
(1998) 09 SC CK 0120

In the Supreme Court Of India

Case No : Contempt Petition (Civil) No. 346 of 1997

G.L. Gupta, Advocate

APPELLANT

Vs

R.K. Sharma and Others

RESPONDENT

Date of Decision : 01-09-1998

Acts Referred:

Penal Code, 1860 (IPC) — Section 220

Citation : AIR 2000 SC 3632

Hon'ble Judges : B. N. Kirpal, J; A. S. Anand, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The petitioner Shri G.L. Gupta, Advocate is the President of District Bar Association, Ratlam. He has filed this petition alleging that Shri Suresh Chandra Kelwa, a practising advocate at Ratlam was hand-cuffed on 11-9-1995 and produced before the Railway Magistrate, Ratlam on 12-9-1995 after being paraded from Ratlam station to the District Court building while in hand-cuffs. Under orders of the learned Railway Magistrate the hand-cuffs were directed to be immediately removed. Subsequently an inquiry was conducted by Shri B.K. Sharma, Superintendent of Police, Railways and in his report to the District and Sessions Judge, Ratlam he has stated that the respondents had hand-cuffed Shri Kelwa "without any justification" and took him from Neemuch to Ratlam which is about 140 Kms. from Neemuch in hand-cuffs. The Superintendent of Police recommended departmental action as well as legal action to prosecute the officers for an offence u/s 220, I.P.C.

2. Vide order dated 18-3-1998, we directed the Home Secretary, Government of Madhya Pradesh to file an affidavit to disclose as to what action, if any, had been taken to prosecute the officers for the offence u/s 220, I.P.C. and to also disclose the details of the departmental action taken against the police officials. Shri V.N. Kaul, Principal Secretary, Department of Home, Government of Madhya Pradesh has filed an affidavit dated 29th August, 1998. According to that affidavit, challan

has been filed and charges u/s 220, I.P.C. have since been framed against Mr. R.K. Sharma, the then SHO, GRP, Neemuch, Shri I.M. Tiwari, the then ASI, GRP, Shri Radhey Shyam, Constable No. 169, GRP and Shri Amar Singh Constable No. 363 GRP, by learned Chief Judicial Magistrate, Neemuch on 10th August, 1998. It is also stated that the State Government of Madhya Pradesh had proposed to the Union Public Service Commission, New Delhi to withhold two annual increments of Shri B.K. Sharma, the then Superintendent Railway Police. The Union Public Service Commission has, however, recommended vide its letter dated 14-8-1998 only to record 'severe Censure' and have not agreed to the withholding of two annual increments. Attached with the affidavit are the copies of the charges framed against the four above named officers besides a copy of the letter from the UPSC.

3. This Court has on occasions more than one deprecated and condemned the conduct of the escort police in hand-cuffing a person or an undertrial without any justification (See with advantage - Sunil Gupta and Others Vs. State of Madhya Pradesh and Others, and Khedat Mazdoor Chetna Sangath Vs. State of M.P. and others,

4. Apart from the fact that under Article 141 of the Constitution the law laid down by this Court is the law of the land, Article 144 mandates that all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court. Hand cuffing of an undertrial or a prisoner, in spite of the law laid down by this Court, is a serious matter

5. According to the report of the Superintendent of Police the respondents had resorted to hand-cuffing Shri Kelwa. Their action may invite an action under the Contempt of Courts Act against them but we refrain from passing any order under the Contempt of Courts Act in view of the fact that respondents have been charge-sheeted and charges u/s 220, I.P.C. have already been framed against them by the learned Chief Judicial Magistrate. The learned Chief Judicial Magistrate shall expeditiously try the case and pass appropriate orders keeping in view the law laid down by this Court on the subject.

6. Since the trial has commenced before the learned Chief Judicial Magistrate, we do not propose to proceed further with this application. The petition is therefore disposed of and the rule discharged.