

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SMC (C) No.3/2023

IN RE: CONTEMPT AGAINST UPENDRA NATH DALAI

Petitioner(s)

VERSUS

Respondent(s)

(IA No. 183679/2023 - QUASHING THE NOTIFICATION)

WITHDiary No(s). 48021/2023 (XVII)(FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 239379/2023
FOR CONDONATION OF DELAY IN FILING REVIEW PETITION ON IA
239382/2023

IA No. 239382/2023 - CONDONATION OF DELAY IN FILING REVIEW PETITION

IA No. 239379/2023 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 01-03-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRAFor Petitioner(s) Petitioner-in-person
By Courts Motion, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

We have perused the Office Report dated 01.03.2024. It appears that *vide* Order dated 09.10.2023, a co-ordinate Bench ordered issue of bailable warrant in the sum of Rs.20,000/- for the production of the contemnor namely Upendranath Dalal before this Court. The bailable warrant was to be executed through the Superintendent of Police, District Balasore, Odisha. We also take notice of the subsequent Order dated 23.01.2024 passed by the co-ordinate Bench which reads, thus:

"Taking note of the failure on the part of the petitioner in W.P. (C) No. 875/2022 to deposit the cost imposed, suo moto contempt proceedings were initiated. Despite specific direction, the alleged contemnor failed to appear in person which constrained this Court to issue bailable warrant on 9.10.2023. Service report of bailable warrant dated 16.10.2023 would reveal that the alleged contemnor was not found in the given address and is absconding. In this context it is also relevant to note that earlier the alleged contemnor has sent an e-mail dated 5.9.2023, stating as under:-

I decline to appear in court in this matter as per this case no. because this is a useless notice from you to me. This is a disrespectful act of yours towards me. Because of the contempt notice you issued to me is baseless. I have filed an MA case seeking stay against the contempt proceedings passed by the Hon'ble Court whose diary no. is 35394 of 2023. It has filed on 28.08.2023. You have knowingly disregarded the Constitution of India and unfairly issued this notice to me on 23.01.2023, when I had no defect in my Miscellaneous application file. Is it worth it? So first you register my MA file. Then notice will be posted as per time. I will then be present at the Hon'ble Court.

Therefore, the hearing of this case is requested to be quashed.

The bailable warrant issued could not be executed as the alleged contemnor is absconding. Since his attendance is necessary in the captioned contempt petition, issue non-bailable warrant against the alleged contemnor to be executed through the Superintendent of Police, District Balasore, Odisha to ensure personal appearance of the petitioner on 13.2.2024.

List on 13.2.2024."

Thus, it appears that this Court later in point of time *vide* Order dated 23.01.2024 issued non-bailable warrant. Pursuant to the issuance of non-bailable warrant, the contemnor was arrested and was brought today before this Court. As the regular Bench was not available, the Registry thought fit to prepare this Office Report and place this matter before us for the production of the contemnor. However, we are informed that the police has produced the contemnor before the Area Magistrate. The Area Magistrate will have no jurisdiction in this matter because the non-bailable warrant was issued by this Court. So, it is for this Court to decide what should be the next course of action. The police shall now produce the contemnor namely Upendra Nath Dalal before the regular Bench on 04.03.2024 at 10.30 a.m.

(VIJAY KUMAR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)