

(1995) 01 DEL CK 0040
In the Delhi High Court
Case No : Criminal Cont. Ref. No. 8/94
B.K. Sharma, In Re

Date of Decision : 30-01-1995

Acts Referred:

Citation : (1996) CriLJ 653

Hon'ble Judges : Mahinder Narain, J; A.K. Srivastava, J

Bench : Division Bench

Advocate : Mr. D.C. Mathur and Mr. Akshya Bipin, for the Appellant;

Judgement

Mahinder Narain, J.—Notices were issued to a number of Advocates as to why proceedings for contempt of Court be not initiated against them.

2. Notice of contempt which was issued by this Court to Mr. R. K. Kochhar, has already been disposed of by holding that Mr. R. K. Kochhar had not interfered with the due course of judicial proceedings, and the notice issued by the Court, was discharged on 2-12-1994. We chose to do so as we thought that in the contempt of court proceedings each individual contemner should be dealt with as quickly as possible.

3. We have heard Mr. D. C. Mathur, Advocate, appearing on behalf of Mr. B. K. Sharma, Mr. B. K. Sharma is mentioned in paras Nos. 3, 4 and 5 of the reference. The said paragraphs read as under :-

3. During the strike period, one Advocate Mr. B. K. Sharma time and again appeared in my court to lowdown me and in his loud thundering voice told me that if I did not cooperate and pass order not liked by the Advocates, I would be sent from here by Shahdara bar by putting "Tilak" on my forehead. When I requested him to talk in a low pitch, he retorted that he cannot put a silencer in his throat. When told that by preventing the court from discharging its duties, he was committing contempt and the matter may be reported to the Hon"ble High Court, he laughed with contempt. He used unparliamentarily language for the courts. In another bail matter when he was advocate, he tried to interfere while I was dictating order to steno. The matter was reported to the learned District &

Sessions Judge Shri P. K. Jain. The learned District Judge, in order to defuse the situation transferred bail work to other court.

4. The fresh elections of the Bar Association has taken place on 9-9-94. The results of these elections were declared and the new Executive has been elected. The members of Bar started appearing in the Courts since morning of 12th September, 1994. But few ex-leaders of the Bar and a few other Advocates finding that the witnesses have come in their cases, sought adjournments on the ground that the strike was continuing. They stated that the notice issued by Mr. S. K. Ahluwalia, Chairman of Election Committee, so long is not withdrawn shall remain in force and the strike shall continue. However, the other Advocates stated that the Election Committee had become functus officio after the elections are over and now new Executive has been elected and there was no strike in the bar because no such call has been given by the new Executive. Some of the Advocates including Mr. B. K. Sharma, D. R. Lakhani and R. K. Kochher insisted that they would not allow the court to function and examine the witnesses so long the strike notice issued by Mr. S. K. Ahluwalia is not withdrawn.

5. Advocate Mr. B. K. Sharma did not allow the court to function on 12th September, 1994 when he intervened when the evidence was going on in another case. Mr. R. K. Kochhar, Advocate another ex-leader of the bar also insisted that the Court should recognise the strike call given by the Chairman of Election Committee even after the Elections have been held and are over and no work should be done.

4. The sum and substance of the complaint, as made against Mr. B. K. Sharma in the order of reference, is that Mr. B. K. Sharma time and again appeared in court and that loud and thundering voice was used by Mr. B. K. Sharma, that when asked not to speak in loud words, he responded that he could not put a silencer in his throat.

5. In the reference order, reference is also made to transfer of bail matters, and that the orders were passed by the District Judge, transferring bail petitions. The orders of transfer having been made by District Judge, we do not think the same assertion should be subject matter of contempt reference.

6. The detailed reply to the notice which has been sent, has been filed by Mr. B. K. Sharma. He has in his reply, set out all the cases in which Mr. B. K. Sharma appeared before Mr. S. N. Dhingra, Additional Sessions Judge denying all what was asserted in paragraphs Nos. 3, 4 and 5 of the reference made to this Court.

7. In addition, Mr. B. K. Sharma has stated in his reply upon affidavit what according to him, had transpired and has also reproduced the orders passed by the Court in the matters in which Mr. B. K. Sharma had appeared.

8. We have perused all the orders, and in none of the order-sheets of the cases in which Mr. B. K. Sharma had appeared, there is any indication of any conduct on the part of Mr. B. K. Sharma, which, in our view, can amount to contempt of

court within the meaning of section 2(c) of the Contempt of Courts Act.

9. In addition to what has been stated in the reply, Mr. B. K. Sharma has also given us a certified copy of the orders in his cases, which also we have perused. The certified copy also bear out what has been stated in the reply.

10. In view of what has transpired in these two cases, and inasmuch as reference has been made for taking contempt action against a number of contemnors, we think it desirable that in future if anything transpires in Court, which in the view of the Presiding Officer of the Court amounts to contempt of court within the meaning of Contempt of Courts Act, 1971, the conduct of the contemner should be reflected in the order sheet of the court, so as to make it possible for this Court to peruse the order-sheet and also come to a proper conclusion.

11. In any case, we would like to remind the court below that provisions of Section 228 of the Indian Penal Code, read with Section 345 Cr.P.C. can in appropriate cases, be utilised by the court, with due discretion and care, and when their application becomes necessary.

12. In the facts and circumstances of the case, relating to Mr. B. K. Sharma, we find that no contempt action should be taken against him. Notice issued to him is accordingly discharged.

13. Order accordingly.