

**IN THE SUPREME COURT OF INDIA  
INHERENT JURISDICTION**

**SUO MOTU CONTEMPT PETITION (CRL.) NO.01 OF 2022**

**IN**

**(ARISING OUT OF MISCELLANEOUS APPLICATION NO.755/2021)**

**IN**

**SPECIAL LEAVE PETITION (CRL) NO. 1705/2021**

**HENRY NIKOLAS FERNANDES**

**Petitioner(s)/  
Contemnor(s)**

**VERSUS**

**STATE OF MAHARASHTRA & ORS.**

**Respondent(s)**

**ORDER**

SLP(Crl) No. 1705/2021 was filed by one Mr. Henry Nikolas Fernandes ("Mr. Fernandes" for short) challenging the order dated 22.01.2021 passed by the High Court of Judicature at Bombay in Criminal Application (A.P.I.) No.1558 of 2019.

By said application preferred under Section 482 Cr.P.C. Mr. Fernandes had challenged certain orders passed by the Court of Judicial Magistrate, Ist Class, 2<sup>nd</sup> Court at Thane seeking to cancel the order granting bail to the petitioner. The challenge having been negated by the High Court, the

aforesaid SLP has been filed.

By order dated 08.03.2021, this Court did not find any reason to interfere and the SLP was accordingly dismissed. However, at the request of the learned counsel appearing for Mr. Fernandes, time of two weeks was granted to Mr. Fernandes to surrender himself before the concerned Court.

In the aforesaid circumstances, Miscellaneous Application No.755/2021 was preferred by Mr. Fernandes seeking following reliefs:

“(A) On the petitioner surrendering to the Judicial Magistrate, F.C., II Court, Thane at Thane, the application of the petitioner seeking bail may be considered on the same day or;

(B) the Petitioner may be given four weeks further to surrender to the Judicial Magistrate, F.C., II Court, Thane;”

Alongwith the application, a report of the Laboratory Test dated 10.05.2021 was filed as Annexure A-3.

The concerned document was a Laboratory Test Report under the signatures of Dr. Bhalchandra R. and Dr. Supriya C. bearing No.BR025R270421053 purportedly stating that Mr. Fernandes was detected to be Covid-19 positive. Thus an attempt was made to persuade the Court to consider granting the request made by Mr. Fernandes in such application.

It is true that no order was passed on the application and a matter of fact, no extension to surrender was granted by this Court. However, after it was pointed out by the learned counsel for the complainant that the certificate appended as Annexure A-3 was forged and fabricated document, notices were issued to the concerned Doctors under whose signatures the certificate was issued. Thereafter, both the Doctors have filed their affidavit. The relevant facts in that behalf were mentioned in default in the order dated 03.09.2021 passed by this Court.

According to the Doctors, they had never issued such certificate to Mr. Fernandes and as a matter of fact the certificate bearing No.BR025R270421053 was actually issued to one Ms. Rukhsana Yasin Dhuaru on 27.04.2021. In these circumstances, this Court issued notice to Mr. Fernandes, as to why action in contempt be not initiated against him.

Pursuant to the notice, affidavit in reply has been filed on behalf of Mr. Fernandes and some of the statements made in the reply are as under:

"1. At the outset, I tender my unconditional, unreserved and heartfelt apology to this Hon'ble Court for my role in the filing of the fabricated medical certificate before this Hon'ble Court...

....

3.... I say that, without offering the same as justification, I was suffering from tremendous pressures from various forces which led me into participating in action that I deeply regret.

...

10.1 I state that my wife Mrs. Gracy Henry Fernandes keeps poor health. She suffers from diabetes, blood pressure, arthritis and needs her knees to be replaced. Ever since the outbreak of Covid-19 I have been very fearful of her getting infected with it. Her sickness is a dangerous co-morbidity for Covid-19 This was also one of the reasons why I was desperate to avoid entanglement in the criminal justice system where I might contract the virus and thereby endanger my wife's life.

11. I state that I was also fearful that where I to surrender, my bail application would not be heard for months due to the covid-related pile-up of cases and reduced functioning of Courts. I say that on the 28<sup>th</sup> of February, 2022 after being incarcerated since the month of September, 2021, I was fortunate enough to obtain bail from the Hon'ble Sessions Court, Dindoshi (Mumbai) in large part due to the observations of this Hon'ble Court to hear my case on the 21<sup>st</sup> of February, 2022.

12. However, I must state that prior thereto, my bail application had been pending from 23<sup>rd</sup> October, 2021 and was listed for 35 hearings before I finally obtained bail. I was desperate to avoid a situation where I would be incarcerated for long weeks and months before being able to establish my innocence. It was that desperation and the utter fear of being incarcerated for long periods of time that led me to take steps that I now deeply regret and humbly apologise for.

...

14.1 I state that I was legally advised by my erstwhile advocate that if a Covid report were to be obtained in whatsoever form it may be, I would

be in a position to get an extension of time to surrender from this Hon'ble Court in the afore-numbered application.

..

18. I state that I have not obtained any favourable orders from this Court using a certificate, which is not genuine.

19. In conclusion, I say and submit that being under tremendous pressure from various quarters and out of desperation, I took certain steps that I regret. I reiterate my unconditional, unreserved and heartfelt apology and pray that this Hon'ble Court be pleased to offer me one last opportunity at redemption."

Today, when the matter is called out, Mr. Fernandes is present in Court. His counsel Mr. Balaji Srinivasan at the outset, submits that Mr. Fernandes accepts his guilt and is not insisting on framing of any charges and leaves it entirely to the mercy of this Court on the issue of punishment.

It is well settled that a person who comes to the Court must come with clean hands and never make even an attempt to pollute the stream of justice by filing a document which he knows to be false or fabricated.

Mr. Fernandes did knowingly place a document which he was aware to be a forged and fabricated one.

In the circumstances, we find Mr. Fernandes guilty of having committed contempt of Court. However, considering the

fact that he accepted the guilt right at the initial stage and tendered an unconditional apology, we impose following sentence:

(a) Mr. Fernandes is sentenced to detention for one day that is, till the rising of the Court.

Mr. Fernandes shall be taken to the office of the concerned Additional Registrar(In-charge of Security) where he shall be detained till the rising of the Court.

(b) Mr. Fernandes shall, in addition to the sentence imposed above, pay a fine in the sum of Rs.2,000/-. The fine shall be deposited in cash, in the Registry of this Court during the course of the day.

(c) The Registry shall deposit said sum of Rs.2,000/- in the account of Supreme Court Legal Services Committee.

(d) In case of default in payment of fine, Mr. Fernandes shall undergo a default sentence of three days.

With these observations, Suo Motu contempt stands disposed of.

Mr. Balaji Srinivasan, learned advocate appearing for Mr. Fernandes submits that he shall surrender before the concerned Court within seven days. If any application for bail thereafter is preferred, the same shall be

considered on its own merits.

.....J  
(UDAY UMESH LALIT)

.....J  
(S. RAVINDRA BHAT)

.....J  
(PAMIDIGHANTAM SRI NARASIMHA)

New Delhi,  
March 29, 2022.

ITEM NO.12

COURT NO.2

SECTION II-A

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**SUO MOTU CONTEMPT PETITION (CRL.) No.01/2022 in Miscellaneous  
Application No.755/2021 in SLP(CrI) No. 1705/2021**

**HENRY NIKOLAS FERNANDES****Petitioner(s)****VERSUS****STATE OF MAHARASHTRA & ORS.****Respondent(s)**

**(IA No. 62450/2021 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 72201/2021 - DISCHARGE OF ADVOCATE ON RECORD  
IA No. 62451/2021 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 72202/2021 - EXEMPTION FROM FILING AFFIDAVIT)**

**Date : 29-03-2022 This matter was called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA**

**For Petitioner(s) Mr. Balaji Srinivasan, AOR  
Mr. Abhishek Bharti, Adv.  
Mr. Wesley Menezes, Adv.  
Mr. Waqar Pathan, Adv.**

**Ms. Jaikriti S. Jadeja, AOR**

**For Respondent(s) Mr. Ravindra Chingale, Adv.  
Mr. Rahul Chitnis, Adv.  
Mr. Sachin Patil, AOR.  
Mr. Aaditya A. Pande, Adv.  
Mr. Geo Joseph, Adv.  
Ms. Shwetal Shepal, Adv**

**Mr. R.A. Shaikh Adv.  
Mr. Sharif Khan Advocate  
Mr. Wajeesh Shafiq, AOR**

**Mr. Hasan Sayed, Adv.  
Mr. R.A Shaikh, Adv.  
Mr. Sharif Khan, Adv.**

**Ms. Lubna Naaz, AOR**

**Mr. Wesley. S. Menezes, Adv**



Mr. Waqar Pathan, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The Suo Motu Contempt Petition is disposed of in terms of the signed order.

M.A. is accordingly disposed of.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)  
COURT MASTER (SH)

(VIRENDER SINGH)  
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)