

Neutral Citation No. - 2024:AHC-LKO:58884-DB

A.F.R.
Reserved

Chief Justice's Court

Case:- Special Appeal No. 372 of 2023

Appellant :- Subhash Chandra

Respondent :- Srikant Goswami Posted Managing Director, Sahkari Gram Vikas Bank Ltd. Lucknow And 2 Others

Counsel for Appellant :- Sri Sharad Pathak assisted by Sri Piyush Pathak, learned counsel for the petitioner.

Counsel for Respondent :- Sri Gaurav Mehrotra, assisted by Sri Akber Ahmad, Sri Prashast Puri and Ms. Shhreiya Agarwal, learned counsel for respondent no. 3 and Sri Santosh Kumar Tripathi, learned counsel for respondent no. 1.

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Jaspreet Singh,J.

(Per:- Jaspreet Singh, J.)

1. More often than not this Court is recurringly vexed with an issue of seminal importance relating to the maintainability of an intra-court appeal filed under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 (hereinafter referred to the 'Rules of the Court') from orders emanating from contempt proceedings.

2. This intra-court appeal too, has been filed by the appellant, who was the petitioner before the Contempt Court, being aggrieved by the order dated 10.07.2023 passed in Contempt Application (civil) 2200 of 2016 (Subhash Chandra Vs. Shri Srikant Goswami MD. U.P. Sahkari Gramin Vikas Ltd.) whereby the Contempt Court finally disposed of the contempt petition holding that there was substantial compliance of the judgment and order dated 10.08.2016 passed by the writ court and it also gave liberty to the contempt-petitioner that in case if he was aggrieved by the order of compliance dated 22.05.2024, he could approach the appropriate Forum.

3. Sri Gaurav Mehrotra, learned counsel for the respondents at the outset had raised a preliminary objection regarding maintainability of the instant intra-court appeal on the ground that in light of Section 19 (1) of the Contempt of Courts Act, 1971 (hereinafter referred to as “the Act of 1971), the contempt appeal will only lie against an order passed by the Contempt Court awarding a punishment to a contemnor. This necessarily implies that an appeal can only be filed by a person who is a respondent in the contempt proceedings and not by one who is petitioner in the contempt proceedings.

4. In the instant case, it is pointed out that since the Contempt Court found that substantial compliance of the order passed by the writ court had been made, hence, the Contempt Court did not find it worthwhile to proceed, consequently, the proceedings were dropped, leaving it open for the Contempt-petitioner, if aggrieved against the order of compliance to raise his grievance before the appropriate Forum.

5. It has further been urged that the Act of 1971 is a Special Act which envisages a Forum of appeal only in terms of Section 19 (1) of the Act of 1971 and it does not contemplate filing of an appeal against an order whereby the contempt proceedings are disposed of or dropped or dismissed. In such circumstances where the appeal in terms of Section 19 (1) of the Act of 1971 is not maintainable then the appellant herein in the garb of an intra-court appeal cannot invoke the jurisdiction of this Court to achieve something indirectly which is prohibited by the Act of 1971, directly.

6. Sri Gaurav Mehrotra, learned counsel for the respondents has further

urged that the only remedy which is available to the contempt-petitioner against an order refusing to initiate contempt proceedings, dropping contempt proceedings or dismissing contempt proceedings is to approach the Hon'ble Supreme Court of India in exercise of its jurisdiction under Article 136 of the Constitution of India.

7. It has also been submitted that since the object of the Act of 1971 is to regulate the manner in which the Contempt Court exercises its powers, which primarily inheres in every High Court by virtue of it being a court of record, and thus the Act of 1971 be treated as a special Act vis-a-vis the High Court Rules of 1952 which in this case be treated as the general law under which the intra-court appeal is filed.

8. The thrust of the submission is that once a special act which governs the subject and prohibits or restricts a right of appeal, which needless to say is a creature of a statute, then the general law must give way to the special law and for the aforesaid reason, the intra-court appeal against an order dismissing the contempt petition would not be maintainable.

9. It is further submitted that this issue has been raised before this Court in a number of cases and it has been consistently held that an intra-court appeal under Chapter VIII Rule 5 of the Rules of the Court against an order dismissing or disposing of contempt petition is not maintainable consequently the instant appeal be dismissed as not maintainable.

10. Sri Mehrotra, learned counsel for the respondents in order to buttress his submissions has relied upon the following decisions :- **(i)** Jagdamba Prasad Vs. Balgovind and 10 Others Neutral Citation No. -

2016:AHC:77023-DB; **(ii)** Sheo Charan Vs. Naval and Others 1997 SCC OnLine All 1136; **(iii)** Hub Lal Yadav Vs. Mahendra and Others 2017 ADJOnline 0638; **(iv)** Vinod Kumar Gupta and Another Vs. Sri Veer Bahadur Yadav, SDM and Another 2023(7) ADJ 107 (DB); **(v)** Midnapore Peoples Cooperative Vs. Chunni Lal Nanda and Others (2006) 5 SCC 399; **(vi)** D.N. Taneja Vs. Bhajan Lal and others (1988) 3 SCC 26; **(vii)** State of Maharashtra Vs. Mahboob S. Allibhoy and Another (1996) 4 SCC 411 **(viii)** Fuerest Day Lawson Ltd. Vs. Jindal Exports Ltd. (2011) 8 SCC 333.

11. Sri Sharad Pathak, learned counsel for the appellant responding and refuting the aforesaid preliminary objections has urged that the contempt proceeding which are initiated by the High Court is neither civil nor criminal in nature rather it is in exercise of its jurisdiction '*sui generis*'. He further urges that the bar which is mentioned in Chapter VIII Rule 5 of the Rules of the Court is not attracted as an order passed by the Contempt Court is primarily an order passed by the High Court in exercise of its original jurisdiction which is inherent in the High Court by virtue of it being a court of record and thus an intra-court appeal is maintainable.

12. Sri Pathak taking his submissions forward has submitted that even if at all, it is assumed that an intra-court appeal may not be maintainable against an order dismissing the contempt petition but the fact still remains that if a Contempt Judge in any manner touches the merit of the claim or issues fresh directions or dilutes a direction already issued then such part of the order cannot be treated to be an order passed in the contempt jurisdiction and thus that part of the order would be without jurisdiction

and to that extent, an intra-court appeal would be maintainable.

13. Sri Pathak, has further submitted that a 'judgment' passed by a Court has certain well settled connotations in law. Even if at all, in cases where under the Rules of the Court, an intra-court appeal is not specifically provided then in such circumstances, the Court would be justified in taking recourse to the specific provisions in contemporaneous statutes. Elaborating his submissions, he urged that even though there was no provision which limits the exercise of original jurisdiction by the High Court in contempt proceedings but even if at all the Act of 1971 is considered to limit the exercise of jurisdiction to some extent in so far as filing of an appeal is concerned yet the same would not create an embargo for the High Court to take recourse to the Rules of the Court to effectively exercise its appellate jurisdiction and power which are rather widened by the Rules of the Court. He further contends that Section 19 of the Act of 1971 in no manner overrides or controls the powers of the High Court under Chapter VIII Rule 5 of the Rules of the Court and thus even if an appeal may not lie in terms of Section 19 of the Act of 1971 but an intra-court appeal would definitely be maintainable. He has heavily relied upon the decision of the Apex Court in *Shah Babu Lal Khemji Vs. J.D. Kania and Another (1981) 4 SCC 8*.

14. Sri Pathak has further submitted that if the decision of the Apex Court in **Midnapore (Supra)**, which is cited by the other side, is considered, it would reveal that the questions which were framed by the Apex Court have been clearly answered in Paragraph 11 which is to be read as a whole. He

has further drawn the attention of the Court to Paragraph 11(V) of the **Midnapore (supra)** decision and it is urged that the Apex Court has clearly held that if the High Court for whatever reason decides an 'issue' or 'makes any direction relating to the merits of the disputes between the parties', in contempt proceedings, then the aggrieved party is not without a remedy. Such a party can challenge the same in an intra-court appeal if there is a provision for such an appeal.

15. It is thus submitted that the Apex Court has clarified that where the contempt Court touches the 'merit' or 'decides an issue' then an intra-court appeal would lie and in the instant case, the said proposition is being pressed into service to contend that the Contempt Court by entering into the question as to whether the compliance has been made or not has held that there is substantial compliance and this has diluted the order passed by the writ court in the first instance which stood affirmed up to the Apex Court. In these circumstances, where the Contempt Court has diluted the directions of the writ court, which was affirmed by the Apex Court and by holding that the Authorities had substantially complied with the order amounts examining the matter on merits, hence, such an order is definitely susceptible to challenge in an intra-court appeal.

16. Thus, for the aforesaid reasons, it is submitted that neither the rules of the Court prohibits the institution and consideration of the intra-court appeal on merits nor there can be any embargo on the power of the Court to entertain an intra-court appeal arising out of contempt proceedings which are original in nature and can neither be termed as civil or criminal rather is

sui generis.

17. Sri Pathak in support of his submissions has relied upon the following decisions:- **(i)** Ch. Shyam Sunder v. Daw Dayal Khanna, 1955 SCC OnLine All 186; **(ii)** Manohar Lal v. Prem Shanker, 1959 SCC OnLine All 130; **(iii)** Maninderjeet Singh Bitta Vs. Union of India, (2012) 1 SCC 273; **(iv)** Shah Babulal Khemji Vs. J.D. Kania and Another (1981) 4 SCC 8; **(v)** Rajit Ram Yadav Vs. State of U.P. and others: 2024 (7) ADJ 747 (FB); **(vi)** Mednapore Peoples' Cooperation Vs. Cunilal Nanda and Others (2006) 5 SCC 399; **(vii)** Special Deputy Director Vs. N. Vasudeva & Others (2007) 14 SCC 165; **(viii)** Committee of Management Madarsa Ehle-E-Sunnat Vs. Prakash Singh and Others (2016) SCC Online Allahabad 34-38; **(ix)** Anil Kumar Gupta Vs. Pawan Kumar Singh and Others 2015 SCC Online All 3660; **(x)** Daya Nand Sharma Vs. State of U.P. and Others 2022 SCC Online All 598; **(xi)** Amit Mohan Prasad Vs. Naresh Babu Tiwari & Others, Special Appeal No. 135 of 2022; **(xii)** Ashwani Kumar Vs. State of U.P. & Others MANU/UP/2577/2022.

18. The Court has heard the learned counsel for the parties at length and has also perused the material on record.

19. Before proceeding further, it will be relevant to notice an order in the instant case passed by a Coordinate Bench of this Court dated 22.04.2024 and the relevant portion of the said order reads as under:-

“Now, the order impugned herein has been passed by the High Court in exercise of its contempt jurisdiction under Section 12 of the Contempt of Courts Act, 1971 which is a central enactment. It is referable to entry 14 of the concurrent list, therefore, to this extent there is no difficulty i.e. if it is found that this is an order passed in exercise of criminal jurisdiction by the High Court, then, this appeal would fall within the exception made in Chapter

VIII Rule 5 of the Allahabad High Court Rules, 1952, however, if it is found that contempt jurisdiction exercised by the learned Judge of the High Court while passing the impugned order, does not fall within the meaning of the words "in the exercise of criminal jurisdiction" used in Chapter VIII Rule 5, then, the position would be different subject of course to there being other issues involved and authorities thereon as also the submissions to be made by the learned counsel for the parties.

The question is whether the aforesaid words- "in the exercise of criminal jurisdiction" refer to the jurisdiction exercised by the High Court on the criminal side under the Code of Criminal Procedure or any other law falling in the criminal field or would it include the exercise of contempt jurisdiction which is termed as quasi criminal proceeding/jurisdiction. Whether these words will include the quasi criminal jurisdiction of a contempt Court of the High Court."

20. In light of the tentative observations noted above, this Court will consider the nature of the proceedings exercised by the High Court in its contempt jurisdiction inter alia to adjudge the issue of maintainability of the instant appeal in light of the rival submissions.

21. At this stage, it will be apposite to take a glance at the relevant provisions of the Contempt of Courts Act, 1971, the Allahabad High Court Rules, 1952 which have an interplay and have some bearing on the controversy involved in the instant intra-court appeal.

22. For the ease of the reference, relevant provisions of the Contempt of Courts Act, 1971 are being reproduced hereinafter:-

"2. Definitions.—*In this Act, unless the context otherwise requires,—*

(a) "contempt of court" means civil contempt or criminal contempt;

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which— (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of any court; or (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

(d) "High Court" means the High Court for a State or a Union territory, and includes the court of the Judicial Commissioner in any Union territory.

10. 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 (45 of 1860).

11. Power of High Court to try offences committed or offenders found outside jurisdiction.— A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.

12. Punishment for contempt of court.—(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

*Explanation.—*An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

(2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section(1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.

(4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced with the leave of the court, by the detention in civil prison of each such person:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.

(5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

*Explanation.—*For the purpose of sub-sections (4) and (5),—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

19. Appeals.—(1) *An appeal shall lie as of right from any order or decision of 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.

23. The High Court in order to regulate the presentation and hearing of contempt proceedings has framed rules contained in Chapter XXXV-E of the Rules of the Court, 1952 which read as under:-

“1. Introduction :- *The Rules contained in this Chapter shall govern presentation and hearing of Contempt of Court cases coming to this High Court under the Contempt of Courts Act, 1971.*

2. Nature of contempt to be indicated :- *Every application, reference or motion for taking proceedings under the Contempt of Courts Act, 1971 shall mention at the head whether it relates to the Commission of 'Civil Contempt' or 'Criminal Contempt' :*

Provided that, if there are allegations both of commission of Civil Contempt and Criminal Contempt against the same person/persons, two separate applications shall be moved, one dealing with Civil Contempt and the other with Criminal Contempt.

3. Facts to be stated in the motion or reference:- *(1) Every such motion or reference made under Section 15 (1) of the Act shall contain in precise language the statement setting forth the facts constituting the contempt of which the person charged is alleged to be guilty and shall specify the date or dates on which the contempt is alleged to have been committed.*

(2) Every motion made by the Advocate General under sub-section (2) of Section 15 of the Act shall state the allegations of facts and the view of the informant that in relation to these facts contempt appears to have been committed of which the Court should take cognizance and take further action. The motion should contain sufficient material to indicate why the Advocate General is inclined to move the court.

(3) (a) A petition for taking contempt of court proceedings shall be supported by an affidavit. In case of criminal contempt three copies of the application

and the affidavit shall accompany the application :

Provided that if there are more than one opposite parties, the petition shall be accompanied by as many extra copies as there are opposite parties.

(b) When the petitioner relies upon any document or documents in his possession, he shall file the same along with the petition or a copy thereof as annexure to affidavit.

(c) A petition made under Section 15 (1) (b) of the Act shall also be accompanied by the consent in writing of the Advocate General and a copy thereof.

(4) Every petition in respect of criminal contempt, where it is not moved by the Advocate General and where the consent in writing of the Advocate General had not been obtained, and every petition in regard to criminal contempt of a subordinate court where no reference has been made by it and the petition is moved without the consent of the Advocate General shall clearly state the reasons why the consent in writing of the Advocate General could not be obtained and why the court has been approached to act suo motu.

4. Civil and criminal contempt's presentation after stamp reporter :- *(a) Every case relating to civil contempt shall be presented before the Bench constituted for that purpose.*

(b) Every case of criminal contempt coming under Section 15 of the Act shall be presented before the Bench of not less than two Judges constituted for the purpose.

(c) provided that every case of contempt of Court presented before the Court shall bear the report of the Stamp Reporter as to sufficiency of Court-fee paid and also about limitation. References relating to contempt of court received on Administrative side from the subordinate courts shall, along with the office report with respect thereto, be laid before the Chief Justice, who shall have the discretion to file the same or to order that the same be laid before the Bench concerned, A [at Allahabad or Lucknow as the case might be] for further proceedings in connection with the case.

5. Issuance of notice :- *Such allegations contained in the petition as appears to the Court to make out a prima facie case of contempt of Court against the person concerned, shall be reduced into charge or charges by the Court against such person, and notice shall be issued only with respect to those charges :*

Provided that the Court shall not issue notice if more than a year has elapsed from the alleged act of contempt of court.

6. Documents accompanied notice :- *Where an order has been made directing that notice be issued to any person to show cause why he should not be punished for contempt of Court, a date shall be fixed for the hearing and a notice thereof in the prescribed form given to the person concerned. The notice of a criminal contempt shall also be served on the Government Advocate. The notice shall be accompanied by copies of the application, motion and the affidavit or a copy of the reference by a subordinate court as the case may be, and a copy of the charge or charges as framed by the court and shall require the person concerned to appear either in person or through counsel unless otherwise ordered before the Court at the time and on the date specified therein to show cause why he should not be punished for Contempt of Court. Notice of every proceeding under Section 15 of the Act shall be served personally on the person charged, unless the Court for reasons to be recorded directs otherwise.*

7. Contempt in the presence of the Court :- *When it is alleged or appears to the Court upon its own view that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and at any time before the rising of the Court, on the same day or as*

early as possible thereafter, shall--

(a) cause him to be informed in writing of the contempt with which he is charged, and if such person pleads guilty to the charge, his plea shall be recorded and the Court may in its discretion, convict him thereon;

(b) if such person refuses to plead, or does not plead, or claims to be tried or the Court does not convict him, on his plea or guilt, afford him an opportunity to make his defence to the charge, in support of which he may file an affidavit on the date fixed for his appearance or on such other date as may be fixed by the court in that behalf;

(c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed either forthwith or after the adjournment, to determine the matter of the charge; and

(d) make such order for punishment or discharge of such person as may be just.

8. Application for transfer of hearing to be placed before Chief Justice :- Notwithstanding anything contained in Rule 7, where a person charged with contempt under that rule applies, whether orally or in writing to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, and the court is of opinion that it is practicable to do so and that in the interest of proper administration of justice the application should be allowed, it shall cause the matter to be placed together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.

9. Detention of contemnor during pendency of the proceedings :- Pending the determination of the charge under clause (c) of Rule 7 the Court may direct that the person charged with contempt under section 14 of the Contempt of Courts Act, 1971, shall be detained in such custody as it may specify.

10. Informant not to plead unless directed by the court:- After giving information about the commission of contempt of court by any person or persons, the informant shall not have any right to appear or plead or argue before the Court unless he is called upon by the Court specially to do so.

11. Bail in contempt case:- When any person charged with contempt appears or is brought before the High Court and is prepared, while in custody or at any stage of the proceedings, to give bail, such person shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties conditioned that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court :

Provided that the High Court may if it thinks fit, instead of taking bail from such person, discharge him on his executing a bond without sureties for his attendance as aforesaid, or without executing such bond :

Provided further that on the failure of a person to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail when on a subsequent occasion in the same case he appears before the Court or is brought in custody and every such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof.

The provisions of Sections 422 to 448 and 450 of the Code of Criminal Procedure, 1973, shall so far as may be, apply to all the bonds executed under the Rule.

12. Attachment of property and warrant of arrest in certain cases:- The Court may, if satisfied that the person charged is absconding or likely to abscond or is keeping or is likely to keep out of the way to avoid service of the notice, order the attachment of his property of such value or amount as it may deem reasonable. In case of criminal contempt the Court may, in lieu of or in addition to the order of attachment of property, order issue of warrant of arrest of such person :

Provided that, in case the Court considers it fit and expedient, it may issue warrant of arrest in the first instance.

Such warrant may be endorsed in the manner laid down in Section 71 of the Code of Criminal Procedure. The attachment referred to above shall be effected in the manner provided in the Code of Civil Procedure, 1908 for the attachment of property in execution of a decree for payment of money. If after such attachment, the person charged appears and shows to the satisfaction of the Court that he did not abscond or keep out of the way to avoid service of the notice, the Court shall order the release of his property from attachment upon such terms as to costs or otherwise as it may think fit.

13. Paper book and issue of copies in contempt cases:- *The rules contained in the Rules of Court pertaining to grant of copies and charging process fees in criminal matters and preparation of paper book in contempt of Court cases and such other matters in respect of which no provision has been made in this Chapter, shall apply mutatis mutandis to the proceedings under this Chapter and the appeals coming under Section 19 of the Act. Similarly when proceedings are pending in subordinate Court, the Rules made by the High Court for conduct of business of such subordinate Courts shall apply to those proceedings.*

14. Costs :- *Where costs have been awarded by the Court in proceedings for contempt of court but have not been paid, the person entitled to them may apply to the Court for execution of the order. The application shall be accompanied by an affidavit stating the amount of costs awarded and the amount, remaining unpaid, and it shall be laid before the Court for orders. The Court may direct the Chief Judicial Magistrate to realise the amount due by himself or by any Magistrate subordinate to him. Such amounts shall be realised as if it were an amount of fine.”*

24. The power of the intra-court appeal has been conferred on this Court by Chapter VIII Rule 5 of the Allahabad High Court Rules which reads as under:-

“Chapter VIII

[5. Special appeal :- *An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction) in respect of a decree or order made by a Court subject to the superintendence of the Court and not being an order made in the exercise of revisional jurisdiction or in the exercise of its power of superintendence or in the exercise of criminal jurisdiction [or in the exercise of the jurisdiction conferred by Article 226 or Article 227 of the Constitution in respect of any judgment, order or award--*

(a) of a tribunal, Court or statutory arbitrator made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution, or

(b) of the Government or any officer or authority, made or purported to be made in the exercise or purported exercise of appellate or revisional jurisdiction under any such Act of one Judge.]”

25. Before considering the respective submissions of the parties, it will be appropriate to first notice the decisions cited by the respective parties.

26. The learned counsel for the appellant in support of his submissions had relied upon the decision of this Court in **Chaudhary Shyam Sunder (Supra)** where it has been held that the contempt proceedings are neither civil nor criminal but *sui generis*. A High Court punishes for contempt of court as a court of record in exercise of its inherent jurisdiction and the procedure that it adopts is not governed either by the Civil Procedure Code, 1908 (hereinafter referred to as C.P.C.) or by the Criminal Procedure Code, 1973 (hereinafter referred to as “Cr.P.C.).

27. The aforesaid authority may have limited applicability, inasmuch as, it can only be an authority for the fact that the contempt powers which the High Court exercises is on account of being a court of record and the proceedings are *sui generis* in that context. Moreover, the said decision is of the year 1955 whereas with the promulgation of the Contempt of Court Act, 1971, the situation has changed. Suffice to state that the aforesaid case may not have much precedential value as it does not deal with the issue as to whether against an order passed by the Contempt Court dropping the contempt proceedings, an intra-court appeal could be maintained.

28. The other decisions relied upon by the learned counsel for the appellant namely **Manohar Lal (Supra)** deals with the two classes of contempt as defined in Act of 1971 i.e. civil and criminal contempt but the said decision does not help the appellant on the issue of maintainability of an intra-court appeal arising out of contempt proceedings. Moreover, in **Maninderjeet Singh Bitta (Supra)** the Apex Court considered the principles which guide the exercise of judicial discretion in contempt

jurisdiction. The relevant portion reads as under:-

“16. Now, we would examine certain principles of law which would normally guide the exercise of judicial discretion in the realm of contempt jurisdiction. “Contempt” is an extraordinary jurisdiction of the courts. Normally, the courts are reluctant to initiate contempt proceedings under the provisions of the 1971 Act. This jurisdiction, at least suo motu, is invoked by the courts sparingly and in compelling circumstances, as it is one of the foremost duty of the courts to ensure compliance with its orders. The law relating to contempt is primarily dissected into two main heads of jurisdiction under the Indian law: (a) criminal contempt, and (b) civil contempt. It is now well-settled and explained principle under the Indian contempt jurisdiction that features, ingredients, procedure, attendant circumstances of the case and the quantum of punishment are the relevant and deciphering factors.

17. Section 12 of the 1971 Act deals with the contempt of court and its punishment while Section 15 deals with cognizance of criminal contempt. Civil contempt would be wilful breach of an undertaking given to the court or wilful disobedience of any judgment or order of the court, while criminal contempt would deal with the cases where by words, spoken or written, signs or any matter or doing of any act which scandalises, prejudices or interferes, obstructs or even tends to obstruct the due course of any judicial proceedings, any court and the administration of justice in any other manner. Under the English law, the distinction between criminal and civil contempt is stated to be very little and that too of academic significance. However, under both the English and Indian law these are proceedings sui generis.

18. While referring to Justice J.D. Kapoor's Law of Contempt of Court, 2nd Edn., 2010 which mentioned the Phillimore Committee Report—Report of the Committee on Contempt of Court, of which importantly the following passage can be noticed:

“4. In England and Wales most forms of contempt have been regarded as of criminal character, and as such, are called ‘criminal contempts’. In Scotland contempt of court is not a crime nor is a distinction between ‘criminal’ and ‘civil’ contempts recognised. Scots law regards contempt of court as a chapter of a law sui generis. This difference of approach is of little more than academic significance in modern practice, but the Scottish explain certain peculiar elements in its operation and procedure. What is of particular importance is that it is a branch of the law in which breaches are investigated by a special and summary procedure and where, once established, they may be severely punished.”

19. Under the Indian law the conduct of the parties, the act of disobedience and the attendant circumstances are relevant to consider whether a case would fall under civil contempt or criminal contempt. For example, disobedience of an order of a court simpliciter would be civil contempt but when it is coupled with conduct of the parties which is contemptuous, prejudicial and is in flagrant violation of the law of the land, it may be treated as a criminal contempt. Even under the English law, the courts have the power to enforce its judgment and orders against the recalcitrant parties.

20. In exercise of its contempt jurisdiction, the courts are primarily concerned with enquiring whether the contemnor is guilty of intentional and wilful violation of the orders of the court, even to constitute a civil contempt. Every party to lis before the court, and even otherwise, is expected to obey the orders of the court in its true spirit and substance.

Every person is required to respect and obey the orders of the court with due dignity for the institution. The government departments are no exception to it. The departments or instrumentalities of the State must act expeditiously as per orders of the court and if such orders postulate any schedule, then it must be adhered to. Whenever there are obstructions or difficulties in compliance with the orders of the court, least that is expected of the government department or its functionaries is to approach the court for extension of time or clarifications, if called for. But, where the party neither obeys the orders of the court nor approaches the court making appropriate prayers for extension of time or variation of order, the only possible inference in law is that such party disobeys the orders of the court. In other words, it is intentionally not carrying out the orders of the court. Flagrant violation of the court's orders would reflect the attitude of the party concerned to undermine the authority of the courts, its dignity and the administration of justice.”

The aforesaid principles cannot be disputed but they do not help the appellant on the issue of maintainability of the instant appeal.

29. The learned counsel for the appellant has relied upon the decision of the Apex Court in **Shah Babu Lal Khimji (Supra)** to contend that even in case of an interlocutory order passed by a trial judge even then an appeal under Letters Patent will lie and that any special act will not override the powers conferred on the Court under the Letters Patent.

30. In the aforesaid case of **Khimji (supra)**, the Apex Court considered the nuances of the word ‘judgment’ while noticing Clause 15 of the Letters Patent of the Bombay High Court. In this context, the Apex Court considered the provisions of the C.P.C. and Letters Patent and in para 78 and 79 held as under:-

“78. Thus, after considering the arguments of counsel for the parties on the first two limbs of the questions, our conclusions are:

“(1) That there is no inconsistency between Section 104 read with Order 43 Rule 1 and the appeals under the letters patent and there is nothing to show that the letters patent in any way excludes or overrides the application of Section 104 read with Order 43 Rule 1 or to show that these provisions would not apply to internal appeals within the High Court.

(2) That even if it be assumed that Order 43 Rule 1 does not apply to letters patent appeals, the principles governing these provisions would

apply by process of analogy.

(3) That having regard to the nature of the orders contemplated in the various clauses of Order 43 Rule 1, there can be no doubt that these orders purport to decide valuable rights of the parties in ancillary proceedings even though the suit is kept alive and that these orders do possess the attributes or character of finality so as to be judgments within the meaning of clause 15 of the letters patent and hence, appealable to a larger Bench.

(4) The concept of the letters patent governing only the internal appeals in the High Courts and the Code of Civil Procedure having no application to such appeals is based on a serious misconception of the legal position.”

79. This now brings us to the second important point which is involved in this appeal. Despite our finding that Section 104 read with Order 43 Rule 1 applies to letters patent appeals and all orders passed by a trial Judge under clauses (a) to (w) would be appealable to the Division Bench, there would still be a large number of orders passed by a trial Judge which may not be covered by Order 43 Rule 1. The next question that arises is under what circumstances orders passed by a trial Judge not covered by Order 43 Rule 1 would be appealable to a Division Bench. In such cases, the import, definition and the meaning of the word “judgment” appearing in clause 15 assumes a real significance and a new complexion because the term “judgment” appearing in the letters patent does not exclude orders not falling under the various clauses of Order 43 Rule 1. Thus the serious question to be decided in this case and which is indeed a highly vexed and controversial one is as to what is the real concept and purport of the word “judgment” used in clause 15 of the letters patent. The meaning of the word “judgment” has been the subject-matter of conflicting decisions of the various High Courts raging for almost a century and in spite of such length of time, unfortunately, no unanimity has so far been reached. As held by us earlier it is high time that we should now settle this controversy once for all as far as possible.”

Since the issue before the Apex Court was different in **Khimji (Supra)**, hence, the said decision also does not come to the aid of the appellant.

31. The learned counsel for the appellant has then relied upon a Full Bench decision of this Court in **Rajit Ram Yadav (Supra)** wherein one of us (Hon’ble the Chief Justice Arun Bhansali,) was a member. The Full Bench of this Court in **Rajit Ram Yadav (Supra)** was considering whether an intra-court appeal would lie against a judgment of learned Single Judge in writ proceedings under Article 226 of the Constitution of India preferred against an order passed by an Authority exercising Appellate or Revisional

power under U.P. State Road Transport Corporation Employees (other than officers) Service Regulations, 1981. In the aforesaid backdrop, the Full Bench traced the legislative history of the Letters Patent as well as the provision of Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 and noticed the scope of the provisions and what orders can be made amenable to an appeal under Chapter VIII Rule 5. The Full Bench considered that the order passed by an officer or authority exercising Appellate or Revisional powers under the U.P. State Road Transport Corporation Employees (other than officers) Service Regulations, 1981 was passed in exercise of the Central Act, consequently, the special appeal was held to be maintainable. Thus, on account of different factual matrix, the said decision does not throw much light on the issue of maintainability of an intra-court appeal arising out of an order passed under the Contempt of Courts Act, 1971.

32. Learned counsel for the appellant has then relied upon the decision of the Apex Court in **Midnapore (supra)**. In so far as this decision is concerned, it has been relied upon by both the parties and this Court deems it appropriate to consider this case at a later stage.

33. The learned counsel for the appellant has in the same vein relied upon the decision of the Apex Court in **Special Deputy Director (Supra)**, a decision of Division Bench of this Court in **Madarsa Ehl-E-Sunnat (supra)**, **Anil Kumar Gupta (supra)** and **Daya Nand Sharma (Supra)** to buttress his submissions that where the learned Single Bench decides an issue touching upon the merit of the matter, in such circumstances, it

cannot be said that such directions or finding returned by the learned Single Bench would be within the scope of jurisdiction under Article 226/227 of the Constitution of India, hence, an intra-court appeal would be maintainable. Reliance has also been placed on the decision of the another Division Bench decision of this Court in **Amit Mohan Prasad (Supra)** to submit that when a contempt judge enters into the merits of the issue which was contentious then an intra-court appeal would be maintainable and so is the proposition laid by another Division Bench of this Court in **Ashwani Kumar (Supra)**.

34. On the other hand, the learned counsel for the respondents has relied upon various Division Bench decisions of this Court, namely in **Jagdamba Prasad (supra)**, **Sheo Charan (Supra)**, **Hub Lal Yadav (supra)** , **Committee of Management Smt. Dulhin Rajdhari Kunwari Kanya Junior High School Vs. Dinesh Chandra Kannaujia and Another in Special Appeal No. 303 of 2010 decided on 27.07.2017 Vinod Kumar Gupta (Supra)**, **Shivam Das Chandani and Others Vs. Prabhu N. Singh and Others; 2022 (3) ADJ 275 (LB) (DB) (03)** and **Roop Singh Vs. Sri Vinay Kumar Johri and Others; 2020 (8) ADJ 519 (DB)** to submit that an order passed by a Contempt Judge in exercise of its contempt jurisdiction whereby the contempt proceedings have been discharged cannot be made the subject matter of an intra-court appeal.

35. This aspect has been elaborately dealt with by a Division Bench of this Court in **Sheo Charan (supra)** and the said reasoning has been followed by the subsequent Division Bench decisions of this Court as

mentioned in the preceding paragraphs. The relevant paragraphs 8, 9, 10 and 11 of **Sheo Charan (supra)** reads as under:-

“8. The right of appeal under any other law against a decision of a Court is also taken away if the statute, which has conferred the jurisdiction on the court, has itself provided for an appeal from such a decision. The reason is that the rule that when a jurisdiction is conferred on a court, it imports the ordinary incidents of the procedure of that court including the right of appeal from its decision will not apply if the statute which has conferred the jurisdiction has itself made provision for appeal from the decision of such court. As the Act has provided for appeal from order/decision given thereunder, an appeal under Rule 5 of Chapter VIII of the Rules from such a decision is barred. A Division Bench of this Court in Ved Prakash Kapoor and Ors. v. Kamla Prasad Rai Special Appeal No. 316 of 1995, decided on 23.4.1997, has also held that an appeal filed against an order passed under the Act is not maintainable under Rule 5 of Chapter VIII.

9. The Contempt of Courts Act was enacted "to define and limit powers of certain courts in punishing contempt of courts and to regulate their procedure in relation thereto-" The Supreme Court in Pritam Pal v. High Court of Pritam Pal Vs. High Court of Madhya Pradesh, Jabalpur through Registrar, has held that after the enforcement of the Act, the procedure laid down therein will govern the contempt proceedings before the High Court. The relevant extract of said decision is reproduced below:

Prior to the Contempt of Courts Act, 1971, it was held that the High Court has inherent power to deal with a contempt of itself summarily and to adopt its own procedure, provided that it gives a fair and reasonable opportunity to the contemner to defend himself. But the procedure has now been prescribed by Section 15 of the Act in exercise of the powers conferred by Entry 14, List III of the Seventh Schedule of the Constitution. Though the contempt jurisdiction of the Supreme Court and the High Court can be regulated by legislation by appropriate Legislature under Entry 77 of List I and Entry 14 of List III in exercise of which the Parliament has enacted the Act, 1971, the contempt jurisdiction of the Supreme Court and the High Court is given a constitutional foundation by declaring to be "Courts of Record" under Articles 129 and 215 of the Constitution and, therefore, the inherent power of the Supreme Court and the High Court cannot be taken away by any legislation short of constitutional amendment.

The Act has defined "contempt", laid down procedure and has placed limitation on the powers of the courts. By Section 19, the Act has created a right of appeal from an order or decision of the court imposing punishment for contempt. There is no provision for appeal under the Act against the decision discharging the notice of contempt and/or dismissing the contempt petition. When statute provides for appeal and also lays down the orders/decisions against which such an appeal can be filed, the Legislature's intention is that appeal against all other orders is barred. As Section 19 has provided for appeal against an order or decision imposing punishment for contempt, the right to file an appeal against all other orders has been taken away by the statute. The result is that the appeal against a decision, rejecting the contempt petition is not maintainable under Rule 5 of Chapter VIII also.

10. Two decision of Supreme Court in State of West Bengal and others Vs.

Kartick Chandra Das and others, and Pritam Pal Vs. High Court of Madhya Pradesh, Jabalpur through Registrar, on which reliance has been placed by the learned Counsel for the Appellant are of no help to him. In State of West Bengal and Ors. v. Kartick Chandra Das and Ors. (supra), the question before the Supreme Court was whether Section 5 of the Limitation Act can be applied to an appeal filed against the order of single Judge passed in contempt jurisdiction. Supreme Court answered the said question in affirmative. The submission of the learned Counsel for the Appellant is that as in the above case the appeal was filed under Letters patent against the order of single Judge passed in contempt jurisdiction and as the Supreme Court has held that Section 5 of the Limitation Act is applicable to the said appeal, it should be presumed that the Supreme Court has decided that appeal against the judgment of single Judge, rejecting the contempt petition is maintainable under Letters Patent/Rules of the Court. This submission cannot be accepted. The question involved in the present case regarding the maintainability of the appeal under the Letters Patent/Rules of the Court against the decision of single Judge rejecting the contempt petition was neither raised before the Supreme Court nor was it decided by it. Therefore, this decision is not an authority for holding that against the order rejecting the contempt case an appeal can be filed under Rules of the Court. Supreme Court in The State of Orissa Vs. Sudhansu Sekhar Misra and Others, has declared that: A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The same principle was reiterated in Ambica Quarry Works v. State of Gujarat and Ors., (1987) 1 SCC 213 Similar is the position with regard to the case of Pritam Pal Vs. High Court of Madhya Pradesh, Jabalpur through Registrar, In that case also the controversy involved in the present case was not here.

11. Learned Counsel for the Respondents has, however, submitted that as no appeal lies u/s 19 of the Act from the decision of single Judge, dismissing the contempt petition, the applicant will be rendered remediless, if his appeal under Rule 5 of Chapter VIII is not held maintainable. This submission is also devoid of merit. In State of Maharashtra Vs. Mahboob S. Allibhoy and another, the Supreme Court has reiterated the rule that a contempt proceeding is not a dispute between the two parties and such a proceeding is a matter between the Court and the person, who is alleged to have committed contempt. The relevant passage from the said judgment is as under:

It is well-known that contempt proceeding is not a dispute between two parties, the proceeding is primarily between the court and the person who is alleged to have committed the contempt of court. The person who informs the court or brings to the notice of the court that anyone has committed contempt of such court is not in the position of a prosecutor, he is simply assisting the court so that the dignity and the majesty of the court is maintained and upheld. It is for the court, which initiated the proceeding to decide whether the person against whom such proceeding has been initiated should be punished or discharged taking into consideration the facts and circumstances of the particular case.

36. Similarly, a Division Bench decision of this Court in **Jagdamba Prasad (Supra)** has followed the aforesaid reasoning and held as under :-

“A bare perusal of the provision quoted above would go to show that an Appeal in question is to lie against any order or decision of High Court in exercise of its jurisdiction to punish for contempt and only when there is a order of punishment for contempt then only appeal shall lie as a matter of right and in no other contingency, appeal would lie as a matter of right. Apex Court, in the case of Purshottam Dass Goel vs. B.S. Dhillon (1978) SCC (Cri.) 195 has also clarified the position that appeal lies only against order of punishment passed by High Court in exercise of its jurisdiction to punish for contempt and in other contingency, appeal in question would not lie. View to the similar effect has been expressed in the case of State of Maharashtra vs. Mahboob S. Alliboy 1996 (4) SCC 411; Midnapore People's Co-operative Bank Ltd. vs. Chunni Lal Nanda 2006 (5) SCC 399; Sujitendra Nath Singh Roy vs. State of W.B. in Civil Appeal No.7335 of 2011 decided on 13.03.2015.

Remedy by way of Appeal is a creation of statute and once legislature, in its wisdom, has chosen not to provide for any remedy of appeal against order passed by learned Single Judge dropping the proceedings, then in the garb of Chapter VIII Rule 5 of High Court Rules, appeal in question cannot be said to be maintainable specially when proceedings under the Contempt of Courts Act, 1971 are self contained. 'Contempt proceedings' are principally proceedings inter-se the Court and the Contemnor; the person who approaches the Court for initiation of Contempt Proceedings, has status of Complainant/Informant and nothing beyond the same. Complainant has not been provided for with any right to prefer Appeal against the order passed by learned Single Judge. Right of appeal has been conferred on the contemnor who has been punished under the Contempt of Courts Act, 1971, and in other contingency, Appeal is not at all provided for or is maintainable. What is not at all provided for in the 'Statute', same cannot be provided for by taking aid of any other statutory provisions, in view of this, as far as order that has been passed for dropping the proceedings is concerned, against the same appeal in question is not at all maintainable. This Court in the case of Smt. Subhawati Devi vs. R.K. Singh 2004 (3) AWC has already clarified the situation that Special Appeal would not lie, except for the circumstances when the order passed by learned Single Judge falls within the purview of judgement for under Chapter VIII Rule 5 of High Court Rules. Relevant paras of said judgement reads as follows:

"29. Learned counsel for the appellant, however, submitted that even if an appeal does not lie under Section 19(1) of the Act, an appeal is still maintainable under Clause 10 of the Letters Patent read with Chapter VIII. Rule 5 of the Rules as the instant appeal has been categorised as Special Appeal.

30. Let us, therefore, consider whether this appeal is maintainable under Clause 10 of the Letters Patent read with Chapter VIII, Rule 5 of the Rules.

36. Keeping the above principle in mind, we now deal with the question as to whether an order or a decision of the learned Judge rejecting the application for contempt and refusing to punish for contempt amounted to a "judgment" within the meaning of Clause 10 of the Letters Patent. To answer this query, the question to be decided is as to whether such an order would determine any right or liability of the parties. In our view, in rejecting the application for contempt and discharging the notice of contempt, it cannot be said that to proceed or not to proceed against the alleged contemnor was a matter of discretion of the Court and the appellant cannot be said to have acquired any right to ask for discretion to be exercised in a particular manner. It may also be said, in this

connection, that the right of appeal can be made available to an aggrieved party and an aggrieved party, for the purpose of proceeding for contempt, has been held to be only a party who has been punished for contempt. Therefore, it can be safely concluded that when the Court refuses to commit the alleged contemnor, it does not decide any right or liability arising between the parties. Therefore, we are of the view that an order passed rejecting an application for contempt is not appealable under Clause 10 of the Letter Patent read with Chapter VIII, Rule 5 of the Rules. We, however, make it clear that there may be cases where some orders or directions have been made in variation of the original order in which an appeal can be held to be maintainable in law. However, we also make it clear that for the purposes of holding that an appeal is maintainable in law or not, one has to deal with the facts of the particular case for reaching to a proper conclusion.

37. There may be another ground for holding that an appeal under Chapter VIII, Rule 5 of the Rules against an order discharging the contempt notice is not maintainable, in law. A Division Bench of this Court in *Sheo Charan v. Naval and Ors.*, 1997 (2) UPLBEC 1215 : 1997 AWC 1909, has held that Section 19 of the Act has created a right of appeal from an order or decision of the Court imposing punishment for contempt. There is no provision for appeal under the Act against the decision discharging the notice of contempt and/or dismissing the contempt petition. In view of the fact that the Act provides for appeal and also lays down the orders/decisions against such an appeal can be filed, the intention of the Legislature must be said to be that an appeal cannot be filed under Clause 10 or under Clause 15 read with Chapter VIII, Rule 5 of the Rules as the Contempt of Courts Act is a complete Code wherein provision for appeal has been specifically provided.

38. Under Chapter VIII, Rule 5 of the Rules appeal is provided before the Division Bench of this Court from a judgment not being a judgment specified therein, of one of the learned Judges of this Court. Therefore, the question that needs to be decided as to whether an appeal from a decision of the learned Judge made in the exercise of his power under the Act is maintainable even though the Act itself has provided for an appeal from such a decision. We are in full agreement with the views expressed by the Division Bench of this Court in *Sheo Charan (supra)*, in which it has been clearly established that if the Statute, which has conferred the jurisdiction on the Court, itself lays down the procedure, and provides for appeal from its decision, the appeal can be filed only under and in accordance with such a statute. In such a case general right of appeal from a decision of the Court stands excluded by the statute, which has conferred the jurisdiction on the Court. Such being the position, we are, therefore, of the view that an appeal against a decision rejecting the contempt petition was not maintainable also under Chapter VIII, Rule 5 of the Rules. The same view has been expressed by a Division Bench of this Court in *A.P. Verma and Ors. v. U.P. Laboratory Technicians Association, Lucknow and Ors.*, 1998 (3) AWC 2264 : (1998) 3 UPLBEC 2333, wherein it has been held that no appeal is maintainable under Chapter VIII, Rule 5 of the Rules of the Court against any order passed in a proceeding under the Contempt of Courts Act as it is a self contained Code.

39. We also express an opinion as already done that no appeal is maintainable under Clause 15 of the Letters Patent against an order refusing to initiate proceedings for contempt of Courts. Same view was also expressed by a Division Bench of Madras High Court in *Shanta V. Bai v. Basnanti Builders*, 1991 Cri LJ 3026, wherein it was held that no appeal was maintainable under Clause 10 or 15 of the Letters Patent

against an order rejecting the application for contempt and discharging the contempt notice."

37. A similar view was expressed by another Division Bench of this Court in **Hub Lal Yadav (Supra)** wherein the earlier decisions of the Apex Court and the Division Bench of this Court was considered and the relevant portion reads as under:-

"In our opinion the submission made by learned counsel for the appellant is based on misreasoning of the judgment in the case of Midnapore Peoples' Coop. Bank Ltd. and others (Supra). The Supreme Court has specifically noted that if any issue is decided on merits then such directions of the contempt court can always be examined in a proceedings under the Letters Patent Appeal. We are of the considered opinion that in the facts of the case there has been no direction or decision on the merits of issues raised in the contempt application.

Similarly in the case of Vinita M.Khanolkar (Supra), the Apex Court has held that an appeal would be maintainable unless it is excluded by the statute. In our opinion, the said judgment also does not assist the appellant in any manner.

We may also record that contempt proceedings are quasi criminal in nature and, therefore, the provisions of Chapter VIII, Rule 5 of Allahabad High Court Rules to the proceedings an order dismissing an application for contempt would not be attracted except when the contempt court decides to pass orders issuing directions in exercise of powers under the contempt of courts Act which order would be referable to the powers vested in the High Court under Article 226 of the Constitution of India rather than the contempt of courts Act."

38. Again this Court in **Vinod Kumar Gupta (Supra)** had the occasion to consider the issue of maintainability and after tracing the legislative history of the Contempt of Courts Act, 1971, it also considered the earlier decisions of the Apex Court on the said point and it held as under:-

"32. While applying the above noted judgment in the facts of the present case, now this Court has to bestow its anxious consideration as to whether the present intra-Court appeal is maintainable against the judgment and order of the learned Single Judge while declining to initiate contempt proceedings against the opposite parties.

33. As noticed above, the Hon'ble Apex Court and this Court has consistently held that an intra-Court appeal is not maintainable against the order of the learned Single Judge exercising contempt jurisdiction in a contingency, when the contempt proceedings are not being initiated. The reliance placed upon the judgment in the case of Durga Nagpal (supra) is misconceived and misplaced as in the said case, the Hon'ble Judges while exercising appellate jurisdiction were confronted with the situation where

the contempt Court reviewed its own order after entertaining miscellaneous application for modification of the final judgment. The Division Bench opined that when accused are discharged and proceedings are closed, miscellaneous application for modification is not maintainable. In the said perspective, the Special Appeal was held to be maintainable. Since the present case originates from a judgment and order of the contempt Court declining to exercise contempt jurisdiction, thus, the said judgment is of no aid to the appellants.

35. Accordingly, we are of the firm opinion that the present intra-Court appeal against the judgment and order of the learned Single Judge dated 17.3.2023 declining to initiate contempt proceedings is not maintainable under Chapter VIII Rule 5 of the Rules of the Court.

36. Accordingly, the intra-Court appeal is dismissed as not maintainable.”

39. Now, the stage is set to examine the rival submissions of the respective parties keeping in mind the principles of law as laid down by the Apex Court and this Court in the cases, noticed above.

40. At the outset, it will be relevant to state that Article 215 of the Constitution of India confers jurisdiction on the High Court to punish for contempt. The powers of contempt are exercised and are regulated by the Contempt of Courts Act, 1971. In order to iron out the procedural creases relating to presentation and hearing of the contempt petitions, this Court has framed the rules in Chapter XXXV-E of the Allahabad High Court Rules, 1952.

41. The power to punish for contempt conferred on the High Court cannot be abridged or be taken away as it is inherent in the High Court by virtue of being a court of record.

42. The Contempt of Courts Act, 1971 provides for two classes of contempt and it defines civil contempt and a criminal contempt. By using the word civil contempt and criminal contempt it does not in any manner suggest that for initiating or taking the contempt proceedings to finality,

the Court takes recourse to provisions of either C.P.C or Cr.P.C. Moreover, the provisions of C.P.C. and Cr.P.C. are generally applicable on the respective courts who exercise powers to decide cases as per the nature of the case in terms of the classical bifurcation of civil and criminal jurisdictions. Hence, it cannot be said that the High Court exercises civil jurisdiction nor can it be said that it exercises criminal jurisdiction while dealing with matters relating to contempt.

43. It will be gainful to refer to the word “quasi”. As per the **Black’s Law Dictionary Eighth Edition** the term ‘quasi’ is explained as under:-

“QUASI. A Latin word frequently used in the civil law, and often prefixed to English words. It is not a very definite word. It marks the resemblance, and supposes a little difference, between two objects, and in legal phraseology the term is used to indicate that one subject resembles another, with which it is compared, in certain characteristics, but that there are also intrinsic and material differences between them. It negatives the idea of identity, but implies a strong superficial analogy, and points out that the conceptions are sufficiently similar for one to be classed as the equal of the other.” 74 C.J.S. Quasi, at 2 (1951).”

44. Similarly, in **P. Ramanatha Aiyar’s Advanced Law Lexicon 5th Edition**, the word ‘quasi’ has been explained as under:-

“Quasi (lat.)As if, it were analogous to; seemingly not really This term is used in legal phraseology to indicate that one subject resembles another, with which it is compared, in certain characteristics, but that there are also intrinsic differences between them.

The word "quasi" marks the resemblance, and supposes a little difference, between two objects.

Seemingly but not actually; in some sense; resembling; nearly.

A Latin word frequently used in the civil law, and often prefixed to English words. It is not a very definite word. It marks the resemblance, and supposes a little difference, between two objects, and in legal phraseology the term is used to indicate that one subject resembles another, with which it is compared, in certain characteristics, but that there are also intrinsic and material differences between them. It negatives the idea of identity, but implies a strong superficial analogy, and points out that the conceptions are sufficiently similar for one to be classed as the equal of the other". 74 CJS Quasi, at 2 (1951).

"Not exactly". [State of U.P. v. Raja Mahendra Pal, AIR 1999 SC 1786:

(1999) 4 SCC 43, 56, para 8]

The expression "quasi" is always prefix to a noun, to mean that it signifies something that does not exactly comply with the definition of the noun, although it shares its quality and falls philosophically under the same head. The word 'quasi' itself is derived from Latin Rules to means "similar to but not exactly". [Mad. High Court Advocates Association v. Secretary, T.N. Bar Council, AIR 2015 Mad 213, para 54]."

45. Since in contempt proceedings, the Court is invested with powers to punish which may include imprisonment and the Court while dealing with contempt proceedings also calls for a reply from the contemnor and thereafter considering the matter it frames charges and moreover the standard of proof is higher than required in civil cases, hence to some extent, the subject of contempt resembles criminal proceedings, hence, in some judicial decisions the powers of contempt is referred to as 'quasi criminal' but the fact remains that the Court does not take recourse to provisions of either the C.P.C. or the Cr.P.C.

46. Hence, it can be safely said that the proceedings under the Contempt of Courts Act, 1971 are not criminal in nature to exclude a challenge to an order passed in contempt proceedings by referring to such an order as having been passed in exercise of criminal jurisdiction as mentioned in Chapter VIII Rule 5 of the Rules of the Court so as to totally bar the invocation of provisions of the Special Appeal in contempt matters.

47. However, there is an exception, which is in a very narrow spectrum and has been explained by the Apex Court in **Midnapore (supra)** in Para 11 (V) and the same is being reproduced here for clarity:-

"11.(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)."

48. Thus, it cannot be said as an inflexible rule that an intra-court appeal in no circumstance can be maintained. If an order passed in contempt jurisdiction has the trappings of a final order and/or it has the impact of diluting, varying the original order by which the disputes between the parties have been decided on merits or the Contempt Court touches the merit or passes an order beyond its scope then in such cases an intra court appeal can be maintained.

49. There is yet another angle with which this issue of maintainability can be viewed. Both the Contempt of Courts Act, 1971 and the Allahabad High Court Rules, 1952 are special statutes and operate in different orbits.

50. The Allahabad High Court Rules, 1952 incorporated the provision for Special Appeal in Chapter VIII Rule 5 vide notification dated 06.11.1963 which was published in the Uttar Pradesh Gazette Part-II on 05.12.1964. The Contempt of Courts Act, 1971 was promulgated, which is a special statute as it regulates the powers to be exercised by the High Court for contempt matters. As already noticed above, the power to punish for contempt is inherent with the High Court being a court of record. Hence, the provisions of the Contempt of Courts Act can neither take away the power nor confer it on the High Court rather it is only to regulate the powers which the High Court already possesses in terms of Article 215 of the Constitution of India. Additionally, the rules for contempt jurisdiction were incorporate in the Rules of the Court under Chapter XXXV-E vide

notification no. 6 dated 24.11.1976 published in the U.P. Gazette Part- II on 12.02.1977.

51. Thus, it would be seen that the provision providing for an intra-court appeal through the High Court Rules, results in creating a special forum. Whereas the contempt of Court Act also being a Central legislation and that too is a special Act, which is aided by the Rules under Chapter XXXV-E of the Rules of the Court. Hence, the provision i.e. for intra-court appeal and the Act of 1971 are special provisions. In this regard the law is well settled that in case if there are two special legislations operating or overlapping a field then the legislation subsequent in point of time shall prevail unless contrary intentions appears from the provisions of the two Acts.

52. In the instant case, it will be relevant to notice that though there is actually no inconsistency between Chapter VIII Rule 5 or the provisions of the Contempt of Courts Act, 1971 but nevertheless even if at all there would have been any inconsistency, yet it would be the subsequent special legislation and in this case, the Contempt of Courts Act, 1971 which would prevail.

53. This Court gainfully refers to the decision of the Apex Court in **Allahabad Bank Vs. Canara Bank (2000) 4 SCC 406** wherein the issue of two special laws and its interplay was considered and the relevant portion reads as under:-

“39. There can be a situation in law where the same statute is treated as a special statute vis-à-vis one legislation and again as a general statute vis-à-vis yet another legislation. Such situations do arise as held in LIC of India v.

D.J. Bahadur [(1981) 1 SCC 315] . It was there observed:

“... for certain cases, an Act may be general and for certain other purposes, it may be special and the court cannot blur a distinction when dealing with the finer points of law”.

For example, a Rent Control Act may be a special statute as compared to the Code of Civil Procedure. But vis-à-vis an Act permitting eviction from public premises or some special class of buildings, the Rent Control Act may be a general statute. In fact in Damji Valji Shah v. LIC of India [AIR 1966 SC 135] (already referred to), this Court has observed that vis-à-vis the LIC Act, 1956, the Companies Act, 1956 can be treated as a general statute. This is clear from para 19 of that judgment. It was observed:

“Further, the provisions of the special Act, i.e., the LIC Act, will override the provisions of the general Act, viz., the Companies Act which is an Act relating to companies in general.”

(emphasis supplied)

Thus, some High Courts rightly treated the Companies Act as a general statute, and the RDB Act as a special statute overriding the general statute.

Special law v. special law

40. Alternatively, the Companies Act, 1956 and the RDB Act can both be treated as special laws, and the principle that when there are two special laws, the latter will normally prevail over the former if there is a provision in the latter special Act giving it overriding effect, can also be applied. Such a provision is there in the RDB Act, namely, Section 34. A similar situation arose in Maharashtra Tubes Ltd. v. State Industrial and Investment Corpn. of Maharashtra Ltd. [(1993) 2 SCC 144] where there was inconsistency between two special laws, the Finance Corporation Act, 1951 and the Sick Industries Companies (Special Provisions) Act, 1985. The latter contained Section 32 which gave overriding effect to its provisions and was held to prevail over the former. It was pointed out by Ahmadi, J. that both special statutes contained non obstante clauses but that the

“1985 Act being a subsequent enactment, the non obstante clause therein would ordinarily prevail over the non obstante clause in Section 46-B of the 1951 Act unless it is found that the 1985 Act is a general statute and the 1951 Act is a special one”. (SCC p. 157, para 9)

Therefore, in view of Section 34 of the RDB Act, the said Act overrides the Companies Act, to the extent there is anything inconsistent between the Acts.”

54. In the aforesaid backdrop, it would be seen that the legislature has in the Act of 1971 provided a forum of appeal only in respect of an order passed by the Contempt Court imposing punishment in terms of Section 19 of the Act of 1971. The legislature has consciously not provided for an appeal against an order dropping the contempt proceedings.

55. Thus, there can be no manner of doubt that an appeal under Section

19 of the Act of 1971 will only lie against an order of punishment and since the impugned order at hand does not qualify to be a punishment order, hence, it cannot be challenged in an appeal under Section 19 of the Act of 1971.

56. Now, it will be appropriate to examine as to whether the order impugned can be challenged in an intra-court appeal in light of the exception made by the Apex Court in **Midnapore (supra)**. In the said case, the questions formulated by the Apex Court for consideration have been noticed in paragraph 9 which reads as under:-

“(i) Where the High Court, in a contempt proceeding, renders a decision on the merits of a dispute between the parties, either by an interlocutory order or final judgment, whether it is appealable under Section 19 of the Contempt of Courts Act, 1971? If not, what is the remedy of the person aggrieved?”

(ii) Where such a decision on merits is rendered by an interlocutory order of a learned Single Judge, whether an intra-court appeal is available under clause 15 of the Letters Patent?

(iii) In a contempt proceeding initiated by a delinquent employee (against the enquiry officer as also the Chairman and Secretary in charge of the employer Bank), complaining of disobedience of an order directing completion of the enquiry in a time-bound schedule, whether the court can direct (a) that the employer shall reinstate the employee forthwith; (b) that the employee shall not be prevented from discharging his duties in any manner; (c) that the employee shall be paid all arrears of salary; (d) that the enquiry officer shall cease to be the enquiry officer and the employer shall appoint a fresh enquiry officer; and (e) that the suspension shall be deemed to have been revoked?”

57. Thereafter the Apex Court noticed the provisions of Section 19 of the Contempt of Courts Act, 1971 as well as its earlier decisions on the aforesaid point and in paragraph 11, it crystallized the answer to point (I) before it 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)."

58. Having noticed the the dictum of the Apex Court in **Midnapore (supra)** and to arrive at a conclusion whether in the instant case, the intra-court appeal is maintainable, it will be apposite to examine the nature and the content of the order passed by the learned Single Judge in contempt jurisdiction and the relevant portion of the said order dated 10.07.2023 disposing of the contempt petition is being reproduced hereinafter for ready reference:-

"6. I have considered the submissions advanced by learned counsel for the applicant and perused the order of compliance.

7. On perusal of the order of compliance, it is clear that the direction issued by this Court was to grant promotion to the applicant from the date his juniors have been granted promotion. At the relevant point of time, Shri R.P. Singh was holding the post of Deputy General Manager and the applicant was granted notional promotion on the said post.

8. In view of the above, there is substantial compliance of the judgment and order dated 10.8.2016. In case the applicant is aggrieved by the order of compliance dated 22.5.2023, he may approach before the appropriate Forum for redressal.

9. With the aforesaid observation, the contempt application is finally disposed of.”

59. The submission of learned counsel for the appellant has been that since the order passed by the Writ Court dated 10.08.2016 contained a direction to the Competent Authority to consider and give notional promotion to the petitioner by considering his case from the date his juniors were promoted within a period of three months, this was assailed by the respondents before the Apex Court and the Special Leave Petition was dismissed on 11.07.2022, thus, the reasoning given by the Department while filing the affidavit of compliance and granting notional promotion to the appellant is in teeth of the decision given by the Writ Court which was affirmed by the Apex Court and in the aforesaid backdrop holding that there is substantial compliance amounts to interfering with the directions of the writ court and also recording that there is substantial compliance of the order passed by the writ court necessarily implies examining the case on merits and moreover, once the Contempt Court had dropped the contempt proceedings by recording that there is substantial compliance, this would necessarily amount to entering into the merits, hence, in light of the decision of the Apex Court in **Midnapore (supra)**, the intra-court appeal is maintainable.

60. So far as Special Appeals under Chapter VIII Rule 5 of the Rules of the Court are concerned, the same is governed by certain principles which have been elucidated by a Full Bench of this Court in **Ashutosh Shrotiya and others Vs. Vice Chancellor Dr. B.R. Ambedkar University and Others 2015 SCC Online Alld 8553 (FB)** wherein in paras 30 and 41 it

has been laid down as under:-

“30. We now formulate the governing principles:

(i) *The expression ‘judgment’ was advisedly not defined in the Letters Patents of various High Courts which conferred a right of appeal against a judgment of a single Judge to a Division Bench of that Court;*

(ii) *The expression ‘judgment’ is not to be construed in the narrower sense in which the expression ‘judgment’, ‘decree’ or ‘order’ is defined in the CPC, but must receive a broad and liberal construction;*

(iii) Every order passed by a trial Judge on the Original side of a High Court exercising original jurisdiction or, for that matter, by a learned single Judge exercising the writ jurisdiction, would not amount to a judgment. If every order were construed to be a judgment, that would result in opening a flood of appeals and there would be no end to the number of orders which could be appealable under the Letters Patent;

(iv) Any interlocutory order, to constitute a judgment, must possess the characteristic of finality in the sense that it must adversely affect a valuable right of a party or decide an important aspect of the trial in an ancillary proceeding. In order to constitute a ‘judgment’, the adverse effect on a party must be direct and immediate and not indirect or remote;

(v) In order to constitute a judgment, an interlocutory order must : (a) decide a matter of moment; or (b) affect vital and valuable rights of the parties and must also work serious injustice to the party concerned;

(vi) *On the other hand, orders passed in the course of the proceedings of a routine nature, would not constitute a judgment even if they result in some element of inconvenience or hardship to one party or the other. Routine orders which are passed by a single Judge to facilitate the progress of a case may cause some element of inconvenience or prejudice to a party but do not constitute a ‘judgment’ because they do not finally determine the rights or obligations of the parties. Procedural orders in aid of the progression of a case or to facilitate a decision are not judgments.*

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41. *The area which both the judgments in Shah Babul Khimji ((1981) 4 SCC 8 : AIR 1981 SC 1786) and Midnapore Peoples’ Co-op. Bank Ltd. ((2006) 5 SCC 399 : AIR 2006 SC 2190) leave open to be considered is whether the order Which is sought to be placed in issue in appeal, though passed at an interlocutory stage, ‘is of a nature that would affect the vital and valuable rights of parties and work serious injustice to the party concerned. An order, which has the consequence of adversely affecting the valuable rights of a party has the characteristics or trappings of finality and has, therefore, been held to be a ‘judgement’ which is amenable to the appellate jurisdiction. For the purpose of this proceeding, it would not be appropriate for the Court to draw an exhaustive catalogue of the circumstances in which an order of the learned single Judge declining to even take note of a prayer for interim relief may result in an irreversible situation or irretrievable injustice that would affect valuable and substantive rights of a party to the lis. Ultimately; as the Supreme Court held in the decision in Central Mine Planning and Design Institute, ((2001) 2 SCC 588 : AIR 2001 SC 883), whether the order is a final determination affecting vital and valuable Tights and obligations of the parties concerned has to be ascertained on the facts of each case. Evidendy, there is a clear category of cases where an order is purely of a processual nature in aid of*

the final progression of a case and which neither determines nor has the effect Of determining vital and substantive rights as between the contesting parties. The test to be applied is whether the order of me learned single Judge has trappings of finality in the sense mat the consequenceof the order is to affect vital and valuable rights of the parties and to cause or work serious injustice to the party concerned. The judgments of the Supreme Court, leave it open to the appellate court to determine in the facts of each case whether these tests which have been laid down consistently for defining the ambit of the expression 'judgment', are fulfilled in the facts of each case. The judgment in Ghisai Ram Krishak Vidyalaya Samiti, (2015 (2) ALJ 163) cannot be read as taking away the discretion of the appellate court and its unquestioned jurisdiction to enquire into the maintainability of an appeal on the, tests which have been laid down by the Supreme Court."

61. This Court gainfully refers to a decision of the Apex Court in **Ram Kishan Fauji Vs. State of Haryana; (2017) 5 SCC 533** wherein principles relating to intra-court appeal were considered and it was observed as under:-

"that till a competent legislature takes away the power of the Letters Patent, the same can be exercised by the High Court. However, while exercising the power under the Letters Patent, it is imperative to see what is the nature of jurisdiction that has actually been provided in the Letters Patent. The exercise of jurisdiction has to be within the ambit and scope of the authority enshrined in the provision meant for intra-court appeal. While summarising the principles related to intra- court appeal as have been held in various pronouncements, the Hon'ble Apex Court concluded:

"42.1. An appeal shall lie from the judgment of a Single Judge to a Division Bench of the High Court if it is so permitted within the ambit and sweep of the Letters Patent.

2.2. The power conferred on the High Court by the Letters Patent can be abolished or curtailed by the competent legislature by bringing appropriate legislation.

42.3. A writ petition which assails the order of a civil court in the High Court has to be understood. in all circumstances, to be a challenge under Article 227 of the Constitution and determination by the High Court under the said article and, hence, no intra-court appeal is entertainable

42.4. The tenability of intra-court appeal will depend upon the Bench adjudicating the lis as to how it understands and appreciates the order passed by the learned Single Judge There cannot be a straitjacket formula for the same."

62. Significantly, this Court after it had reserved the present matter for judgment came across a three Judges Bench decision of the Apex Court in **Ajay Kumar Bhalla Vs. Prakash Kumar Dixit, 2024 SCC Online SC 1874** where a similar issue, as involved in the instant case, was considered.

63. To place the matter in a perspective, as seen from the facts of the case of **Ajay Kumar Bhalla (supra)**, it would reveal that the Division Bench of the Delhi High Court on 24th December, 2019 had issued certain directions directing the petitioner therein to be reinstated in service with all consequential benefits but without any back wages. It was also directed that the date of reinstatement would relate back to the date of the petitioner therein having been originally removed from service i.e. 06th July, 1995 for the purposes of pay fixation, seniority and all other consequential benefits and the consequential order was to be issued within eight weeks. Since it was not done, the petitioner before the Delhi High Court instituted a contempt proceedings and the Department promoted the petitioner therein to the rank of Deputy Commandant on notional post w.e.f. 17th October, 2001.

64. The learned Contempt Judge in the said case vide its order dated 02nd June, 2023 held that the petitioner in the contempt proceedings was entitled to all promotions till the rank of I.G. from 2021 till the date of his retirement. The learned Single Judge thereon proceeded to record that there was willful disobedience of the directions issued by the Division Bench and held the contemnor to be guilty of Contempt of Court for willful disobedience of the order passed by the Division Bench and then it went on to grant an opportunity of six weeks to the contemnor to issue fresh orders granting promotion to the petitioner (therein) to the rank of I.G. to bring him at par with his immediate junior as per merit-cum-seniority list at the point of appointment. It is in the aforesaid context that a Letters Patent

appeal came to be filed before the Division Bench of Delhi High Court which was dismissed on the ground that no contempt appeal under Section 19 of the Contempt of Courts Act, 1971 was maintainable as the learned Single Judge had not crystallized any right in favour of the respondents.

65. In the aforesaid backdrop, the Apex Court considered its earlier decision in **Midnapore (supra)** and held that an appeal under Section 19 of the Contempt of Courts Act, 1971 lies only against an order imposing punishment for contempt. The relevant portion of the said decision reads as under:-

“ The Division Bench has lost sight of this aspect. The Division Bench, in paragraph 52, noted the submission of the respondent that the judgment of the Single Judge should not be construed as crystallizing any right in favour of the respondent and should only be confined to the question as to whether the appellants herein had committed a willful disobedience of the order of the Division Bench dated 24 December 2019. The Division Bench accepted this submission and observed that “in view of our understanding of the impugned judgment, as noted above, the learned Single Judge has not decided any dispute regarding the rights and obligations of the parties” other than adjudicating on the issue of contempt. The judgment of the Division Bench lost sight of the fact that whether the appeal was maintainable would have to be construed on a plain reading of the judgment of the Single Judge. Two aspects were covered by the judgment of the Single Judge :

Firstly, a finding that the appellants were guilty of contempt of the order dated 24 December 2019; and

Secondly, that the respondent was entitled to promotion to the rank of IG.

The first aspect is not amenable to an appeal under Section 19 at the present stage. The finding that the respondent was entitled to promotion to the rank of IG would be amenable to an appeal in terms of the law laid down by this Court in Midnapore Peoples' Coop. Bank Ltd. (supra), more particularly in paragraph 11(V) which has been extracted above.”

66. Having noticed the legal position as derived from the cases referred to hereinabove, it would be relevant to note that when a matter comes before a Contempt Court dealing with a civil contempt then it has to look into and arrive at a prima facie satisfaction that the order passed by the writ

court has been complied with or not. If the Contempt Court is of the view that the order of the writ court has not been complied with then necessarily it will have to call upon the contemnor to show cause why he may not be punished for contempt of court and in course of such proceedings if it finds that the cause shown is not sufficient then it can proceed to frame charges and after affording an opportunity for hearing to the contemnor may move on to pass appropriate orders which may include punishing the contemnor for contempt or even pardon him. In case if the Contempt Court finds that the order passed by the writ court has been complied with, it has the power to drop the proceedings for contempt of court.

67. There may be a case where the compliance may not have been made in its true sense but nevertheless even while proceeding to punish for contempt, it is necessary for the Contempt Court to record a subjective satisfaction that the disobedience and non-compliance is willful and deliberate. Even if there is non-compliance but if it is not willful and deliberate then it may not necessarily culminate in a punishment order.

68. In a case where the Court finds that there is substantial compliance and it does not propose to proceed any further, even then at least a subjective prima facie satisfaction has to be recorded to drop the contempt proceedings. In such a situation, it cannot be gainfully said that the Contempt Court while dropping the proceedings has entered into the merits or has decided an issue before it.

69. The pith and substance of the aforesaid discussion, the legal principles involved and circumstances when an appeal may lie under

Section 19 of the Contempt of Courts Act, 1971 and when a Special Appeal may lie from an order passed in contempt jurisdiction can be summarized as under:-

(A) Section 19 (1) of the Contempt of Courts Act can be invoked only when the Contempt Court has exercised its jurisdiction to punish for contempt. The essence of this provision is to provide a remedy against decision where the court has taken a definitive action to penalize a contemnor. This includes orders that impose fines, imprisonment, or other punitive measures directly related to the contemptuous behavior. Interlocutory orders, which do not entail punishment for contempt, do not fall within the ambit of Section 19. Such orders may include directions to produce documents, file affidavits, or procedural directives necessary for the continuation of the contempt proceedings. These are routine judicial actions that facilitate the progress of the case but do not constitute a final determination on the issue of contempt. Routine orders passed during the pendency of contempt proceedings are also excluded from the scope of Section 19. These orders are typically procedural and administrative in nature, ensuring that the proceedings move forward without addressing the substantive issues of the original case or the merits of the contempt.

(B) The crux of the matter lies in the nuanced interpretation of what constitutes "merit" within the context of contempt proceedings, as referenced by the Supreme Court in the Midnapore Peoples Cooperative Bank Limited case. The term "merit" has not been defined in a *straight jacket* formula, leading to varying interpretations. However, a cumulative reading of the judgments provide clarity on several key aspects. In the Midnapore case, the Supreme Court held that in contempt

proceedings, it is inappropriate to adjudicate or decide any issue related to the merits of the dispute between the parties. This principle aims to ensure that contempt proceedings do not encroach upon the substantive rights of the parties involved in the original dispute. The focus of contempt jurisdiction is to uphold the dignity and authority of the court, not to resolve the underlying dispute. The term "merit" in this context refers to the substantive issues of the original case that led to the contempt proceedings. It encompasses the core legal and factual questions that were or are being contested in the original litigation.

(C) Special appeals from the order or judgment of a single judge bench in contempt cases hinge on the distinction between addressing the merits of the original dispute and the conduct constituting contempt. The primary responsibility of the Contempt Court is to determine whether contempt has occurred and to impose appropriate sanctions if it has. The merits of the original controversy are outside the domain of the contempt court. However, when the Contempt Court issues directions or discusses the merits of the original controversy, it oversteps its jurisdiction. In such cases, a special appeal would lie to the High Court. This ensures that the original substantive issues are not inadvertently decided within the limited scope of contempt proceedings, preserving the parties' rights to a fair adjudication of their dispute.

(D) The interpretation of each case depends on its specific facts and circumstances. Courts must carefully distinguish between orders that address the procedural aspects of contempt proceedings and those that encroach upon the substantive issues of the original case. This distinction is crucial to maintaining the integrity of contempt jurisdiction and ensuring that appeals under Section 19 of the Act of 1971 are appropriately limited to cases where punitive action for contempt has been taken.

Thus, Special appeals in contempt cases are warranted only when the Contempt Court oversteps its jurisdiction by addressing the merits of the original dispute, ensuring that the substantive rights of the parties are protected. The interpretation of each case must consider the specific facts and circumstances to uphold the integrity of contempt jurisdiction and provide appropriate remedies for aggrieved parties.

70. If the impugned order is now tested on the anvil of the principles summarized above then it would reveal that the Contempt Court vide order impugned has neither touched the merit nor has decided any issue and it has not made any direction relating to the merits of the disputes between the parties. Hence, it cannot be canvassed that the Contempt Court overstepped its jurisdiction.
71. Thus, in the aforesaid facts and circumstances, this Court is of the firm view that the intra-court appeal is not maintainable. Accordingly, it is *dismissed*. There shall be no order as to costs.

Order Date :-29th August, 2024

Asheesh

(Jaspreet Singh, J.) (Arun Bhansali, CJ.)