

(1996) 02 KAR CK 0051
In the Karnataka High Court
Case No : CCC (Cri) No. 33 of 1996

High Court of Karnataka

APPELLANT

Vs

Chinnen Das and Others

RESPONDENT

Date of Decision : 19-02-1996

Acts Referred:

Citation : (1997) 1 ALT(Cri) 898 : (1997) ILR (Kar) 418

Hon'ble Judges : M.F. Saldanha, J;H.N. Narayan, J

Bench : Division Bench

Advocate : S.R. Bannurmah, SPP, for the Appellant; Udaya Holla, for the Respondent

Judgement

M.F. Saldanha, J.—This is a contempt proceeding that has been instituted suo motu against four respondents. The respondents-1, 2 and 3 are the publisher, Printer and Reporter respectively of the Economic Times, Bangalore Edition, dated 7.11.1996 and the 4th respondent is Captain T.S. Gopaiakrishna, the former Treasurer of the Bangalore Stock Exchange. Briefly stated, the charges against the four respondents are that in the issue of the Economic Times dated 7.11.1996, a prominent news report was published under the head "Ex-BGSE official to move High Court against Judge"s alleged criminal contempt". The news report referred to a judgment delivered by a sitting Judge of this Court Justice M.P. Chinnappa in certain criminal proceedings on 15.4.1996. The 4th respondent is supposed to have applied to the Advocate General of the State of Karnataka for sanction to prosecute Justice M.P. Chinnappa for criminal contempt on certain grounds inter alia that "the Hon'ble Justice made false statements in the judgment contrary to the documentary evidence on record tends to scandalise the Court.....". The news report seeks to indicate briefly as to what had transpired in that litigation and highlights the fact that the 4th respondent sought the leave from the Advocate General to institute proceedings against Justice Chinnappa.

2. Pursuant to suo motu action for contempt instituted against the respondents,

respondents-1 to 3 have appeared before us. Respondent-4 has so far not been served and we are therefore confining this order to respondents-1 to 3. These three respondents are represented by the Learned Counsel Mr. Udaya Holla and they have tendered to the Court a statement containing an unconditional apology and they have also put forward a short explanation. As far as the Printer and Publisher of the paper are concerned, they have submitted that the material to be included in the issues of the news paper is an exclusively editorial function and that they have neither any control nor any hand in the type of the material that is included from time to time. They have further submitted that as far as the charge of contempt is concerned, that this Court should consider the aspect as to whether they had performed any overt acts or functions of any type in relation to the publication of the offensive material. Their contention is that if it can be demonstrated that they had virtually nothing to do with regard to the choice of material that comes to be printed, which is the exclusive function of the editorial section of the news paper, that they should be exonerated from any liability in this proceeding. While we do concede that there is considerable substance in the plea that has been put-forward on behalf of these two respondents, we need to however record that the law fastens deemed liability on all those persons who are involved in the process of dissemination of news and that therefore, it may not be perfectly justifiable in law to plead immunity in respect of such situations.

3. As far as the Reporter is concerned, he has very clearly stated that a copy of the application that was made to the Learned Advocate General was forwarded to the news paper by the 4th respondent and that since this was a document in relation to a Court proceeding, that parts of the same were reproduced. It is pointed out that the Editor was out of station on that day and that therefore, there was nobody in the Office to oversee or re-check the news report which ultimately came to be published. We must in fairness note that the Reporter has very frankly admitted that it was an error on his part to have mechanically reproduced the offensive material because as far as serious situations of this type are concerned, it is necessary on the part of the person who prepares the news report to use basic discretion and propriety while preparing the report and to automatically exclude such material which is prima facie offensive, defamatory or contemptuous. The Reporter has stated that this happened erroneously and he has tendered an unconditional apology to the Court and his Learned Counsel has also pointed out that the publication, which includes all those who man the editorial and other sections, will be more careful in future to ensure that such an incident never recurs.

4. Mr. Holla has submitted that in the facts and circumstances of this case where the publication was purely by error and where at the earliest point of time the respondents have unconditionally apologised to the Court, that a magnanimous view must be taken and he has requested that the apology be accepted and that the proceeding be closed as against these respondents. He has also assured the Court that whatever amends the Court directs the respondents to make will be promptly complied with.

5. We need to make a general observation at this stage and reiterate the fact that the judiciary which is the part of the constitutionally set up justice dispensation system in the country is required to function without fear or favour and that instances do arise where the Courts are required to take a firm view and to also pass orders, that certain persons may be unhappy with, but which are necessary from the point of view of propriety. Unfortunately, a trend has become apparent in the recent past for people in different walks of life to make statements and publish articles, many of which have contained direct attacks on the judiciary as a whole, some have been leveled against individual Judges; and the manner in which the media has been prominently highlighting this sort of material has virtually started a tirade against the Judges and the judiciary, often times or most of the time, emanating from quartets where the Courts have had to direct stringent action in case of horrifying levels of consumption and shocking degrees of misuse of power and authority. It is well settled law that as far as offences of defamation and contempt of Court are concerned, that the reproduction of offensive material is an offence in itself and it never be justified on the ground that it is a report of what some body else said or wrote. The principle involved in the present case is identical in so far as the defence pleaded is that the originator of the contemptuous statements is respondent 4 and that the news paper has only reproduced that material. What we need to emphasise very strongly is the fact that the immense and irreparable damage to the Courts, to the constitutionally set up judicial system is done by the irresponsible publication of material of this type and we need to therefore lay down in the strongest terms that the Courts will have, as of necessity, to come down very strongly hereinafter on every single case which involves unjustified and irresponsible attacks of this type. We are conscious of the fact that there is such a thing as freedom of speech and expression and we are also conscious of the fact that the journalists and the media have their rights, which are accepted and which are respected, but it will be necessary that reasonable restriction be enforced as far as exercise of those rights are concerned particularly ensuring that the limits of propriety are not over-stepped. It will therefore, be necessary that the media takes note of what has been pointed out by this Court and that hereinafter attacks of the present type will be consciously and completely avoided. Unfortunately, the impression prevails in certain quarters that the immense and irreparable damage for the publication of contemptuous or defamatory material can be completely off set merely by tendering an apology and that a Court will always accept it. There are well defined principles in relation to these cases and even though the Courts have always displayed a total degree of magnanimity while dealing with genuine situations where something has happened inadvertently, accidentally or where an apology is genuinely contrite; that the case law equally lays down that the Courts will have to be not only strong but ruthless in curbing and putting down motivated subscribers and irresponsible attacks against the judiciary.

6. We have carefully examined the facts of this case and the attendant

circumstances and we have also taken note of the submissions canvassed by the learned S.P.P. who has contended that the language used is totally unjustified and that the attack on the learned sitting Judge of this Court is virtually unpardonable. The fact of the matter is that the Reporter had obviously overlooked the consequences and he has stated that the reproduction of the offensive matter in his news report was both inadvertent and accidental. In respect of such situations there is a clear principle that applies and holds good to the journalistic field namely that certain categories of material should not be published nor reproduced irrespective of which quarters they have emanated from and more importantly that while publishing reports, it is necessary to crosscheck and verify. We have taken note of certain other aspects of the matter namely the fact that the Economic Times is a responsible publication as also the fact that it is not a publication that has in the past or normally indulged in publication of reports that are either incorrect or offensive. This makes a big difference to the situation because quite apart from the track record, the Reporter has accepted his mistake and has requested to be pardoned. In the over all facts and circumstances of the case, we are inclined to accept the apology that has been tendered on behalf of the respondents but we need to also record that though we do not propose to impose any punishment on the respondents, that we indicate very clearly an admonition from this Court for what has happened. We also direct that the newspaper shall within one week from today publish prominently in a box item on the front page an unconditional apology to the Learned Judge concerned but we do give the paper the liberty of indicating while the apology is published that the reproduction of the offensive material was inadvertant and accidental. In view of the fact that it is necessary to take not only corrective but preventive action, we also direct the news paper concerned to see to it that a copy of this order is forwarded to the Press Trust of India with directions the observations of this Court with regard to the bar on publication of offensive material contains attack against the Judges and the judiciary be brought to the notice of the media in general as it is very necessary that no further incidents of the present type should arise.

7. The contempt notice issued to respondents 1 to 3 is accordingly discharged and the proceeding to stand disposed of as against them. As far as R-4 is concerned, we direct that the notice be served on him and that the proceeding shall continue as against R-4 only. The matter to be re-listed for orders on 21.1.1997. Office to issue fresh notice to R-4.