

(1992) 05 RAJ CK 0030
In the Rajasthan High Court
Case No : Civil Special Appeal No. 20 of 1992

C.P. Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 05-05-1992

Acts Referred:

Contempt of Courts Act, 1971 — Section 19

Citation : (1993) CriLJ 125 : (1992) 2 RLW 556 : (1992) 2 WLC 693 : (1992) 2 WLN 613

Hon'ble Judges : K.C. Agrawal, C.J;I.S. Israni, J

Bench : Division Bench

Advocate : S.R. Bajwa and V.P. Bishnoi, for the Appellant; Shyam Arya, G.A., for the Respondent

Final Decision : Allowed

Judgement

1. This appeal u/s 19 of the Contempt of Courts Act, 1971 has been preferred by C. P. Singh posted as the Deputy Registrar (Judicial) in the Jaipur Branch of Rajasthan High Court against the order of the learned single Judge dated 21-4-1992 holding him to be guilty of contempt of this Court's order dated 10th March, 1992.

2. S. B. Civil Writ Petition No. 1500/81 T. C. Jain v. Rajasthan Housing Board was listed for hearing before Hon"ble Mr. Justice N. C. Kochhar on 10th March, 1992. On that date learned Judge passed the order for listing it along with S. B. Civil Writ Petition No. 1953/81. Both the writ petitions were listed on 23rd March, 1992 before Mr. Justice M. R. Calla, J. but they did not reach hence were not taken up. As per order dated 10th March, 1992 both the writ petitions should have been listed together again on the next date but on 8th April, 1992 W.P. No. 1500/81 was listed before Hon"ble Mr. N. C. Sharma, J. whereas W.P. No. 1953/81 was listed before Hon"ble Mr. V. K. Singhal, J. Writ Petition No. 1953/81 listed before Hon"ble Mr. V. K. Singhal, J. was heard and reserved on that date whereas W.P. No. 1500/81 could not be taken up. On the next date when W.P.

No. 1500/81 was listed before Hon''ble Mr. Sharma, J. he found that the order dated 10th March, 1992 has not complied with as W.P. No. 1953/81 was listed in isolation and was heard by hon''ble Mr. Singhal, J. on 8th April, 1992.

3. Finding that C. P. Singh, Dy. Registrar was guilty of contempt Hon''ble Mr. Sharma, J. issued a notice to him for explaining as to why action was not taken against him for non compliance of the Court's order dated 10th March, 1992. C. P. Singh, Dy. Registrar, submitted his explanation pointing out that the work of listing cases had been assigned to the Asstt. Registrar and that he did not flout the Court's order. For the mistake alleged he, however, rendered unconditional apology. This apology was accepted and the following order was passed:

"While holding him guilty of contempt, I accept the unconditional apology, rendered by him, and on account of that I purge the contempt."

Even an apology tendered after committing contempt does not justify its acceptance as observed by the Supreme Court in L.D. Jaikwal Vs. State of U.P., However, the question in this appeal is whether C. P. Singh, Dy. Registrar be held guilty of contempt? The contempt power is discretionary. By the order dated 10th March, 1992 the learned Judge wanted that W.P. No. 1500/81 be listed along with W.P. No. 1953/ 81. That order was complied with and both the writ petitions were listed together before Hon''ble Mr. M. R. Calla, J. on 23rd March, 1992 but they were not taken up. On the next date they should have been listed together but unfortunately it did not happen. For this act C. P. Singh has been held guilty of contempt by the learned Judge.

Learned counsel for the appellant urged that when the order dated 10th March, 1992 had been complied with by listing both the cases on 23rd March, 1992 and the work of listing under directions issued was with the Asstt. Registrar the appellant could not be punished for contempt. That submission is well founded.

4. As stated by Bowen, L. J. in *Helmore v. Smith* the reason to punish is to impair the confidence of the public in courts which is of prime importance to litigants in protection of the rights and liberties. The summary power of punishing for contempt should be used sparingly in serious cases as held by the Privy Council in AIR 1945 134 (Privy Council) Usefulness of this power depends on the wisdom and restraint with which it is exercised. It is a settled law that the jurisdiction in contempt is not to be invoked unless there is a real prejudice which can be regarded as a substantial interference with the due course of justice. For what we have stated above it is clear that the contempt jurisdiction has to be exercised with utmost restraint and circumspection, only when the gravity of the occasion demands it and always with reference to the interests of the administration of justice. The power as held in *Amrit Nahata Vs. Union of India and Others*, must be wielded with the greatest of care and caution, should be exercised with the greatest of reluctance and the greatest of anxiety and only with the object of seeing that the dignity and authority of the court is not impaired.

5. The Supreme Court in Special Reference No. 1 of 1964 observed :

"We ought never to forget that the power to punish for contempt, large as it is, most always be exercised cautiously, wisely and with circumspection. Frequent or indiscriminate use of this power in anger or irritation would not help to sustain the dignity or status of the court, but may sometimes affect it adversely. Wise judges never forget that the best way to sustain the dignity and status of their office is to deserve respect from the public at large by the quality of their judgment, the fearlessness, fairness and objectivity of their approach, and by the restraint, dignity and decorum which they observe in their judicial conduct."

In the instant case the Dy. Registrar did not flout the order of this Court dated 10th March, 1992 by not listing W.P. No. 1500/81 and W.P. No. 1953/81 together. They were in fact listed together before Hon'ble Mr. Calla, J. on 23rd March, 1992 but they could not be taken up and adjourned. On the next date Hon'ble Mr. Singhal, J. heard the arguments of one of them and reserved judgment. Obviously he did not think it necessary that both the cases should be disposed of together. In these circumstances the Dy. Registrar could not be held to be guilty of contempt.

6. In *Ganga Sahai Vs. Suraj Prasad and Others*, a Full Bench of this Court had considered similar controversy. It was held (at page 224 Raj.):

"This, in our view, is not permissible because under Sub-section (3) of Section 44 of the Ordinance, the administrative control of the High Court, which would include the Registrar, the Additional Registrar and other officers and staff employed in the High Court vests in Chief Justice who has been empowered to exercise this control in such manner and after such consultation with other Judges as he may think fit and giving of such a direction would impinge on the said administrative control vested in the Chief Justice. If a learned Judge during the course of a pending matter finds that a particular officer or officers of the High Court are not performing their duties properly, he may bring it to the notice of the Chief Justice for taking appropriate action against the said officer or officers."

7. The mistake of not listing the two writ petitions together was trivial in nature and in the circumstances of the present case, was entitled to be ignored. For this triviality holding the Dy. Registrar as guilty of contempt, in our opinion, was not correct. The realities of working of the office also could not be lost sight of where two thousand files are dealt with every day, such an error could not be held to be grave to make the Dy. Registrar liable for being proceeded under contempt.

8. The Kerala High Court in *Advocate General, Kerala v. K. Ram Kumar* 1986 Cr LJ 60 laid down the following principle to be borne in mind in contempt proceedings and the circumstances in which the Court could punish a person for having committed contempt:

"The jurisdiction in contempt should not be invoked unless there is real prejudice which can be regarded as substantial interference with due course of justice and

the purpose of the court's action is a practical purpose. The jurisdiction will not be exercised upon mere question of propriety. It should be exercised sparingly, consciously, wisely and with circumspection and only in exceptional cases."

In re : S. Mulgaokar AIR 1978 SC 727 Krishna Iyer, J. laid down the following guidelines in considering whether punitive action should be taken or not:

"The court should not be hypersensitive even where distortions and criticisms overstep the limits, but to deflate vulgar denunciation by dignified bearing, condescending indifference and repudiation by judicial rectitude.

After evaluating the totality of factors, if the court considers the complaint to be offensive or malicious, the strong words of the law must in the name of public interest and public justice, strike a blow on whom who challenges the supremacy of the rule of law."

9. Power to penalise an officer of the Court should be exercised in those cases where the order is deliberately not obeyed or compliance is not made. This power has not to be used to terrorise the officials. Use the power for the said purpose would demoralise the officers and this could not be forgotten inasmuch as instead of achieving the object, it will result in defeating the same.

10. In the present case we have given thought over the controversy and are unable to hold that the Dy. Registrar is guilty. Such a trifling error often happens but the registry is not to be punished for the same.

11. For what we have said above, we allow the appeal and set aside the order dt. 21-4-92.