
(1980) 12 AP CK 0011

In the Andhra Pradesh High Court

Case No : Appln. No. 187 of 1980 in Contempt Case No. 33 of 1980

A. Ramamohana Rao and Others

APPELLANT

Vs

Chalasani Purnachandra Rao

RESPONDENT

Date of Decision : 20-12-1980

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 151

Citation : (1980) 12 AP CK 0011

Hon'ble Judges : Alladi Kuppaswami, C.J.;B.P. Jeevan Reddy, J

Bench : Division Bench

Advocate : Public Prosecutor, for the Appellant; K.G. Kannabhiram, for the Respondent

Judgement

Alladi Kuppaswami, C.J.—This application has been filed by the respondents in Contempt Case No. 33/80 to dismiss the contempt case in limine on the ground that the consent of the Advocate General in writing, as required by Section 15(1) (b) of the Contempt of Courts Act, 1971 was not obtained.

2. The respondent in this application. who is an advocate of Hanarmkonda, Warangal district, filed the application for contempt with the following allegations : One Vasudevareddy filed Crl.M.P. No. 333/80 before the Judl. First Class Magistrate at Parkhal for the issue of a search warrant for the search of eight persons specified therein alleging wrongful confinement of eight persons in the Police Station at Narasampet. The Judl. I Class Magistrate issued a search warrant on 3-4-1980 and appointed Mr. Rama Swamy, Advocate as a Commissioner to conduct a search of the Police Station at Narasampet and to take into custody the eight persons mentioned therein and produce them before the Court. On 3-4-1980 at about 7-45 a.m., the Commissioner, Mr. Rama Swamy, Vasudevareddy and the petitioner in the contempt petition went to the Police Station at Narasampet along with three panchas. The second respondent the Sub-Inspector was present at that time. The Commissioner showed the Sub-Inspector the search warrant and requested G.D. book for verification of the eight persons

who are in the Police Station lock-up. The Sub-Inspector however refused to show the G.D. book. The Commissioner then gave a notice to the Sub-Inspector asking him to show the G.D. Book for verification. The Sub-Inspector refused to receive the notice. Therefore, the Commissioner was constrained to conduct a panchanama of these refusals. He proceeded to conduct the panchanama in front of the lock-up room. While he was writing the description given by the persons in the lockup, the first respondent, i.e. the Deputy Superintendent of Police accompanied by the Sub-Inspector angrily went up to the Commissioner and snatched away the papers which the Commissioner was holding. The first respondent then asked the Commissioner to follow him, to the table of the second respondent and threatened Vasudevareddy and the three panchas and made them leave the Police Station. He then instructed the Commissioner not to interview the confined persons and not to conduct any panchanama. Thereafter, he issued a letter signed by the second respondent stating that the confined persons were arrested on 3-4-1980 u/s 151, Cr.P.C. and they would be produced before the Judicial I Class Magistrate. Thereafter, he returned the papers snatched by the first respondent to the Commissioner and directed the Commissioner and others to go away from the Police Station. On these allegations, the petitioner stated that the conduct of the respondents amounted to criminal contempt under Sections 2(c)(ii) and 2(c)(iii) of the Contempt of Courts Act as it interfered with the administration of justice and with judicial proceeding and he therefore prayed that the Court should punish the respondents for committing criminal contempt.

3. The Contempt petition was admitted and notice was issued on 9-6-80 returnable on 7-7-80. After the notices were served, a counter-affidavit was filed by the respondents and after hearing all the parties concerned, this Court by its order dated 10-7-1980 directed the District and Sessions Judge, Warangal, to record the evidence adduced by the petitioner as well as the respondents and submit the record of evidence to this Court. Accordingly, the District and Sessions Judge, Warangal proceeded to record the evidence and we are informed that the evidence adduced on behalf of the petitioner is closed. At this stage. the alleged contemnors have filed this application to dismiss the Contempt Petition on the ground that the consent in writing of the Advocate-General was not obtained.

4. Our attention is drawn to Section 15 of the Contempt of Courts Act. u/s 15(1) In the case of a criminal contempt, other than a contempt referred to in Section 14, the Supreme Court or the High Court may take, action on its own motion or on a motion made by -

(a) the Advocate General, or

(b) any other person, with the consent in writing of the Advocate-General, or

(c) xx xx xx

It is argued that as the consent in writing of the Advocate-General has not been

obtained as required by Section 15(1)(b) the Contempt Petition must be dismissed in limine. Section 2(b) of the Act defines "civil contempt" as meaning wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a Court. Section 2(c) defines "Criminal Contempt" as meaning the publication (whether by words, spoken or written, or by signs or by visible representations, or otherwise of any matter or the doing of any other act whatsoever which -

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court, or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interfered or tends to, interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

It is submitted that the acts complained of in the Contempt Petition would come within the definition of Section 2(c) (ii) and (iii) as the acts complained of would prejudice or interfere or tend to interfere with due course of judicial proceeding, viz., execution of the search warrant and would interfere or tend to interfere with or obstruct or tend to obstruct the administration of justice. In fact it is pointed out that the petition also in paragraph 8 categorically states that the impugned acts amount to criminal contempt u/s 2(c) (ii) and (iii) of the Contempt of Courts Act. Hence, according to the petitioner's case, as stated in the Contempt Petition, the acts constitute criminal contempt and as admittedly the consent in writing of the Advocate General was not obtained, the petition is liable to be dismissed in limine.

5. We are unable to agree with the contention of the applicants. We have set out the substance of the Contempt Petition earlier. It is seen that the various acts complained of are : the refusal to show the G.D. Book; the refusal to take notice to produce the G.D. Book; snatching away of the papers relating to the panchanama by the first respondent, the threats of the 1st respondent made to the commissioner and the panchas and the prevention of the Commissioner from interviewing with the persons in the lockup. It is clear that all these, with the exception perhaps of the threatening remarks made by the 1st respondent, if proved, would also amount to "civil contempt" as they would constitute wilful disobedience to the order of the Judicial First Class Magistrate, directing that the Commissioner should search the Police Station and take the prisoners into custody. Hence, in so far as the acts amount to "civil contempt", there is no necessity to obtain in writing the consent of the Advocate-General. Further, as has been repeatedly held in a number of cases, that even when the Court finds that a Contempt Petition filed by a person does not satisfy the requirements of any provision of the Contempt of Courts Act, it does not prevent this Court from treating the notice issued on that petition as notice suo motu. u/s 15(1), it is always open to this Court to take action on its own motion. In the matter of D. B.

Vohra etc 1974 Cri.L.J. 899 (Delhi), it was held that even if there was no proper reference by the Subordinate Court u/s 15(2) of the Act, it would not prevent the High Court from treating the notice issued to the alleged contemner to be suo motu notice u/s 15(1) of the Act. In the case it was found that the notice issued purported to be u/s 15(2) of the Act, but it was held that assuming that technically, there was no reference by the Subordinate Court concerned under sub-section (2) there is nothing to prevent the High Court to treat the said notices as notice issued under sub-section (1) of Section 15 of the Act. This decision was followed by the Orissa High Court in State v. Dhruba Charan, 1976 Cri LJ 246. In Shri C.K. Daphtary and Others Vs. Shri O.P. Gupta and Others, , when an objection was raised that the petitioners has no locus standi to file the application for contempt, the Supreme Court observed that the Court can issue a notice suo motu and the Advocates of the Supreme Court including the President of the Court's Bar Association are entitled to bring to the notice of the Supreme Court any Contempt of Court. Therefore, if this Court feels that at any stage the notice issued on an application made by any person (even assuming that such an application is not maintainable by reason of the absence of the consent in writing of the Advocate-General) should be treated as a notice issued suo motu it is entitled to do so. This Court would be in a better position to exercise this power after the entire evidence is before this Court. Further this application to dismiss the Contempt Petition on the ground that the consent in writing of the Advocate-General is not obtained, is in our view, belated. This objection was not raised in the counter-affidavit filed in the first instance though the explanation given is that they were under the impression that the petitioner had obtained the consent. Nothing prevented the applicants from enquiring and finding out from the Advocate-General whether he was approached to give in writing his consent and whether he gave his consent, or not. The application is made after the evidence of the petitioner is closed in pursuance of the order of this Court directing the District and Sessions Judge to record the evidence. For all the above reasons we do not see any reason to dismiss the Contempt Petition as not maintainable on the ground that the consent in writing of the Advocate-General was not obtained.

6. This application is therefore dismissed. No costs. The District and Sessions Judge, Warangal will proceed to record the evidence and submit it expeditiously to this Court as it is already more than five months since the order of this Court was passed.

7. Application dismissed.