



**IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI**

**HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE**

**&**

**HON'BLE MR. JUSTICE NINALA JAYASURYA**

**CONTEMPT APPEAL No. 5 of 2021**

*(Taken up through video conferencing)*

Male Deva Raju S/o. late Suvarna Rao,  
Aged about 44 years, Occ: Advocate,  
R/o.26-38-141, 12<sup>th</sup> Lane,  
A.T.Agraharam, Guntur Town and District. .. Appellant/petitioner

Versus

Kumar Vishwajeet  
Principal Secretary,  
Department of Home, State of Andhra Pradesh,  
Secretariat Buildings, Velagapudi,  
Amaravathi, Guntur District  
and another. .. Respondents

Counsel for the appellant : Mr. G.Arun Showri

Counsel for respondents : -----

**ORAL JUDGMENT**

**Dt: 13.09.2021**

*(per Arup Kumar Goswami, CJ)*

Heard Mr. G.Arun Showri, learned counsel for the appellant/petitioner.

2. This contempt appeal is preferred under Section 19 of the Contempt of Courts Act, 1971, by the appellant/petitioner against an order dated 02.07.2021 passed by the learned single Judge in C.C.No.1214 of 2020, by which the learned Judge closed the contempt case holding that there was no wilful disobedience of orders of the Court.

3. An interim direction was granted in the Writ Petition No.7049 of 2020 on 18.03.2020, staying appointments of Assistant Public Prosecutors in respect of physically handicapped quota. It was alleged



that while the aforesaid interim order was in force, appointment orders dated 16.10.2020 were issued to 48 members, including orthopedically handicapped persons. In the writ petition, the Director of Prosecutions, Prosecution Department, who was the appointing authority, was not arrayed as a party. On consideration of the materials on record, the learned single Judge observed that the intimation regarding interim direction was made subsequent to passing of the order dated 16.10.2020 and, therefore, there is no wilful disobedience of order of the Court.

4. Section 19 of the Contempt of Courts Act, 1971, which is relevant for the purpose of this case, reads as follows:

***"19. Appeals.—***

*(1) An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt—*

*(a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court;*

*(b) where the order or decision is that of a Bench, to the Supreme Court:*

*Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.*

*(2) Pending any appeal, the appellate Court may order that—*

*(a) the execution of the punishment or order appealed against be suspended;*



*(b) if the appellant is in confinement, he be released on bail; and*

*(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.*

*(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).*

*(4) An appeal under sub-section (1) shall be filed—*

*(a) in the case of an appeal to a Bench of the High Court, within thirty days;*

*(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.”*

5. In ***D.N.Taneja v. Bhajan Lal***, reported in ***(1988) 3 Supreme Court Cases 26***, the Hon'ble Supreme Court, at paragraphs No.8, 10 and 12, had observed as under:

*"8. The right of appeal will be available under sub-section (1) of Section 19 only against any decision or order of a High Court passed in the exercise of its jurisdiction to punish for contempt. In this connection, it is pertinent to refer to the provision of Article 215 of the Constitution which provides that 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. Article 215 confers on the*



*High Court the power to punish for contempt of itself. In other words, the High Court derives its jurisdiction to punish for contempt from Article 215 of the Constitution. As has been noticed earlier, an appeal will lie under Section 19(1) of the Act only when the High court makes an order or decision in exercise of its jurisdiction to punish for contempt. It is submitted on behalf of the respondent and, in our opinion rightly, that the High Court exercises its jurisdiction or power as conferred on it by Article 215 of the Constitution when it imposes a punishment for contempt. When the High Court does not impose any punishment on the alleged contemnor, the High Court does not exercise its jurisdiction or power to punish for contempt. The jurisdiction of the High Court is to punish. When no punishment is imposed by the High Court, it is difficult to say that the High Court has exercised its jurisdiction or power as conferred on it by Article 215 of the Constitution.*

*10. There can be no doubt that whenever a court, tribunal or authority is vested with a jurisdiction to decide a matter, such jurisdiction can be exercised in deciding the matter in favour or against a person. For example, a civil court is conferred with the jurisdiction to decide a suit; the civil court will have undoubtedly the jurisdiction to decree the suit or dismiss the same. But when a court is conferred with the power or jurisdiction to act in a particular manner, the exercise of jurisdiction or the power will involve the acting in that particular manner and in no other. Article 215 confers jurisdiction or power on the High Court to punish for*



*contempt. The High Court can exercise its jurisdiction only by punishing for contempt. It is true that in considering a question whether the alleged contemnor is guilty of contempt or not, the court hears the parties and considers the materials produced before it and, if necessary, examines witnesses and, thereafter, passes an order either acquitting or punishing him for contempt. When the High Court acquits the contemnor, the High Court does not exercise its jurisdiction for contempt, for such exercise will mean that the High Court should act in a particular manner, that is to say, by imposing punishment for contempt. So long as no punishment is imposed by the High Court, the High Court cannot be said to be exercising its jurisdiction or power to punish for contempt under Article 215 of the Constitution.*

*12. Right of appeal is a creature of the statute and the question whether there is a right of appeal or not will have to be considered on an interpretation of the provision of the statute and not on the ground of propriety or any other consideration. In this connection, it may be noticed that there was no right of appeal under the Contempt of Courts Act, 1952. It is for the first time that under Section 19(1) of the Act, a right of appeal has been provided for. A contempt is a matter between the court and the alleged contemnor. Any person who moves the machinery of the court for contempt only brings to the notice of the court certain facts constituting contempt of court. After furnishing such information, he may still assist the court, but it must always be borne in mind that in a contempt proceeding*



*there are only two parties, namely, the court and the contemnor. It may be one of the reasons which weighed with the legislature in not conferring any right of appeal on the petitioner for contempt. The aggrieved party under section 19(1) can only be the contemnor who has been punished for contempt of court."*

6. A perusal of the aforesaid paragraphs, amongst others, indicate that the right of appeal will be available under sub-section (1) of Section 19 of the Act of 1971 only against any decision or order of a High Court passed in the exercise of its jurisdiction to punish for contempt. Article 215 of the Constitution confers on the High Court the power to punish for contempt of itself. In other words, the High Court derives its jurisdiction to punish for contempt from Article 215 of the Constitution. The High Court exercises its jurisdiction or power as conferred by Article 215 of the Constitution where it imposes a punishment for contempt. When no punishment is imposed by the High Court, it cannot be said that High Court has exercised its jurisdiction or power as conferred by Article 215 of the Constitution.

7. It was also held in ***D.N. Taneja*** (supra) that right of appeal is a creature of the statute and the question whether there is a right of appeal or not will have to be considered on an interpretation of the provision of the statute and not on the ground of propriety or any other consideration. It was categorically laid down that aggrieved party under Section 19(1) of the Act of 1971 can only be the contemnor who has been punished for contempt of court.

8. In ***Midnapore Peoples' Coop. Bank Ltd., and others v. Chunilal Nanda and others***, reported in ***(2006) 5 SCC 399***, the Supreme Court, at paragraph No.11, had observed as under:



*"11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:*

- I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.*
- II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.*
- III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.*
- IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable under Section 19 of the CC Act. The only exception*



*is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.*

V. *If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases)."*

9. A perusal of the above would go to show that an appeal under Section 19 of the Act of 1971 is maintainable against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the Act of 1971.

10. In view of the decisions of the Hon'ble Supreme Court in ***D.N. Taneja*** (supra) and ***Midnapore Peoples' Co-op Bank Ltd.*** (supra), an appeal under Section 19 of the Act of 1971 will not be maintainable against the order assailed by which contempt proceedings are closed.





11. Accordingly, the appeal is dismissed. No costs. Pending miscellaneous applications, if any, shall stand closed.

**ARUP KUMAR GOSWAMI, CJ**

**NINALA JAYASURYA, J**

GM



**HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE**

**&**

**HON'BLE MR. JUSTICE NINALA JAYASURYA**

**CONTEMPT APPEAL No. 5 of 2021**  
(per Arup Kumar Goswami, CJ)

**Dt: 13.09.2021**

GM