

(2019) 01 DEL CK 0298

In the Delhi High Court

Case No : Contempt Of Court Case (Criminal) 18 Of 2018

Court On Its Own Motion

APPELLANT

Vs

Deepak Malik Inspector

RESPONDENT

Date of Decision : 08-01-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 302, 307, 365, 392

Citation : (2019) 01 DEL CK 0298

Hon'ble Judges : Siddharth Mridul, J; Yogesh Khanna, J

Bench : Division Bench

Advocate : Jaideep Malik, Rakesh Chahar, Sumit Chaudhary, Arun Rathi, Avinash Kapoor

Final Decision : Disposed Off

Judgement

Siddharth Mridul, J

1. The present criminal contempt is predicated on a reference dated 20th October, 2018, made by Ms. Ekta Gauba, Additional Chief Metropolitan Magistrate (North West), Rohini Courts, Delhi.
2. The gravamen of the charge against Inspector Deepak Malik, Police Station Maurya Enclave is that, he surreptitiously made video recordings of the Court proceedings on 20th October, 2018 (hereinafter referred to as 'the subject video recordings').
3. The sealed pulanda containing the video recordings have been viewed by us. We have perused the reply to the show cause notice filed on behalf of Inspector Deepak Malik.
4. In this behalf, it is observed at the outset that, Inspector Deepak Malik has tendered an unequivocal and unconditional apology for the subject video recordings. In his response to the charge levelled against him, he has expressed remorse and by way of justification, submitted the following explanation:-

"2. That on 20.10.2018, the deponent was present in the Hon'ble Court of Ms. Ekta Gauba, Ld. ACMM (North-West), Rohini Courts, Delhi; as an application moved by him in his capacity as the investigating officer for seeking initiation of 83 Cr.P.C. proceedings against 2 accused persons namely Amit @ Dabang and Sandeep @ Dhillu, who are wanted in the aforesaid case FIR, was listed for hearing. The copy of the application alongwith its true typed copy is annexed herewith as Annexure-R/1. The said application was filed by the deponent, which was listed for hearing on 20.10.2018 and finally vide order dated 27.10.2018, the Hon'ble Court was pleased to declare the aforesaid Sandeep @ Dhillu and Amit @ Dabang as proclaimed offenders. The copy of the order dated 27.10.2018 passed by the Ld. ACMM, North West, in this regard is annexed herewith as Anneuxre-R/2.

3. That on the same day, some other application in connection with another case FIR No. 373/2018, under Sections 302/392/365 IPC, P.S.-Maurya Enclave, Delhi; moved by Inspector Ranjay Atrishya, SHO, P.S. Maurya Enclave, Delhi; was being heard by the Hon'ble Court while the deponent was waiting for his turn. The deponent had recently purchased a new smart phone (which is the case property in the instant contempt case) on 30.09.2018 and while waiting for his turn, the deponent was checking its features. The purchase invoice of the smart phone (case property) is annexed herewith as Annexure-R/3. The deponent is not very well versed with the features of smart phones and apparently inadvertently video recording got initiated. The factum of these video recordings being inadvertent is corroborated by these video recordings itself. The moment the deponent realized that video recording has been initiated, the deponent immediately stopped it and closed the video recording application. Thereafter, the deponent did not use his phone and held it in his hand without even having a look at it. One Ld. Advocate present in the court, pointed it out to the Hon'ble Court that the deponent was recording the court proceedings, however, the deponent was completely unaware of any recording being done through his phone. On being questioned by the Hon'ble Court, the deponent expressed his innocence and told the court that he had not done anything of that sort. Thereafter, the Hon'ble Court called someone from the IT Cell and the phone of the deponent was inspected after the deponent wilfully disclosed his numeric phone password and also disclosed that his face was the other password. The phone was inspected in the presence of the Ld. Presiding Officer and the deponent was informed by the Ld. Presiding Officer about 3 video recordings of the same date.

4. That neither the deponent was I.O. of the case, which was being heard by the Hon'ble Court at the time of incident nor the deponent is witness in the said case and had no connection with the said case whatsoever. Moreover, on the day of incident, the deponent was working as ATO at P.S. Rani Bagh, Delhi; where he was temporarily transferred and was reporting since 28.09.2018. The deponent had departed vide General Diary No. 56A dated 28.09.2018 recorded at P.S. Maurya Enclave. The copy of the said General Diary No. 56A dated 28.09.2018 recorded at P.S. Maurya Enclave alongwith its true typed and true translated copy

is annexed herewith as Annexure-R/4. The deponent had reported to P.S. Rani Bagh vide DD No.40B dated 28.09.2018. The copy of the said DD No.40B dated 28.09.2018 recorded at P.S. Rani Bagh alongwith its true typed and true translated copy is annexed herewith as Annexure-R/5. The case FIR No.83/2018, under Sections 302/307/120-B/34 IPC and 25/27 Arms Act, P.S. Maurya Enclave, Delhi; still being under investigation was being investigated by the deponent only but on the day of the incident, the deponent was not reporting to the SHO, P.S. Maurya Enclave, Delhi; and was rather reporting to SHO, P.S. Rani Bagh. The deponent on the day of the incident had departed to the Hon'ble Court vide DD No. 12B dated 20.10.2018 recorded at P.S. Rani Bagh only. The copy of the DD No. 12B dated 20.10.2018 recorded at P.S. Rani Bagh; alongwith its true typed and true translated copy is annexed herewith as Annexure-R/6.

5. That the deponent had no interest in the matter being heard by the Hon'ble Court at the time of the incident. Moreover, the deponent had no motive to record the dictation of the court, privileged communication between the accused and his counsel or any other part of the court proceedings as the deponent was attached to P.S. Rani Bagh on the day of the incident and had nothing to do with the matters of P.S. Maurya Enclave except for the matters that he was already investigating."

5. A perusal of the above extracted paragraphs reflect that, there was no reason, cause or occasion for Inspector Deepak Malik to wilfully and deliberately make the video recordings, in view of the circumstance that, he had absolutely no connection whatsoever with the proceedings of the case concerned. His explanation that owing to his lack of familiarity with his smart phone on which the proceedings have been video recorded is plausible. On a conspectus of the facts and circumstances of the present case, we are of the view that, Inspector Deepak Malik's conduct in recording the subject proceedings on his mobile handset was neither willful nor deliberate.

6. We are, therefore, of the considered view that the unequivocal and unconditional apology made on behalf of Inspector Deepak Malik deserves to be accepted and we hereby accept the same.

7. In view of the foregoing, the notice to show cause as to why criminal contempt proceedings be not initiated against Inspector Deepak Malik is hereby discharged. Inspector Deepak Malik is, however, cautioned to be careful in future and refrain from carrying a mobile telephone inside courtroom to ensure that there is no re-occurrence of a similar incident.

8. No further directions are called for.

9. The subject mobile telephone belonging to Inspector Deepak Malik, be returned to him after the Registry has taken steps to erase the subject video recordings.

10. The criminal contempt is disposed of accordingly.