

(1997) 05 RAJ CK 0006

In the Rajasthan High Court

Case No : Criminal Contempt No. (Def) 151 of 1996

Gulab Chand Mittal

APPELLANT

Vs

Ram Khiladi and Others

RESPONDENT

Date of Decision : 08-05-1997

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 2, 22
Penal Code, 1860 (IPC) — Section 332, 353

Citation : (1997) 3 RLW 1648 : (1997) 1 WLN 382

Hon'ble Judges : Rajendra Saxena, J;Gyan Sudha Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Gyan Sudha Misra, J.—This application for contempt has been filed by the petitioner on the allegation against the respondents that they are guilty of contempt of Court and hence should be punished since they have taken certain actions against the petitioner although ostensibly in their official capacity, are in fact orders passed in order to coerce and pressurise him for withdrawing the writ petition which he had filed challenging the action of the respondents, who had abolished the post of Law Officer-cum-Enquiry Officer and had posted the petitioner to a lower post of Statistical Officer. The duty cast upon this Court, in this petition therefore, is to adjudicate on the question whether the respondents can be said to have committed contempt of Court if they have taken certain disciplinary action against the petitioner so as to infer and construe these actions as a coercive measure in order to pressurise the petitioner to withdraw his writ petition pending in this Court before a learned Single Judge.

2. The facts in its essential details, in order to appreciate the aforesaid question are stated herein as follows: The petitioner had been working on the post of Law and Enquiry Officer in the Rajasthan State Agricultural Marketing Board which was later abolished and consequently, the petitioner was posted as Statistical Officer with a lower pay scale than what he was drawing as a Law Officer. This

action prompted the petitioner to file a writ petition in this Court, bearing SBCWP No. 3967/ 1995, wherein it was contended by the petitioner that the abolition of the post of Law and Enquiry Officer was arbitrary, discriminatory, illegal and male fide and was passed at the instance of respondent No. 3 Ram Khiladi Meena. It was asserted therein that the abolition of the said post was merely a pretence and a cloak to remove the petitioner from the post of Law and Enquiry Officer and Shri Ram Khiladi Meena was bent upon removing the petitioner from the said post as his posting was inconvenient to Shri Meena.

3. The writ petition was contested by the respondents, including Shri Meena, before the learned Single Judge and, therefore, a counter-affidavit was filed by Shri Ram Khiladi Meena assailing the facts stated in the writ petition, wherein false and misleading averments were made according to the petitioner. The petitioner, therefore, felt that the counter-affidavit was deliberately filed with an intention to cause an obstruction in due process of judicial proceedings and also to mislead the Court, and thus interfered with the administration of justice. He, therefore, filed an application in the aforesaid writ petition u/s 2(c) of the Contempt of Courts Act, 1971 (hereinafter referred to as the Act) praying therein to take action against Shri Ram Khiladi Meena in accordance with the provisions of the Act for commission of criminal contempt by Shri Meena. The said application for contempt was then directed to be listed along with the writ petition by the learned Singal Judge so that it could be considered and appreciated along with the writ petition whether any contempt was committed by Shri Meena.

4. The bickerings, however, did not end at this stage, and multiplied further, as according to the petitioner's allegations Shri Ram Khiladi Meena got further infuriated and decided to teach a lesson to the petitioner so that he could be compelled to withdraw the said writ petition as well as the contempt petition which were filed by him for initiating proceedings against Shri Meena. It has been further narrated by the petitioner that under instructions of respondent No 1, Shri Ram Khiladi Meena issued a letter on 2/12/1995 under the Code of Conduct stating that the petitioner has used some official letters in the writ petition by which official secrecy had been disclosed before the Court. Thereafter suddenly on 11/12/1995, respondent No. 1 Shri Ram Khiladi Meena served an office order dated 7.12.1995 mentioning therein that the entire service of the petitioner including of service perks and perquisites had been forfeited since according to the respondents, the petitioner remained on unauthorised leave from 5.8.1995 to 7.12.1995. It is alleged that the aforesaid order was issued even without issuing any charge-sheet and without conducting any enquiry as envisaged under Rule 16 of the Rajasthan Civil Service (Classification, Control & Appeal) Rules. The petitioner however, has given detailed facts justifying his period of leave and has then went on to submit that the action of the respondents in passing the order dated 7.12.1995 beyond doubt had been passed with a clear object of coercing the petitioner so that he may not prosecute his writ petition and application for contempt against the respondents. It has been asserted that the action of the

respondent was clearly with a view to put pressure on the petitioner either to withdraw the entire proceedings, or not to press the same, or else face the consequences of disciplinary action etc. which clearly amounts to contempt of Court. The Learned Single Judge, however, directed to consider the application for contempt along with the writ petition as already stated hereinabove. But the petitioner preferred to file an application for punishing the respondents by holding them guilty of criminal contempt u/s 12 read with Section 2(A) and Section 22 of the Act, on the facts and allegations stated herein above on the basis of which it has been prayed that the respondents herein be severally punished for contempt of court and all proceedings initiated and all orders passed by the respondents against the petitioner, including one FIR which also has been lodged by the respondents against the petitioner, filed during the pendency of the writ petition be declared to be frivolous, vexatious, contemptuous and unlawful and then prayed for treating them as illegal.

5. The respondents herein in order to meet and negate the case of the petitioner, have filed a reply, wherein they have a different tale to narrate in order to contend and establish that this application is wholly misconceived and, as such, not maintainable under any provision of law. It has been explained by the respondents that abolition of the post of Law and Enquiry Officer was in compliance of the policy decision taken by the Department of Finance, State of Rajasthan for imposing financial cut in overall expenses of the Government. Which wrongly infuriated the petitioner to challenge it by way of writ petition on the allegations of mala fides and irregularities. On the contrary, the petitioner got severely annoyed and angered on coming to know of the abolition of the post of Law and Enquiry Officer and, gave vent to his feeling by expressing unbound anger which was reflected by his subsequent conduct and behaviour as he refused to work on the post of Statistical Officer on which he was posted as a substitute of Law and Enquiry Officer. After abolition of post, although several informations through telegrams, letters and newspapers were given by the Marketing Board requesting the petitioner to immediately join his duty as he was absent from office without prior sanction since 1.8.1995, the petitioner failed to report for duty even though a telegram was given to the petitioner on 11.8.1996 and a registered letter was also given to the petitioner. But, all these failed to receive any response due to which, a notice u/s 86 of the Rajasthan Service Rules, 1951 was issued to the petitioner giving seven days time for submitting an explanation for not joining his duty on the post of Statistical Officer. These averments have been supported by the relevant annexures marked as Annexures 5, 6, 8 and 9 etc. But the petitioner failed to join duty upto 7th December, 1995 and even when he ultimately did join, he failed to discharge his duties properly, as the petitioner was feeling deeply frustrated primarily for the reason that he was unsuccessful in getting the desired relief from the Court of learned Single Judge which led him to infer that the bona fide actions of the respondents were in fact malicious which further provoked him to be violent in his day today behaviour so much so that he even started abusing and misbehaving with his

super officers. On 7.2.1996. the petitioner entered the chamber of the Secretary and demanded certain documents from him. When the Secretary expressed his inability, the petitioner used unparliamentary language and misbehaved. Likewise, the petitioner entered the chamber of Addl. Chief Engineer and, while an important meeting was going on, he entered and started using intolerable language and disturbed the meeting by baseless talks. The petitioner further crossed all limits when he abused and manhandled senior officer of the marketing board of the rank of Deputy Director (Statistical). The said officer was compelled to lodge a criminal report at the Police Station, Ashok Nagar, on 19.6.1996 which came to be registered as FIR No. 8/1996 for offence under Sections 332 and 353, IPC vide Annx. 20 of the contempt application. It has therefore, been submitted that all the aforesaid events clearly go to show that it was the petitioner who went berserk which was demonstrated by his behaviour which had gone worse day by day. A detailed narration of the facts in this regard have been given out in the counter-affidavit, which may not be repeated in totality. Suffice it to say that the respondents have tried to explain to this Court that whatever action was taken against the petitioner was duly taken according to law and no action had been taken against the petitioner with the motive to compel him to withdraw his writ petition which he had filed challenging the abolition of the post so as to be treated as sufficient material to initiate proceedings for contempt of court against the respondents and hold them guilty u/s 12 read with Section 2(A) and Section 22 of the Contempt of Courts Act, 1971.

6. Learned Counsel for the petitioner Shri Sudhir Gupta, has vehemently argued that all actions taken by the respondents against the petitioner under the garb of disciplinary actions were in fact taken with a clear motive to coerce the petitioner to withdraw his service writ petition, which he had filed challenging the abolition of post of Law and Enquiry Officer on which the petitioner had been working and also to withdraw the contempt application which he had filed before the learned Single Judge which was directed to be heard along with the writ petition. In support of his submissions, he has relied on a catena of cases in order to drive home his contention that all actions howsoever bona fide they appear to be, were in fact malicious and ought to be, construed by this Court as a clear action of coercion on the part of the respondents to pressurise the petitioner to withdraw his writ petition and the contempt petition. All proceedings and orders passed against the petitioner under the garb of disciplinary proceedings were in fact coercive in nature to exert mental pressure on the petitioner to withdraw from pursuing his case. Hence, the respondents are guilty of contempt since they have sought to prevent the petitioner from pursuing the course of justice. The cases relied upon by the petitioners Advocate in support of his case has a long list, some of which are as follows-(1) Pritam Pal Vs. High Court of Madhya Pradesh, Jabalpur through Registrar, (2) 1984 Cr. L.J. 481 Subhash Chand v. S.M. Aggrawal (3) 1974 Cr. L.J. 899 In the matter of D.B. Vohra (4) Gurcharan Das Chadha Vs. State of Rajasthan, (5) 1990(4) SLR 248 Bank of India v. T.S.

Kelawala and Ors. (6) 1993(3) WLC 122 Nizamuddin v. State of Rajasthan (7) 1990(3) RLR 714 Dinesh Chandra Sharma v. State of Rajasthan (8) 1993 WLR Raj 498 Vijaipath Saxena v. State of Raj.

7. Shri Rathore, on the contrary, has contradicted, the submissions urged by Shri Gupta by narrating all the detailed facts regarding the frustrated behaviour of the petitioner in his interaction. with the respondents and has submitted that the action taken by the respondents against the petitioner were clearly by way of disciplinary action which they were fully authorised to take, in view of the behaviour of the petitioner and the same were taken in all fairness. The FIR which was registered against the petitioner was also one such legal action taken against the petitioner for his unruly and criminal behaviour. Thus, it was submitted that the actions taken by the respondents should not be construed so as to infer that they were coercive in nature so as to compel the petitioner to withdraw his applications. Hence, no case for contempt should be held to have been made out against the respondents. Shri Rathore in support of his submission has also relied on several decisions which are; (1) K.T. Chandy Vs. Mansa Ram Zade, Tukaram G. Gaokar Vs. R.N. Shukla and Others, In Re: Shri Mehra, Senior Supdt. of Post Offices and Another, In Re Mehra (4) Jang Bahadur Singh Vs. Baij Nath Tiwari,

8. Having heard learned Counsel for the parties at length and on perusing the citations and counter citations in support of their respective cases, we have noticed that all the cases relied upon by the petitioner's Advocate referred to hereinabove are not really relevant for the purpose of deciding the issue involved herein, as quite a few of them viz. AIR 1990(4) SCC 248, 1993(3) SLC 122, 1990 (2) RLR 714, 1993 WLR Raj 98 are the cases which are absolutely irrelevant for the purpose since they deal with the question of propriety of the orders of termination either on the ground of absence from duty or any other reason which is not really the question for consideration herein which is restricted to the question of contempt of Court and not propriety of the order of termination and the other cases which although dealt with the question of contempt of Court are not related with the pointed question as to whether the action of the respondents can be construed so as to hold to be obstructing the cause of justice. For instance AIR 1992 SC 903 Pritam Pal Singh v. High Court of Madhya Pradesh dealt with the powers of the Supreme Court and High Court to punish for contempt, wherein it was held that the same are not restricted or trammled by ordinary legislation and it was further held that the power is to be exercised fairly. It is quite clear that in this writ petition,-the power of the High Court to punish for contempt is not under question and hence, this case, also is of no assistance to the petitioner. So also, 1984 Cr. L.J. 481 and 1974 Cr. L.J. 899 relied upon by the petitioner's counsel is also not relevant for the purpose of this writ petition since in 1984 Cr. L.J. 481 dealt with the conduct of a Sessions Judge who was held guilty of contempt as also judicial propriety since he had granted press interview in regard to a case of death sentence which was under reference to the High Court. Similarly, 1974 Cr. L.J. 899 also dealt with the powers of the

High Court to initiate contempt proceedings suo moto. Thus, this case also has no relevance to the facts of the instant case. However *Gurcharan Das Chadha Vs. State of Rajasthan*, is somewhat relevant as in the said case while the petition u/s 527, Criminal Procedure Code was pending in the Supreme Court, the State Government served the petitioner with a notice and charge-sheeted him to show cause as to why he should not be proceeded against for breach of Rule 8 of the All India Service (Conduct) Rules, 1954 because he was alleged to have communicated directly or indirectly official documents and information to government servant/other persons to whom he was not authorised to communicate such document/ information. A Bench of three Judges Hon''ble Gajendra Gadkar, Hon''ble Hidayatullah and v. Ramaswami, J. were pleased to hold that there could be no question that "by charging the petitioner with proceedings of a different kind, there was direct or at least indirect pressure brought upon him in the prosecution of his petition for transfer", which was pending in the Supreme Court. On this the Supreme Court was inclined to take serious notice, but unconditional apology was tendered by the state Government who had sought not to prosecute the petitioner. The learned Judges had held therein that if the petitioner was guilty of any lapse under the Service (Conduct) Rules, or even guilty of offence, the action to which he, would be otherwise subjected, could await till the present proceedings before the Supreme Court had terminated and there was really no reason to hurry with the charge against the petitioner which charge would have put him under duress of some kind. Such a course of action was deprecated. But the learned Judges at the same time, were also pleased to observe that a mere allegation is not enough and whether any apprehension that justice will not be done in a given case is sustainable for the Court to see whether the apprehension is reasonable or not, there must be material from which it could be inferred that the persons alleged to be hostile to the petitioner, were interfering or were likely to interfere either directly or indirectly with the course of justice. Another case relied upon by the petitioner's counsel which can be said to be of relevance is reported in AIR 1996 SC 369, wherein the petitioner who was a Class B contractor; of PHED had submitted tender which was rejected and was challenged by him by way of a civil suit and during the pendency of the suit, the department issued a notice to the petitioner as to why his registration should not be cancelled. The question was whether issuance of such notice amounts to interference with the administration of justice and, hence, whether it amounts to contempt of court. It was held therein that the action of the non-petitioner was an invasion of the legitimate right of the petitioner to seek a relief in a court of law and the petitioner was penalised for filing a civil suit. Such action was held as Interference with the course of administration of justice and the non-petitioner was held guilty of contempt of court.

9. As against the aforesaid decisions, the respondent's counsel, has also relied on *K.T. Chandy Vs. Mansa Ram Zade*, wherein the facts were that in a pending civil suit, filed by the employee challenging the notice to terminate the contract

of service, the employer defendant issued second notice terminating the services of the employee which was not held to constitute contempt of court since the law of contempt was held, essential for "keeping the administration of justice pure and undefiled. The cases, thus, relied upon by the petitioner and the respondents clearly demonstrated that if any authority or an individual in fact threatened any person to withdraw his case, or suit thereby obstructing the course of administration of justice, he would definitely be held guilty of contempt of court. But although, there can be no doubt about this legal proposition, the court at the same time while judging the matter of contempt is definitely left with the liberty to examine whether the facts justify, so as to infer that the action of authority issuing notice can be held to be obstructing, so as to construe it as contempt of court. We therefore, examined the facts of the instant case discussed hereinabove in order to arrive at a just conclusion whether the orders passed against the petitioner as also the FIR lodged against him can be construed so as to hold that they were passed merely to pressurise the petitioner to withdraw his cases before the learned Single Judge specifically in the wake of the conduct of the petitioner who did not submit meekly but retaliated in a violent way. However, this may not be read or understood so "as to have any bearing on the merits of the order passed against the petitioner as that would be justiciable by way of independent proceedings. We have, therefore, heard learned Counsel for the parties at length and examined the citations and counter citations, in support of the respective cases only to examine as to whether there is any merit in the submission of the counsel for the petitioner to the effect that the disciplinary action taken by the respondents should be construed as a coercive measure taken by the respondents to pressurise the petitioner to withdraw his writ petition since it is no doubt true that as a matter of broad principle if it can be held out from the facts borne out, that a person in fact has been pressurised to withdraw a particular case, from a court of law thus obstructing the path of administration of justice, the same could clearly be covered within the scope and ambit of the Contempt of Court Act. But from the narration of the case and counter case of the parties, herein we do not feel persuaded to draw a conclusion that the actions which were taken against the petitioner by way of disciplinary measures can be treated as action coercive in nature so as to hold that the petitioner was pressurised to withdraw his writ petition, if, however, all these actions taken by the respondents, in fact, has any grain of truth, the petitioner was not without a remedy as he was surely at liberty to bring these facts to the notice of the court by way of an affidavit before the learned Single Judge and in fact, he also did so by filing an application for contempt before the learned Single Judge which was not dismissed, but was directed to be heard along with he writ petition. It is not the case of the petitioner that any pressure was exerted on him by way of any oral statement or threatening, but his allegations are that the order which was passed against him although were passed by way of disciplinary actions were in fact retaliatory actions of the respondents for punishing the petitioner for moving the court of law for redressal of his grievance. Assuming, the allegations were true and the petitioner in fact had withdrawn his writ

petition and his contempt petition before the learned Single Judge, and had thereafter filed this contempt petition before this Court, alleging that he had withdrawn his case as he was pressurised to do so by the respondents, perhaps this contempt petition could have been treated with more credibility. But on the one hand, the petitioner has been courageous enough to survive the threatening of the respondents by pursuing his remedy in the service writ as also by filing an application for contempt which is still pending before the learned Single Judge to be considered along with the writ petition, and has simultaneously also filed another application for criminal contempt under the Act against the respondents before this Division Bench. If the allegations of the petitioner, for the sake of arguments, were accepted, then at the same time, it can also be construed that the petitioner too has pursued the remedy by filing this contempt application in order to pressurise the respondents so that they may take a decision in favour of the petitioner by withdrawing the order of abolition of post of Law Officer. The petitioner, therefore, in our view is pitted against his own argument. Furthermore, we are not in a position to infer that the petitioner is rendered without any remedy as was in *Gurcharan Das Chadha Vs. State of Rajasthan*, where the petitioner would have been left without remedy if he had withdrawn his transfer petition pending before the Supreme Court, whereas in this case even if the allegations be treated as correct all these facts had already been brought to the notice of the learned Single Judge where the petitioner has already filed a contempt petition and the same is yet to be heard vide order of the learned Single Judge dated 29/11/1995. In spite of pursuing his writ petition and the contempt petition before the learned Single Judge what prompted the petitioner to file this criminal contempt petition before the division bench is, beyond the comprehension of this Court.

10. We further find the prayer of the petitioner completely erroneous wherein a direction has been sought that all the disciplinary proceedings initiated against the petitioner and the FIR lodged against him also should be declared to be vexatious and contemptuous so as to hold the respondents guilty of contempt and thereby punish them. The petitioner can certainly challenge those orders of which he is aggrieved under the relevant provisions of law, but certainly not by filing a criminal contempt before this Court as they are clearly beyond the scope and ambit of the Contempt of Court Act, 1971 and hence correctness or otherwise of those orders cannot be gone into herein. Thus, we are unquestionably led to hold that this contempt petition is without any substance and hence, it is dismissed without cost.