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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA
ON THE 2nd OF NOVEMBER, 2022**

CONTEMPT PETITION CIVIL No. 415 of 2022

BETWEEN:-

**SUO MOTO IN THE MATTER OF THE STATE OF
MADHYA PRADESH**

.....APPLICANT

(BY SHRI C.P. SINGH - PANEL LAWYER)

AND

- 1. FATHER OF PROSECUTRIX 'A'Â, SON OF
GARIBDAS, RESIDENT
OF VILLAGE BIDNIYA, P.S. CIVIL
LINES, DATIA.**
- 2. PROSECUTRIX 'X'Â, D/O 'A',
RESIDENT OF VILLAGE BIDNIYA,
P.S. CIVIL LINES, DATIA.**
- 3. AJMER YADAV SON OF
DWARIKA PRASAD YADV,
RESIDENT OF VILLAGE
BIDANIYA, P.S. CIVIL LINES, DISTRICT.
DATIA.**
- 4. SANTOSH PARIHAR, SON OF
RAGUNATH, RESIDENT OF
VILLAGE REDA, P.S. DEHAT,
TAHSIL AND DISTT. DATIA.**
- 5. SONU PARIHAR @ NATHU
PARIHAR, SON OF MAHENDRA
SINGH PARIHAR, RESIDENT OF
VILLAGE BICHHONDANA, TEHSIL
BHANDER, P.S. CIVIL LINES,
DATIA.**
- 6. AJAY KANT SHRIVASTAVA,
SON OF LATE N.R. SHRIVASTAVA,
RESIDENT OF TIGALIA DAROGA
WALI GALI, DISTT. DATIA**
- 7. P.K. GARG, D.P.O., AT
PRESENT D.P.O., S.P.E. LOKAYUKT,
BHOPAL.**
- 8. DEVENDRA SHRIVASTAVA,
SON OF LAXMINARAYAN
SHRIVASTAVA, RESIDENT OF
MUDIAN KA KUA, WARD NO. 28,**

DATIA.

9. ADITYA KHARE, SON OF R.S.
KHARE, RESIDENT OF THANDI
SADAK, DATIA.

10. ANIL AWASTHY, SON OF R.B.
AWASTHI, R/O BADE BAZAR,
DATIA.

11. MEHMOOD KHAN, SON OF
LATE SHRI MUNABBAR KHAN,
RESIDENT OF GHOSIPURA,
GWALIOR.

....RESPONDENTS

(BY MS. KALPANA PARMAR - ADVOCATE)

This petition coming on for hearing this day, the court passed the following:

ORDER

By order dated 27.10.2022 this Court had fixed the case for 7.11.2022 for hearing on the question of sentence. However, the prosecutrix 'X', her father 'A' and her brother 'B' have been produced by the police in execution of arrest warrant.

Accordingly, the case was taken up.

The counsel for the prosecutrix 'X', her father 'A' and her brother 'B' are heard on the question of sentence.

It is submitted by Ms. Kalpana Parmar that a lenient view may be adopted in the facts and circumstances of the case.

Considered the submissions made by the counsel for the prosecutrix 'X', her father 'A' and her brother 'B'.

The prosecutrix 'X' and her father 'A' have been held guilty of committing contempt for filing W.P.No.5723/2021 on false averments and by taking advantage of the said order, they have succeeded in getting the prosecutrix aborted whereas the fact that she got conceived from his cousin brother

Bhagwat Yadav was conveniently suppressed. The innovative method adopted by the prosecutrix and her father to kill an unborn baby is against the very purpose of the Medical Termination of Pregnancy Act, 1971 and the same cannot be taken in a light manner. Even as per the school record the prosecutrix has now attained majority.

In the light of judgment passed by Supreme Court in the case of **Zahira Habibullah Sheikh (5) and another vs. State of Gujarat and others** reported in **(2006) 3 SCC 374**, the prosecutrix 'X' and her father 'A' are awarded six months simple imprisonment.

So far as the second contempt committed by the prosecutrix 'X', her father 'A' and her brother 'B' is concerned, the prosecutrix and her father had made an averment before this Court that they have turned hostile before the Trial Court under the pressure of the local counsel. Accordingly, by order dated 5.5.2022, the prosecutrix 'X', her father 'A' and her brother 'B' were directed to appear before the Trial Court on 2.6.2022 for their re-examination. The father of the prosecutrix 'A' appeared before the Trial Court at 4:10 PM and in his reply to the second show cause notice he leveled allegation against the Trial Court as well as the counsel that his evidence was not recorded at the earliest although he was present in the Court premises from 11:00 AM and the said stand has not been accepted by this Court. In the reply also, he has not claimed that he had ever requested the Court to record his evidence. Further, in his re-examination he again turned hostile and claimed that he had never filed W.P.No.5723/2021. He never got his daughter aborted although the seizure memo of fetus was admitted by the father of the prosecutrix. The prosecutrix and her brother did not appear before the Trial Court in inspite of clear

direction by this Court. Thus, they have also been held guilty of committing contempt for flouting the order dated 5.5.2022.

Under these circumstances no sympathy can be shown to the persons who have innovated a very unique idea of getting an unborn baby killed by suppressing the identity of the biological father of the fetus.

Under these circumstances, prosecutrix 'X', her father 'A' and her brother 'B' are awarded six months simple imprisonment. Both the sentences shall run consecutively.

The Principal Registrar of this Court is directed to complete the further formalities for sending the prosecutrix 'X', her father 'A' and her brother 'B' to serve the jail sentence.

The contempt petition is finally **disposed of**.

(alok)

ALOK KUMAR

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G.S. AHLUWALIA)
JUDGE