocate-General; or

(b) Any other person, with the consent in writing of the Advocate-General;

(c) In relation to the High Court for the Union Territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.

(2) In the case of any criminal contempt of a Subordinate Court, the High Court may take action on a reference made to it by the -Subordinate Court or on a motion made by the Advocate-General or, in relation to a Union Territory, by such Law Officer as a Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty".

Therefore, the substance and core of the contention canvassed in this behalf by the learned Counsel for the complainants, in our opinion, falls to ground. This question is debated before us by the learned Counsels on both sides relying upon certain judgments of the Apex Court. The question whether motion is made by any other person as provided u/s 15(1)(b) of the Act requires consent in writing of the Advocate-General and if such consent is obtained after the motion is made is not longer *res Integra*. The pronouncement on this question by the Apex Court in a series of judgments is that such consent of Advocate-General is mandatory where motion is made by any other person other than the Advocate-General unless the Hon"ble Supreme Court or the High Court initiate *suo motu* u/s 15(1) of the Contempt of Courts Act. The latest judgment of the Apex Court in the case of *State of Kerala, supra*, the Hon"ble Supreme Court laid down the law as follows:

"6. The requirement of consent of the Advocate-General/Attorney-General/Solicitor-General where any person other than the said Law Officers makes motion in the case of a criminal contempt in a High Court or Supreme Court, as the case may be, is not a mere, formality, it has a salutary purpose. The said Law Officers being the highest Law Officers at the level of the State/Center as also the officers of the Courts are vitally interested in the purity of the administration of justice and in preserving the dignity of the Courts. They are expected to examine whether the averments in the proposed motion of a criminal contempt are made vindicating public interest or personal vendetta and accord or decline consent postulated in the said provision. Further, cases found to be vexatious, malicious or motivated by personal vendetta and not in public interest will get filtered at that level. If a motion of criminal contempt in the High Court/Supreme Court is not accompanied by the written consent of the aforementioned Law Officers, the very purpose of the requirement of prior consent will be frustrated. For a valid motion compliance with the requirements of Section 15 of the Act is mandatory. A motion u/s 15 not in conformity with the provisions of Section 15 is not maintainable".

12. At the initial stage of motion of this petition, learned Counsel for the complainants brought to the notice of the Court that no such consent was required in view of the law laid down by this Court in *Erappa's case, supra*. That was also a case where the complainant initiated contempt proceedings against the respondents under Article 215 of the Constitution of India relying upon the ratio laid down by the Apex Court in the cases of *Shri C.K. Daphtary and Others*

Vs. Shri O.P. Gupta and Others, ., R.L. Kapur Vs. State of Madras, , Hari Vishnu Kamath Vs. Syed Ahmad Ishaque and Others, . Another Division Bench of this Court in the case of Vijaya Bank Employees Housing Co-operative Society Ltd. Vs. Muneerappa, , laid down the following proposition:

"Constitution of India, Article 215 -- Contempt of Courts Act of 1971, Section 15(1) -- Motion of criminal contempt of High Court -- Consent of Advocate-General if mandatory -- Held -- The power conferred by Article 215 Constitution of the High Court to punish for contempt of itself is wide enough to cover cases of ex facie criminal contempt as also every act or omission which amounts to contempt of the High Court. Therefore, whether the contempt of the High Court alleged to have been committed by anyone is of the description referred to in Section 14 or 15 of the Contempt of Courts Act, it is competent for the High Court to punish the alleged condemner in exercise of its power under Article 215. Such action could be taken either on its own motion or on motion made by the Advocate-General or any other person. Consent of the Advocate-General is not contemplated by the article for a motion made by any other person.

By the coming into force of the Contempt of Courts Act, 1971, with Section 15(1) in it, the power of the High Court given to it under Article 215 has not been affected.

Therefore, Section 15(1) providing for consent of the Advocate-General cannot be construed as mandatory, as the power of the High Court to punish for criminal contempt of itself is conferred on it by Article 215 without any such restriction".

Relying upon this proposition of law, the Division Bench of this Court in Erappa's case, supra, at para 12, has stated as follows:

"12. In view of the above two rulings, we are convinced that when there is contempt of this Court itself by a party who is guilty of an offence of criminal contempt within the meaning of Article 215 of the Constitution of India either by suppression of facts or by making false statement to obtain a favourable order or for that matter when guilty of the abuse of process of law within the meaning of Section 2(c) of the Act, there is no necessity for a party to obtain the consent of the Advocate-General for initiating the proceedings for contempt of this Court and all that what a party has to do in such situation is to bring to the notice of this Court such an act of omission or commission on the part of the contemnor resulting in the contempt of this Court itself and this Court being a Court of record, it is very much available for this Court to initiate contempt proceedings suo motu and as such, in our considered view, the question of obtaining a consent of the Advocate-General as contemplated u/s 15(1) of the Act is not necessary. Hence, we hold that the consent of the Advocate-General for maintaining contempt petition in the facts of the circumstances of the case as put up before us is not necessary".

It was specifically alleged in Erappa's case that the accused had suppressed the material facts in a writ petition filed before the High Court which resulted in

wrong judgment and the accused had withdrawn a few lakhs of rupees on the basis of the judgment and the judgment delivered therein obstructs the administration of justice and filing suit after suit in respect of same subject-matter in original suits culminated in R.As and R.S.As amounts to abuse of Court process punishable u/s 2(ii)(e) of the Contempt of Courts Act. Hence, it was a motion made before High Court under Article 215 of the Constitution of India.

13. It is undisputed that the party who moved the motion in this contempt petition is a private party falling under Clause (b) of Section 15(1) of the Contempt of Courts Act.

14. Admittedly, this is not a suo motu petition initiated by the High Court either invoking the jurisdiction of the High Court under Article 215 of the Constitution of India or u/s 15(1) of the Contempt of Courts Act, 1971. It was a motion made by the complainants without obtaining the consent of the Advocate-General in writing for contempt of Court.

15. The contempt of Court alleged is, as we have extracted above, that the contemnors are in the habit of filing suits after suits just to frustrate the decrees obtained by the complainant from the Apex Court and this Court and they have obstructed execution of decree obtained by them. It is admitted that there is no contempt on the face of this Court to initiate action as required under Article 215 of the Constitution of India. The jurisdiction vested in this Court under Article 215 of the Constitution is for a specific purpose of taking action against a contemner who commits contempt in the face of the Court which include filing of petitions and initiating proceedings before the Court and misleading the Court, thereby, obtaining favourable orders which amounts to obstruction of course of justice. In our opinion, the complainant is not entitled to avail the extraordinary powers of the High Court vested in it under Article 215 of the Constitution of India. The complainant has prayed this Court to punish the accused by invoking the powers of the High Court u/s 10 of the Contempt of Courts Act, for committing contempts of Subordinate Courts. Section 11 of the Act is not at all applicable to the facts of this case. Section 10 of the Act, reads as follows;

"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, 1860".

16. Section 10 of the Act provides for punishing the accused for committing contempt on Subordinate Court. The procedure to initiate contempt action is provided u/s 15 of the Act. Admittedly, the complaint is presented before the Court without obtaining the consent of the Advocate-General in writing. As held in State of Kerala case, *supra*, for a valid motion, compliance of the requirements

of Section 15 of the Contempt of Courts Act is mandatory. A motion u/s 15 of the Act not in conformity with the provisions of Section 15 of the Act is not maintainable. The learned Counsel for the complainants has submitted that he has obtained the consent of the Advocate-General as directed by the Court and hence, complied with the office objections and therefore, compliance of Section 15(1)(b) is made by the complainant and the petition is perfectly maintainable. The Apex Court has also answered this question which came up before it in the case of *State of Kerala, supra*. In the said case also, contempt petition was filed on May 17th, 1999 and the consent of the Attorney-General was obtained on 11th May, 2000. It was submitted before the Apex Court that the petitioner submitted that Section 15 of the Act has been complied with. But the Apex Court was unable to accede to this contention. It observed "The fact remains that the motion to take action against the respondents u/s 15 was not made with the consent of the learned Attorney-General or Solicitor-General and therefore is incompetent. Subsequent obtaining of the consent, in our view, does not cure the initial defect so as to convert the incompetent motion into a maintainable petition" and therefore, dismissed the contempt petition and discharged the contempt notice.

17. In view of the pronouncement of this law by the Apex Court, we find no merit in the contentions of the learned Counsel for the complainants. A catena of decisions starting from the year 1955 till date have been referred to and there is uniformity in the law laid down by the Apex Court on this question and the learned Counsel for the complainants has not been able to place before us any judgment of the Apex Court by a larger Bench other than the one decided by the Supreme Court in the case of *State of Kerala, supra*. We have no hesitation therefore, to hold that this contempt petition fails for want of consent of Advocate-General in writing as contemplated u/s 15 of the Contempt of Courts Act, 1971. We therefore, answer Point No. (a) accordingly.

18. In this background, a further question Would arise for our consideration namely, that in the event of refusal of consent by the Advocate-General when sought by a person referred to in Section 15(1)(b) of the Contempt of Courts Act, what is the remedy open to him?

19. The provisions of Section 15 of the Act are procedural in nature and the law mandates that any person who wants to move the High Court or the Supreme Court to punish the contemner under the provisions of the Act, has to obtain consent of the Advocate-General in writing or the Attorney-General, as the case may be. There is no provision in the Act providing for alternative remedy in the event of the Advocate-General's refusal to grant his consent in writing, even in cases where there are justifiable grounds, or where the Advocate-General grants consent against few and refuses to give his consent against others, to initiate contempt proceedings against the contemner. We may derive some support from the judgment of the Apex Court in *S.K. Sarkar, Member, Board of Revenue, U.P., Lucknow Vs. Vinay Chandra Misra, .* The relevant discussion is found at para 19

of the judgment. The Apex Court observed as follows:

"19. It is, however, to be noted that Section 15 does not specify the basis or the source of information on which the High Court can act on its own motion. If the High Court acts on information derived from its own sources, such as from a perusal of the records of a Subordinate Court or on reading a report in a newspaper or hearing a public speech, without there being any reference from the Subordinate Court or the Advocate-General, it can be said to have taken cognizance on its own motion. But if the High Court is directly moved by a petition by a private person feeling aggrieved, not being the Advocate-General, can the High Court refuse to entertain the same on the ground that it has been made without the consent in writing of the Advocate-General? It appears to us that the High Court, has in such a situation, a discretion to refuse to entertain the petition, or to take cognizance on its own motion on the basis of the information supplied to it in that petition. If the petitioner is a responsible member of the legal profession, it may act suo motu, more so, if the petitioner-Advocate, as in the instant case, prays that the Court should act suo motu. The whole object of prescribing these procedural modes of taking cognizance in Section 15 is to safeguard the valuable time of the High Court or the Supreme Court from being wasted by frivolous complaints of contempt of Court. If the High Court is prima facie satisfied that the information received by it regarding the commission of contempt of a Subordinate Court is not frivolous and the contempt alleged is not merely technical or trivial, it may, in its discretion, act suo motu and commence the proceedings against the contemner. However, this mode of taking suo motu cognizance of contempt of a Subordinate Court, should be resorted to sparingly where the contempt concerned is of a grave and serious nature. Frequent use of this suo motu power on the information furnished by an incompetent petition, may render these procedural safeguards provided in Sub-section (2), otiose. In such cases, the High Court may be well-advised to avail of the advice and assistance of the Advocate-General before initiating proceedings. The advice and opinion, in this connection expressed by the Sanyal Committee is a pertinent reminder:

In the case of criminal contempt, not being contempt committed in the face of the Court, we are of the opinion that it would lighten the burden of the Court, without in any way interfering with the sanctity of the administration of justice, if action is taken on a motion by some other agency. Such a course of action would give considerable assurance to the individual charged and the public at large. Indeed, some High Courts have already made rules for the association of the Advocate-General in some categories of cases at least.... The Advocate-General may, also, move the Court not only on his own motion but also at the instance of the Court concerned....".

20. Though, this observation does not specifically answer the question now raised, however, in such an event, this Court has ample discretion either to take suo motu cognizance or reject a petition of the party if it is frivolous or if the

contempt alleged is technical or trivial. However, the Court should exercise this power sparingly. In our opinion, this would meet the ends of justice in such circumstances where the Advocate-General refuses his consent. Otherwise, the very purpose of the Act would be defeated if in an appropriate case, the Advocate-General refuses to grant his consent in writing.

21. Regarding Point No. (b).--Section 15 of the Contempt of Courts Act, 1971 provides for limitation for actions for contempt. It reads as follows:

"No Court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed".

The provisions, admittedly, are not applicable in a case of continuing offence. It is the specific contention of the learned Counsel for the complainants that this is a case of continuing offence. The very fact that the first accused has challenged the order of the Court below which vacated the stay order in O.S. No. 7206 of 1998 and challenged the stay order in Miscellaneous Appeal No. 4226 of 2001 on the file of this Court in the year 2001 shows that it is a case of continuing offence and therefore, there is no delay in filing this contempt petition. There is no satisfactory counterargument offered on behalf of the respondents. We are satisfied that there is no delay in filing the complaint and the petition does not suffer for want of limitation. We therefore, reject the contention of the learned Counsel for the respondents and answer Point No. (b) accordingly.

22. Regarding Point Nos. (c) and (d).--In view of our findings on Point No. (a) we do not propose to deal with the third point as it is fruitless and no purpose would be served by prolonging our discussion on that question. Therefore, this petition fails on the question of maintainability. Accordingly, it is liable to be dismissed.

In the result and for the foregoing reasons, we hold that the petition is not maintainable and we dismiss this contempt petition. The complainants are at liberty to initiate action afresh, if so advised, in accordance with law.

A copy of this judgment shall be placed before the Scrutiny Branch who shall take appropriate action at the time of registering a contempt petition before the High Court without the consent of the Advocate-General in writing.