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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 10.05.2024*

\+ **LPA 157/2024 and CM Nos.11372/2024 and 11373/2024**

AJAY KUMAR BHALLA & ORS. ..... Appellants

Through: Mr Harish Vaidyanathan Shankar, CGSC with Mr Srish Kumar Mishra, Mr Alexander Mathai Paikaday, Advocates.

versus

PRAKASH KUMAR DIXIT ..... Respondent

Through: Mr Sanjoy Ghose, Senior Advocate with Mr Anand Shankar Jha, Mr Arpit Gupta, Mr Sachin Mintri, Ms. Meenakshi S. Devgan, Mr Abhilekh Jiwari, Mr Girish Bhardwaj, Mr Parvez Rehman and Mr Rohan Mandal, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE TARA VITASTA GANJU

VIBHU BAKHRU, J. (*Oral*)

1. The appellants have filed the present appeal impugning a judgment dated 02.06.2023 passed by the learned Single Judge in CONT.CAS(C) 198/2020 (hereafter *the impugned judgement)* whereby, the learned Single Judge had found that the appellants had willfully violated the judgment dated 24.12.2019 passed by a Division Bench of this Court in W.P.(C) 1525/2019.

2. The respondent contends that the present appeal is not maintainable.

According to the respondent, no appeal lies against an order passed in contempt proceedings, which does not impose a punishment.

3. Before addressing the said question, it would be relevant to briefly note the context in which the present appeal arises.

4. The respondent was an Assistant Commandant, CRPF, and at the material time was placed at the 4th position in the original merit *cum* seniority list. Disciplinary proceedings were initiated against the respondent, and on 06.09.1989, a Memorandum of Charges were issued to the respondent. The inquiry lasted six years and on 10.07.1995, the respondent was inflicted a major penalty of "Removal from Service." The respondent preferred a departmental appeal and then challenged the order of his removal before the High Court of Madhya Pradesh at Indore. By an order dated 05.07.2011, the order removing the respondent from service was set aside and the matter was remanded to the disciplinary authority to pass a fresh order after hearing the respondent. Thereafter, on 30.11.2012, the Division Bench of the High Court of Madhya Pradesh at Indore set aside the order of punishment dated 10.07.1995 and directed that the respondent be reinstated.

5. The appellant preferred a Special Leave Petition before the Supreme Court (SLP No.24890-24891/2013), which was dismissed. However, no immediate steps were taken for reinstatement of the respondent. Subsequently, on 12.08.2015, a reinstatement order was passed and the respondent was treated under suspension with effect from 10.07.1995.

6. The respondent was again removed from service on 16.10.2018.

7. The respondent preferred the writ petition being W.P.(C) 1525/2019. The said petition was allowed on 24.12.2019 by a Coordinate Bench of this Court and the court issued the following directions:

> "35. Consequently, the Petitioner is directed to be forthwith reinstated in service, with all consequential benefits, but without any back wages. The date of reinstatement will relate back to the date of his having been originally removed from service i.e. 10th July 1995, for the purposes of pay fixation, seniority and all other consequential benefits including promotions. The consequential orders by way of implementation of this judgment be issued not later than 8 weeks from today."

8. The appellants appealed the aforementioned judgment dated 24.12.2019 before the Supreme Court, seeking a leave to appeal the said order, which was allowed. The Supreme Court disposed of the appeal (Civil Appeal No.3970/2020) by an order dated 07.12.2020, expressly directing – "*compliance with the judgment and order of the High Court be effected within three months from today*".

9. In terms of the said order, the reinstatement of the respondent was approved and the penalty imposed on the respondent was replaced by a minor penalty as directed in terms of the judgment dated 24.12.2019.

10. The appellants issued a reinstatement order dated 08.03.2021 imposing a minor penalty with effect from the said date, that is, on 08.03.2021. The respondent re-joined CRPF on 16.03.2021.

11. It is the respondent's case that issuing a reinstatement order imposing a minor penalty with effect from 08.03.2021 instead of 10.07.1995 – when the major penalty was originally imposed – was in willful disobedience of the orders passed by the Division Bench of this Court and as confirmed by the Supreme Court in its order dated 07.12.2020.

12. The respondent preferred a contempt petition [CONT.CAS(C) 198/2020] from which the present proceedings emanate.

13. The said contempt petition was listed on 06.09.2022 before the learned Single Judge and the learned Single Judge observed that, *prima facie*, there was merit in the contention that the minor penalty must relate back to the date on which the petitioner was removed from service – that is to 10.07.1995 – and not from the date on which the reinstatement order dated 08.03.2021 was issued.

14. It is also the respondent's case that compliance with the judgment dated 24.12.2019 would also entail granting promotions, to which he was entitled. In this regard, the appellant filed affidavits on 02.11.2022 and 01.02.2023 disputing the said contention.

15. Thereafter, on 10.03.2023, the appellants issued another reinstatement order. This time, the minor penalty of reduction to a lower stage in time scale by one stage for the period not exceeding three years was imposed with effect from 16.10.2018.

16. The learned Single Judge considered the aforesaid contentions and by the impugned judgment found that the appellant had acted in willful

disobedience of the directions issued by the Division Bench of this Court as contained in Paragraph no. 35 of the judgment dated 24.12.2019, as set out above.

17. The appellant preferred a Contempt Appeal against the said decision [being CONT.APP.(C)35/2023]. The said appeal was listed before a Vacation Bench on 14.06.2023 and the Vacation Bench passed an order staying the operation in effect of the impugned judgment till the next date of hearing.

18. The appeal was, thereafter, listed on 07.07.2023 and the parties sought time to file their written submissions. It was again listed on 05.10.2023, but was adjourned at the request of the learned counsel for the appellants. The appeal was listed on 15.01.2024 and on that date, the appellants contested the said appeal as not maintainable in light of the Supreme Court in ***D.N. Taneja v. Bhajan Lal: (1988) 3 SCC 26***. The learned counsel appearing for the appellants sought time to examine the said judgment.

19. On the next date of hearing, that is, on 13.02.2024, the appellants withdrew the said appeal. The order dated 13.02.2024 in CONT.APP.(C)35/2023 is set out below:-

> "1. On January 15, 2024, this Court had passed the following order:-
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> > *"1. Issue of maintainability of the appeal has been raised by the court. Mr. Harish Vaidyananthan Shankar, CGSC seeks some time to look into the judgment in the case of D.N Taneja vs. Bhajan Lal 1988 3 SCC 26.*

2. List on February 13, 2024."

2. Mr. Vaidyananthan states, in view of the limited order passed by the learned Single Judge, under instructions he intends to withdraw the appeal as the appellant intends to seek such remedy as available in law.

3. Accordingly, the petition is dismissed as withdrawn with liberty as above in accordance with law."

20. However, thereafter, the appellants filed the present appeal under Clause 10 of the Letters Patent Appeal.

Rival contentions

21. Mr Vaidyanathan, learned counsel appearing for the appellants submitted that although, a contempt appeal may not be maintainable, but a Letters Patent Appeal (LPA) is maintainable.

22. Mr Ghose, learned senior counsel appearing for the respondent, countered the aforesaid submission. He referred to the decision of ***D.N. Taneja v. Bhajan Lal*** (*supra*) and drew the attention of this Court to Paragraph Nos. 11 and 12 of the said decision. The same are reproduced below for ready reference:-

"11. It does not, however, mean that when the High Court erroneously acquits a contemnor guilty of criminal contempt, the petitioner who is interested in maintaining the dignity of the court will be without any remedy. Even though no appeal is maintainable under Section 19(1) of the Act, the petitioner in such a case can move this Court under Article 136 of the Constitution. Therefore, the contention, as advanced on behalf of the appellant, that there would be no remedy against the erroneous or perverse decision of the

> High Court in not exercising its jurisdiction to punish for contempt, is not correct. But, in such a case there would be no right of appeal under Section 19(1), as there is no exercise of jurisdiction or power by the High Court to punish for contempt. The view which we take finds support from a decision of this Court in Baradakanta Mishra v. Justice Gatikrushna Mishra [(1975) 3 SCC 535 : 1975 SCC (Cri) 99: AIR 1974 SC 2255 : 1975 Cri LJ 1 : (1975) 1 SCR 524] .
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> 12. Right of appeal is a creature of the statute and the question whether there is a right of appeal or not will have to be considered on an interpretation of the provision of the statute and not on the ground of propriety or any other consideration. In this connection, it may be noticed that there was no right of appeal under the Contempt of Courts Act, 1952. It is for the first time that under Section 19(1) of the Act, a right of appeal has been provided for. A contempt is a matter between the court and the alleged contemnor. Any person who moves the machinery of the court for contempt only brings to the notice of the court certain facts constituting contempt of court. After furnishing such information he may still assist the court, but it must always be borne in mind that in a contempt proceeding there are only two parties, namely, the court and the contemnor It may be one of the reasons which weighed with the legislature in not conferring any right of appeal on the petitioner for contempt. The aggrieved party under Section 19(1) can only be the contemnor who has been punished for contempt of court."

23. He contended that an appeal against an order finding a party in contempt would not be appealable until a punishment is imposed. He contended that the power to punish for contempt would in one sense be criminal proceedings and therefore, an LPA against an order would not lie. He referred to the decision of the Supreme court in ***CIT v. Ishwarlal***

Bhagwandas: (1966) 1 SCR 190 and contended that given the nature of proceedings for contempt of court, and the possible consequences, the same must be construed as proceedings in criminal jurisdiction.

24. Mr Ghose also referred to the decision of the Supreme Court in ***Ram Kishan Fauji v. State of Haryana & Ors.: 2017 SCC OnLine SC 259*** in support of his contention that the appeal would not lie against an order that is in exercise of criminal jurisdiction.

25. He also referred to the decision of the Full Bench of this Court in ***C.S. Aggarwal v. State & Anr.: 2011 SCC Online Del 194*** whereby, this Court had held that an LPA would not be maintainable against writ petitions invoking criminal jurisdiction. He submitted that although *stricto sensu* contempt proceedings may not be considered as proceedings in exercise of criminal jurisdiction, but considering the consequences of punishment that could follow, the said principles would be applicable.

26. Mr Harish Vaidyanathan countered the aforesaid contentions. He submitted that the Contempt of Courts Act, 1971 expressly differentiates between civil and criminal contempt. He referred to Sections 2(b) and 2(c) of the Contempt of Courts Act, 1971, which define the expressions 'civil contempt' and 'criminal contempt'. He submitted that wilful disobedience of the judgement, decree or direction would be civil contempt and therefore, any order passed in proceedings for wilful disobedience of the orders of the court are in exercise of civil jurisdiction. He submitted that the decision in the case of ***D.N. Taneja v. Bhajan Lal*** (*supra*) would, thus, be inapplicable in case of civil contempt.

27. Mr Vaidyanathan also referred to the decision of Supreme Court in ***Midnapore Peoples' Cooperation Bank Ltd. & Ors. v. Chunilal Nanda & Ors.: (2006) 5 SCC 399.*** He relied on Paragraph no. 11 of the said decision. He drew the attention of this Court to Sub-paragraph (V) of the said decision and submitted that an appeal would be maintainable as the observations made by the learned Single Judge in the impugned judgment also relate to the merits of the dispute and are not confined to the question of contempt alone. He submitted that since the learned Single Judge had proceeded to examine the merits of the disputes, it would be open for the appellants to challenge the same. He earnestly contended that the observations made by the learned Single Judge in the impugned judgment were not confined to the question whether the appellants had wilfully violated the orders of the court but had proceeded further to adjudicate the rights between the parties. In particular, he drew the attention of the Court to Paragraph no. 41 of the said decision and submitted that the same entailed specific directions to issue fresh orders granting promotion to the respondent to the rank of IG so as to bring him at par with his immediate junior.

28. He submitted that the directions issued by the learned Single Judge are in respect of merits of a dispute and not confined to the question of contempt.

Reasons and Conclusion

29. We have heard the learned counsel for the parties.

30. As noted above, Mr Vaidyanathan had founded his contention that the present appeal is maintainable on the observations made by the Supreme Court in Sub-paragraph (V) of Paragraph no. 11 of the decision in ***Midnapore Peoples' Cooperation Bank Ltd. and Ors. v. Chunilal Nanda and Ors.*** (*Supra*). The Supreme Court had referred to earlier decisions and summarised the law in respect of appeals from orders in contempt proceedings, 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.
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> *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.
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> *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.
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> *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).
> The first point is answered accordingly."

31. Thus, the first and foremost question to be examined is whether the learned Single Judge had decided any question or issued any directions, on the merits of a dispute between the parties, or decided any matter other than the question whether the appellants had wilfully violated the orders passed by the court and were guilty of contempt of court.

32. The learned Single Judge had heard the parties in regard to the allegation of contempt, and for the purposes of addressing the question whether the appellants had wilfully violated the judgment dated 24.12.2019, analysed the scope of the directions so issued.

33. The first issue considered by the learned Single Judge was regarding the relevant date of imposition of minor penalty as determined by the Division Bench of this Court. According to the appellants, no such directions were issued. However, according to the respondents, the Division Bench had clearly indicated that the minor penalty would be effective from 10.07.1995 and issued express directions that reinstatement would relate back to the date on which the respondent was originally removed from service – 10.07.1995. For the purposes of examining the same, the Court also considered the history of the disputes and concluded that imposition of penalty with effect from 16.10.2018 was contrary to the directions issued by the Division Bench as well as contrary to the contents of the earlier presidential orders relied upon by the appellants. It is apparent that the observations made by the Court are solely in context of the appellants' contention that there was no wilful disobedience of the order of the Court.

34. It is obvious that the import of the order, which is alleged to have been violated, has to be necessarily examined for determining whether the same was wilfully disobeyed. In our view, the learned Single has done precisely that. It is in that context that the learned Single Judge has examined the question whether the respondent was entitled to promotions in terms of the directions issued by the Division Bench in its judgment dated 24.12.2019.

35. It is material to note that it was the respondent's case that the directions issued by the Division Bench expressly protected his rights

regarding promotions. There is no cavil that the Division Bench had expressly directed that "the date of the respondent's reinstatement will relate back to the date of his having been originally removed from service, that is, 10.07.1995, "*for the purposes of pay fixation, seniority and all other consequential benefits underlying, including promotions*." The observations made by the Division Bench regarding the respondent's entitlement to promotion are clearly for the purposes of considering whether the said direction was violated.

36. The learned Single Judge considered the rival contentions and held that the appellants were obligated to grant notional promotion to the respondent to the post held by his immediate junior. The learned Single Judge further observed that neither the appellants nor the court in exercise of jurisdiction in contempt could evaluate the right of the respondent to be granted notional promotion. Paragraph 33 of the impugned judgment is relevant and is reproduced herein below:-

> "33. This Court is of the opinion that neither the Respondent(s) nor this Court in the exercise of its jurisdiction in the contempt petition can evaluate the right of the Petitioner to be granted the notional promotion, which has already been directed to be granted by the Division Bench vide judgment dated 24.12.2019. The Respondent(s) do not have any discretion in this matter and as directed by the Division Bench at paragraph 35 of the judgment dated 24.12.2019, the Respondent(s) only had to issue consequential directions to implement the judgment. Even, presently, since the Petitioner has superannuated on 31.03.2023, the grant of promotion to the Petitioner would only be notional and would have bearing on his rank, the pay fixation, seniority, subsistence allowance and the

consequential benefits."

37. In view of the above, we are unable to accept the contention that the learned Single Judge has embarked upon a fresh adjudication of a dispute that was not central to the question whether the appellants had wilfully disobeyed the judgment dated 24.12.2019 passed by the Division Bench of this Court. The learned Single Judge's analysis of the rival contentions is in the context of ascertaining whether the appellants had wilfully disobeyed the directions issued by the Division Bench on 24.12.2019.

38. Insofar as the reference to Paragraph no. 41 is concerned, it is apparent that the Court has granted an opportunity to the appellants to take steps to mitigate their offending acts, by issuing a fresh order, granting promotion. Paragraph 41 of the impugned judgment must necessarily be read in context of Paragraph 40 of the said decision. The same are set out below:-

> "40. This Court accordingly holds the Inspector General of Police (Pers.) and DIG (Pers), who held office as on 22.03.2023, guilty of Contempt of Court under Section 2 (b) of the Contempt of Courts Act, 1971 for willful disobedience of the directions issued by the Division Bench at paragraph 34 and 35 in judgment dated 24.12.2019.
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> 41. This Court, however, grants an opportunity of six (6) weeks to the aforesaid Contemnors to issue a fresh order granting promotion to the Petitioner to the rank of IG to bring him at par with his immediate junior as per the merit cum seniority list at the time of the appointment"

39. In our view, Paragraph No. 41 of the impugned judgement cannot be read in isolation as deciding any additional issue or issuing any further directions. It only grants the appellants/contemnors an opportunity to issue fresh orders after the Court had concluded that the appellants were guilty of wilful disobedience of the order dated 24.12.2019.

40. The appellants' contention that an additional matter has been decided by the learned Single Judge and therefore, an appeal is maintainable in terms of Paragraph No. 11(V) of the decision of the Supreme Court in ***Midnapore Peoples' Cooperation Bank Ltd. and Ors. v. Chunilal Nanda and Ors.*** (*supra*) is addressed by the aforesaid clarification that the learned Single Judge has not decided – and it could not decide – any issue outside the scope of the contempt petition.

41. The second question to be considered is whether an appeal under Clause 10 of the Letters Patent Appeal is maintainable in respect of an order passed in contempt proceedings notwithstanding, the remedy under the Contempt of Courts Act, 1971. Section 19 of the Contempt of Courts Act 1971 provides the statutory remedy from any order or decision of the High Court in exercise of the jurisdiction to punish for contempt. Section 19(1) of the Contempt of Courts Act, 1971 is set out below:-

> "19. Appeals.—(1) An appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt— (a) where the order or decision is that of a single judge, to a Bench of not less than two judges of the Court; (b) where the order or decision is that of a Bench, to the Supreme Court: Provided that where the order or decision is that of the Court of the Judicial

> Commissioner in any Union territory, such appeal shall lie to the Supreme Court."

42. Concededly, an appeal under Section 19 of the Contempt of Courts Act, 1971 is not maintainable against the impugned judgment. As discussed above, the learned Single Judge has not passed any order adjudicating the merits of any dispute between the parties, which would entitle the appellants additional remedies as contemplated under Paragraph no. 11(V) of the decision in ***Midnapore Peoples' Cooperation Bank Ltd. and Ors. v. Chunilal Nanda and Ors.*** (*supra*).

43. It is also apparent that Section 19 of the Contempt of Courts Act, 1971 does not make any distinction between a 'civil contempt' or a 'criminal contempt'.

44. We are unable to accept that the appellants have an additional remedy under the Letters Patent Appeal in respect of matters in regard to which statutory remedies are provided. It is settled law that there is no inherent right of appeal. The same is a matter of statutory prescription. If a statute circumscribes the scope of an appeal, the appellate remedies must necessarily be exercised within the said contours. The appellants have a statutory right of an appeal under Section 19 of the Contempt of Courts Act, 1971 *albeit* only in respect of an order imposing punishment. Thus, the present appeal is premature.

45. It is also clear that the appellants had realised the same and had withdrawn their earlier appeal as filed under Section 19 of the Contempt of Courts Act, 1971.

46. We are unable to accept that a recourse to Clause 10 of the Letters Patent Appeal is available where the Legislature has enacted comprehensive provisions covering the appellate remedies. The parliament has in its wisdom, restricted the right of appeal in contempt proceedings only against a decision regarding punishment for contempt. It would be contrary to the legislative intent to permit an appeal against other orders. The statutory space in respect of appeals against orders passed in contempt proceedings is fully occupied by Section 19 of the Contempt of Courts Act, 1971.

47. In ***Dolly Kapoor & Anr. v. Sher Singh Yadav & Ors.: 2012 SCC OnLine Del 1228***, this Court has considered the maintainability of an intra court appeal under Article 227 of the Constitution of India against an order of the learned Single Judge dismissing a contempt petition. In the aforesaid context, this Court held that an appeal to a Division Bench against an order of a Single Judge would lie only when the order is a punishment for contempt and not an order declining to initiate contempt proceedings. The Court held that the Contempt of Courts Act, 1971 was a self-contained code and therefore, the provisions of a Letters Patent Appeal could not be invoked to maintain an appeal, which was unavailable under the statute. The relevant extract of the said decision is set out below:

> "3. We are however unable to agree. It has been held in ***Fuerst Day Lawson Vs. Jindal Exports Ltd.*** JT (2011) 7 SC 469 that where a special self contained statute, as the Arbitration Act in that case, does not provide for Intra-Court appeal, the provision of Letters Patent cannot be invoked to negate the statute to

> maintain such appeal. It was further held that a right of an appeal under the Letters Patent can be taken away by an express provision in an appropriate legislation – the express provision need not refer to Letters Patent; but if on a reading of the provision it is clear that all further appeals are barred, then even Letters Patent would be barred. We are of the view that the Contempt of Courts Act, 1971 promulgated to "define and limit the powers of certain Courts in punishing contempts of Court and to regulate their procedure in relation thereto" is a self contained Code and the same having provided for appeal only against order of punishment for contempt and not against the order refusing to issue notice of contempt has taken away the right if any of appeal under the Letters Patent."

48. In ***Kundan Ram and etc. v. Darshan and etc.: 1994 SCC OnLine HP 75***, the Himachal Pradesh High Court had rejected the contention that an LPA would lie in respect of the orders that were not expressly appealable under Section 19(1) of the Contempt of Courts Act, 1971. The relevant observations of the Himachal Pradesh High Court are set out below:

> "20. While enacting Section 9 of the Act, the legislature very well knew that Letters Patent Appeal was available against the judgment of single Judge of High Court. However, no exception was made under Section 19(1) of the Act covering the cases against which appeal was not specifically provided under Section 19(1) of the Act. This conscious omission plainly demonstrates that except in circumstances falling under Section 19(1) of the Act, no remedy of appeal was made available under the Letters Patent. There is a sound rationale behind it. The right of appeal has been restricted under Section 19(1) of the Act only to cases where an order of punishment has

> been passed in exercise of contempt jurisdiction and not in cases where the Court declines to do so preventing the informer from initiating vexatious litigation and pursuing the same against its opponent despite the single Judge of the High Court declining to exercise contempt jurisdiction, either by not issuing the process at all or by not punishing the contemner, in his discretion after having been found guilty of committing the contempt. In our considered opinion, principle behind the exclusion of appeal is available to both civil and criminal contempt and decisions attempting to make this kind of distinction, with respect, have not correctly understood why remedy of appeal has not been provided in cases falling outside the purview of Section 19(1) of the Act nor this question was strictly raised in those decisions.
>
> 21. Accordingly, we hold that appeals are maintainable only to the extent expressly provided under Section 19(1) of the Act and in no other case. Therefore, no appeal would be available in the circumstances (a) and (b) framed in these cases. Remedy of appeal under the Letters Patent would not lie since it has not been saved by the legislature while enacting Section 19(1) of the Act. Hence, these appeals are not maintainable and are, therefore, dismissed. No costs."

49. We also find Mr Ghose's contention that given the nature of contempt proceedings, Clause 10 of Letters Patent Appeal is inapplicable, persuasive. Although, there may be a distinction between 'civil contempt' and 'criminal contempt.' In essence the order of punishment for contempt manifests in the imposition of imprisonment or penalty. In ***CIT v. Ishwarlal Bhagwandas*** (*supra*), the Supreme Court has explained the meaning of the expression criminal proceedings as under:

> "8. … A criminal proceeding on the other hand is ordinarily one in which if carried to its conclusion it may result in the imposition of sentences such as death, imprisonment, fine or forfeiture of property. It also includes proceedings in which in the larger interest of the State, orders to prevent apprehended breach of the peace, orders to bind down persons who are a danger to the maintenance of peace and order, or orders aimed at preventing vagrancy are contemplated to be passed."

In a later decision in ***Ram Kishan Fauji v. State of Haryana and Ors.*** (*supra*), the Supreme Court had referred to the aforesaid observations and held that the LPA would not lie against an order passed by the Single Judge under Article 226 of the Constitution of India quashing the recommendations of the Lokayukta for launching a prosecution as well as the FIR registered pursuant to the said recommendations. The power to punish for contempt is derived from Article 215 of Constitution of India, which provides that "every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself."

50. It is also well settled that in such proceedings an order finding a person guilty is inchoate till a punishment is awarded. The provisions of Contempt of Courts Act, 1971 are structured to provide the consequences for committing contempt of court. The orders passed in that sense would be complete only after the final decision is rendered, which would be after the court decides on the sentencing, having found the party guilty of contempt.

51. Before concluding, we may also note that during the course of proceedings, Mr Vaidyanathan has sought time to take instructions whether

a clarification to the effect that the observation made in the impugned judgment are not to be construed as adjudicating any rights of the respondent other than examining whether there has been any wilful disobedience of the order of the Court, would suffice.

52. He submitted that if the observations made by the Court in the impugned judgment are not construed as crystalising any rights in favour of the respondent and are only read as confined to the question whether the appellants have committed any wilful disobedience of the order of the Court, the appellants would be satisfied.

53. 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 whether the appellants had committed contempt of court. All observations made by the learned Single Judge must be read only for the purposes of determining whether the appellants had wilfully violated the judgment dated 24.12.2019 issued by this Court.

54. The appeal is, accordingly, dismissed as not maintainable. All pending applications are also disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 10, 2024
RK