

SUPREME COURT OF INDIA

Agyapaul Singh

Vs.

State Bank of India

C.A.No.831 of 2017

(Kurian Joseph and A.M.Khanwilkar,JJ.,)

23.01.2017

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.1739 of 2017

1. Leave granted.
2. In the peculiar facts of this case, it is not necessary to issue notice to the respondent.
3. The appellant is aggrieved by the impugned order dated 23.12.2016 passed by the High Court of Punjab and Haryana in COCP No. 2084 of 2016. According to the High Court, the appellant is to be proceeded against for violating the order dated 01.06.2016 passed by the High Court. The order dated 01.06.2016 reads as follows :-

"The petition is allowed to be withdrawn with liberty to avail the alternate remedy under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short SARFAESI Act)."
2. The only concession that we are inclined to grant to the petitioners an opportunity to make an application for interim reliefs before the Debts Recovery Tribunal. For this purpose alone we direct the bank not to encash the cheque dated 25.06.2016 till 25.07.2016 and further direct that the District Magistrate, Ludhiana shall adjourn the hearing of the application under Section 14 of the SARFAESI Act till 31.07.2016. This is in view of the express undertaking given to the Court that the cheque will be honoured upon presentation on or after 25.07.2016."
4. It is not in dispute that a cheque for an amount of Rs. 7.5 crores (Rupees Seven Crores and Fifty Lakhs) presented to the bank was dishonoured. It is the case of the appellant that only on this fact, he is not liable to be proceeded with in proceedings for Contempt of Court Act. If only there is a willful disobedience, the appellant may be punished.

5. Whether there is a willful or deliberate disobedience of the order passed by the Court is something to be seen from the reply filed by the appellant to the show cause notice. Even before issuing show cause, we find that the High Court has entered a satisfaction that " this court is not inclined to accept the prayer (to file reply) as this court finds prima facie that contempt of court has been committed."

6. In that view of the matter, we set aside the impugned order passed by the High Court. The High Court shall grant an opportunity to the appellant to file his reply and on the reply being filed, the appellant may be heard and only thereafter, the High Court may form an opinion as to whether the court should proceed against the appellant for Contempt of Court.

7. In the light of what we have stated above, we request the High Court not to insist upon the personal presence of the appellant till the Court passes appropriate orders in the light of the reply furnished by the appellant.

8. In view of the above, the appeal is disposed of.

9. No costs.