

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

**SUBJECT : CODE OF CRIMINAL PROCEDURE**

Date of Reserve: 2.9.2008

Date of Order: 8.9.2008

CCP (Ref) No. 9/2008

Court On Its Own Motion ...

Petitioner

Versus

Sunil Seth and Ors. ...

Respondents

1. This reference for contempt has been placed before me for consideration. The reference was sent by MM Patiala House through District Judge wherein he has prayed that this Court, if deems fit, should take cognizance of criminal contempt against the respondents Shri Sunil Seth, Smt. Kanchan Seth, Shri Surender Seth, Smt. Bindu Khanna and their Counsel Shri Rubinder Ghumman and Ms. Anu Mehta. The cause for sending reference to this Court was pendency of a criminal complaint filed by Ms. Rashmi Seth w/o Shri Sunil Seth before the Court of Metropolitan Magistrate against all her in-laws against whom the Court has prayed for taking cognizance of contempt of Court.

2. During pendency of the case, the trial Court passed an order of bail of the in-laws. While he directed the other in-laws to be released on executing personal bond and surety bond of Rs.20,000/- each, in respect of husband he passed an order for his release on executing personal bond and surety bond of Rs.50,000/- with the result he had to remain in jail for sometime as surety for this heavy amount could not be arranged. There were other circumstances, by which the husband and his family were aggrieved and they made an application of transfer of the criminal case from the Court of this MM to some other MM. In the transfer application allegations of bias were made against the learned MM quoting certain orders of the learned MM. The learned MM was informed about the moving of this transfer application by the respondents. The learned MM after considering the application made by the accused persons for transfer has made this reference.

3. The learned MM seems to have spent a lot of time in framing this reference petition which runs into 37 pages and annexures to the reference run into another more than 100 pages. After perusal of the entire reference I find the reference is not worth the

paper wasted by the learned MM on it. I find no imputation had been made against the learned MM's Court but of bias which was inferred from the orders passed by him. It is surprising that the learned MM should have sent this reference of contempt only on the allegations of bias made against him. However, on perusal of this reference, I feel that the learned MM definitely seems to be biased in favour of the wife and against the husband and other in-laws. Otherwise, there was no reason for him to get provoked for sending this reference, so that the family members of the husband are called by this Court in criminal contempt, despite the fact that no person insinuation was made against him.

4. I consider it is a right of every litigant, who is facing proceeding in a Court, that justice should not only be done but should also seem to be done and if a litigant feels that what he was seeing was not justice but injustice, he has a right to move transfer application and if bias is inferred from the orders passed by the Court, the Court has no reason to send a reference for criminal contempt. This reference is rejected. There is no ground to summon the respondents. A copy of this order be sent to the District Judge, Delhi. A copy of this order be also sent to the Inspecting Judge of the learned MM and to Honble the Chief Justice.

Sd./-

September 8, 2008

SHIV NARAYAN DHINGRA, J.