

(2005) 10 JH CK 0001

In the Jharkhand High Court

Case No : Contempt Case (Civil) No. 510 of 2005

Dr. Junul Bhengraj

APPELLANT

Vs

Sri A.K. Sengupta, Special Judge, CBI (AHD) and Others

RESPONDENT

Date of Decision : 26-10-2005

Acts Referred:

Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 12, 16, 2

Citation : (2006) 1 JCR 197

Hon'ble Judges : S.J. Mukhopadhyaya, J; Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : K.K. Jha "Kamal", for the Appellant;

Final Decision : Dismissed

Judgement

S.J. Mukhopadhyaya, J.—This civil contempt petition has been preferred by petitioner, Dr. Junul Bhengraj under Sections 2(b), 12, 16 of the

Contempt of Courts Act, 1971, read with Article 215 of the Constitution of India for initiating a contempt proceeding and to prosecute a Judicial

Officer.

2. The petitioner is an accused in different animal husbandry Scam cases, commonly known as "Fodder Scam" cases. The main allegation of the

petitioner is that he will not get justice from the O.P. No. 1, Special Judge, CBI, Ranchi as, according to him, the said Judge has committed

contempt of Courts. After filing of the case, an objection was raised by the office of this Court pointing out defects. One of objections was made

that a Judicial Officer cannot be impleaded as a party so his name should be deleted. There are other defects pointed out by the office.

3. All the defects having not been removed, the case was taken up by the

Registry and was placed before the Lawazima Board of Joint Registrar (Judicial). The Joint Registrar (Judicial) of this Court by order dated 19th July, 2005, having noticed the submissions, made by the counsel for the petitioner, and taking into consideration the ratio, laid down by the Supreme Court vide its judgment dated 18th February, 1999 passed in Civil Appeal No. 932 of 1999, opined that the civil contempt petition was not maintainable. Accordingly, as per Jharkhand High Court Rules, 2001, he referred the matter before the Bench, presided by the Chief Justice of this Court.

4. On 17th September, 2005 when the case was taken up, adjournment was sought for on behalf of the counsel for the petitioner. When the case was taken up again on 19th September, 2005, counsel for the petitioner raised question of jurisdiction of the Court, particularly this Bench in hearing the matter and submitted that this Bench has no jurisdiction to hear the case. It was argued that the High Court from its administrative side has no jurisdiction to place the matter before the Division Bench; the matter should have been listed before the single Bench. It was further argued that the case cannot be listed out of turn, which has been listed without mentioning. It was further submitted that the orders passed by this Court in different cases have been violated and the Chief Justice has no jurisdiction to constitute a Division Bench for hearing the civil contempt matters.

This Court has noticed the argument and submission made by the counsel for the petitioner. However, in spite of request, neither he chose to argue the case on merit nor argued on the question of maintainability of this petition, as was raised by the Registry of this Court. He requested to adjourn the case so that may be ready to argue the case on merit. On his request, the case was adjourned for 3rd October, 2005. On the said date, counsel for the petitioner again appeared and requested to adjourn the case to get himself prepared to argue the case on merit. When the case was taken up on 4th October, 2005, counsel for the petitioner again requested to adjourn the case for 18th October, 2005. Even on 18th October, 2005, counsel for the petitioner did not choose to appear, in spite of repeated calls.

5. This Court having noticed the submissions made by the petitioner with regard to jurisdiction of this Bench, hold that the Chief Justice has jurisdiction to place the matter before any appropriate Bench, including Division

Bench. When it was listed before the Division Bench, counsel for the petitioner neither sought time to remove the defects nor argued the case on the question of maintainability nor chose to argue the case on merit.

It appears that the petitioner including his counsel simply tried to drag the matter instead of arguing the case on merit.

6. This Court has gone through the pleadings made by the petitioner and the enclosures attached to the petition. It appears that the petitioner is not

happy with one or other order passed by the learned Judicial Officer (O.P. No. 1) in one R.C. Case No. 5(A)/2000 in which petitioner is an

accused. While it is alleged that many of such orders, passed by the learned Judicial Officer (O.P. No. 1), are against the law, laid down by this

Court or by the Supreme Court, further allegation has been made that the Judicial Officer is trying to twist the rules to deprive the contention of the

accused-petitioner. Such submission made on behalf of the petitioner is vague and also cannot be accepted in this contempt proceeding. If any one

or other order passed by the learned Judicial Officer (O.P. No. 1) is against the law, Forum is different, which should have been availed by the

petitioner. Before this Court, the petition under the Contempt of Courts Act or Article 215 of the Constitution of India is not maintainable, being

not appropriate Forum.

In the petition filed on behalf of petitioner, it is alleged that the Judicial Officer has used derogative language but such submission cannot be

accepted for the reasons mentioned hereunder.

The petitioner, Dr. Junul Bhengraj has not sworn affidavit on the ground that he is in custody and it has been sworn by one S.M. Moin, son of Late

Sayed Bakullah, resident of Nai Mohalla, P.S. Doranda, District : Ranchi as Pairvikar of the petitioner. Nowhere Sri S.M. Moin, Pairvikar has

pleaded that he was present in Court when R.C. case No. 5(A)/2000 was taken up and heard by O.P. No. 1.

7. We find no case made out even to issue notice for initiation of contempt proceeding. In the circumstances, it is not necessary to discuss whether

the petition is maintainable or not. This contempt petition is dismissed.

N.N. Tiwari, J.

8. I agree.