

Police officials sent to jail for their wilful, deliberate disobedience and not following proper rules

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CONTEMPT CASE No.826 of 2021

06.06.2022

Jakka Vinod Kumar Reddy S/o.Late Jakka Narasimha Reddy, R/o.Plot No.974, Road No.49, Jubilee Hills, Hyderabad, presently residing At Zerene Vilage since February 2016, Phuttamonthon Sai-3 Road, Bangkok-10160, Thailand and others Petitioners

Vs.

Mr. A.R. Srinivas, Deputy Commissioner of Police, West Zone, S/o. Not known Age - not known, 10-2-9, AC Guards, Masab Tank, Hyderabad, Telangana – 500457 and others Respondents

Counsel for the Petitioner : Sri Diljit Singh Ahluvalia, Senior
Counsel representing Ms. Mogili Anaveni

Counsel for the Respondents : Sri Shyam S. Agarwal

Head Note:

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CONTEMPT CASE No.826 OF 2021

ORDER:

This Contempt Case is filed by the petitioners-A1 and A2 in CrimeNo.488 of 2020 on the file of PS Jubilee Hills, Hyderabad, under Sections 10 to 12 of the Contempt of Courts Act, 1971 to take action against the contemnors for their wilful and deliberate disobedience of the judgment passed by the Hon'ble Apex Court in Arnesh Kumar v. State of Bihar (2014 (8) SCC 273) for not issuing any notice to the petitioners before issuing Look Out Circular (LOC) against A1 and Non Bailable Warrants (NBWs) against A1 and A2 and to impose appropriate sentence of imprisonment and fine in accordance with law.

2. The case of the petitioners in brief was that the petitioners were arrayed as Accused Nos.1 and 2 in Crime No.488 of 2020 on the file of the Station House Officer, Jubilee Hills Police Station, Hyderabad, registered for the offences under Sections 498-A, 506 IPC, Sections 3 and 4 of the Dowry Prohibition Act (for short 'DP Act') and Section 30 of the Arms Act. The 1st petitioner was married with the complainant Mrs.Sumana Paruchuri by way of registered marriage on 25.06.2011. It was a second marriage to both the 1st petitioner and the complainant. No children were born out of the said wedlock. The marriage between the 1st

petitioner and the complainant never worked out and totally broke down irreparably.

They have been living separately since July, 2014. When the complainant along with her brother and others tried to illegally trespass into the property owned by the 1st petitioner in Bangalore, the 1st petitioner filed a criminal complaint and a civil suit in O.S. No.499 of 2015 for injunction before the III Additional Civil Judge, Bangalore Rural on 09.04.2015. The said case was pending adjudication. For the purpose of building up the sports career of his daughter Ms.Jakka Vaishnavi (child born out of his first marriage) in Bangkok, representing India and was a Junior World Champion, the 1st petitioner shifted to Thailand with his daughter and his mother (2nd petitioner herein) in February, 2016. In anticipation that the 1st petitioner would come back to India for cross-examination in O.S No.499 of 2015, the complainant hatched a conspiracy and filed a criminal complaint against the petitioners No.1 and 2 and the 1st petitioner's widowed sister-in-law (wife of the deceased brother of 1st petitioner), who was residing in Hyderabad, before the Jubilee Hills Police Station, Hyderabad. The same was registered as Crime No.742 of 2019 for the offences under Sections 406, 420 and 120-B IPC on 14.11.2019. No notice was issued to the petitioners or to the widowed sister-in-law of the 1st petitioner in the said case also in violation of the guidelines of the Hon'ble Apex Court in Arnesh Kumar v. State of Bihar.

Upon becoming aware of the aforesaid FIR No.742 of 2019, the petitioners filed Criminal Petition No.8023 of 2019 before this Court for quashing the same and this Court granted protection to the petitioners and stayed all further proceedings in the said case on 10.12.2019. Subsequently, the petitioners came to know that the DCP, West Zone, Hyderabad (Contemnor No.1) had issued LOC against the 1st petitioner within a week of registration of FIR No.742 of 2019. The petitioners came to know about the same as it was mentioned by the police themselves in the counter affidavit filed in Criminal Petition No.8023 of 2019. The petitioners, on 28.12.2019, sent an application under Right to Information Act, seeking information regarding the LOC issued against the 1st petitioner. But in the reply dated 27.01.2020 to the said application, the police stated that the Jubilee Hills Police did not process any LOC against the petitioners in Crime No.742 of 2019. The reply to RTI application was in contradiction to the averments made by the police in the counter affidavit filed by them before the Court in Crl.P. No.8023 of 2019. Since the conspiracy hatched by the West Zone police officials in collusion with the complainant did not succeed as planned by them, the complainant, after one year, in collusion with the West Zone Police officials filed a false complaint against the petitioners vide Crime No.488 of 2020 on 7.10.2020 with an inordinate and unexplained delay. She had suppressed about Crime No.742 of 2019, which amounted to gross abuse of process of law. No notice was issued to the petitioners in Crime No.488 of 2020 by the Jubilee Hills Police and it was kept secret/under wraps.

2.2. The petitioners further submitted that meanwhile, this Court directed the police for further investigation in FIR No.742 of 2019 and disposed of the Crl.P. No.8023 of 2019 vide order dated 21.12.2020. As such, the petitioners approached the Hon'ble Apex Court seeking quashing of Crime No.742 of 2019 and the Hon'ble Apex Court stayed further proceedings in Crime No.742 of 2019. In the Memo of Parties mentioned in the said petition, the factum of the petitioners residing in Bangkok, Thailand was clearly mentioned. As such, the contemnors were clearly aware of the whereabouts of the petitioners. Because of the deliberate malafide, malicious prosecution launched by the Jubilee Hills Police officials, the petitioners were forced to file various petitions before this Court seeking justice. The 1st petitioner filed WP No.22698 of 2020 to accord CBI enquiry with regard to missing of his licensed weapon which was kept in the

custody of the Jubilee Hills Police Station by the 1st petitioner. W.P. No.24329 of 2020 was filed by the petitioners No.1 and 2 to direct the contemnors to furnish the list of FIRs registered against the petitioners. The address of both the petitioners was clearly mentioned as residing in Bangkok. The said writ petition was disposed of by this Court on 19.02.2021.

Only from the counter affidavit filed by the SubInspector of Police, Jubilee Hills Police Station, in the said writ petition on 08.02.2021, the petitioners came to know about registration of FIR No.488 of 2020. The petitioners could not be said to be absconding from the process of law as they were duly represented by a power of attorney and by their counsel before this Court. No notice was issued to the petitioners or the Attorney or to the Advocate on record before this Court by the contemnors with regard to the aforesaid FIRs.

Keeping in mind the malpractices of the West Zone Police in FIR No.742 of 2019 that notice would be intentionally sent to the petitioners' address in Jubilee Hills, Hyderabad by the contemnors in the false cases registered by them, the 1st petitioner way-back addressed a letter to the Post Master, Jubilee Hills, Hyderabad on 04.01.2020 not to serve any notice or registered posts to the address in plot No.974, Road No.49, Jubilee Hills, Hyderabad since the petitioners rented the said house to a multinational company, namely, Orix Auto Infrastructure Pvt. Ltd., and the petitioners were not living in India. The petitioners sent the said letter by Whatsapp to the Assistant Commissioner of Police, Banjara Hills on 10.02.2020 to bring to his notice and asked the police to send any notices on the e-mail of the 1st petitioner. On coming to know about the registration of FIR No.488 of 2020, the GPA holder of the 1st petitioner approached the Jubilee Hills Police on 28.02.2021 through Advocate and submitted a detailed representation dated 28.02.2021 enumerating the entire facts and circumstances along with all documents in support thereof to show that all the allegations made by the complainant were false and concocted and requested the contemnors No.3 and 4 to close the complaint and to register FIR against the complainant Mrs.Sumana Paruchuri for making false complaints against them. The contemnors No.3 had refused to accept the said representation and to give any acknowledgment. With no option left, the GPA holder of the 1st petitioner sent the representation in the name of Contemnor No.3 through registered post and courier. Additionally, the 1st petitioner e-mailed the same representation to the Station House Officer, Jubilee Hills Police Station; DCP, West Zone; ACP, Banjara Hills; Additional Deputy Commissioner of Police, West Zone; Commissioner of Police, Hyderabad; DGP, Telangana and the Principal Secretary, Home, Telangana.

The 1st petitioner also sent whatsapp messages on 01.03.2021 along with the representation to the ACP, Banjara Hills. The contemnors read the messages and representation. However, no reply or response was received from them. The petitioners filed CrI.P. No.3446 of 2021 for quashing the FIR No.488 of 2021. The contemnors hastily filed charge sheet before the XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad and got it numbered instantly on the same day as CC No.5893 of 2021. During the pandemic, without following the rules laid down by the Hon'ble Apex Court in matrimonial laws, the contemnors intentionally, wilfully and deliberately played fraud upon the court and forced the XIII Additional Chief Metropolitan Magistrate, Hyderabad to pass wrong order based on their false submissions and got issued non-bailable warrants on 23.04.2021 against the petitioners in violation of law and guidelines of the Hon'ble Apex Court in Arnesh Kumar's case (1 supra). All the offences under Section 498-A IPC and Sections 3 and 4 of the DP Act read with Section 30 of the Arms Act were punishable with imprisonment up to three years.

Without issuance of notice under Section 41-A Cr.P.C., as mandated by law and the guidelines of the Hon'ble Apex Court, without taking into account the representation made by the petitioners to contemnors after receiving the advance copy of quash petition for quashing the FIR No.488 of 2020, the contemnors in haste filed charge sheet showing the petitioners as absconding. The modus operandi applied by the contemnors was in gross abuse of process of law. The petitioners made representations requesting to permit them for joining the investigation. However, the contemnors for dubious reasons in violation of the guidelines of the Hon'ble Apex Court in Arnesh Kumar's case (1 supra), deliberately filed charge sheet after 50 days stating that the petitioners were absconding. A 'look out notice' was issued by the contemnor No.1 within 7 days of the registration of FIR in Crime No.742 of 2019 against the petitioners to nab them when they got back to India. Again the same modus operandi was followed in registering FIR No.488 of 2020. By keeping the registration of FIR No.488 of 2020 on 07.10.2020 as a secret, a 'look out notice' was issued by the contemnors without serving any notice upon the petitioners or the GPA holder. Two days after filing the quash petition by the petitioners, the contemnor No.4 filed charge sheet hastily and obtained NBWs by the Magistrate by falsely submitting that the petitioners were absconding, which was absolutely false and abuse of process of law. The contemnor No.4 initially stated in the charge sheet that the petitioners were residing in Bangkok and again contradicted that he did not know about the whereabouts of A2 and would apprehend her when clues came forth. The same would clearly expose the falsity of their claims in the charge sheet.

The contemnors were parties to the SLP (Crl.) No.82 of 2020, in which A2 was arrayed as petitioner No.2 and her full address was mentioned in the memo of parties. The whole purpose of issuing LOC and seeking NBWs against the petitioners was to put the 1st petitioner and his aged and ailing mother behind the bars, when they landed in India without making any enquiry and without giving any opportunity to the petitioners to show their bonafides. The contemnors were robbing the petitioners of their dignity.

Their personal liberty was severely deprived to the extreme and their freedom of movement to visit their birth country was curtailed and their constitutional right as a citizen of India was breached to the peak and was against the very principles of natural justice. The contemnors were constantly filing multiple false cases one after another on the petitioners from the month of November 2019 to pressurize the petitioners to have a financially beneficial settlement in favour of the complainant – Mrs. Sumana Paruchuri. They had registered Crime No.742 of 2019 on 14.11.2019, Crime No.488 of 2020 on 17.10.2020 and CrimeNo.563 of 2020 on 11.11.2020 against the 1st petitioner and his GPA holder under Sections 468 and 471 IPC. No notice was served on the petitioners even in one single case till date and all the cases were registered secretly. The Hon'ble Apex Court in Suo Motu Writ Petition (C) No.1 of 2020 titled In Re: Contagion of Covid 19 Virus in Prisons dated 07.05.2021 reiterated that violation of guidelines laid down in Arnesh Kumar's case (1 supra) were liable for contempt of court and also for departmental action. Hence, prayed to initiate appropriate action against the contemnors under Section 10 to 12 of the Contempt of Courts Act, 1971.

3. The respondents filed counter affidavit contending that the contempt case could not be filed through a power of attorney holder and the same was not maintainable as per the judgments of the Hon'ble Apex Court in Janki Vashdeo Bhojwani and another v. IndusInd Bank and Others and of the unreported judgment of the Madhya Pradesh High Court in Ramesh and another v. Smt. Laxmi Devi and others (in Misc. Criminal Case No.2161 if 2003 dated 27.11.2003). They further contended that the Hon'ble Apex Court in Arnesh Kumar's case (1 supra) dealt with

issuance of notice under the said provision of law but not with regard to filing of charge sheet without serving such notice. Admittedly, the petitioners were residing in Bangkok, Thailand. They were evading investigation by police, as such 'look out circular' was issued against them. To avoid legal complications in the Courts, the petitioners were not coming forward to face cases and were representing the cases through their attorney holder. This Court in CrI.P. No.3446 of 2021 vide order dated 14.06.2021 observed that:

"Considering the said fact and also the fact that the police have already filed charge sheet which was taken on file vide C.C. No.5893 of 2021 and a request was made by the Investigating Officer to issue Non-Bailable Warrant against the petitioners, this Criminal Petition is disposed of granting liberty to the petitioners herein to appear before the XIII Additional Chief Metropolitan Magistrate, Hyderabad, file an application to recall NBWs, if any, issued against them within one month from today and, thereafter they shall appear before the said Court on the next date of hearing without contending that they are not having knowledge of date of hearing. However, the Police Officials of RGI Police Station, Immigration Authorities or any other Authority shall not arrest the petitioners either under the guise of issuance of LOC, pendency of same or under the guise of NBW, if any, pending against them in C.C. No.5893 of 2021."

4. Without availing the said benefit, the petitioners filed SLP (CrI) No.4506 of 2021 before the Hon'ble Apex Court challenging the order dated 14.06.2021 in CrI.P. No.3446 of 2021 and raised similar issue as in this case. As the matter was seized by the Hon'ble Apex Court, the petitioners could not raise the very same issue in the present contempt case before this Court. The only remedy open to the petitioners was to pursue the SLP before the Hon'ble Apex Court. The respondents had also filed their counter affidavit in the said matter. Admittedly, the petitioners were not arrested till date and no harm was caused to them in regard to the said case till date. The 4th respondent was the Investigating Officer in the case and filed the charge sheet. The respondents No.1 to 3 had no role to play in filing the charge sheet or in investigating the case. There was no force in the contention of the petitioners that two days after filing the quash petition by them, the charge sheet was filed by the respondent police.

Nothing prevented the petitioners from challenging the charge sheet in the quash petition. As this Court was not inclined to quash the FIR, the petitioners filed SLP and the same was pending consideration before the Hon'ble Apex Court. The petitioners without cooperating with the Investigating Agency and without attending the courts were making reckless allegations against the respondent police. There was no abuse of process of law as such, the question of malicious prosecution would not arise as the petitioners were not arrested in the case so far. Without approaching the respondent police, the petitioners could not blame that the respondents had not given them an opportunity of hearing. Issuing look out notice could not be made the subject matter of the Contempt Case and the petitioners were at liberty to question the same in separate proceedings.

There was no violation of the orders passed by the Hon'ble Apex Court to constitute contempt by the respondents. The conduct of the petitioners would clearly expose the misconduct being played by them in playing hide and seek game by not appearing before the Investigating Officer even after coming to know about the case. In their absence, no notice under Section 41-A Cr.P.C. could be issued to them in compliance of the said order. The respondents had great respect for the judiciary and the orders of the Hon'ble Courts and submitted their unconditional apology for the lapse, if any, on their part in implementing the orders of this Court and that they would be careful in future in discharging their functions and prayed to close the contempt case.

5. A rejoinder was filed by the petitioners to the counter affidavit filed by the contemnors contending that the contemnors were guilty in deliberately not receiving the representation of the petitioner and not serving the notice and ignored the e-mail and whatsapp messages sent to them and wrongly appraised the message that the petitioners were absconding and wrongly got the NBW s issued against them and issued the 'look out circular' against the petitioners. Due to the malafide Look out Circular and falsely procured NBWs, the petitioners were subjected to acute humiliation in their social circles, who were now termed as absconders. The petitioners hailed from a highly reputed family from Nellore in Andhra Pradesh. The 2nd petitioner was an old, bed ridden senior citizen, who was in a terrible state after losing her elder son to colon cancer in the year 2013. The contemnors had been on the rampage of registering several bogus cases on the petitioners and their family members from November, 2019 at the behest and influence of the estranged wife of the 1st petitioner Mrs. Sumana Paruchuri to pressurize him into having a financially beneficial settlement in her favour. The protection provided in Arnesh Kumar's case was against the harassment meted out to the husband and his relatives under the provisions of 498-A IPC. The contemnors were liable for strict prosecution to secure deterrence for the errant police officials who did not confer to the guidelines issued by the Hon'ble Apex Court and prayed to allow the petition.

6. Heard Sri Diljit Singh Ahluwalia, learned Senior Counsel representing Ms. Mogili Anaveni, counsel on record for the petitioners and Sri Shyam S. Agarwal, learned counsel for the respondents.

7. Perused the record.

8. With regard to the contention of the learned counsel for the respondents that the contempt case could not be presented by the power of attorney holder, this Court in CrI.P. No.222 of 2021, pertaining to the same 1st petitioner, held that Jakka Kiran Reddy (GPA holder) was competent to prosecute on behalf of the petitioner. The Hon'ble Apex Court in A.C. Narayanan v. State of Maharashtra & Another³ categorically held that the power of attorney holder can prosecute provided he had personal knowledge of the case. It was specified by the GPA holder of the 1st petitioner that he had personal knowledge of the facts of the present contempt case. Hence, I do not find any merit in the contention of the learned counsel for the respondents in the said regard.

9. Another short question that arises for consideration in this case is whether non-issuance of notice under Section 41-A Cr.P.C. or issuance of Look Out Circular or seeking NBWs against the petitioners before issuance of notice under Section 41-A Cr.P.C. would constitute wilful violation of the law declared by the Hon'ble Apex Court in Arnesh Kumar's case (1 supra).

10. To consider the above issue, it is necessary to extract Section 41-A Cr.P.C. It reads as follows:

"41A. Notice of appearance before police officer.— (1) The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested. (4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.”

11. Thus Section 41-A Cr.P.C. shows that it was mandatory for the police officer to issue a notice directing the accused to appear before him in all cases where the arrest of the person is not required under the provisions of Section 41(1) Cr.P.C. and it was a basic postulate of natural justice.

12. The Hon’ble Apex Court in Arnesh Kumar’s case (1 supra), while considering the provision under Section 41-A Cr.P.C. held that: “Aforesaid provision makes it clear that in all cases where the arrest of a person is not required under Section 41(1), Cr.PC, the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law obliges such an accused to appear before the police officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police office is of the opinion that the arrest is necessary. At this stage also, the condition precedent for arrest as envisaged under Section 41 Cr.PC has to be complied and shall be subject to the same scrutiny by the Magistrate as aforesaid.

We are of the opinion that if the provisions of Section 41, Cr.PC which authorises the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasise that the practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 Cr.PC for effecting arrest be discouraged and discontinued.

Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:

(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

(2) All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);

(3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

(7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.”

13. The crux of the guidelines in Arnesh Kumar’s case (1 supra) is to ensure that police officers do not unnecessarily arrest any person and the Magistrates do not mechanically remand any person. The Guidelines No.1 to 3 are stipulated to avoid unnecessary arrests. Guideline No.4 is stipulated against any mechanical remand. Guideline No.5 stipulates that the decision of the police officer not to arrest must be taken and communicated to the Magistrate within 14 days, unless time is extended by the Superintendent of Police for the reasons to be recorded in writing.

Guideline No.6 stipulates that notice of appearance under Section 41-A Cr.P.C. to be given to the accused within two weeks of the institution of the case unless extended. Guideline No.7 stipulates consequences of contempt for a police officer for violating the above guidelines and Guideline No.8 stipulates consequences of Departmental action against the Magistrate authorizing remand without reasons. Thus, it is clear that the contemnors were required to ensure serving of notices under Section 41-A Cr.P.C. within two weeks from the date of institution of the case on 07.10.2020, as per the guideline No.6, violation of which exposes for contempt as per Guideline No.7.

14. In the present case, the petitioners also gave a representation to the contemnors on 28.02.2021 stating that:

“It is to bring to your clear notice and understanding that my legal counsel is available to submit all the documentation that you need from my side and I am also sharing my email id for correspondence for issuing notices etc., from your side (vinodreddy1972@gmail.com). My GPA Mr. Jakka Kiran Reddy is also available for furnishing any documentation on my behalf and to receive any notices from your office and correspondence which you are well aware of.... I am

ready and prepared 24/7 to cooperate with the investigation as and when it is required by your kind self.”

15. The said representation was received by the contemnors No.3 and 4 on 02.03.2021 as per the tracking report (Annexure P.13 in page No.84 of the material papers). The copy of the said representation was also sent to the contemnors Nos.1 and 2 by e-mail vide Annexure P.14.

The contemnor No.2 was further informed of the same by way of whatsapp vide Annexure P.15 enclosed to the petition. As such, the respondents could have issued any e-mail to the petitioners or to the GPA holder of the 1st petitioner asking the petitioners to appear before them. As the petitioners had also filed an SLP before the Hon'ble Apex Court and made available their address in the SLP, the Investigating Officer ought to have given notice to the petitioners before seeking issuance of LOC or NBWs against the petitioners. The respondents initiating coercive steps like obtaining NBW and issuance of LOC without issuing notice to the petitioners under Section 41-A Cr.P.C. is violative of the guidelines of the Hon'ble Apex Court in Arnesh Kumar's case (1 supra). As such they are liable to be punished for contempt of court.

16. Civil contempt under Section 2(b) of the Contempt of Courts Act means wilful disobedience to any judgment, decree, direction, order, writ or other process of a Court or wilful breach of undertaking given to a Court. “Wilful” means an act or omission which is done voluntarily and intentionally and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say, with a purpose either to disobey or to disregard the law.

Section 12 of the Contempt of Courts Act contemplates disobedience of the orders of the court to be wilful and further that such violation has to be of a specific order or direction of the court. In the present case, the contemnors had violated the direction of the Court for issuing notice of appearance in terms of Section 41-A Cr.P.C. to the accused within two weeks from the date of institution of the case as per the directions of the Hon'ble Apex Court in Arnesh Kumar's case. Violations, which are likely to infringe upon the faith of the public in administration of justice and the court system must be punished, to prevent repetition of such behaviour and the adverse impact on public faith. Contempt proceedings are initiated to ensure compliance with the orders of the Court and adherence to the rule of law. The directions of the Hon'ble Apex Court are binding and must be obeyed by all concerned in strict sense. 17. As issuance of LOC or NBWs against the petitioners without issuing any notice to them, without giving them an opportunity to prove their bonafides and without enquiring them, was in violation of the guidelines issued by the Hon'ble Apex Court, I hold that the respondents had wilfully disobeyed the judgment of the Hon'ble Apex Court and therefore, they are liable to be punished for contempt of court.

18. As the 4th respondent is the Investigating Officer in Crime No.488 of 2020 and he deliberately and wilfully concealed the representation of the petitioners and not served notice on them and wrongly appraised the Magistrate that the petitioners were absconding and wrongly got the NBWs issued against them, he is liable to be punished.

As the 3rd respondent was the Officer incharge of the Police Station under whose guidance the investigation was conducted by the 4th respondent and the 2nd respondent was the forwarding authority of the Look Out Circular and the 1st respondent was the authority who issued the Look Out Circular against the petitioners without confirming the fact whether notice under Section 41-A Cr.P.C. was served upon the petitioners in terms of the judgment in Arnesh Kumar's case

(1 supra) and the said authorities deliberately ignored the e-mails, whatsapp messages sent to them by the 1st petitioner, all the respondents are sentenced to imprisonment for a period of four (4) weeks and shall also pay a fine of Rs.2,000/- each within a period of four (4) weeks. The sentence of imprisonment imposed on the respondents is suspended for a period of six (6) weeks and the petitioners are directed to pay subsistence allowance @ Rs.200/- per day to each contemnor within four (4) weeks.

19. The Commissioner of Police, Hyderabad City and the State of Telangana, represented by its Principal Secretary, Home Department shall initiate disciplinary action against the respondents for violation of guidelines issued by the Hon'ble Apex Court in Arnesh Kumar v. State of Bihar.

20. Accordingly, the Contempt Case is allowed as indicated above. Pending miscellaneous petitions, if any, shall stand closed.

Dr. G. RADHA RANI, J
June 06, 2022