
(1959) 04 KAR CK 0004

In the Karnataka High Court

Case No : Contempt of Court Case No. 5 of 1959

District Magistrate, Bidar and Another

APPELLANT

Vs

R. Madhava Rao

RESPONDENT

Date of Decision : 14-04-1959

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 117, 144, 55

Citation : AIR 1961 Kar 12

Hon'ble Judges : N. Sreenivasa Rau, O.C.J.; K.S. Hegde, J

Bench : Division Bench

Advocate : Advocate General and Manohar Jahagirdar, for the Appellant; T. Krishna Rao and Shyamal Pappu, for the Respondent

Judgement

N. Sreenivasa Rau, Offg. C.J.

1. One Ramreddy as the agent of one Sangamma preferred a complaint on 12-12-1958 before the District Magistrate, Bidar, against one Manikreddy and three others in respect of offences under Sections 447 and 440 of the I. P. C. It was alleged in the complaint that the accused persons, armed with lathies and axes, trespassed on Sangamma's land situated in Myloor village, Bidar Taluka, at about 10 or 11 p.m. on 14-9-1958, that the object of Manikreddy was to take illegal possession of the land in spite of the fact that the Civil Court as well as the Criminal Court had decided that Sangamma was entitled to possession of the land and the Civil Court had restrained Manikreddy from interfering with Sangamma's possession, that the complainant gave information of the occurrence to the Police Station, Bidar Rural, that though a first information report dated 15-9-1958 had been issued the investigation of the case had not been proceeded with as the Police Circle Inspector was supporting Manikreddy, that petitions sent to the higher authorities had been of no use and that, therefore, the complaint had been lodged.

Thereupon the learned District Magistrate recorded the statement of the complainant and directed the District Superintendent of Police, Bidar, to cause an

inquiry to be made as to the truth or falsehood of the complaint, u/s 202(i) of the Code of Criminal Procedure. The District Superintendent of Police submitted his report. It is dated 5-1-59. In the view of the learned District Magistrate the District Superintendent of Police appeared to have availed himself of the opportunity of making the report to demonstrate his undisguised contempt towards Courts. He accordingly made a reference to this Court. The above contempt of Court proceedings were initiated on the basis of the above reference.

2. The District Superintendent of Police, Shri R. Madhava Rao, was notified to appear before this Court. He was served with a copy of the order of this Court initialing the proceedings and a copy of the reference made by the District Magistrate. In the counter affidavit filed by him in this Court, he denied that in his report which was submitted in the discharge of his official duties and in pursuance of the order made by the District Magistrate, there was anything which amounted to contempt of Court and that he never intended to commit any such contempt.

3. It will be necessary to mention certain circumstances to appreciate the background to the reference made by the learned District Magistrate. There were two brothers, Narasareddy and Malkareddy, in Myloor village. Sangamma mentioned above is Malkareddy's wife. Malkareddy died leaving two daughters and no sons. Narasareddy had two sons, Malkareddy and Manikreddy. According to Manikreddy he was adopted by Sangamma to her deceased husband. He was brought up by her and put in charge of the property of her husband. Later on, she brought about the marriage of one of her granddaughters with Manikreddy.

Owing to some misunderstanding between Sangamma and Manikreddy disputes arose between them. Manikreddy filed a suit against Sangamma for a declaration that he was her adopted son. Sangamma filed a suit against Manikreddy and others for a perpetual injunction restraining them from interfering with her possession of her lands in Myloor village as also for a declaration of her title to those lands. In that suit she made an application for a temporary injunction to restrain the defendants from interfering with her possession of the lands.

That application was granted and the respondents were directed to maintain the status quo. Against this order Manikreddy filed an appeal to the District Judge, Bidar, who dismissed the appeal holding that the plaintiff had made out a prima facie case for the grant of an injunction. This decision was given on 2-8-58. Even subsequent to this order the parties appear to have come into conflict with regard to the possession of the lands with the result that proceedings u/s 107 Cr. P. C. were instituted. It was submitted by the learned Advocate for the present accused that members belonging to both the parties were proceeded against in that manner and that eventually members of both the parties were bound over u/s 117 of the Code of Criminal Procedure.

The position, however, is not quite clear from the records since, in the order passed by the District Magistrate, Bidar, on 25-11-58 in respect of proceedings u/

s 144 Cr. P. C. (which will be adverted to immediately) it is stated that Ramareddy, i.e., the agent of, and power-of-attorney holder from, Sangamma initiated proceedings u/s 107, Cr. P. C. against Manikreddy and others in the Court of the Ex-officio First Class Magistrate, Bidar, and that the latter were bound over u/s 117 Cr. P. C. to keep the peace and maintain good behaviour.

It is not clear from the contents of that Order whether the members of the other party also were similarly bound over. Be that as it may, Ramareddy applied to the District Magistrate, Bidar, for proceedings being taken against Manikreddy and fifteen others u/s 144, Cr. P. C. Two of the respondents in that application were Police Constables, It was alleged in that application that notwithstanding the temporary injunction granted by the Munsiff and confirmed by the District Judge, Manikreddy, with the help of other respondents as also of the subordinate police officials, attempted to violate the injunction order and to dispossess the petitioner by show of force.

It would also appear that Ramareddy moved the Munsiff's Court to take contempt proceedings against Manikreddy and others for disobeying the temporary injunction order. Manikreddy and other respondents contended before the District Magistrate that Sangamma was neither the owner nor was she in possession of the disputed land. They maintained that Manikreddy was the owner and was in actual possession. They urged that as action had been taken u/s 117, Cr. P. C., the petition for action u/s 144, Cr. P. C. was incompetent. The Police Constables denied the allegations made against them. Manikreddy also filed a separate petition in regard to some sugarcane crop which he had cut down with a view to crashing and seeking permission to remove them as otherwise they would get spoiled and also for permission to water the sugarcane crop. The learned District Magistrate in the course of his order stated :

"The matters brought before me during the hearing, reveal that there is substantial truth in the allegation made on behalf of Sangamma that in total disregard of the Court's order the first respondent is using force to disturb her possession and enjoyment, in a sheer spirit of dare devilry. What is shocking, is to be told that the subordinate police officials co-operated with 1st respondent in his reckless behaviour, and in order to please him they harassed the opposite party by putting up cases of rioting and criminal trespass in the very property S. No. 79 which was found by the civil courts to be in the possession of the person against whom the charge of criminal trespass was levelled. It was dismissed by the F. C. M. Bidar, Exhibit A3 is the C. C. of the order which traces the background of the case, and casts adverse reflections on the part played by the police in the episode. The dismissal of the above charge by the P. S. I. was followed up with another charge and arrests of Sangamma's men by the C. I. Bidar u/s 151 Cr. P. C. on the flimsy allegation that they had gathered on S. N. 79 with a view to commit cognizable offence. Exhibit A4 is the C. C. of the bail application in this matter in which it is alleged inter alia that "the C. I. is helping Manikreddy by all means and even taking illegal action and harassing the

servants and labourers of Sangamma. The present arrest of respondent is one of the instances of the same." This arrest, even a school boy will tell, is bordering on harassment as alleged, and it is contrary to the spirit of the orders of the civil courts which have ruled that Sangamma was in possession of S. N. 79..... The allegations contained in exhibit A4, which it is not easy to say are groundless, do not redound to the credit of the police whose duty it is to secure the ends of maintenance of law and order. If the crime position in this District is unsatisfactory and is at its loose ends, such partisan attitude, on the part of the police is a contributing factor of no mean order. The exhibits marked on the side of 1st respondent Manikreddy, seem to lend support to the allegations made by the petitioner in regard to the part played by the police. Exhibit D3 purports to be the C. C. of report submitted by the Deputy Commissioner, Bidar, (o the C. I. Bidar, in compliance with the request of C. I. elated 19-9-1958, calling his report regarding actual possession and cultivation of the lands in dispute, the subject matter of the injunction suit pending on the file of the Munsiff, Bidar. It is nobody's case that the C. I. was unaware of the dispute between the parties in regard to it, and its pendency in the civil Court, and of the order of injunction passed by the Munsiff Bidar and upheld by the District Court. It passes comprehension as to under what authority the C. I. called for such report, the submission of which by a revenue official, during the pendency of civil suit in the matter is in effect deplored and barred by the order of the Deputy Commissioner Bidar vide Exhibit A9. It is equally understandable as to what obligation there was on the part of a responsible revenue official of the rank of Dy. Tahsildar, Bidar, to submit such gratuitous report in regard to matter pending decision in a competent civil court in such casual manner at the mere asking of the C. I. who is not his departmental superior, wrongly passing it off as a report emanating from Deputy Commissioner, Bidar. It is this act of C. I. which has come in for severe criticism at the hands of the counsel for the petitioner. It lent a handle for canvassing that the police were colluding with Manikreddy in the episode under consideration, and creating documents to support his case in civil suit, and to justify the unsupportable action of the police in trying to put down the men of Sangamma in her own lands.

On a careful consideration of the entire matter in the context of the background of the case, I am of the opinion that the attitude of Manikreddy and his supporters, unless curbed, would constitute a menace to the maintenance of peace and good behaviour."

4. Having arrived at this conclusion, the learned District Magistrate, however, dismissed the petition on the ground that, at the time of hearing, Manikreddy through his Counsel represented that he had no intention of committing breach of the peace, that nothing untoward had happened subsequent to the filing of the petition, that action had already been taken by the Ex-Officio Sub-Divisional Magistrate, u/s 107, Cr. P. C. and that the proper course for the petitioner was to move that Magistrate in case of a breach of the peace. He also dismissed as devoid of merit Manikreddy's petition to enable him to remove the sugar cane

which had been cut down and to permit him to water the standing sugarcane crop.

He administered a warning to Manikreddy not to attempt to break the law and that he should obey and respect the order of the Civil Court and forbear from interfering with Sangamma's possession of the lands pending disposal of the suit. This order was made on 25-11-1958. It will be remembered that, according to Sangamma's complaint, Manikreddy and the other accused trespassed upon the lands on 14th September 1958. Thus the alleged act of trespass had taken place prior to Manikreddy's petition for action being taken u/s 144 Cr. P. C. which was filed on 5-11-1958.

But it was after the order in the latter case that Ramreddy filed his complaint against Manikreddy and three others before the District Magistrate for the alleged trespass, on the ground that the Police, though they had issued a F. I. R. on 15-9-58 after receiving information of the offence, had not proceeded with the investigation. The complaint is dated 12-12-1958 and the learned District Magistrate's order u/s 202(i) Cr. P. C. directing the District Superintendent of Police to investigate and report on the truth or falsehood of the complaint was made on 23-12-58. The Superintendent's report is dated 5-1-59.

In that report he gave an account of the origin of the dispute between Sangamma and Manikreddy and stated that both the parties in order to assert their respective rights "began a series of petitions, civil suits and counter petitions". He proceeded to say that as it was not possible for the police to take action against any party for an offence u/s 447, Indian Penal Code, impartial action u/s 107, Cr. P. C. was taken against both the parties to maintain public tranquillity. According to him, it is at this stage that Ramreddy entered the picture, developed illicit intimacy with Manikreddy's wife and obtained a power-of-attorney from Sangamma who was old and did not have all her wits about her.

The report further states that Ramreddy was a habitual instigator of land disputes and was involved in two murder cases and that he had taken possession of lands belonging to another accused involved in one of the murder cases. The report then refers to the technique adopted by Ramreddy in his bringing pressure to bear upon the subordinate police staff by sending petitions to superior officers making all varieties of allegations against the Sub Inspectors and the Circle Inspector of Police and in filing suits in the Civil Court to restrain Manikreddy from entering on the lands.

It is stated that the result of this action by Ramreddy was to leave the local police in a helpless position, "while, on the other hand, the civil Court decreed the basis of records only that Sangamma was actual cultivator and possessor of the lands whereas spot inspection showed that Manikreddy was in actual possession and that he was cultivating the land". It is added that this state of facts is substantiated by the report dated 20-9-1958 of the Deputy Tahsildar, Bidar.

It is stated that in these circumstances the only action that the police could take was to maintain peace by recourse to arrest u/s 151, Cr. P. C. and subsequent action u/s 107 Cr. P. C. impartially against both the parties. It next proceeds to say that Ramareddy utilising the usual bias and prejudice against the police to further his own ends filed a petition for action u/s 144 Cr. P. C.," that the petition was rejected by the District Magistrate and the latter while passing strictures against the Inspector of Police directed Manikreddy to forbear from interfering with Sangamma's possession of the lands in question and characterises this direction as of uncertain legal implications and not legal.

It is also stated that the Munsiff's order of 5-11-57 while granting the temporary injunction restraining Manikreddy from interfering as prayed for by Sangamma, also directed Manikreddy to maintain the status quo. The latter part of the order, the Superintendent interprets as disabling the police from interfering with Manikreddy's possession. The District Superintendent of Police then proceeds to say that Ramreddy, taking advantage of the two decisions in his favour, i.e., the temporary injunction granted by the Munsiff and its confirmation in appeal by the District Judge, proceeded to Myloor to make an end of Manikreddy, that this information was brought by the police constables who were in the village to the Police Station and that the armed party of Ramreddy was arrested in order to prevent riot and murder.

It is further stated that when the matter went before the District Magistrate he characterised the action taken by the Police as influenced by malice and it is added that a copy of the judgment was sent to the Inspector Central of Police. The District Superintendent of Police concludes that in the circumstances narrated by him it is difficult for Ramareddy to sustain his complaint in respect of offences under Sections 447 and 440, I. P. C. and adds that most of the villagers testify to Manikreddy's actual possession. At the end of the report, he suggests to the Magistrate that he may "decide the issue by a spot inspection and decision in the civil suit pending in the civil Court".

5. After this report was received, Ramareddy filed an application before the Court stating that the contents of the report constituted contempt of Court and praying that suitable action may be taken. On this the learned District Magistrate made an order in the Course of which, he stated:

"Instead of complying with the request of this court on the point raised in the complaint, he despatched a narrative couched in immoderate language, dealing with subjects outside the scope of a report to be submitted by him in the performance of his duty as a public officer. In gross abuse of his privilege in submission of a report u/s 202(i) Cr. P. C. he not only indulged in uncalled for and unwarranted imputations against the party in the case, bordering on defamation to prejudice the court in matters subjudice...but also demonstrated in a spirit of defiance, his obvious contempt for judiciary and the courts established by law, by indulging in criticism of judicial acts, amounting to contempt of court. He goes further to tantalise the court by sending copies of

what he has written, without investigation, to the Deputy Commissioner, Bidar and Inspector General of Police, Bangalore".

He concluded that the case was a fit one for proceedings to be taken for contempt of Court. He accordingly made a reference on the basis of which the present proceedings were initiated.

6. While the above mentioned order of the learned District Magistrate deals only with the contents of the report of the District Superintendent of Police the learned District Magistrate in his reference adverts to other matters also. He says:

"To show that the report in question is not an isolated act of contempt, but only the latest of the type on record I am enclosing a copy of my letter dated 3-1-1959 which I was compelled to write to the I. G. P. along with enclosures relating to it. By his irresponsible talk and writings, intended to lower the dignity and prestige of the courts established under law, in my humble opinion, he has placed himself in peril of being proceeded against for Contempt of Court, and is answerable to the Hon"ble High Court, for contempt of the subordinate Courts".

Thus, according to the reference, other acts of the District Superintendent of Police in addition to the report called for action against him for contempt of Court. The letter dated 3-1-59 of the District Magistrate to the Inspector General of Police, a copy of which forms an enclosure to the petition, enumerates instances of lack of co-operation on the part of the police, as for example, the non-execution or delayed execution of summonses and warrants, the alleged abuse by the police of S. 55, Cr. P. C. and the long delay in the submission of charge-sheets and of reports called for u/s 202 Cr. P. C. He says that these matters had previously been brought to the notice of the then I. G. P. by the First Class Magistrate, Bidar, and that "this was not relished by the District Superintendent of Police, Shri R. Madhava Rao who wrote to me requesting me to issue instructions to the subordinate Magistrates who are all First Class Magistrates, not to write to the "Chief Office" ". He adds referring to Shri Madhava Rao:

"He appears to have little or no interest in these matters. He is demonstrative in his annoyance and grows contumacious towards the courts of justice if a case in which he is interested ends in either acquittal or discharge".

He then narrates an instance in which, according to him, the District Superintendent of Police treated with scant respect a communication sent by him requesting that a radio message be sent to the father of one Sharanappa who had died in the Mental Hospital at Bangalore. He adds :

"I belonged to Madras Judicial Service and allotted to Mysore. It is for the first time that I come across a D. S. P. of this type who lacks tact and ordinary courtesy. He does not take note that he cannot defeat the factum of his being a twenty-four hours public servant by taking refuge in the Club, On account of his wantonly unpleasant behaviour no self-respecting judicial officer will like to bold

discussion or correspondence with him in matters official. He has the highly objectionable habit of criticising the judicial acts not only of members of the subordinate judiciary, but also of the Hon"ble judges of our High Court in Club and at parties".

He then narrates what happened at a dinner party at the house of the Deputy Commissioner, Bidar, and details the contumacious remarks said to have been made by the D. S. P. at the time. He refers to other improper remarks said to have been made by the D. S. P. in other contexts. He then proceeds to say:

"Bidar District is a notorious crime centre in Hyderabad Karnatak area, where heinous crimes are committed with shocking brutality, without fear of consequences. The situation here calls for courage, character, discipline and devotion to duty, with freshness of approach on the part of the authority, in charge of maintenance of law and order to put down the crimes and redeem the District of its ill-repute. The mounting toll of violence, the matters brought before the criminal courts here reveal, are not unoften committed encouraged by offer of protection at the hands of the very body whose duty it is to put it down with firmness. Chasing a few transport lorries, creating a state of terror by bursting the tyres of the running lorries with the use of fire arms, seizing some and releasing others all in an arbitrary manner, which appears to be the hobby of the D. S. P. which according to him has kept him busy in the District is not going to achieve the end of the law and order. Nor can he do it by being contumacious towards the courts administering justice lawfully and judicially without fear or favour. The pivot of the constitution of India is the article which seeks to protect the right of the man, the principle enshrined in the Constitution being to make the state, a welfare state and not a police State, and mould the society into a socialistic pattern. The D. S. P. should not grudge the protection afforded by the courts to the not guilty in the eye of the law. It is high time that he realised that the approach of the courts of justice to a case put up by the prosecution is different from his own. He is not the judge. He should leave it to the law and justice to deal with the cases submitted by him with good grace. He should give up the bossy impudence in the matter".

He says that he takes full responsibility to substantiate what had been stated in the letter and requests the Inspector General of Police to pay a visit to the District at the earliest opportunity or to depute the D. I. C. so that appropriate steps may be taken to set matters right.

7. Copies of the letter addressed by him to the D. S. P. asking him to state why he refused to comply with the District Magistrate's request for the sending of wireless message to Chitguppa about the death of the lunatic and at the reply sent on behalf of the D. S. P. are also enclosed. It would appear that the District Magistrate's letter was sought to be delivered by the messenger at the Club where the D. S. P. happened to be at the time, and that the latter refused to receive it.

The D. S. P.'s reply is addressed to the District Magistrate but purports to be sent by the Manager of the D. S. P.'s office under the direction of the D. S. P. It states that there is no radio station at Chitguppa, that official letters may be arranged to be delivered at the District Police office or at the residence of the D. S. P. and not at other places and adds that the D. S. P. is too busy to look into the correspondence relating to lunatics in Bidar District but that the correspondence from the District Magistrate in that regard was receiving top priority.

8. It seems to us that we cannot properly take into consideration in these proceedings the allegations of contumacious conduct made by the District Magistrate against the D. S. P. in the former's letter to the I. G. P. They appear to have been mentioned by the learned District Magistrate with a view to support his stand in regard to the contumacious character of the D. S. P.'s report and to furnish the background. In any case we have no material before us beyond the narration made by the learned District Magistrate in his letter to the I. G. P. While, therefore, there is no need for us to go further into this aspect of the matter, we cannot help remarking that while the dignity of a court of law has necessarily to be safeguarded in order to enable it to function effectively, it is equally incumbent upon judicial officers to conduct themselves with restraint and dignity.

Whatever the justification for the learned District Magistrate's complaint about the lack of diligence on the part of the local police in executing warrants, serving summonses and submitting reports, his general and sweeping remarks about the abuse of the power exercised by them u/s 55 of the Cr. P. C. and his equally sweeping observations about the position of law and order in Bidar District and his ironical reference to the activities of the D. S. P. in chasing a few transport lorries, creating a state of terror by bursting the tyres of running lorries with the use of fire arms, etc., his reference to his hailing from the Madras Service with the necessary implication of contrasting conditions which he found in Bidar and his homily on the principles enshrined in the Constitution with the aim of establishing a welfare State and not a police State and of moulding the society into a socialistic pattern are hardly indicative of judicial balance or restraint and certainly do not indicate the appropriate mode of securing the co-operation of another branch of administration.

Nor is the learned District Magistrate's affirmation of his readiness to substantiate the truth of his allegations to the satisfaction of the Head of another Department conducive to promoting the dignity of the Courts. The correspondence in regard to the wireless message betrays on the part of both the officers an unedifying effort to score off against each other. But none of these circumstances has any direct bearing on the question of contempt of Court except as already stated above by way of background to the present proceedings, The D. S. P.'s report is really the only matter to be considered and after hearing preliminary arguments, as it appeared to us that a prima facie case

was made out in regard to the contents of the report we framed a charge against the accused. The charge reads as follows:

"You, Shri R. Madhava Rao, District Superintendent of Police, Bidar, Accused in the above proceedings, are hereby charged as follows:

That, in the report dated 5-1-1959, submitted by you to the District Magistrate, Bidar, in pursuance of the order made by the latter u/s 202 of the Code of Criminal Procedure directing you to make an investigation for the purpose of ascertaining the truth or falsehood of the complaint laid by one Ramreddy on 12-12-1958 against Manikreddy and three others in respect of offences under Sections 447 and 440 of the Indian Penal Code you have made statements and employed language calculated to bring the Court of the District Magistrate Bidar, the Court of the Munsiff, Bidar, and generally the courts of justice in this State into contempt and that, in particular, in the passages in your report reading

"(i) The result of these actions was that the local police were left in a helpless position and on the other hand the civil court decreed on the basis of records only that Sangamma was actual cultivator and possessor of the lands, whereas spot inspection showed that Manikreddy was in actual possession and that he was cultivating the lands. This is also substantiated by the report of the Deputy Tahsildar, Bidar, dated 20-9-1958 who also held in that report Manikreddy was actually cultivating the lands.

(ii) In the meantime cleverly utilising the usual bias and prejudice against the police to further his own ends, petitions were filed for action u/s 144 Cr. P. C. by Ramreddy for the issue of prohibitory orders against Manikreddy",.

You have suggested that no value could be attached to the decision of the Civil Court as it was unrelated to reality being based only on records and imputed bias and prejudice on the part of the court against the police and thereby committed contempt of the Court of the District Magistrate, Bidar, and the Court of the Munsiff, Bidar, and the Courts of justice in the State. Such acts of contempt being punishable under the Contempt of Courts Act, 1952, it is hereby directed that you be tried on the said charge".

9. We may now deal with the several features which according to the learned District Magistrate indicate a spirit of contempt on the part of the accused. He says that the order dated 25-11-58 of the District Magistrate on Ramreddy's application for action u/s 144 of the Code of Criminal Procedure has been criticised. The portion of the report which deals with this aspect of the matter reads as follows:

"This petition was rejected by the District Magistrate and the Court while passing strictures against the inspector of Police directed Manikreddy to forbear from interfering with Sangamma's possession and enjoyment of the land in dispute pending disposal of the said suit in which he can agitate his claim of title and possession in a peaceful and constitutional manner. The legal implication of this

direction is not known as it is not a legal order u/s 144 Cr. P. C. and at no time the land has been taken into its possession by the Court and handed over to Sangamma".

The learned District Magistrate takes exception to criticising the order as not legal. Apparently what the District Superintendent of Police was referring to was that part of the order in which after dismissing the petition the learned District Magistrate administered a warning to Manikreddy not to attempt to break the law and enjoined him to obey the civil Court's order with good grace. Quite clearly when the petition was dismissed the rest of it really was in the nature of an exhortation and could not be regarded as an order which was capable of execution or implementation. It is explained on behalf of the accused, it was in this sense that the accused used the expression that the order was not legal. We think that this explanation is well founded.

10. The Superintendent has referred to Manikreddy's (sic -- Ramreddy's?) illicit association with Sangamma's grand-daughter and to his being involved in two murder cases and his taking possession of the lands of a co-accused in one of the murder cases. The Superintendent has also stated that Manikreddy (sic -- Ramreddy?) is a habitual instigator of land disputes. These allegations are denied by Ramreddy in the application filed by him for action for contempt of Court. The learned Magistrate thinks that these allegations had no bearing on the investigation that the Superintendent had to conduct in pursuance of the Court's order u/s 202 of the Code of Criminal Procedure and were deliberately introduced to prejudice the mind of the Court.

It is urged on behalf of the accused that the past history or relationship between the parties in dispute cannot be regarded as irrelevant for the purposes of an investigation like the one conducted by the accused and that whether it would be eventually substantiated or not is a different matter. The learned Advocate General conceded that the allegations could not be regarded as wholly irrelevant. We accept that view. It will be remembered that the accused at the end of the report expressed his view that it was difficult to sustain Ramreddy's complaint in respect of offences under Sections 447 and 440 I. P. C., in a court of law. This, in the view of the learned Magistrate, amounted to indicating what the court should do in respect of the complaint.

It is urged by the learned Advocate for the accused that the object of directing an investigation u/s 202 Cr. P. C. is not only to obtain the requisite material through the Police Officer or other person directed to investigate, but also to obtain his opinion on the truth or falsehood of the complaint. The section says that the inquiry or investigation is "for the purpose of ascertaining the truth or falsehood of the complaint". The main function of the person directed to make an investigation is no doubt to collect and place before the Court the relevant material.

But it cannot be said that he should express no opinion. Indeed, the report may

lose some of its usefulness if the Officer does not indicate the effect of the material collected by him in regard to the truth or falsehood of the alleged offence. We, therefore, do not think that the accused went out of his way in giving expression to his opinion, irrespective of whether that opinion was tenable or not. It was for the court to accept or reject such opinion on examining the material placed before it. Such opinion is normally taken into consideration before the Court takes further action one way or the other. We, therefore, do not think that the accused's statement that it was difficult to sustain the complaint could at all be regarded as contumacious in respect of the court.

11. The learned Magistrate refers to the statement in the report that the decision of the Civil Court was based only on records in contrast to what was revealed by spot inspection and by the report of the Deputy Tahsildar, Bidar. He also refers to that part of the report in which the accused says that Ramreddy filed his petition for action u/s 144 Cr. P. C. cleverly utilizing the usual bias and prejudice against the police. The learned Magistrate says that the observation about the decision of the civil court being passed only upon records is clearly contumacious as is the imputation of bias and prejudice to the courts.

Before considering these matters it is necessary to say a word or two about the general tenor of the report, particularly with reference to what is contemplated u/s 202(1) of the Code of Criminal procedure. The object of Section 202(1) is obviously to enable the Magistrate when he is not satisfied that a prima facie case has been made out by the complaint and the sworn statement of the complainant to obtain further material to satisfy himself whether the complaint is to be further proceeded with or not. For this purpose he can himself hold a preliminary enquiry or direct an enquiry to be made by any Magistrate subordinate to him or an investigation to be made by a Police Officer or by such other person as he thinks fit.

Whichever alternative is chosen it is for the functionary concerned to gather further relevant material. It is seen that the report in question while it no doubt refers to the orders of the Civil Courts and the criminal Courts, contains no mention of any material collected by examining any persons acquainted with the circumstances of the case beyond a casual observation at the end of the report that most of the villagers testify to Manireddy's actual possession. No copies of statements appear to have been sent along with the report or of the Officer's diary. Nor is there any reference to the Officer visiting the village.

For the first time specific reference is made to these matters in the counter affidavit filed before this Court. Even the reference to the several orders of the civil and criminal Courts appears to have been made with a view to show that they were of little or no value. This will be clear from extracting some portions of the report dealing with these matters. In one place the accused says:

"After Ramreddy obtained the power of attorney from Sangamma, he started operations on two fronts, on one side he tried to bring pressure on Police

subordinate staff by sending petitions to higher authorities making all sorts of allegations against S. Is. and C. I. On the other hand suits were filed in the Civil Court to restrain Manikreddy. The result of these actions was that the local Police were left in a helpless position and on the other hand the civil court decreed on the basis of the record only that Sangamma was actual cultivator and possessor of the lands, whereas spot inspection showed that Manikreddy was in actual possession and that he was cultivating [he lands. This is also substantiated by the report of the Deputy Tahsildar, Bidar dated 20-9-1958, who also held in that report that Manikreddy was actually cultivating the lands. In such circumstance, the local Police could not take action for criminal trespass against Manikreddy and at the same time they were not empowered to evict Manikreddy and hand over the possession to Sangamma. Therefore, the only action which could be taken was to maintain peace By recourse to arrest u/s 151 and subsequent action u/s 107 Cr. P. C. impartially against both the parties".

12. Quite clearly the accused was drawing a contrast between what according to him was the actual state of affairs as revealed by a spot inspection, as also by the report of the Deputy Tahsildar and what was decided by the Civil Court, only on the basis of the records, He also implies that this state of affairs left no initiative in the hands of the police. It is urged by the learned advocate for the accused that the statement that the decision of the courts was given only on the basis of the records appears to be factually true, as for example, the order of the learned District Magistrate himself on the petition for action u/s 144 Cr. P. C. That appears to be true.

But it is also stated in that order that no oral evidence was adduced by either party. The learned Magistrate therefore made his order on the basis of the materials placed before him. Even apart from these circumstances, so long as the order was passed by a competent Judicial Officer it makes no difference to the validity of the order, whether it is based only on documentary evidence or on oral evidence also. It is, however, seen that the above reference in the report is to the order of the Civil Court. This related to the temporary injunction order made by the Munsiff.

That order is seen to have been made not only on the basis of the records of previous proceedings and entries in the relevant village records showing ownership as well as possession, but on the affidavits of the parties. That was also an equally effective order. The only object of drawing a contrast between the order made on the basis of records only and the result of spot inspection and the report of the Deputy Tahsildar was to indicate that the former was of little or no value. We might also add that in our view a spot inspection could have little significance, if that phrase was intended to convey what it normally means.

If an act of trespass has already occurred and the trespasser is in occupation there is nothing strange, if, when the spot is inspected the trespasser is found on the land. That docs not help in ascertaining whether the alleged trespass did take place or not. Similarly, the Superintendent was clearly in error in seeking and

obtaining a report from a revenue Officer, as distinguished from entries in revenue records, for the purposes of the investigation. In fact, the report appears to have been obtained in the context of the application for action u/s 144 Cr. P. C. It also appears from the records that the Deputy Commissioner himself disapproved of the Deputy Tahsildar making a report in the circumstances.

13. As regards the allegation of "usual bias and prejudice against the police", it is urged by the learned Advocate for the accused that there is no allegation of bias and prejudice on the part of the Courts. It is explained in the counter affidavit filed by the accused in this Court that Ramreddy in furtherance of his own ends was utilising the usual bias and prejudice against the police created by himself by sending petitions to higher authorities making all sorts of allegations against the police. This explanation is artificial and totally untenable. When in the report the accused stated that Ramreddy was cleverly utilising the usual bias and prejudice against the police it could not possibly mean his own bias.

It is true, as urged by the learned advocate for the accused, that it is not specifically stated in that passage that Ramreddy utilised the bias and prejudice of the courts, but in the context it necessarily implied that either the Courts or that the Courts also along with others shared that bias. For the bias was to be utilised in the context of a petition for action u/s 144 Cr. P. C. That petition was filed before a Court and it necessarily follows that Ramreddy's object was to utilise the bias of the courts. It is hardly necessary to say that the imputation of bias or prejudice to the courts is contumacious.

14. It is urged by the learned advocate for the accused that the order for temporary injunction was passed in November 1957, while the alleged trespass took place in September 1958 and that the state of affairs at the time the temporary injunction order was made would afford no criterion in regard to factual possession on the date of the alleged trespass. It is also urged that the temporary injunction-order itself could not be regarded as unequivocally affirming the possession of Sangamma. The latter contention is based upon the learned Munsiff's directing the respondents (Manikreddy and others), while allowing the application, for temporary injunction, to maintain the status quo.

It is suggested that the latter order meant that whoever, was in possession was to be allowed to continue in possession and that if, as a matter of fact, Manikreddy was found to be in possession the police could not take action to disturb him from his possession. It will be remembered that this stand is taken by the accused in his report also. This is obviously a specious explanation and the result of misguided legal ingenuity. The accused purports to have scrutinised all the previous orders and amongst them the order in question also. That clearly states that on the basis of the material on record the petitioner, i.e., Sangamma, appears to be in possession of the suit land since a very long time.

The allowing of the application for temporary injunction meant that she was not

to be disturbed from her possession and the direction to the respondents to maintain the status quo necessarily meant that they were not to disturb her in her possession. Further the matter did not stop there, since Manikreddy took up the matter in appeal. The learned District Judge in dismissing the appeal observed that there was prima facie evidence to show that the plaintiff was in possession of the suit land on the date of suit.

15. As regards the interval between the date of temporary, injunction granted by the learned Munsiff and the date of the alleged trespass, the accused's report does not at all proceed on the basis that there was any change in the state of affairs in the interval. On the other hand it goes into the history of the dispute between the parties from a period long prior to the injunction order. The D. S. P. even refers to a statement alleged to have been made by Sangamma before the revenue authorities admitting the adoption of Manikreddy and handing over possession of the lands to him.

It should be mentioned that this circumstance had been taken into consideration by the learned Munsiff when he granted the temporary injunction. This circumstance itself indicates that the accused thought that he could go behind the order of the learned Munsiff and examine for himself the evidence in regard to the anterior state of affairs. Moreover, the order of the appellate court was made on 2-8-1958 and it reaffirmed that the possession was with Sangamma on that date, as otherwise the appellant would surely have brought to the notice of the appellate Court any change in the context of things in regard to possession which had occurred during the interval.

The interval between this date and the date of the alleged trespass was less than two months. In fact, the real matter and indeed the only matter for investigation by the accused was to ascertain the facts relating to possession during the interval between the appellate Court's order and the date of the alleged trespass and also whether the act of trespass had occurred as alleged in the complaint. There is total absence of any advertence to this matter in the report.

The general tenor of the report is undoubtedly to demonstrate that the order of the two civil courts was unrelated to reality, not as factually found by the accused but on what he gathered to be the position by his own assessment of the previous history of the case, the spot inspection and the report of the Deputy Tahsildar. The reference to the order of the civil court which, according to him, was made only on the basis of records and his allegation of bias and prejudice which by implication he imputes to the courts, appear in this context. The natural result was to set at naught the very purpose of the learned District Magistrate in directing an investigation u/s 202 (1) of the Code of Criminal Procedure and it appears to us such a result was intended by the accused.

16. The learned Advocate for the accused has sought to contend that as the accused was discharging duties laid upon him by law the report is absolutely privileged and even if the report or any part of it constitutes contempt of court

he is necessarily exempt from the consequences. He has referred to some decisions. But it appears to us that they do not bear out the contention. The case reported in (Raja) Veni Madho Prasad Singh Vs. M. Wazid Ali , lays down that no suit for libel will lie against a police officer in respect of a statement in a report made by him in pursuance of a direction u/s 202 Cr. P. C.

It is hardly necessary to say that considerations which apply to a matter which constitutes a contempt of court are totally different. No question of privilege arises in a matter of contempt though the question may arise whether the impugned statement or act is within permissible limits. The main, question to be decided is whether the conduct has resulted in obstruction to the course of justice. The learned advocate for the accused has also referred to certain decisions which lay down the principles governing matter pertaining to contempt of Court.

In Rizwan-ul-Hasan and Another Vs. The State of Uttar Pradesh, , it was held that two Magistrates who in the normal discharge of their duties and exercise of their powers had forwarded to a subordinate Magistrate a petition containing allegations which were calculated to obstruct the proceedings before the latter did not commit contempt of court. It will be noticed that they themselves expressed no views. The circumstances of that case can have no bearing on the one on hand. The case reported in Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh, deals at some length with the principles governing cases of contempt. It is stated in that decision:

"It will be an injury to the public if it tends to create an apprehension in the minds of the people regarding the integrity, ability Or fairness of the Judge or to deter actual and prospective litigants from placing complete reliance upon the Court's administration of justice, or if it is likely to cause embarrassment in the mind of the Judge himself in the discharge of his judicial duties. It is well established that it is not necessary to prove affirmatively that there has been an actual interference with the administration of justice by reason of such defamatory statement; it is enough if it is likely, or tends in any way, to interfere with the proper administration of law."

It may be suggested that no question of creating apprehension in the minds of the people regarding the integrity, ability or fairness of the judge arises in this case as the report in question was submitted by the accused to the Magistrate. It is not necessary to go into the Question whether the complainant had a right of access to that report and whether, therefore, there was a possibility of sued apprehension in his mind. It is dear, however, from what is stated above that the statements in the report adverted to above were calculated to cause embarrassment in the mind of the Judge in the discharge of his judicial duties and to impede the course of justice. As observed in State of Madhya Pradesh Vs. Revashankar, .:

"It was also pointed that there were innumerable ways by which attempts could

be made to hinder or obstruct the due administration of justice in Courts, and one type of such interference is found in cases where there is an act or publication which amounted to scandalising the Court itself. This scandalising might manifest itself in various ways but, in substance, it is an attack on individual judges or the Court as a whole with or without reference to particular cases casting unwarranted and defamatory aspersions upon the character or ability of the Judges. Such conduct is punished as contempt for this reason that it tends to create distrust in the popular mind and impair confidence of people in Courts which are of prime importance to the litigants in the protection of their rights and liberties."

This is not a case where an attack is made against an individual judge in regard to his conduct so as to have any material bearing on the course of the case. On the other hand the effort of the accused has been to show that the decisions of the courts are of little or no value and do not need to be taken into serious consideration for the very purpose of the investigation directed to be made by him. In effect, he suggests that the investigation itself was not railed for. His suggestion at the end of the report to the Magistrate to make a spot inspection and to await the result of the civil suit emphasises this attitude on the part of the accused.

The investigation directed by the District Magistrate was a part of the judicial proceedings and the accused's attitude was calculated to hamper the investigation and this resulted from the accused's ex-pressed notion that no weight need be given to judicial orders, and that the Court was influenced by prejudice and bias against the police. The learned Advocate for the accused has urged that the accused in referring to the part played by the Police Officers in the course of the dispute between the parties was not trying to place either his opinion in regard to the question of possession or other matters which arose in the dispute or that of his Officers, above the views expressed in the decisions of the Courts, but was merely fulfilling a direction contained in the very order u/s 202(1), Cr. P. C. of the District Magistrate for investigation. It is seen that in the course of the order the learned District Magistrate states:

"In view of the allegations made against the Police and the inordinate delay in submitting final report, and the hazardous impact the attitude of the police will have on the maintenance of law and order in the District, I direct that this petition be sent to the D. S. P. for his report u/s 202(1), Cr. P. C."

It is urged that the order clearly contemplated a report on the conduct of the Police Officers. On the other hand, it is urged by the learned Advocate-General that what was meant by the learned District Magistrate was that in view of the allegations made against the subordinate Police Officers the Magistrate thought it proper to direct the District Superintendent of Police himself to conduct the investigation.

It can only be said that if this is what was in the mind of the learned District

Magistrate he has not expressed himself with sufficient clarity and there was room for the accused to think he had to report on the conduct of the police also. But he did not content himself with stating what he had to say about the part played by the police in the course of the dispute between the parties but chose to comment on judicial orders and in doing so, overstepped the limits as mentioned above. In view of these considerations we must hold that both by the general tenor of the report and in consequence of the particular statements mentioned in the charge, the accused has committed contempt of Court.

17. We, however, cannot lose sight of the circumstances which have led up to these proceedings. We have already referred to the sweeping and general statements made by the learned District Magistrate in his letter to the Inspector General of Police, and in his order on Ramreddy's petition for action u/s 144 Cr. P. C. The learned District Magistrate permitted himself to say:

"If the crime position in this District is unsatisfactory, and is at its loose ends, such partisan attitude, on the part of the police is a contributing factor of no mean order."

Even in the reference made to this Court, he says:

"It (order dated 25-11-58) outlines the dispute the parties are at issue, and the questionable part played by the police, apparently with the knowledge and approval of the D. S. P. in an attempt to defeat the finding of the Courts Criminal and Civil. The usual modus operandi adopted by the police, in these parts, to cover up their corrupt ways, is pampered by the D. S. P. as "impartial" and he proceeds to impute "prejudice and bias" to the Courts."

This attitude of the learned District Magistrate also formed part of the background. We are also disposed to take into consideration that the accused is a young man of 30 years and has apparently not fully understood the limitations within which he has to function in the discharge of his duties. Taking these factors into consideration we think that no further action is called for beyond administering a reprimand to him, which we hereby do with the earnest hope that he will not allow a repetition of such conduct on his part to occur.

K.S. Hegde, J.

18. I agree.

19. Order accordingly.