



2025:DHC:5919



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

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Date of Decision : 18.07.2025+ **CONT.CAS(C) 1050/2025**

MEHRAZ BANO & ANR.

.....Petitioners

Through: Md. Azam Ansari, Advocate.

versus

DR. RAJINDER K DHAMIJA & ORS.

.....Respondents

Through: Mr. Tushar Sannu, SC with Ms. Aqsa,
Advocate for R-1, 2 & 3.Mr. Gautam Narayan, Sr. Advocate
for R-4.**CORAM:****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (ORAL)****CONT.CAS(C) 1050/2025**

1. The Petitioners have filed the present Contempt Petition under Sections 11, 12 and 16 read with Section 2 (b) of the Contempt of Courts Act, 1971 (“**the Act**”) read with Article 215 of the Constitution of India for initiation of Contempt proceedings against the Respondents namely Respondent No. 1 Dr. Rajinder K Dhamija, Director IHBAS Hospital; Respondent No. 2 Dr. Deepak Kumar, HOD Psychiatry IHBAS Hospital; Respondent No. 3 Dr. Amit Khanna, Assistant Professor of Psychiatry IHBAS Hospital; and Respondent No. 4 Mr. Tushar Sannu, the learned



Counsel for the Respondent Nos. 1 to 3 herein for wilful disobedience of the Order dated 28.04.2021 passed by this Court in W.P.(C) 4889/2021 (“**Petition**”) whereby except three persons i.e., Respondent Nos. 1 to 3 herein, no other person was permitted to access the medical records of Petitioner No. 2. The Petitioners contend that the Order which limited the access of the medical records of Petitioner No. 2 only to the team of treating doctors of IHBAS Hospital and no one else has been violated on the last date of hearing in the Petition on 09.07.2025.

2. The Petitioners have submitted that in the year 2021, Petitioner No. 2, who was a minor at that point of time, had moved the Petition through his mother being Petitioner No. 1 herein and had subsequently filed CM No. 15457/2021 for directions to maintain privacy of Petitioner No. 2 with the following main prayer-

“(A) Direct the respondents henceforth, not to violate / breach the confidentiality/privacy of alleged illness of the petitioner’s minor son to any third party including the officials / doctors of respondent hospital except treating doctors alone Dr. Ajayveer Singh Rana and Dr. Amit Khanna, without the permission of the petitioner and the information / documents should also not be shared with — respondent’s Counsel to — maintain Privacy/Confidentiality of minor guaranteed under the Act and under the Constitution as answered by the nine Judges Constitution Bench Judgment of Hon’ble Supreme Court in the case of JUSTICE K.S.PUTTASWAMY (RETD.) VS UNION OF INDIA & ORS IN WP(C) 494 OF 2012 with further directions to the respondents not to insist the petitioner either directly or through Court to share the names of the private doctors, the minor son is visiting or planning to visit in future which they are continuously doing since Feb 2021 with further directions to both the treating doctors Dr. Ajayveer Singh Rana and Dr. Amit Khanna, not to disclose any information whatsoever to anyone whosoever including his superiors regarding the alleged mental illness of the minor son of petitioner without the prior permission of



petitioner with specific directions to R-2 to maintain confidentiality being the custodian of all the medical records”.

3. The CM No. 15457/2021 was disposed of *vide* Order dated 28.04.2021 (“**Order**”) and the relevant extract of the Order is reproduced below-

“3. The present application has been filed against the Respondent Institute - the Institute of Human Behaviour and Allied Sciences (hereinafter, ‘IHBAS’) to maintain the confidentiality and privacy of the medical records of the Petitioner’s minor son.

4. The submission of Mr. Ansari, ld. Counsel appearing for the Petitioner, is that while the writ is pending adjudication, the entire record of the medical treatment should be kept confidential and should not be shared with any third party.

5. Mr. Tushar Sannu, ld. Counsel appearing for the Respondent-Institute is joined by Mr. Amit Khanna, one of the treating doctors from IHBAS, who has assured this Court that apart from the team of treating doctors, consisting of Dr. Khanna, the Head of the Department, as also the Director, who is also a psychiatrist, no one else is permitted to access the record of the patient. The file record has also been maintained securely by the treating doctors and hence, there ought not to be any apprehension on the part of the Petitioner.

6. Accepting the assurance given on behalf of IHBAS, the present application is disposed of in the above terms”.

4. An appeal against the Order was also dismissed by the Division Bench of this Court *vide* order dated 03.05.2021 in LPA No. 160/2021. The relevant extract of the order dated 03.05.2021 is reproduced below-

“9. We direct the respondents that the information about the sickness of the patient and the nature of the treatment being undertaken by the patient, shall not be shared with any third party except whatever has been stated by the respondents in paragraph no.5 of the impugned order”.



5. The Petitioners submit that the Order has been allegedly violated by the Respondents on 09.07.2025 when medical records of Petitioner No. 2 were brought to this Court allegedly through the hands of a third party and Respondent No. 4 allegedly happened to hold / see the medical records which he could not have handled / seen under any circumstances in unsealed condition. The relevant extract of the order dated 09.07.2025 is reproduced below-

“1. The respondent has produced the record pertaining to the dates on which the petitioner went to the hospital i.e. 16.01.2021, 30.01.2021 and 11.02.2021.

2. The said record has been produced in a sealed cover. The same has been perused by the Court and returned to the learned counsel for the respondent. Let the said record be re-sealed.

3. Learned counsel for the respondent submits that there is a legal impediment in handing over the said record to the petitioner, in view of the provisions of Section 23 of the of the Mental Healthcare Act, 2017 read with Rule 6(3) of the Mental Healthcare Rules, 2018.

4. List for further consideration on 25.08.2025.”

6. The learned Counsel for the Petitioners submitted that none of Dr. Rajinder K Dhamija or Dr. Deepak Kumar or Dr. Amit Khanna brought the medical records of Petitioner No. 2 before this Court on 09.07.2025. It is further submitted that none of the authorised doctors permitted to access the medical records were physically present in the Court, whereas Dr. Amit Khanna had joined the proceedings through virtual mode on 09.07.2025. Thus, entire medical records of Petitioner No. 2 were in the hands of a third party on 09.07.2025, which was completely impermissible in terms of the Order.



7. The learned Counsel for the Petitioners submitted that after this Court opened the seal of medical records during the hearing, it was returned to the Respondent's Counsel unsealed with directions to forthwith seal the said medical records, however the same were not sealed forthwith. The learned Counsel further submitted that it cannot be ruled out that the medical records remained in the hands of the third party at least for the entire day of 09.07.2025, as hearing concluded at around 3 PM on 09.07.2025 and that third party who might have collected the medical records in the morning itself, might have returned the same to the IHBAS Hospital at around 5 PM.

8. It was further submitted that the Counsel for the Petitioners was personally present and observed this entire sequence, and that such handling of the unsealed records by individuals other than the authorised doctors amounted to a violation of the directions given by this Court regarding the confidentiality of the medical records. The learned Counsel for the Petitioners emphasised that the prayer in CM No. 15457/2021 was as such that even the Respondents' Counsel should not be permitted to view the medical records. The relevant portion of the prayer in CM No. 15457/2021 is reproduced below-

“... and the information / documents should also not be shared with respondent's Counsel to maintain Privacy/ Confidentiality of minor guaranteed under the Act and under the Constitution as answered by the nine Judges Constitution Bench Judgment of Hon'ble Supreme Court in the case of K.S. PUTTASWAMY (RETD.) V. UNION OF INDIA & ORS... ..,”

9. The learned Counsel for the Petitioners further submitted that there was no clarity on how long and in whose custody the medical records remained in an unsealed condition.



10. The learned Counsel for the Petitioners submitted that neither Party should ever try to infringe Privacy / Confidentiality of either party and placed reliance on the judgment of the Supreme Court in *K.S. Puttaswamy (Privacy-9J.) v. Union of India*, (2017) 10 SCC 1 and Section 23 of the Mental Healthcare Act, 2017 to stress upon the right to privacy and confidentiality of patients' medical records.

11. The learned Senior Counsel appearing for Respondent No. 4 submitted that the issue is not about sealing or unsealing but about accessing the medical records. The "accessing" in normal parlance would mean reading the medical records. The Petitioners have to establish that Respondent No. 4 went through the record thereby violating the purport of the Order, however, that is not the allegation made by the Petitioner in the present factual matrix.

12. The learned Senior Counsel for Respondent No. 4 submitted that Respondent No. 4 did not read the medical record and in compliance with the directions of this Court, resealed the same without reading. It was further submitted on behalf of Respondent No. 4 that there is not an iota of evidence to suggest that Respondent No. 4 read the medical records, who was only performing his duty as a Standing Counsel for IHBAS Hospital. Respondent No. 4, being cognisant of his duties as an officer of this Court and in representing his client has duly complied with the directions of this Court. Therefore, the Order has not been breached in any manner by Respondent No. 4. The learned Senior Counsel submitted that the present Contempt Petition has been filed only to unnecessarily drag Respondent No. 4, who was discharging his professional duties as an Advocate appearing for



IHBAS Hospital in the Petition. It was further submitted by the learned Senior Counsel for the Respondent No. 4 that an Advocate cannot be construed as a third party as the term contemplates someone beyond the two contesting parties. The learned Senior Counsel for Respondent No. 4 lastly submitted that contempt has to be clear and unequivocal, and where two views are possible, the alleged act may not amount to contempt.

13. The learned Counsel for the Petitioner stated that the Petitioner would like to withdraw the contempt against the Respondent No. 4 on a condition that he makes a statement that he had not read the medical records. However, since the withdrawal was not unconditional, learned Senior Counsel for Respondent No. 4 did not agree with such conditional withdrawal and sought dismissal on merits.

14. The learned Counsel for Respondent Nos. 1 to 3, who also happens to be Respondent No. 4 in the present Contempt Petition, submitted that the sealed envelope prepared by Respondent No. 3 was handed over through Respondent No. 4 to this Court in a sealed condition. After this Court perused the medical records, the same was returned with directions to reseal, which was immediately complied with by Respondent No. 4.

15. In view of the above submissions, this Court finds that no case is made of the wilful disobedience of the Order by any of the Respondents.

16. The Petitioners have made bald allegations without any basis. The Order has restricted the access of medical records of Petitioner No. 2 only to the team of treating doctors from IHBAS Hospital. By submitting the said record in sealed condition before this Court on 09.07.2025 by Respondent No. 4 in his capacity as the Standing Counsel appearing for IHBAS Hospital



in the Petition, no violation of the Order was committed.

17. As recorded in the order dated 09.07.2025, the medical records were produced before this Court in a sealed envelope, and thereafter the same were unsealed and perused by this Court and were returned in an unsealed condition with directions to reseal them. It is evident that the object of the directions given in the Order and affirmed by the Division Bench on 03.05.2021 was to safeguard the confidentiality of the medical records of Petitioner No. 2, which was strictly complied with and there is nothing on record to show that the Respondents has violated the Order in any manner whatsoever. Entire submissions made by the Petitioners are speculative and based on conjectures and surmises.

18. In *Mrityunjoy Das v. Sayed Hasibur Rahaman*, (2001) 3 SCC 739, the Supreme Court has observed that:

*“14. The other aspect of the matter ought also to be noticed at this juncture, viz., the burden and standard of proof. The common English phrase “he who asserts must prove” has its due application in the matter of proof of the allegations said to be constituting the act of contempt. As regards the “standard of proof”, be it noted that a proceeding under the extraordinary jurisdiction of the court in terms of the provisions of the Contempt of Courts Act is quasi-criminal, and as such, the standard of proof required is that of a criminal proceeding and the breach shall have to be established beyond reasonable doubt. The observations of Lord Denning in *Bramblevale Ltd. Re* [(1969) 3 All ER 1062 (CA)] , lend support to the aforesaid. Lord Denning in *Re Bramblevale* [(1969) 3 All ER 1062 (CA)] stated: (All ER pp. 1063H and 1064B)*

“A contempt of court is an offence of a criminal character. A man may be sent to prison for it. It must be satisfactorily proved. To use the time-honoured phrase, it must be proved



beyond reasonable doubt. It is not proved by showing that, when the man was asked about it, he told lies. There must be some further evidence to incriminate him. Once some evidence is given, then his lies can be thrown into the scale against him. But there must be some other evidence.... Where there are two equally consistent possibilities open to the court, it is not right to hold that the offence is proved beyond reasonable doubt.”

19. The Supreme Court in the case of **Dinesh Kumar Gupta v. United India Insurance Co. Ltd.**, (2010) 12 SCC 770 has also observed that-

“17. This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and circumstances of the instant case. In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this Court that contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out...”

20. As regards considering the purport of the order, the Supreme Court in **Ram Kishan v. Tarun Bajaj**, (2014) 16 SCC 204 has observed that-

“15. It is well-settled principle of law that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable. The effect and purport of the order is to be taken into consideration and the same must be read in its entirety. Therefore, the element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act. [See Sushila Raje Holkar v. Anil Kak [Sushila Raje Holkar v. Anil Kak, (2008) 14 SCC 392 : (2009) 2 SCC (L&S) 497] and Three Cheers Entertainment (P) Ltd. v. CESC Ltd. [Three Cheers Entertainment (P) Ltd. v. CESC Ltd., (2008) 16 SCC 592 : AIR 2009 SC 735]]”



21. It is also a settled law that for contempt to lie, the alleged disobedience must be wilful and that contempt jurisdiction must be exercised sparingly.

22. The present case clearly does not meet the threshold required for invoking contempt jurisdiction. Respondent No. 4 acted in his capacity as the Standing Counsel for IHBAS Hospital and the medical records of Petitioner No. 2 were submitted in a sealed envelope, examined by this Court and, thereafter, as directed by this Court, the same were resealed. The allegation that the said medical records were in unsealed condition and were accessed unauthorisedly by Respondent No. 4 cannot be believed as the same has not been substantiated by the Petitioners. There is nothing on record to prove any deviation from the directions given by this Court in the Order.

23. In the absence of any material to suggest that the records were opened and read while in the custody of Respondent No. 4, the allegation of contempt is made only on assumptions. The mere fact of this Court handing over the medical records in unsealed condition to Respondent No. 4, who resealed the same, cannot by itself amount to accessing the medical records and breaching the directions as given in the Order.

24. The contempt as alleged cannot be said to have been established conclusively when there is a complete absence of any material to substantiate the allegations levelled by the Petitioners. The actions attributed to the alleged Contemnners, when examined in light of the definition of contempt, set down in Section 2 (b) of the Act and as elucidated by the Supreme Court does not in any manner constitute a conduct so abhorrent as



to cause this Court to exercise its powers to punish for contempt.

25. In the circumstances of mere probabilities, existing in the present case, it would be rather hazardous to exercise the contempt jurisdiction. To treat incidental handling of medical records, under this Court's supervision, as deliberate disobedience of directions of confidentiality given in the Order, would be to stretch the scope of this Court's directions irrationally and to criminalise an action devoid of intent. Therefore, evidently the doubt persists with respect to the allegations levelled by the Petitioners, and thus the Respondents are entitled to have the benefit of such a doubt.

26. It is a fact that Respondent No. 4 acted in his capacity as the Standing Counsel for IHBAS Hospital, under instructions from his clients. The concerned medical records were submitted in a sealed condition, examined by this Court and, thereafter, were directed to be resealed. There is no material on record to substantiate the allegation that the said medical records remained unsealed or were read unauthorisedly by Respondent No. 4. There is no evidence to suggest that Respondent No. 4 acted in breach of the Order. Therefore, no case is made out to initiate the contempt proceedings against the Respondents.

27. For the reasons stated above, this Contempt Petition is dismissed.

CM APPL. 42555/2025

28. Since this Application is filed in the Contempt Petition and the Contempt Petition is dismissed, this Application stands disposed of with a liberty to file afresh in the Petition, if so advised.

TEJAS KARIA, J

JULY 18, 2025/sms