

CONCR NO.02/11

28.02.2011:

On a letter dated 15.09.2010 written by Special Judge, Mandleshwar, office has registered this case under Section 15 (2) of the Contempt of Court Act, 1971 against Shri Pramod Verma, Superintendent of Police, district Khargone.

2. The Special Judge in the reference has mentioned that a criminal case No.102/08 under Section 8/20 of the N.D.P.S. Act is pending against six accused persons. The prosecution evidence in the said case was over on 26.07.2010. On 04.08.2010 one of the accused viz. Vinod moved an application seeking a direction to call the details of incoming and outgoing calls of certain land line and mobile numbers. It was stated by the said accused in the application that details of those incoming and outgoing calls were necessary for taking appropriate defence. The application was allowed by order dated 04.08.2010 without recording any reasons and a D.O. letter addressed to S.P, Khargone is alleged to have been dispatched on 04.08.2010

seeking the call details on or before 16.08.2010. On 16.08.2010 as no call details were furnished by the S.P, Khargone, a further D.O letter was sent on 17.08.2010 to the S.P, Khargone to furnish the details expeditiously on or before 27.08.2010. On 27.08.2010 the Special Judge issued a show cause notice to the S.P, Khargone to remain present in the Court and submit the explanation as to why he failed to respond to the D.O. letter dated 04.08.2010 and on 17.08.2010 and for this purpose the case was fixed on 01.09.2010. On 30.08.2010 the D.O letter dated 25.08.2010 written by S.P, Khargone was received in the Court and in the said D.O the S.P had stated that he has already sent communication to the concerned service providers and no sooner the call details are received, the same would be forwarded to the learned trial Judge. Along with the said D.O the S.P, Khargone has also annexed a copy of the judgment of the Supreme Court delivered in Appeal (Cri.) 1338 of 2007 (State of Gujarat Vs. Turabali Gulamhussain Hirani & Anr.). In the said judgment, their Lordships of the

Supreme Court had deprecated the practice of calling the officials to remain present in the Court and a word of caution was issued to exercise such powers in a very rare and exceptional cases or compelling circumstances. It seems that learned trial Judge did not like the said communication of the S.P, Khargone and has written the letter to this Court on the allegation that the S.P is deliberately not cooperating for the expeditious disposal of the criminal case as mentioned herein above, hence he has made this application under Section 15 (2) of the Contempt of Court Act for drawing contempt proceeding against S.P, Khargone.

3. On perusal of the record, we do not find that this is not a fit case for initiating contempt proceedings against the Superintendent of Police, Khargone . Accordingly we do not feel it necessary to entertain the reference made by the Special Judge, Khargone under Section 15 (2) as in our considered opinion, there is no material to show that the S.P,

Khargone has deliberately and intentionally avoiding to comply with the order of the trial Court. Consequently, the reference made under Section 15 (2) of the Contempt of Court Act is hereby rejected.

(S.K.SETH)
J U D G E

(PRAKASH SHRIVASTAVA)
J U D G E

hk/