

Satish Lodhi vs The State Of Madhya Pradesh on 20 July, 2011

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HIGH COURT OF MADHYA PRADESH : JABALPUR

SINGLE BENCH: J.K. MAHESHWARI, J.

MISCELLANEOUS CRIMINAL CASE NO.2214 OF 2011

Satish Lodhi

vs

State of M.P. through P.S. Madan Mahal ,
District Jabalpur

PRESENT :

For applicant	: Shri V.P.Singh, Advocate
For non-applicant	: Shri Pushpendra Kaurav, Dy. Advocate General and Shri Umesh Pandey, Government Advocate

ORDER

(20/07/2011) In this case while considering I.A. No.10860/2011 for withdrawal of the bail application of applicant- Satish Babu Lodhi, it was found from the record of the attached bail petition of the co-accused Javed Ahmed Khan (M.Cr.C. No.4767/2011) that he has already been enlarged on bail by the Trial Court vide order dated 18.5.2011 though his bail application was dismissed by this Court on 26.11.2010 (M.Cr.C. No.10417/2010). In the said IA, it is mentioned that since now the applicant has engaged another counsel for filing and arguing the application on his behalf, therefore, the counsel want to withdraw the present petition. Considering the aforesaid, on 5.7.2011 Mr. Pushpendra Kaurav, learned Dy. Advocate General who had appeared in earlier bail petitions was requested to assist the Court. On 7.7.2011 Mr. Kaurav has informed that not only the applicant but two other accused persons, namely, Anil Kumar Gupta and Dr. Jyotsana Pare have been enlarged on bail by the Trial Court even after rejection of their bail by this Court. However, on 7.7.2011 Registrar (Judicial) was directed to requisition the record of the trial on same day on or before 4.00 P.M. On receiving the record, the parties were heard at length.

2. The facts of the case are that the offence under Sections 420, 467, 468, 471, 120-B, 406, 409 read with Section 34 of IPC was registered at Crime No.271/2010 by Police Station Madan Mahal, Jabalpur wherein total number of accused persons are thirteen. Ten accused persons have surrendered and against them challan has already been filed, those are Kshitij Dubey, Amol Sheorey, Vikas Saxena, Firdaus @ Smt. Shikha, Wahid Siddique, Javed Ahmad Khan, Dr. Jyotsana Pare, Anil Kumar Gupta, Ajay Pandey and Satish Babu Lodhi. Three accused persons, namely, Azhar Siraj, B.D. Vairagi and Smt. Sarika Naik Dubey are absconding. After going through the report of bulky charge-sheet, the gist of the prosecution story is that on having received information about the

clearance of cheque of Rs.50.00 lacs from Axis Bank, Napier Town, Jabalpur, the Income Tax Department conducted a raid in the said Bank. While interception preliminary investigation was done, wherein it was found that there is a possibility of misappropriation of the amount of Rs.50.00 crore by the Axis Bank. As per the prosecution narration, co-accused Kshitij Dubey, Dy. Manager of the Axis Bank of the said Branch has been alleged as the king-pin of the said incident, however the FIR was lodged by the co-accused Amol Sheorey in the Police Station Madan Mahal, Jabalpur on 22.8.2010. On registration of the offence, investigation relating to the misappropriation of the huge amount of public money was conducted wherein the aforementioned persons were found to be allegedly involved and the clouds are also against some other persons against whom further investigation under Section 173 sub clause (8) of Cr.P.C. is pending. The nine accused persons have filed their bail petitions under Section 439 of Cr.P.C. which were analogously heard by this Court on 26.11.2010. The description of the accused persons, bail petition numbers and the result thereof is specified in the tabular form as thus:-

S.No.	Bail petition No.	Name of accused	Result
1	M.Cr.C. No. 9390/ 2010	Firdos @ Shikha	After arguments dismissed as not pressed with liberty to renew the prayer after six months.
3	M.Cr.C. No. 9557/ 2010	Dr. Jyotsana Pare	After arguments dismissed as not pressed with liberty to renew the prayer after six months.
5	M.Cr.C. No. 9772/ 2010	Anil Kumar Gupta	After arguments dismissed as not pressed.
6	M.Cr.C. No. 10417/ 2010	Satish Babu Lodhi	After arguments dismissed as not pressed.
7	M.Cr.C. No. 10534/ 2010	Ajay Pandey	After arguments dismissed as not pressed.
8	M.Cr.C. No.11123/ 2010	Wahid Siddiqui	After arguments dismissed as not pressed.
9	M.Cr.C. No. 9565/ 2010	Javed Ahmad Khan	After arguments dismissed as not pressed.

3. That the bail petition of B.D. Bairagi under Section 438 of Cr.P.C. (M.Cr.C. No.9356/2010) was also dismissed on 26.11.2010 for want of prosecution as none appeared on his behalf.

4. Shri Pushpendra Kaurav, learned Dy. Advocate General with Shri Umesh Pandey, learned Government Advocate present in the Court on 7.7.2011 contended that the bail applications of accused Amol Sheorey and Vikas Saxena were allowed, while the bail applications of other accused persons, namely, Firdaus @ Smt. Shikha, Wahid Siddique, Javed Ahmad Khan, Dr. Jyotsana Pare, Anil Kumar Gupta, Ajay Pandey, Satish Babu Lodhi heard analogously which were rejected on the same day i.e. 26.11.2010. Out of them, three accused persons, namely, Satish Babu Lodhi, Anil Kumar Gupta and Dr. Jyotsana Pare have been enlarged on bail by the Trial Court even having knowledge of rejection of their bail by the High Court. It is further contended that the Trial Court while granting them bail observed that they are having parity with the cases of Amol Sheorey, Vikas Saxena, Firdaus @ Smt. Shikha and Wahid Siddiqui. In fact, no parity exist on facts, otherwise this Court would not have rejected their bail petitions on 26.11.2010 itself. As per the bail orders of Amol Sheorey and Vikas Saxena, they committed procedural irregularities as appeared from the report submitted by Mr. P. Nataraj, Vice President, Internal Audit Department, Central Office, Mumbai, which may amount to commission of the offence is required to be examined during investigation or trial. This Court further observed that no recoveries were made from them, however not found beneficiary of the alleged disbursed amount. In the said context, they were granted bail whereas Dr. Jyotsana Pare was found to be allegedly involved with the main accused Kshitij Dubey and out of the cheque clearance of Rs.50.00 lacs, some of the amount was recovered from her own account as well as the account of her relatives. In the case Anil Kumar Gupta, he was found to be a mediator in between the king-pin officer of the Axix Bank with call details with one Javed Ahmed Khan. It has also come on record that Anil Kumar Gupta has taken Rs.1.00 lac from Dr. Jyotsana Pare from the amount received by her through Bank account. Co-accused Satish Babu Lodhi is the employee of Axix Bank at Damoh and he has been found to be non- functional Director of the forged company incorporated with the connivance of the accused- Kshitij Dubey and his wife, namely, Smt Sarika Naik Dubey in the name of M/s Horizon Techno Private Limited. As per the record, the amount of Rs.10.00 lacs has been transferred in the account of the said company in the knowledge of Satish Babu Lodhi. In the case of Dr Jyotsana Pare being lady it was directed that she may renew the prayer after six months. It is also contended that co-accused Firdaus @ Smt. Shikha and Wahid Siddiqui were granted bail by this Court as per order dated 15.4.2011 passed in Criminal Revision No.1814/2010 extending the benefit of Section 167(2) of Cr.P.C. on account of not filing the challan within sixty days. Thus there is no parity, as observed by the Trial Court, while granting them bail. It was brought to the notice of this Court that as per the notification dated 4.6.2010 issued by the Law Department, one Vijay Singh Parihar has been appointed as a Special Prosecutor for the cases relating to economic offences at Jabalpur. The said notification was sent to the Sessions Judge, Jabalpur, however ignoring the notification and hearing one Uday Cholkar, the Trial Court granted them bail. Considering the aforesaid, vide order dated 7.7.2011 comments from the Ist Additional Sessions Judge, Jabalpur through District & Sessions Judge were sought. Simultaneously the explanation of Vijay Singh Parihar through Law Department was also sought. The issues upon which the explanations were called for are as under:-

i. Accused Anil Kumar Gupta has filed second bail application on 28.02.2011 before the trial Court attaching a copy of the bail rejection order passed by this Court dated 26.11.2010 in M.Cr.C. No. No.9772/2010, however under what circumstances the Court has assumed the jurisdiction to entertain his bail application and to enlarge him on bail.

ii. The bail application (M.Cr.C. No.10417/2010) of Satish Lodhi was dismissed by this Court on 26.11.2010, copy thereof was sent by the Registry on 31.12.2010 to the Sessions Judge, Jabalpur. However, merely mentioning of non-

pendency of the bail application and non-

rejection by the High Court under what circumstances his bail application has been entertained by the learned First Additional Sessions Judge assuming the jurisdiction to enlarge him on bail.

iii. The bail petition (M.Cr.C.No.9557/2010) of accused Dr.Jyotsana Pare was dismissed by this Court on 26.11.2010 after arguments with liberty to renew after six months. She has filed three other bail applications i.e. M.Cr.C. No.1106/2011, M.Cr.C. No.2514/2011 and M.Cr.C. No.3394/2011 which were also dismissed by this Court vide orders dated 14.2.2011, 7.3.2011 and 20.4.2011 respectively. In the order dated 20.4.2011 passed by this Court it was specifically directed that the applicant may file fresh petition after 26th of May, 2011 in view of the order dated 26.11.2010 passed in M.Cr.C. No.9557/2010.

Thus having the knowledge of rejection of M.Cr.C. No.9557/2010 by this Court, how the learned First Additional Sessions Judge has assumed the jurisdiction to entertain her bail application and to enlarge her on bail prior to the period of six months.

iv. It be also explained that to prosecute the cases of EOW in Court, Mr. Vijay Singh Parihar has been assigned the power of Special Prosecutor as per the notification issued by the Law Department dated 4.6.2010 but without hearing him as revealed from the order-sheets how the bail applications of these three accused persons have been allowed.

v. It be also explained by the learned First Additional Sessions Judge that how the parity exists to the above said three accused persons with the case of Amol Sheorey and Vikas Saxena. It is to be further explained that in the order the First Additional Sessions Judge has stated that these accused persons are having parity with Wahid Siddiqui and Smt. Firdaus Siddiqui @ Shikha whereas they were released on bail by this Court on account of non-filing of challan within the specified period.

5. The comments of the First Additional Sessions Judge and Special Judge (EOW), Jabalpur has been received in the Registry vide memo of District & Sessions Judge, Jabalpur dated 18.7.2011 wherein it is said that against the accused Anil Kumar Gupta and Satish Babu Lodhi the charge under Section 420 and 120-B of IPC only has been framed while against Dr. Jyotsana Pare the charge under Section 420, 120-B and 411 of IPC was framed, after rejecting their bail by this Court. It has further been said that against Vikas Saxena and Amol Sheorey, the charge under Section 420, 120-B, 409, 467 and 468 of IPC is framed. The charge under Section 467 and 468 of IPC is punishable for life, however considering the change circumstance, the Trial Court enlarged them on bail considering parity of graver charge. Learned Judge referring the judgment of this Court in the case of Manohar Vs. State of M.P., reported in 2007 (3) M.P.H.T. 349 explained that in the said case the High Court has directed that if the similarly situated accused person has not been enlarged on bail, then it is amounting to contempt of Court. While submitting comments on point No.2, it is

mentioned by him, that in the case of accused- Satish Babu Lodhi, filing of subsequent bail application before High Court was not in his knowledge otherwise he was never required to entertain the bail application. It is said that the bail rejection order of Dr. Jyotsana Pare dated 14.2.2011 passed in M.Cr.C. No.1106/2011; order dated 7.3.2011 passed in M.Cr.C. No.2514/2011 and order dated 20.4.2011 passed in M.Cr.C. No.3394/2011 have not been received. On receiving the order dated 7.7.2011 passed by the High Court, in enquiry it has come to know that all these orders have been transmitted to IV Additional Sessions Judge, Jabalpur, who dismissed the first bail applications of the accused persons. On the point of hearing of Special Prosecutor, it is said that as per the order of the Collector-cum-District Magistrate, Jabalpur and the Dy. Director Prosecution (Annexure J&K), Mr. Udai Cholkar is authorized to conduct all the cases in his Court, however affording an opportunity of hearing to him, bail orders were passed. At last it is said that due to pressure of work and to dispose of the bail applications at the earliest, the orders are passed and nobody can empute against him. It is also said that the orders are passed bona fide, thus the explanation may be sympathetically considered in right perspective.

6. The Law Department has sent its explanation, and vide letter dated 12.7.2011 written to the Principal Secretary, Home Department, the notification dated 4.6.2010, appointing Mr. Vijay Singh Parihar as Special Prosecutor for conducting the cases of economic offences at Jabalpur has been acknowledged. Mr. Vijay Singh Parihar submitted his explanation and said that the Officers of the Economic Offences Bureau has not assigned him any case, for the conduction in the Court at Jabalpur, therefore he can not appear. Copy of the order passed in W.P. No.7543/2011(S) quashing the transfer order of Vijay Singh Parihar has also been brought to my notice wherein this Court has taken note of such conduct of the officials of the Government, and found that the report committing irregularities by him is not well founded, thus his transfer from Jabalpur was quashed treating it as undesirable.

7. Shri V.P. Singh, Advocate appearing on behalf of applicant- Satish Babu Lodhi is not in a position to dispute the fact that the second bail petition has been filed by him on 21.2.2011 before this Court. During the pendency of this petition, he has filed a bail petition before the Sessions Court without disclosing the factum of pendency of this petition. He is further unable to dispute the fact that after hearing him, applicant - Satish Babu Lodhi has been enlarged on bail by the First Additional Sessions Judge on 18.5.2011. He is also unable to dispute that thereafter I.A. No.10860/2011 has been filed on 20.5.2011 stating that applicant

- Satish Babu Lodhi has engaged another counsel for filing such application and to argue the case on his behalf, however, permission to withdraw may be allowed. It is only submitted by him that looking to his tenure as a practicing advocate of only three years, he may be excused for any of the fault on his part.

8. After having heard Shri Pushpendra Kaurav, learned Dy. Advocate General, Shri V.P. Singh, Advocate; the record of Sessions Trial No.94/2011, and the bail petitions is perused. The comments received from the First Additional Sessions Judge has also been perused whereby it reveals that while hearing the bail petitions of nine accused persons, two accused persons, namely, Amol Sheorey and Vikas Saxena were granted bail on 26.11.2010 for the reasons stated in their order, but

the bail petitions of the accused, namely, Satish Babu Lodhi, Anil Kumar Gupta and Dr. Jyotsana Pare were rejected by this Court. Those three accused persons have been granted bail by the Trial Court by the orders dated 28.2.2011, 11.5.2011 and 18.5.2011 even after rejection of their bail by this Court. It is further apparent that in the bail orders of accused Dr. Jyotsana Pare and Anil Kumar Gupta passed by the learned Ist Additional Sessions Judge, the reference of the order of the High Court was made. Thus the fact of rejection of their bail by the High Court was in the knowledge of Ist Additional Sessions Judge, Jabalpur. As per his reply, the charge under Section 420, 120-B and 411 of IPC was framed by him, however in the changed circumstances he has entertained the bail applications of these accused persons and enlarged them on bail in the light of the judgment of Manohar (Supra), as referred in his comments. In this context, it is an issue of thought that after rejection of the bail petitions by the High Court, merely by framing a charge of an offence of a lesser sentence, the Sessions Judge may acquire jurisdiction to entertain bail petitions and enlarge the accused persons on bail and the judgment of Manohar (Supra) as referred in the comments is applicable in the said facts by which he has maintained the judicial discipline and propriety.

9. It reveals from the bail petition of Dr. Jyotsana Pare granted by the trial Court that her earlier bail petition was dismissed by the High Court with a liberty to renew the prayer after six months. The order dated 26.11.2010 was available on record of sessions trial. But she has been granted bail on 11.5.2011 prior to the expiry of the period of six months, is also an issue of thought. The first bail rejection order of the High Court of Dr. Jyotsana Pare (M.Cr.C. No.9557/2010) was sent by the Registry of this Court to learned Sessions Judge, Jabalpur on 10.1.2011. The second bail rejection order of Dr. Jyotsana Pare (M.Cr.C. No.1106/2011) was sent by the Registry to the Sessions Judge on 3.3.2011. The third bail rejection order of Dr. Jyotsana Pare (M.Cr.C. No.2514/2011) was sent by the Registry to the Sessions Judge on 10.3.2011 and the fourth bail rejection order of Dr. Jyotsana Pare (M.Cr.C. No.3394/2011) was sent by the Registry on 25.4.2011. Similarly in the case of Anil Kumar Gupta (M.Cr.C. No.9772/2010) the bail rejection order of High Court was sent on 7.12.2010 to the Sessions Judge, Jabalpur, and the same in the case of accused-Satish Babu Lodhi (M.Cr.C. No.10417/2010), the bail rejection order was sent on 31.12.2010 to the Sessions Judge, Jabalpur. The explanation furnished in this respect by learned First Additional Sessions Judge, that it has not been received by him, but transmitted to the Court of IV Additional Sessions Judge. It is an issue of thought that if the bail rejection orders sent by the Registry are not being transmitted to the Trial Judge who is deciding subsequent bail petitions then the aforesaid exercise of the Registry would result into futility.

10. It is also an issue of thought that accused Dr. Jyotsana Pare has filed second bail application before the First Additional Sessions Judge on 9th May, 2011 which was granted on 11th of May, 2011 after giving an opportunity to the other side. Similarly accused- Satish Babu Lodhi filed his second bail petition before the learned Sessions Judge on 16.5.2011 which was granted on 18.5.2011 after affording an opportunity. While the second bail petition of Anil Kumar Gupta was filed before the Sessions Judge on 28.2.2011 by the Advocate without attaching an affidavit of the person instructed him, but the said application has been considered and granted on the same date without affording due opportunity, though it was not the date fixed in the sessions trial.

11. It is also an issue of thought that while granting bail to the accused persons, the learned Sessions Judge has referred the parity with co-accused Wahid Siddiqui and Firdaus @ Smt. Shikha, who were enlarged on bail by this Court due to non-filing of challan within sixty days, extending the benefit of mandatory provision of Section 167 (2) of Cr.P.C. All the issues relate to the judicial discipline, propriety and the working of the Judge, which reflect upon the reputation of the institution, however it may be looked into by Hon'ble the Chief Justice in administrative side. I may not be hasten to say that expressing any opinion on the said issues without affording an opportunity to the concerned is undesirable and not in fair administration of justice, however the matter is required to be placed before Hon'ble the Chief Justice for further action, if any, by the High Court.

12. So far as the conduct of Mr. V.P.Singh, Advocate who has filed this bail petition on 21.2.2011, and during pendency he has filed another bail petition before the Sessions Court, and appeared without disclosing the fact of pendency of bail before the High Court. After grant of bail by the Trial Court, he has filed an application for withdrawal of bail petition on account of change of counsel, which is amounting to concealment of facts with the Court, however, let notice to show cause be issued against him for his appearance on the date given by the Registry why the contempt proceedings be not initiated for concealment of the facts with the Court. The said conduct may also be enquired into by the M.P. State Bar Council in accordance with law.

13. As per record, the second bail petition of accused Anil Kumar Gupta was filed before the First Additional Sessions Judge, Jabalpur on 28.2.2011 with the signature of Mr. M.P. Acharya, Advocate, without attaching the affidavit in support of the said application wherein in handwriting it is mentioned that "this is the second bail application before the Sessions Court and no other application is pending in High Court or any other Court". Similarly in para 6, it is mentioned that "the challan has been filed on 16.11.2010 and earlier bail application was dismissed on 8.9.2010 and bail application in the Hon'ble High Court is not fixed on 26.11.2010". Thus in the bail application, wrong information was furnished by Mr. M.P. Acharya, Advocate before the Trial Court. Let notice to show cause be issued against him for his appearance on the date given by the Registry, why the contempt proceedings be not initiated for furnishing wrong information. The said conduct of Mr. M.P. Acharya, Advocate is also required to be enquired into by the Madhya Pradesh State Bar Council in accordance with law.

14. On perusal of the record, it is seen that in the second bail application of accused-Satish Babu Lodhi, an affidavit of one Brij Kishore Lodhi has been filed stating on oath that "the facts stated in para 1 to 16 of the bail petition are true and correct from his personal knowledge". In para No. 3 of his bail petition it is said that "his bail was not decided by the High Court". However, he has furnished the incorrect information before the Trial Court. Let notice be issued to Brij Kishore Lodhi as to why contempt proceedings be not initiated against him for furnishing the wrong information for his appearance before this Court on the date fixed by the Registry.

15. Similarly, in second bail application of Dr. Jyotsana Pare filed before the Sessions Court, the affidavit of one Dr. Roop Kamal Pare has been attached wherein in para 3 it is said that "the facts stated in para 1 to 16 of the bail petitions are true and correct". In para 1 it is said that "M.Cr.C. No.9557/2010 has been dismissed as withdrawn by the High Court with liberty to renew the prayer

after six months, thereafter no M.Cr.C. has been filed". In fact, after the said M.Cr.C., three other M.Cr.C. No.1106/2011, M.Cr.C. No.2514/2011 and M.Cr.C. No.3394/2011 were filed by Dr. Jyotsana Pare before this Court, which were rejected vide orders dated 14.2.2011, 7.3.2011 and 20.4.2011. By the last order dated 20.4.2011 it was directed that the bail petition of Dr. Jyotsana Pare can only be entertained after 26.5.2011. But, these three orders have been concealed and the affidavit furnishing wrong information was filed before the Trial Court. However, notice be issued against Dr. Roop Kamal Pare as to why contempt proceedings be not initiated, for her appearance before this Court on the date fixed by the Registry.

16. In view of the foregoing facts, it is apparent that accused persons, namely, Anil Kumar Gupta, Dr. Jyotsana Pare and Satish Babu Lodhi have been enlarged on bail by the learned Sessions Court even after rejecting their bail by this Court. It is to be further observed that bail petitions were allowed due to furnishing wrong information and concealment of facts by family members and the advocates. However, in the facts and circumstances of the case, notice be issued to Anil Kumar Gupta, Dr. Jyotsana Pare and Satish Babu Lodhi to show cause, as to why the order granting bail to them be not cancelled. The said notices be issued in the shape of bailable warrant of arrest to the sum of Rs.20,000/- (Rupees twenty thousand) for their appearance before this Court on 2/8/2011. The said bailable warrant of arrest issued by the Registry be served through Town Inspector of their area of residence, under the directions of the Superintendent of Police of the District, on the request made by the Superintendent of Police (EOW), Jabalpur. The said direction is being issued with a view to secure their presence before this Court on the date as fixed.

17. It is to be further observed that as per the notification issued by the Law Department on 4.6.2010, Mr. Vijay Singh Parihar has been appointed as a Special Prosecutor, Jabalpur to conduct the cases of Economic Offences Bureau. The said notification has not yet been cancelled or superseded. The said fact finds support from the judgment of this Court dated 19.7.2011 passed in W.P. No.7543/2011(S). However the matter may be placed before the Principal Secretary, Home Department and Principal Secretary, Law Department to look into the matter that even after issuance of notification why cases are not being assigned to Special Prosecutor and why the cases of Economic Offences Bureau are being conducted through a prosecutor who has not been notified by the Law Department. Looking to the gravity of the offence which relates to the fraud of Rs.50.00 crores of the public money, it is expected that the Home Department shall assign one officer to assist the Public Prosecutor in this case till disposal of trial.

18. A copy of this order be also sent to the Sessions Judge, Jabalpur with the direction that the bail rejection orders sent by this Court must reach to the Court where the trial has commenced or pending and also to the Court who has rejected the bail petition, otherwise there is no utility to send such orders to the Sessions Court. It is further directed that if the Law Department has notified a person to appear as a Special Prosecutor to the cases of Economic Offences Bureau, the trial must be conducted by the said prosecutor only, in view of the communication made to them. It be ensured that, if the public prosecutor conducting the trial is not notified, he may not be allowed to conduct such cases in future.

19. Let record of the bail petitions, Sessions Trial No.94/2011 be placed before the Registrar General of this Court, who shall take appropriate steps to carry out the directions issued herein above. The Registrar General shall also ensure that the record of Sessions Trial No.94/2011 be reached to the appropriate Court through Sessions Judge, Jabalpur after carrying out the directions.

20. Let a typed copy of this order be delivered to Shri Pushpendra Kaurav, learned Dy. Advocate General, Principal Secretary, Home Department and the Principal Secretary, Law Department and to the Secretary, Madhya Pradesh State Bar Council, Jabalpur to take appropriate action.

21. List this case on 2.8.2011 on the point of cancellation of bail of aforesaid three accused persons and thereafter the case be listed on the date given by the Registry in the notice issued for initiation of contempt proceedings as specified herein above.

(J.K. Maheshwari) Judge DV