
(2003) 01 AP CK 0075

In the Andhra Pradesh High Court

Case No : CC No"s. 1421 and 1422 of 2002

Guda Bhadraiah

APPELLANT

Vs

M.C. Pargien, IFS, Divisional Forest Officer and Others

RESPONDENT

Date of Decision : 21-01-2003

Acts Referred:

Contempt of Courts Act, 1971 — Section 2

Citation : (2003) 2 ALD 107

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : B. Vinod Kumar, for the Appellant; Government Pleader for Forests, for the Respondent

Judgement

L. Narasimha Reddy, J.—These two contempt cases are filed alleging that the common order of this Court passed in W.P.Nos. 16408 and 16436 of 2002 dated 10-9-2002 has not been complied with.

2. The petitioners are traders in abnus (beedi) leaves. Both of them claim to have purchased certain quantities from one K. Laxma Reddy, Contractor, and stocked the same in their godowns. They filed the above writ petitions complaining against the action of the officials of the 1st respondent in sealing the godowns.

3. After considering the arguments advanced on behalf of the petitioners, the learned Government Pleader for Forests and the material on record, this Court observed as under :

"It is not known as to on what basis the respondents have prevented the petitioners from using the stock which they acquired from the contractor under valid permits. It is not as if the contract maintained any secrecy as to the quantity. It is not the case of the respondents that the contractor was not entitled to collect the stock beyond certain limits. When the contractor categorically stated that he wants to transport 20,000 standard bags and permits

were given to him, the subsequent suspicion as to the source of the stock appears to be absolutely without any basis. The issue assumes importance in view of the fact that the average life of a beedi leaf is limited and it is expected to be stocked only for a particular period. If it is stocked beyond the time, it may have an effect on the manufacturing process having regard to the storage and demurrage charges. In certain cases, the leaves itself may become useless. Beedi leaf as such is not a prohibited item or contraband. The interests of the department will sub-serve, if the corresponding royalty is collected in accordance with the relevant rules. Without concentrating on that, if an adventure is undertaken resulting in deterioration of the quantity of the stocks and accumulation of demurrages etc., there is every likelihood of the Government being exposed to payment of damages. It is the public interest that suffers and not the individual officers who are to bear the burnt of it. That, however, is a matter for the respondents to take care of."

However, the respondents insisted that the appeals preferred by the petitioners are pending. Though the appeals were not statutory in nature, with a view to enable the 3rd respondent to pass appropriate orders in the matters, the following directions were issued:

"Now that it is stated that the appeals are pending, the appellate authority is directed to dispose of the appeals at an early date and not later than four weeks from today. It shall be open to the respondent to consider the feasibility of releasing the stock on such terms as they may deem just and proper. However, it is made clear that for whatever losses the parties may incur on account of the refusal to release on the mere ground of suspicion, the respondents alone shall be responsible to make good the loss sustained by the petitioners on account of withholding of the stocks, if such an action is found to be illegal."

The petitioners were also permitted to take remedial steps to preserve the stock.

4. The petitioners claim to have got issued notices complaining that neither they are permitted to take remedial steps to preserve the stock nor orders are passed by the appellate authority, within the time stipulated by this Court. Ultimately they filed the present Contempt Cases on 4-12-2002. After the contempt cases were filed, the 3rd respondent issued orders dated 11-12-2002, disposing of the appeals with the following directions:

"In view of the above circumstances and keeping in view the orders of the Hon"ble High Court of Andhra Pradesh in its common judgment dated 19-9-2002, and with a view of proper utilisation of the said beedi leaves, it is permitted to release the leaf in question to the petitioners subject to the following conditions pending finalisation of the enquiry on this subject matter.

(i) The petitioners have to give a security deposit of a sum, which is equivalent to two times of the value of produce calculates as per the FSR offence rates of Rajahmundry Circle for the quantity of leaf claimed by the petitioners.

(ii) The petitioners have to furnish the valid proof for their ownership to claim the leaf in question before the Divisional Forest Officer concerned.

(iii) The petitioners have to furnish the valid document showing the purchase of the leaf in question from Sri Laxma Reddy the Contractor and they shall also prove that they are bona fide beedi leaf merchants and traders."

5. The respondents have filed counter-affidavits referring to the facts of the case in detail and also the steps taken by them pursuant to the orders of this Court. As regards the remedial steps, it is their contention that under the guise of the same, the petitioners had been labelling the bags, which will have an affect on the adjudication of the matter. On the conditions imposed for release of the seized stock, the respondents contend that if the petitioners feel aggrieved by the same, they can challenge the same in an appropriate forum.

6. In addition to alleging that the respondents did not comply with the orders of this order in its letter and spirit, the learned Counsel for the petitioners contends that the purport of the order dated 11-12-2002 is nothing but to defeat the very observations made by this Court while disposing of the writ petitions. The learned Counsel also submits that the purport of the conditions is to victimise the petitioners for approaching this Court. It is his contention that even where the forest produce is seized, the original or the appellate authority or Courts direct release of the goods on furnishing of security for half, or at the most, the entire value of the seized goods, and when there was no valid seizure nor any proceedings were initiated, imposing the condition to deposit double the value of the goods and also to satisfy the concerned authority as to the title and various other aspects is nothing but high-handedness of the respondents. It is his case that neither the seizure nor the conditions imposed by the appellate authority are contemplated in any provision of law. He relies upon the decided cases in support of his case that even in contempt cases, appropriate directions can be issued if the Court is satisfied that the respondents have acted illegally.

7. The learned Government Pleader for Forests submits that the respondents have implemented the orders of this Court in its letter and spirit and the delay in disposal of the appeal was not wanton, but was warranted for various circumstances beyond the control of the 1st respondent. It is his contention that there is no illegality or infirmity in the order dated 11-12-2002 and if the petitioners feel aggrieved by the same, they can always avail the remedy against the said order.

8. While disposing of the writ petitions, this Court observed that prima facie there did not exist any basis for the seizure of the goods of the petitioners. On the ground that the petitioners have preferred appeals, a direction was issued to the appellate authority to dispose of the appeals. The perishable nature of the goods was indicated in the order. The petitioners complain that they were not permitted to take the remedial steps. In view of the allegations made in the counter-affidavit as to the nature of the remedial steps that the petitioners

sought to undertake, this Court does not intend to advert to that controversy. It, however, needs to be seen as to whether the appellate authority has complied with the order of this Court in its letter and spirit.

9. It is a matter of record that the appeals were not disposed of within the time stipulated by this Court. It was only after the Contempt cases were filed that the appeals were disposed of. Strictly speaking, there is an element of non-compliance from the point of time within which the appeals were disposed of. That, however, may not be much of significance. Having expressed its displeasure about the seizure and the hardship that was being caused to the petitioners, this Court left it to the appellate authority to pass appropriate orders. The orders passed in such appeals are expected to be reasonable to sub-serve the interest of the Government as well as the parties. If it can be gathered from the orders that the appellate authority had only victimised the petitioners for their approaching the Court and had resorted to the steps, which shocks the conscience of the Court, it needs to be seen as to whether this Court is helpless when the same is brought to its notice.

10. The learned Government Pleader for Forests submits that once an order is passed pursuant to the directions of this Court, the only course open to the petitioners is to challenge the same and contempt does not lie. He placed reliance upon the judgment of this Court reported in *Rabia Bee @ Khaja Bee Vs. R. Subrahmanyam, Collector, Hyderabad and Another*, .

11. The learned Counsel for the petitioners, however, submits that where this Court comes to the conclusion that its orders were not implemented in its letter and spirit, it can certainly pass orders in Contempt Case, in exercise of its powers under the provisions of the Contempt of Courts Act as well as under Article 216 of the Constitution of India. He relied upon the judgment of the Supreme Court in *Kashinath Kher and Others Vs. Dinesh Kumar Bhagat and Others*, , and also of this Court in *Kandena Veeraiah v, Narra Venkateswarlu* 1985 (2) APLJ 194.

12. In *Rabia Bee's* case (supra), it was held that once an order is passed as per the directions issued by the Court, there arises a fresh cause of action to seek redressal in appropriate forum. It was further held that even if the order is wrong or not in conformity with the directions, it would only give rise to a fresh cause of action and the aggrieved party has to avail the opportunity of assailing the same in appropriate proceedings and the same cannot be reviewed in contempt proceedings.

13. There cannot be any quarrel with the proposition laid down by this Court in *Rabia Bee's* case (supra). The order of the appellate authority cannot be reviewed in contempt proceedings. However, where it emerges that it runs contrary to what is indicated in the order of the Court, it cannot be said that the Court is helpless. The consideration in such cases would not be as to the correctness or otherwise of the order passed by the respondents, but as to whether it accords to the letter and spirit of the order of the Court.

14. In Kashinath Kher's case (supra), the Supreme Court took the view that in the event of non-implementation of the order of the Court in its true spirit and purport, appropriate directions can be issued.

15. In Kanedena Veeraiah's case (supra), similar question was dealt with. The writ petition was filed challenging the proceedings under the Land Acquisition Act. The same was admitted and an order of interim stay was granted. Subsequently, another notification acquiring the same land was issued and possession was taken. The petitioner filed Contempt Case. A plea was taken that the possession taken in pursuance of subsequent proceedings cannot constitute contempt. The learned Single Judge having found that the respondents have committed Contempt of Court, directed re-delivery of possession of the land to the writ petitioner. Contempt Appeal was filed before the Division Bench challenging that portion of the order, which directed re-delivery of possession. It was contended that such a direction was not compatible with the Scheme of Contempt of Courts Act. After referring to the decided cases and the contentions advanced on behalf of the parties, the Division Bench of this Court held as under:

"From the foregoing discussion it emerges that the High Court, as a Court of Record, has undoubtedly inherent power as enshrined in Article 216 of the Constitution of India to punish for its contempt and to have all the powers of such a Court of Record to pass orders in exercise of its inherent power to help the administration of justice, and Rule 27 of the Contempt of Court Rules framed by this Court by virtue of the powers conferred u/s 23 read with Article 215 of the Constitution only reiterates what is enshrined in Article 215 and is in conformity with the ratio laid down by the Courts in the above mentioned cases."

While laying the said proposition of law, the Division Bench relied upon the passage from Halsbury's Laws of England, which is as follows:

"The Court may, in its own discretion, grant an injunction, in lieu of committal or sequestration, to restrain the commission or repetition of a civil contempt. The Court may in lieu of any other penalty require the contemnor to pay the costs of the motion on a common fund basis.

In a doubtful case, the Court may instead of proceeding for contempt, grant an order requiring the defendant to state whether he has complied with an undertaking."

This aspect of the matter was not dealt with in Rabia Bee's case (supra). The point of discussion in that case was somewhat different.

16. Reverting to the facts of the case, it needs to be observed that this Court expressed its view as to the lack of proper justification in seizure of the goods and left it to the appellate authority to pass appropriate orders. The purport of the order of the Appellate Court is that the petitioners should deposit double the value of the goods, furnish proof of the ownership of the petitioners over the material seized and also valid documents to show that they purchased it from the

Contractor and that they are bona fide leaf merchants. These conditions only indicate that the appellate authority had created an impossible situation for the petitioners. Further, the question of establishing title etc., as contemplated in conditions would arise, if any proceedings are initiated under an appropriate provision before the competent authority. If conditions 2 and 3 are complied with, the question of the petitioners depositing double the cost of the material does not arise. The observations made in the order were meant to be taken into account. The respondents have simply brushed them aside. No provisions of law are cited in support of such an extreme view. Even the terms and conditions of the lease enable the Contractor to collect stocks exceeding the limits subject to payment of the amounts. It is not in dispute that the petitioners have been issued necessary directions by the concerned forest officials. The stock seized is not contraband. Its utility diminishes with the passage of time.

17. Under the above circumstances, this Court feels that though the respondents have technically committed Contempt of Court, ends of justice will be met if appropriate directions are issued to protect the interest of both the parties.

18. Accordingly, the Contempt Cases are closed, directing that the respondents shall release the seized stock to the petitioners on their furnishing bank guarantee for the value of the seized stock, which in turn, shall be subject to the proceedings that may be initiated against the petitioners.

19. This Contempt Case having been set down for orders as to for being mentioned on this the 24th day of January 2003, upon perusing the order of this Court dated 21-1-2003 and made herein and upon hearing the arguments of Mr. B. Vinod Kumar, Advocate for the petitioners and of Government Pleader for Forests.

20. The Court made the following order:

21. The learned Counsel for the petitioners has mentioned the matter on 23-1-2003. It was at his instance that the matter was posted "FOR BEING MENTIONED". He makes a request for modifying the order as regards Mode of surety to be furnished by the petitioners as well as the quantum of the same.

22. The same cannot be undertaken in such a manner. There is nothing either to be clarified or modified/added.