

(1955) 07 AP CK 0018
In the Andhra Pradesh High Court

Government Pleader

APPELLANT

Vs

A.R. Vajiravelu Chetty and Another

RESPONDENT

Date of Decision : 22-07-1955

Acts Referred:

Citation : AIR 1956 AP 84 : (1956) CriLJ 475

Hon'ble Judges : Subba Tao, C.J; Bhimasankaram, J

Bench : Division Bench

Judgement

Subba Rao, C.J.—This is an application for committing the respondents for contempt of Court and to punish them in accordance with law.

2. Respondent 1, Vijaravelu Chetty, is the President of the Kuppam Panchayat Board. On 20-8-1953, he sent a communication to the Superintendent, X Branch, Anti-corruption Madras, making allegations of corruption against Sri p Gopalakrishna District Munsif-cum-Sub-Divisional Magistrate, Kuppam Chittoor District. The communication contained the following allegations:

I have received certain information which I think it my imperative duty to pass on to you for necessary action. This information is in respect of the rampant corruption existing in the District Munsif-cum-Sub-Divisional Magistrate's Court, Kuppam.

The Magistrate is Sri P. Gopalakrishnan of Avidi of East Godavary District. He was first appointed as Additional District Munsif of Chittoor in November 1949. Even then his honesty was suspected.

He was messing in the Golden Cafe, Chittoor. He never paid the hotel bills. But he compensated the hotel keeper by decreeing a suit in his favour.

There was a batch of nearly dozen suits between the ryots and the inamdars of Mundlapudi. The ryots were represented by Sri B. Munirathnam Naidu, Pleader, Tirupathi. This pleader took this judicial officer and his family to Tirumalai hills, fed him and presented him with a number of vessels. So the Munsif favoured the

ryots by dismissing the suits.

A petition setting forth all these allegations was filed before the then District Judge Sri M. A. Azeem. Though the petition was dismissed as not pressed, P.G. was transferred to Sompeta.

P.G. now at Kuppam with the assistance of a Corrupt Bench clerk Sri G. Sreenivasulu Naidu has begun to receive bribes and sell justice.

In O.S. No. 2 of 1952, L. Rajagopalacnari, doctor, V. Kota paid Rs. 300/- on 6-3-1953.

In O.S. No. 10 of 1952, Kulla Reddy and Kuppa Reddi S/o A. Narayana Reddl of Krishnapuram paid Rs. 500/- on 6-4-1953.

In O.S. No. 58/52, K. Munisami Chetti, Merchant, Kuppam paid Rs. 200/- on 22-1-1953.

In o. S. No. 49 of 1952: Pattabhiramayya of Irisinamlpalli gave Rs. 500/- on 9-2-1053 through Thimmiah.

In O. s. No. 6/52, Magill Ramiah Chetty of Javuripalll gave Rs. 200/- on 21-7-1953.

In C. C. Nos. 5 and 6/52. P. Subrahmanyam of Nellipatta gave Rs. 500/- on 6-7-1953.

In C. C. Nos. 6 and 7 of 1953, Chengappa of Chintagunta gave Rs. 500/- In this same case accused Poolavaram Muniswami Chetty of Ramakuppam was denied justice because he refused to pay Rs. 200/- as demanded by the Bench Clerk.

On 22-6-1953, P.G. went to K.G.P. in Van No. MSP. 6913 owned by one Narayanappa of V. Kota. All the expenses were met by D Rangiah of Belupalli, accused in C. C. No. 39 of 1952.

On 20-7-1953, P.G. went to K.G.P. in the same van. This time the expenses were met by Kuppi Reddi and Kulla Reddi of Krishnapuram regarding O.S. No. 10 of 1952. P.G. was pre-sented therewith fruits, vessels, toilets and silk cloth worth about Rs. 300/-. During this trip he was accompanied by his peon G. Varada Pillai.

P.G. gets Rs. 359/- P.M. But, after meeting all his expenses here he is managing to send his father and others Rs. 500/- per mensem. A reference to the local post office in respect of M. Os. sent and to the Bank of Chittoor Ltd., Kuppam as to the amounts and numbers of Demand drafts taken will reveal the correct position. Now he is adopting the method of sending currency by registered post.

P.G. misappropriates portions of rice brought into his Court in smuggling cases. Just because one process server was honest enough to com. plain, he was kept under suspension and later on fined for the same. Off the record sales are also effected out of such rice stocks.

I have given above all the information I have received, I feel there is a prima facie case for laying a trap. My informants have promised me and to others of your department all assistance in their power to lay out a successful trap.

3. The Superintendent, of the X Branch forwarded the petition to the Chief Secretary to the Government of Madras for necessary action. It was duly sent to the Registrar, High Court of Judicature Madras. The High Court directed the District Judge, Chittoor, to make an enquiry and send a report. Before the District Judge, respondent 1, Vajaravelu Chetty, stated that he had no direct knowledge of any of the matters stated in the petition and that respondent 2 Namassivaya Filial, the then Head Clerk, Kuppam District Munsif's Court gave him a draft in his own hand giving out the particulars which he sent out in the petition.

He also filed before the learned Judge the draft given to him by Namassivaya Pillai. He further stated that one Muhammad Khasim, a process server in the Kuppam District Munsif's Court told him of the alleged misappropriation of rice. He admitted that he had no direct knowledge himself and that he did not contact any of the persons mentioned in the petition. He also admitted that it was not possible to prove any of the allegations made in the petition.

4. Namassivaya Pillai, respondent 2, on the other hand denied any knowledge of any complaint against Sri Gopalakrishna. He denied that he went to Vajaravelu Chetti and complained to him about Sri Gopalakrishna or gave him any draft. When the draft filed by Vajaravelu Chetti was shown to him he had to admit that it was in his handwriting. He further added that he did not give it to Vajaravelu Chetti and that he had no personal knowledge of any of the complaints made therein.

5. When Muhammad Khasim, the process server was examined, he deposed that he heard on 22-5-1953 evening in a shandy at Kuppam that process server of the Kuppam Court sold some rice taking it from the Court on 21-5-1953, that he went to Vajaravelu Chetti on 3-6-1953 to report about the sale of rice and that Vajaravelu Chetti said that he would enquire.

He further admitted that Namassivaya Pillai and Sri P. Gopalakrishna were at loggerheads and that whenever the Munsif said anything, Namassivaya Pillai used to report angrily. He also admitted that he was suspended by the District Munsif in June 1953 for one month and that his appeal also was dismissed.

6. Varada Pillai, another process server, stated that he was a dalayat for six days under Sri Gopalakrishna, that one evening he accompanied him to K.G.P. 17 miles from Kuppam, that the Munsif went to a dentist's shop and from there he went to the bazaar with his family and got some toys, eatables and two or three brass utensils and that he returned to Kuppam by 9 p. m. that night. He added that they went in a van and that except the driver and cleaner, there were no outsiders with them.

7. On this evidence, the learned District Judge gave the following findings:

I would have no need to hesitate saying that, Sri Namassivaya Pillai is responsible for these allegations which he says he listed out on rumours. He has obviously no reasonable or probable cause to make these allegations in the form in which he has done and pass it on to Vajaravelu Chetti with a view to start an enquiry. The allegations are per se calculated to bring Sri Gopalakrishna to disrepute. They are mischievously and maliciously made and tend to bring Courts to disrepute by scandalising the presiding officers.

8. In regard to Vajaravelu Chetti, the learned Judge recorded the following findings:

I should think that action should be taken also under the said Act against Sri A.P. Vajara Velu Chetti in having passed on these allegations without any reasonable or probable cause in a manner unworthy of a reasonable man and absolutely unworthy of a public officer as Panchayat president, he was holding.

On the material placed before us, there is every justification for the findings of the learned District Judge, and indeed, no other conclusion is possible.

9. It is not necessary in this case to consider the law of contempt generally. It would be enough if we confine our attention to that aspect, of it which aims to keep the course of justice free and unobstructed by scandalous attacks on its officers. Even here, we noted not travel beyond the recent decision of the Supreme Court in - Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh, (A) At p. 13 Mukherjea J. as he then was stated the purpose of the exercise of summary jurisdiction, in the following terms:

It admits of no dispute that the summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as administered in the courts. It would be only repeating what has been said so often by various Judges that the object of contempt proceedings is not to afford protection to judges personally from imputations to which they may be exposed as individuals; it is intended to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the authority of the Court is lowered and the sense of confidence which people have in the administration of justice by it is weakened.

10. The learned Judge proceeded to state at p. 14:

It will be an injury to the public if it (the statement) 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.

11. Adverting to the relevant circumstances that should be borne in mind in coming to a conclusion whether a particular person committed contempt or not, the learned Judge observed at p. 15:

But leaving out cases of *ex facie* contempt, where the question arises as to whether a defamatory statement directed against a judge is calculated to undermine the confidence of the public in the capacity or integrity of the Judge or is likely to deflect the court itself from a strict and unhesitant performance of its duties, all the surrounding facts and circumstances under which the statement was made and the degree of publicity that was given to it would undoubtedly be relevant circumstances.

12. As the aforesaid judgment contains a clear and authoritative restatement of the law on the subject, we need not pursue the matter further.

13. The law of contempt, therefore, has armed the High Court of Justice with power and imposed upon it the duty of preventing any attempt by any person to interfere with the due course of justice or the proper administration of law by any Court subordinate to it. But the jurisdiction to commit for contempt is an extraordinary one and, therefore, should be sparingly and circumspectly used.

While the High Court should not be oversensitive to well-meant criticism, it shall not shirk its duty to maintain the dignity of the Court and to preserve the majesty of law. The jurisdiction is exercised not to vindicate any personal interest of the judge but only the general administration of law which is the public concern. The test is whether the allegations made are of such a character or are made under such circumstances as to tend to obstruct or interfere with the due course of justice or the proper administration of law.

The bona fides of the person making the allegations, the nature and the circumstances under which the said allegations are made, the extent and the character of the publication and similar other considerations will have to be borne in mind in coming to the conclusion whether the act complained of is an obstruction to public justice.

14. Bearing the aforesaid principles in mind, we shall proceed now to consider the case of the two respondents separately. Respondent 2 was an officer of the Court, being the Deputy Nazir. Presumably to wreak vengeance against the Munsif, he made unfounded allegations of bribery, which he not only knew to be false but which he knew he had no reasonable prospect of substantiating.

He passed false information to a responsible gentleman of the locality and persuaded him to send it to the superintendent X Branch. After making a scandalous attack of an atrocious type on the integrity of the judicial officer, he denied he gave any information to respondent 1. When the draft was shown to him, he admitted that he has written it when he received rumours from the public but he said that he had no personal knowledge of the complaints.

By conveying false and irresponsible allegations of corruption by the District Munsif to the president of the Panchayat Board, one of the leading members of the public in that locality, we have no doubt that the authority of the Court is lowered and the sense of confidence, which people have in the administration of justice, is weakened. Respondent 2 is, therefore, guilty of gross and serious contempt of court.

We think in the circumstances of the case, the ends of justice will be served if we sentence him to three months' simple imprisonment and we accordingly do so.

15. On behalf of respondent 1, it was contended that he bona fide conveyed the information given to him by a responsible public servant to the Superintendent. X Branch in the Promotion of purity in the administration of justice. It was also argued by the learned Counsel that his client bona fide thought that such complaints against Judicial Officers should go to the Superintendent, X Branch for enquiry and redress.

In the counter-affidavit he expressed his unqualified regret for his conduct if the Court should feel that he had unwittingly committed contempt.

16 In support of his arguments, learned Counsel placed reliance upon the aforesaid judgment of the Supreme Court. The facts in that case were: A Bar Association, upon receipt of complaints from litigants, after enquiry passed a resolution that they had formed an opinion that certain two named officers, one being a judicial Magistrate and the other a revenue officer, were thoroughly incompetent in law, did not inspire confidence in their judicial work, were given to stating wrong facts when passing orders and were overbearing and discourteous to the litigant public and the lawyers alike.

There was no separation of the judiciary from the executive in that State. Copies of the resolution were sent to the premier, the Chief Secretary, the Commissioner and the District Magistrate for suitable action. The meeting of the Executive Committee of the Bar Association was held "in camera" and non-member was allowed to be present at it.

The resolution was typed out by the president himself and the proceedings were not recorded in the Minute Book of the Association at all. On those facts, the Supreme Court held that the Bar Association did not commit any act of contempt and even if they committed one, it was only of a technical character and, therefore, the High Court should have dropped the proceedings.

17. It would be seen from the aforesaid facts that the Bar Association took all steps to keep the resolution secret and that they communicated the same to the superior authorities who had administrative control over the officers concerned. The resolution was passed and the communication was made bona fide with the only view of getting their grievances redressed.

But, in the present case, respondent 1, who is a responsible public servant, without making any enquiries, recklessly passed on the information to a public

officer who, in no sense of the term, is in administrative control over Sub-Divisional Magistrate. A Sub-Divisional Magistrate is under the administrative control of the District Magistrate and the High Court.

If a person sends a complaint bona fide against a Sub-Divisional Magistrate to get his grievances redressed and without giving undue publicity, to the District Magistrate and the High Court, it may be that there was no intention or tendency to lower the authority of the Court or shake the confidence of the public in the administration of justice. But the same cannot be said in a case where allegations of grave acts of corruption on the part of a Judicial Officer were communicated to a police officer or to any other officer who has no administrative control over the Sub-Divisional Magistrate.

18. Nor does the judgment of the Allahabad High Court - State of Uttar Pradesh Vs. Shyam Sundar Lal Jain, (B) support the argument of the learned Counsel.

There a complainant wrote a letter under registered cover to the Prime Minister of India in the form of a petition or representation making serious allegations of corruption and partiality against the Magistrate. The learned Judges held that he was not guilty of contempt relying mainly upon three facts:

(i) On the material placed before them, they were not in a position to say that the representation was necessarily of a mala fide nature, (ii) the letter was sent to a person, who the opposite party thought was the appropriate authority, though actually the Prime Minister was not the proper authority and (iii) there was no publication to the public or any section of the public as the letter was sent by registered post in the form of a confidential letter.

On the aforesaid facts, they found that there was no obstruction to the administration of justice. It is not necessary to express our view whether we would have come to the same conclusion on the facts. The Court will have to decide on the facts of each case whether the allegations made lowered the authority of the Court or weakened the sense of confidence which people have in the administration of justice.

19. Respondent 1 was holding a responsible honorary office. When grave and scandalous allegations were made against a Sub-Divisional Magistrate and when particular instances were given to him, it was his duty to satisfy himself by contacting some or all the persons alleged to have suffered at his hands and to verify the correctness of facts before he communicated them to a police officer.

Either he had done it in indecent haste or in collusion with respondent 2. But we are not able to say on the material placed before us that he was actuated by malice or that he knew that the police officer was not the person to whom a complaint should be made. Though we hold that he is guilty of contempt, we give him the benefit of doubt and find that he had no mala fides and that he did not know that the proper channel of the complaint was to the District Magistrate.

We accept his unconditional apology in the circumstances of the case and drop

further proceedings against him. Notice may be issued to respondent 2 to surrender on or before 1-8-55. The warrant of committal may be sent to the District Judge, Chittoor.