

HIGH COURT FOR THE STATE OF TELANGANA : HYDERABAD**MAIN CASE No.: CONTEMPT CASE No.1388 OF 2025****PROCEEDING SHEET**

SL. NO.	DATE	ORDER	OFFICE NOTE
10	16.07.2025	<u>MB,J & BRMR,J</u> Mr. Sharad Sanghi, learned counsel appearing for the petitioner Mr. Shaik Muhammad Abed, learned counsel appearing for the respondent No.1 The Contempt Case arises out of an order dated 04.03.2025 passed by this Court in Writ Petition No.4440 of 2025 filed by the respondent No.1/alleged contemnor. The writ petition was filed by the alleged contemnor (mother of the three minor children) for a Writ of Habeas Corpus directing the respondent Nos.1 to 4/State Authorities to produce the children before the Court. The respondent No.1/alleged contemnor also filed I.A.No.1 of 2025 in W.P.No.4440 of 2025 for visitation rights pending disposal of the writ petition. The petitioner in the Contempt Case, who is the respondent No.5 in the said Writ Petition, filed a Guardianship and Wards Original Petition (G.W.O.P.No.55 of 2025) before the learned 1st Additional Family Court Judge, Integrated Family Court, Kalpataru at Hyderabad, for permanent custody of the three minor children on 22.02.2025. The writ petition was filed by the alleged contemnor on 13.02.2025.	<i>Transferred to IO folder before corrections</i>

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		On 04.03.2025, after hearing learned counsel appearing for the writ petitioner (alleged contemnor), the respondent No.5 (the contempt petitioner) and the respondent Nos.1 to 4/State Authorities, the Writ Petition was disposed of along with connected applications, including the I.A filed by the writ petitioner/alleged contemnor for visitation rights. The Court permitted the writ petitioner to visit the three minor children on every Saturday and Sunday from 5:00 P.M. to 8:00 P.M., whenever, the writ petitioner is in Hyderabad. The Court further directed that the writ petitioner/alleged contemnor shall be responsible for picking up and dropping off the children to the residence of the respondent No.5/contempt petitioner within the time frame directed. The visitation hours were fixed according to the convenience indicated by counsel appearing for both the parties and the fact that the children attend school on Saturdays till 3:00 P.M. The Court was informed that the respondent No.5/contempt petitioner resides in Hyderabad with the three minor children, while the writ petitioner/alleged contemnor lives in Bhopal and occasionally visits Hyderabad. The Writ Petition was disposed of primarily on the ground that the writ petitioner/alleged contemnor can contest the proceedings filed by the respondent No.5/contempt petitioner in the Family Court. The present Contempt Case has been filed by the petitioner (respondent No.5 in the writ petition) alleging	

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		violation of the order dated 04.03.2025. The undisputed facts stated in the affidavit are that on 21.06.2025, the respondent No.1/alleged contemnor took the children from the contempt petitioner's house. The contempt petitioner tried to contact the alleged contemnor on her mobile phone, but the phone was found to be switched off. The contempt petitioner also tried to contact the parents of the respondent No.1/alleged contemnor, and around 9:30 P.M. on 21.06.2025, came to know that the alleged contemnor had taken the children with her to Bhopal, Madhya Pradesh, by Indigo Flight No.6E-7594, which departed Hyderabad at 7:15 P.M. on the same day. The contempt petitioner lodged a complaint with the Jubilee Hills Police Station, at 23:17 hours on 21.06.2025. G.W.O.P.No.55 of 2025 filed by the contempt petitioner before the Family Court, Kalpataru, Hyderabad, seeking permanent custody of the children is pending as on date. The above facts have not been disputed by the respondent No.1/alleged contemnor in the Counter. The Counter states that the children are currently in the custody of the alleged contemnor and have been enrolled in a school in Bhopal. The counter further alleges that the contempt petitioner ill-treated the alleged contemnor, neglected the minor children and voluntarily handed the children over to the alleged contemnor's custody. The other averments contained in the affidavit filed in support of the Contempt Case and the counter filed by the respondent No.1/alleged contemnor are not relevant	

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		for the purpose of the present Contempt Case. We have heard the respective submissions made on behalf of the contempt petitioner and the respondent No.1/alleged contemnor. Learned counsel for the respondent No.1/alleged contemnor raises the issue of maintainability of the Contempt Case on the ground that the contempt petitioner is not entitled to seek the return of the three minor children and to produce them in the Court, since such relief would go beyond the directions contained in the order dated 04.03.2025 passed in the Writ Petition. We first address the issue of maintainability. In <i>Meenal Bhargava Vs. Naveen Sharma</i> ((2018) 15 SCC 23), the Supreme Court allowed the appeal filed by the appellant by setting aside the order of the Rajasthan High Court passed in the Contempt Petition filed by the respondent. The Supreme Court directed the High Court to decide the Contempt Petition in light of the observations made by the Supreme Court. Even otherwise, this Court is of the view that contempt would lie for violation of the order passed by this Court on 04.03.2025. This is particularly so where the fact of disobedience has not been disputed by the alleged contemnor. It is relevant that the Writ Petition for Habeas Corpus filed by the alleged contemnor was disposed of on 04.03.2025, on the ground that a G.W.O.P had already been filed by the contempt petitioner for permanent custody of the minor children and the writ	

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		petitioner/alleged contemnor was given liberty to contest that proceeding. Additionally, visitation rights were granted to the respondent No.1/alleged contemnor on the prayer of the alleged contemnor. Before entering into the merits of the rival contentions on the admitted violation of the order dated 04.03.2025, the alleged contemnor should first be directed to return the three minor children to the petitioner. Such a direction would be in line with the requirement of purging the act of contempt. To “purge” is to cleanse or to undo the wrong. Purging is a process by which an undesirable element is expelled from a person or society. The concept of purging is rooted in theological origins and purification of souls from deadly sins. The act of purging has been recognised as an essential facet of contempt jurisdiction where the contemnor is called upon to expiate its guilt before facing the Court: <i>Pravin C. Shah Vs. K.A. Mohd. Ali</i> ((2001) 8 SCC 650). The act of undoing the wrong is borne out of equity where the contumacious conduct must first be wiped clean by the contemnor. In essence, the contemnor can only contest the contempt on a clean slate. The necessity of purging on the part of the contemnor has been reiterated by the Courts in several cases. In <i>Pravin C. Shah</i> (supra), the Supreme Court held that the respondent Advocate cannot act or plead in any Court situated within the domain of the Kerala High until the process of purging is complete. Purging further	

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		requires the contemnor to relinquish the benefit secured as a result of the contumacious conduct: <i>State Bank of India Vs. Dr.V. Vijay Mallya</i> (2022 INSC 700). In that decision, the Supreme Court reinforced the principle that the majesty of law demands that appropriate directions be issued to ensure that any advantage secured as a result of such contumacious conduct is completely nullified which may also require the reversal of the transactions in question. In <i>Supreme Court Bar Association Vs. Union of India</i> ((1998) 4 SCC 409), a 5-Judge Bench of the Supreme Court held that the Court may prevent the contemnor Advocate from appearing before it till he purges himself of the contempt. <i>D.K.C Vs. K.C</i> (2016 SCC OnLine Del 185) involved a factual situation similar to the one before this Court. The Delhi High Court held that the difficulty in implementing an order passed by the Court cannot justify its non-implementation even if taking the child out of the father's custody may be problematic. The Court consequently directed the respondent-father to return the minor child to the petitioner-mother forthwith. It should also be noted that availability of an alternative legal recourse, as contended by the respondent/contemnor, does not debar invocation of the provisions of The Contempt of Courts Act, 1971: <i>Priya Gupta Vs. Additional Secretary, Ministry of Health & Family Welfare</i> ((2013) 11 SCC 404). Further, the fact that the writ petition was disposed of by the order dated 04.03.2025 is also of no consequence since the alleged	

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		contemnor cannot rely on that fact for justifying contumacious conduct: <i>Prithawi Nath Ram Vs. State of Jharkhand</i> ((2004) 7 SCC 261). The power of the Court to preserve its majesty by ensuring compliance of its orders is not a self-serving mechanism but rather one that instills public confidence in the proper administration of justice. The purpose of contempt jurisdiction is to uphold the dignity of the Courts of law since the image of Courts in the minds of the people as seats of justice cannot be distorted. The respect commanded by Courts of Law is the greatest guarantee of the democratic fabric of the society which cannot be undermined: <i>Murray & Co. Vs. Ashok Kr. Newatia</i> ((2000) 2 SCC 367). Further, the object of the discipline enforced by the Court in matters of compliance is not only to vindicate the dignity of the Court but to prevent undue interference with the administration of justice. Any interference with the course of justice is an affront to the majesty of law and is punishable as contempt of Court. If a party is conscious and aware of the consequences but acts in violation nonetheless, the disobedience can be taken as willful: <i>Balwantbhai Sombhai Bhandar Vs. Hiralal Sombhai Contractor</i> (2023 SCC OnLine SC 113); <i>Bank of Baroda Vs. Sadruddin Hasan Daya</i> ((2004) 1 SCC 360). The above discussion is only intended for the purpose of reinforcing that the respondent No.1/alleged contemnor must first return the minor children to the petitioner before contesting the Contempt Case on	

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		merits. The conduct of the respondent No.1, unfortunately, leaves the Court with no option but to direct that the three minor children be restored to the same arrangement/state of affairs which existed on the date of the order dated 04.03.2025. In other words, the respondent No.1 must immediately undo the act of contempt before offering any explanation for the contumacious conduct. We have been informed that the respondent No.1 is a practicing Advocate of Bhopal. Therefore, it is only to be expected that the respondent No.1 would be aware of the consequences of disobedience of Court orders. Notably, the respondent No.1/alleged contemnor did not file any application for varying or modifying the order dated 04.03.2025. In the absence of such application, taking the children from Hyderabad to Bhopal is a clear act of disobedience of the order dated 04.03.2025. The contention that the petitioner would have a fresh cause of action to file a Writ of Habeas Corpus is secondary and irrelevant to the admitted act of contempt. As stated above, the Writ Petition filed by the respondent No.1/alleged contemnor was disposed of on 04.03.2025 on the writ petitioner agreeing to contest the G.W.O.P filed by the contempt petitioner in the Family Court and on the Court allowing the prayer of visitation (made by the alleged contemnor). The act of contempt on the part of the respondent No.1 is, without a doubt, willful and deliberate. The respondent No.1/alleged contemnor has neither tendered any apology nor expressed any remorse for the	

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		disobedience. The respondent No.1's only stand is of maintainability of the Contempt Case and the alleged incompetence of the direction prayed for by the contempt petitioner. The defiance shown by the respondent No.1 warrants appropriate directions. We are conscious of passing an order which exceeds the limits prescribed under section 12(1) of The Contempt of Courts Act, 1971. However, the direction prayed for does not contravene the said provision. We accordingly have no hesitation in directing the respondent No.1/alleged contemnor to return the three minor children, namely, Nusaiba Hussain, Noora Hussain and Mohammed Firasat Hussain, to the contempt petitioner within 7 days from today. List this matter on 23.07.2025 for the respondent No.1/alleged contemnor to file an affidavit of compliance. <u>MB,J</u> <u>BRMR,J</u> Note: Issue CC today B/o va	

