

**I.A. No.982 of 2020**

**Chandramani Kanhar ... Petitioner**

**-Versus-**

**State of Odisha ... Opp. party**

07. 21.12.2020 The matter is taken up through Video Conferencing.

The learned counsel for the petitioner and the learned counsel for the State are present.

This is an application for interim bail filed by the petitioner on the ground that his wife is suffering from multiple types of diseases and the doctor advised her to take complete rest due to COVID-19 pandemic. A medical prescription and medical fitness certificate were annexed to the interim application. During course of argument, it was found that those were the medical documents of one patient namely Santosini Kanhar, who is aged about twenty five years and she is a female and it was submitted that Santosini Kanhar is the wife of the petitioner.

Since the learned counsel for the State raised doubt about the authenticity of the medical documents annexed to the interim application, as per order dated 09.12.2020, the Deputy Commissioner of Police, Cuttack was directed to depute a responsible Senior Police Officer in the rank of Deputy Superintendent of Police to enquire into the matter by examining the doctor concerned, the O.P.D. register etc. and furnish a report to this Court

regarding the authenticity of such documents through the learned counsel for the State in a sealed cover.

The learned counsel for the State received the report in a sealed cover and when the matter was taken up on 16.12.2020, with the permission of the Court, he opened the same and placed the report in which it is mentioned as follows:

"...In obedience to the order cited above, this is to submit that, I conducted enquiry in the Department of Medicine, S.C.B. Medical College, Cuttack on 11.12.2020 to ascertain the authenticity of medical documents viz. Ticket for Outdoor patient vide OPD Card No.132/Medicine/30902, Registration No.OP-000-201009-4693219 Dt.09.10.2020 in favour of Santosini Kanhar prescribed by the Associate Professor, Department of Medicine, S.C.B. Medical College, Cuttack and Medical Fitness Certificate issued by Dr. S.K. Bhol, Associate Professor, Department of Medicine, S.C.B. Medical College, Cuttack in favour of said Santosini Kanhar advising complete bed rest from 09.10.2020 to 08.06.2021. During enquiry, it is ascertained that, there is no doctor in any rank working in the Department of Medicine, S.C.B. Medical College, Cuttack as "Dr. S.K. Bhol". Besides, the initial found on the aforesaid Outdoor Ticket with designation seal

as Asst. Prof., Department of Medicine is found to have been forged by someone after obtaining Outdoor Ticket from Ticket counter in the name of Santosini Kanhar. Apart from that, seal of the Associate Professor, Department of Medicine, S.C.B. Medical College & Hospital, Cuttack available on the suspected medical documents does not tally with the department seal of S.C.B. Medical College & Hospital, Cuttack. Reply received from the Professor & HOD of Medicine, SCB Medical College & Hospital, Cuttack vide No.2837 Dt.14.12.2020 in this connection is enclosed herewith for kind reference. From the above facts as ascertained during enquiry, it is concluded that, the medical documents enclosed with interim application have been forged and fabricated.”

The enquiry report received by the learned counsel for the State was directed to be taken on record. This Court then as per the order dated 16.12.2020 held as follows:-

“...it is apparent from the report furnished that forged medical certificates stated to have been issued by the Associate Professor, Department of Medicine, S.C.B. Medical College and Hospital, Cuttack have been annexed to the interim application to get interim bail for the petitioner in a case which involves seizure of

commercial quantity of ganja. In this interim application, one Gumesh Mallik, aged about sixty years, son of late Pisu Mallik, At-Sunakhadu, P.S.- Phiringia, Dist.- Kandhamal has sworn the affidavit and he has mentioned that he is a relative of the petitioner. Immediate steps shall be taken to arrest the deponent Gumesh Mallik and to produce him before the learned trial Court i.e. learned Sessions Judge -cum- Special Judge, Phulbani in C.T. Case No.29 of 2020 arising out of Phulbani Town P.S. Case No.83 of 2020 on 21.12.2020 at 11.00 a.m. positively by the Inspector in-charge of Phulbani Town police station. The learned trial Court shall make necessary arrangement so that the said deponent will appear in the proceeding on the date and time as stipulated through Video Conferencing. List this matter on 21.12.2020. The file be placed before the Registrar (Judicial) of this Court who shall communicate the order to the learned trial Court immediately.”

It appears that the aforesaid order dated 16.12.2020 was communicated by the learned Registrar (Judicial) of this Court to the learned trial Court and in pursuance of such order, Gumesh Mallik, aged about sixty years, son of late Pisu Mallik, At- Sunakhadu, P.S.- Phiringia, Dist.- Kandhamal who has sworn the affidavit

in the interim application was arrested and produced before the learned trial Court by the Inspector in-charge of Phulbani Town police station today. The deponent Gumesh Mallik stated that he has been apprised about the reason of his arrest in connection with this proceeding.

As per section 2(c) of the Contempt of Courts Act, 1971, 'criminal contempt' means, inter alia, 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 interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

Law is well settled that anyone who takes recourse to fraud deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice. If a forged and fabricated document is filed in Court to get some relief, the same may amount to interference with the administration of justice. The obstruction of justice is to interpose obstacles or impediments, or to hinder, impede or in any manner interrupt or prevent the administration of justice. The fabrication and production of false document can be held to be interference with the

due course of justice. Any interference in the course of justice, any obstruction caused in the path of those seeking justice are an affront to the majesty of law and therefore, the conduct is punishable as contempt of Court. Law of contempt is only one of many ways in which the due process of law are prevented to be perverted, hindered or thwarted to further the cause of justice. Due course of justice means not only any particular proceeding but broad stream of administration of justice. Therefore, due course of justice used in section 2(c) or section 13 of the Contempt of Courts Act, 1971 are of wide import and are not limited to any particular judicial proceeding. Due process of law is blinkered by acts or conduct of the parties to the litigation or witnesses or generate tendency to impede or undermine the free flow of the unsullied stream of justice by blatantly resorting, with impunity, to fabricate Court proceedings to thwart fair adjudication of dispute and its resultant end. If the act complained of substantially interferes with or tends to interfere with the broad stream of administration of justice, it would be punishable under the Contempt of Courts Act, 1971. If the act complained of undermines the prestige of the Court or causes hindrance in the discharge of due course of justice or tends to obstruct the course of justice or interferes with due course of justice, it is sufficient that the conduct complained of constitutes contempt of Court and liable to be dealt with in accordance with the Contempt of Courts Act, 1971. It has become increasingly a tendency on the

part of the parties either to produce fabricated evidence as a part of the pleadings or record or to fabricate the Court record itself for retarding or obstructing the course of justice or judicial proceedings to gain unfair advantage in the judicial process. This tendency to obstruct the due course of justice or tendency to undermine the dignity of the Court needs to be severely dealt with to deter the persons having similar proclivity to resort to such acts or conduct. In an appropriate case, the mens rea may not be clear or may be obscure but if the act or conduct tends to undermine the dignity of the Court or prejudice the party or impedes or hinders the due course of judicial proceedings or administration of justice, it would amount to contempt of the Court. (Ref: **Chandra Shashi -Vrs.- Anil Kumar Verma reported in (1995)1 S.C.C. 421, Ram Autar Shukla -Vrs.- Arvind Shukla reported in 1995 Supp(2) S.C.C. 130**).

In view of the enquiry report furnished by the Deputy Commissioner of Police, Cuttack as per order dated 09.12.2020, prima facie it appears that the deponent Gumesh Mallik has committed contempt of Court. Let the deponent file show cause as to why necessary action shall not be taken against him for committing criminal contempt of Court under the provisions of the Contempt of Courts Act, 1971. A true copy of application in I.A. No.982 of 2020 along with the annexed documents, order dated 09.12.2020 of this Court, report of D.C.P., Cuttack, order dated 16.12.2020 of this Court and today's order be handed over to the

deponent by the learned trial Court for the purpose of preparing and filing the show cause. The file be placed before the learned Registrar (Judicial) to send the aforesaid documents immediately to the learned trial Court to do the needful. The deponent Gumesh Mallik shall be provided opportunity to meet an advocate of his choice by video conferencing to prepare the show cause and file the same by 04.01.2021. The deponent Gumesh Mallik shall be detained in judicial custody until further orders.

In view of section 18 of the Contempt of Courts Act, 1971, the matter be placed before the Hon'ble Chief Justice for passing necessary order.

RKM

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S.K. Sahoo, J.