

(1953) 09 AHC CK 0014

In the Allahabad High Court

Case No : Criminal Miscellaneous No. 47 of 1953

Chandra Datt

APPELLANT

Vs

Vidya Prasad and Others

RESPONDENT

Date of Decision : 02-09-1953

Acts Referred:

Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 3

Citation : AIR 1954 All 351 : (1953) 23 AWR 719

Hon'ble Judges : Chaturvedi, J;Agarwala, J

Bench : Division Bench

Advocate : Party in person, for the Appellant; P.N. Chaudhri, Government Advocate (for Nos. 1 to 4) and P.N. Chaudhari, (for No. 5), for the Respondent

Judgement

Agarwala, J.—Criminal Miscellaneous Application No. 47 of 1953 is an application by one Chandra Dat Senani who calls himself a Congress worker of Pratapgarh, for action being taken for contempt of court against five persons namely, Vidya Prasad Shukla, the then District Magistrate of Pratapgarh, Section P. Agarwal, Sub-Divisional Magistrate Sadar Pratapgarh, Gur Prasad, Sub-Divisional Magistrate of Kunda, Pratapgarh, Kailash Narain Malviya, Inspector of Schools, Pratapgarh and Rameshwar Prasad Gupta, Jailor District Jail, Pratapgarh.

2. The application contains much Irrelevant matter. The relevant facts are very few. There were several cases pending against the applicant in the criminal courts at Pratapgarh and there Were also some cases which were instituted by him against the local officials. The applicant was in jail. He applied through the Superintendent of the Jail for transfer of the cases in which he was concerned. The application for transfer is dated the 17th April, 1952, and is addressed to the Chief Justice, Allahabad High Court. In this application certain allegations were made against Sri Vidya Prasad Shukla, District Magistrate, Pratapgarh and the Sub-Divisional Magistrate, Pratapgarh, imputing to them, ulterior motives in sentencing him and putting him in prison. On the various grounds mentioned in

the application, the applicant prayed that the complaint by and against him be transferred to any nearby district preferably Lucknow for trial.

He also prayed that he be released on his own responsibility till his cases were decided by the High Court or the Supreme Court. This application was first handed over to the jailor, Sri Rameshwar Prasad Gupta who in turn handed it over to the Superintendent of the jail who has not been impleaded in the present proceedings. The Superintendent of the jail forwarded it to the opposite party no. 1, Sri Vidya Prasad Shukla, who received this application on the 29th April, 1953. He wrote back to the Superintendent of the jail inquiring the rule of the Jail Manual under which the application had been forwarded to him for submission to the Hon"ble Chief Justice and pointed out that under Chapter V of the Jail Manual, only petitions of appeal and petitions for mercy can be presented and that the application in question was neither a petition of appeal nor a petition for mercy.

He also mentioned that Rule 689 permitted a prisoner to send a communication to Government, or to any other Government Officer in his official capacity with a view to the redress of his grievance but that such communication should be to the point and should not contain any offensive or irrelevant matter, e.g., a discourse on politics. He further pointed out that the application to the Hon. Chief Justice offended against this rule and under Rule 711 amounted to abuse of privilege. He added :

"Besides it is highly defamatory and refers to the Court of the Kunda in very undesirable language."

In the end he said :

"Unless you are able to throw some light on the rule under which the petition is forwarded, I regret my inability to submit to the Hon. Chief Justice at Allahabad a petition containing abusive language and containing a reference to a Court in highly derogatory language. I will await your reply before taking any further action. I can, however send a similar application if it is addressed in proper language fit enough for submission before the Chief Justice." To this the Superintendent of the jail replied on the 16th May, 1952 as follows :

"I have the honour to state that the application of Sri C. D. Senani was thoroughly gone through by me and I also held the same opinion that such an application should not be forwarded to the Hon. Chief Justice at Allahabad. So this was sent to you for favour of perusal and orders. I never meant that it should be forwarded but was to be brought to your notice. The application which is returned herewith in original may, therefore, be withheld."

The application was then withheld by opposite party no. 1 and remained in his custody for over seven months when the applicant moved this Court for proceedings to be taken against the opposite parties on the 29th January, 1953. The applicant has not only prayed for proceedings for contempt being taken

against the opposite parties. but has also complained against them in respect of various other matters with which we are not concerned. It may be stated at the outset that so far as opposite parties Nos. 2 to 4 are concerned, they had nothing whatsoever to do with the application for transfer which was withheld by opposite party No. 1. Opposite party No. 5, the jailor performed his duty when he "handed over the applications to the Superintendent of the jail. Opposite parties 2 to 5, therefore, have been unnecessarily impleaded in this application.

3. The case of the opposite party No. 1 is that the transfer application contained offensive and irrelevant matters, that inter alia it made mention of the Court of the Sub-Divisional Magistrate, Kunda in a very disrespectful manner, that it was, therefore, against Rule 689 of the Jail Manual and that under Rule 711 of the said Manual it amounted to an abuse of privilege but that he (the opposite party No. 1) was prepared to transmit an application provided the petitioner sent it addressed in proper language fit enough for submission to the Hon"ble Chief Justice.

4. We are of opinion that the view taken by the opposite party No. 1 was erroneous. Rules 689 and 711 have nothing to do with petitions addressed to a Court of Law. Rule 689 runs as follows ;

"Prisoners may be permitted to address communications to Government, the Inspector-General of Prisons or any other Government Officer in his official capacity with a view to redress of a grievance. But such communication should be to the point and should not contain any offensive or irrelevant matter, e.g., a discourse on politics."

This rule deals with communications to the Government, the Inspector-General of Prisons or any other Government Officer.

An application for transfer addressed to the Chief Justice, or in other words, to the High Court, is not a communication to the Government which, in the rule, means the executive Government and does not include the Judicial organ of the State. Nor is it a communication to a Government officer in his official capacity. The Chief Justice is not a Government Officer within the meaning of the rule. The rule contemplates communications to the executive officials. Rule 711 deals with the privilege of a prisoner relating to interviews or letters or communications with persons outside the jail. This rule also has no reference to applications made to courts of law. As Lord Russel said in -- "R. v. Gray" (1876) 2 QB 36 (A):

"Any act done or writing published calculated to obstruct or interfere with the due course of justice or the lawful process of the Court is contempt of court."

Suppression of an application intended for a court of law by a person obstructs and interferes with the due course of justice and the lawful process of the courts and is, therefore, a contempt of court. It is of the highest importance that applications or appeals intended for the High Court and submitted by prisoners should be forwarded to the High Court without undue delay so that the Court

may do Justice in the case. The mere fact that the application, or appeal contains irrelevant or offensive matter is no ground for any officer who is charged with the duty of forwarding the application to the High Court to withhold the application or appeal. It is for the Court to determine whether the application contains such matter and what steps to take with regard to it. The officer concerned has no right to decide for himself whether the application is irrelevant or couched in offensive language and then to withhold it.

5. It was suggested that it was the duty of the Superintendent of the Jail in the present case to forward the application of the applicant to the High Court and that it formed no part of the duty of the opposite party No. 1 to do so. It is quite true that the Superintendent of the Jail could and should himself have forwarded the application to the High Court without sending it to the opposite party No. 1. There is nothing in the jail manual which makes it obligatory on the Superintendent of the jail to forward petitions addressed to the High Court to the District Magistrate but the Superintendent having in fact forwarded it to the opposite party, the two courses open to him were either to send the application back to the Superintendent or the Jail and direct him to forward it to the High Court or to forward the application to the High Court himself. In the present case the opposite party No. 1 was prepared to forward the application to the High Court only if it did not contain offensive or irrelevant matter.

It is clear, therefore, that he did not forward the application because he thought that he could withhold it on account of the language in which the application was couched and not because he thought that he had no power to submit the application to the High Court. In no event should the opposite party have retained the application with him after the Superintendent of the Jail had sent it back to him. He has undoubtedly committed contempt of Court. Ordinarily such an action on the part of opposite party No. 1 would have called for severe condemnation and exposed him to punishment but in the present case we are prepared to take a lenient view of the matter because we think that possibly the opposite party No. 1 bona fide misjudged his duty upon a wrong interpretation of the rules of the Jail Manual. We, therefore, do not propose to take any steps against him. The notice issued to the opposite parties is, therefore, discharged. In the circumstances of the case we make no order as to costs.

6. The application for transfer of 469 of 1953 having been filed in the present case, we have taken cognizance of it as a petition for transfer. We asked the applicant whether he intended to press his application for transfer and were informed that the cases in respect of which transfer has been sought have now all been decided and the application has become infructuous. The application for transfer did indeed contain imputations of dishonesty against the District Magistrate of Pratapgarh and the Sub-Divisional Magistrate of Kunda Pratapgarh. These allegations amounted to a contempt of those Courts.

When asked why proceedings for contempt of Court should not be taken against him in respect of the allegations contained in the application he expressed his

regret and stated that he was wholly ignorant that the allegations believed by him to be true amounted to contempt of court and that he did not know that he should not have made them. He promised that he would not make such allegations against a presiding officer of a court of law in future. In view of this assurance we do not think any proceedings for contempt should be taken against him. The application for transfer is, therefore, rejected.

7. Leave to appeal to the Supreme Court is granted.