

(1995) 01 DEL CK 0033

In the Delhi High Court

Case No : Criminal Cont. Ref. No. 9 of 1994

In Re : B.K. Sharma

Date of Decision : 30-01-1995

Acts Referred:

Citation : (1995) CriLJ 3057

Hon'ble Judges : Mahinder Narain, J; A.K. Srivastava, J

Bench : Division Bench

Advocate : D.C. Mathur and Akshya Bipin, for the Appellant;

Judgement

Mahinder Narain, J.—Notice of contempt was sent to Mr. B. K. Sharma on the basis of the assertions which were made in paragraph 3 of the reference made by Mr. S. N. Kapoor, Additional District & Sessions Judge, on 19-9-1994, which reads as under :-

"From amongst the Advocates, whose names figure in the complaints time and again, include S/Sh. Rajesh Chandra Sharma, Surinder Kumar Sharma, B. K. Sharma, D. R. Lakhani and R. K. Kochhar and S. K. Raizada, who have allegedly been supporting slogan shouting etc. Some young Advocates have also been supporting but their names have not come specifically in any of the reports received.

2. At another place in the same reference order, the name of Mr. B. K. Sharma figures as follows :-

Shri S. S. Malhotra, M. M., also complained that the intimidation of the judicial officers, at the hands of the lawyers was increasing day by day. In this connection, he also named Shri B. K. Sharma, Adv. along with two others. His report is Annexure-G.

Annexure-G reads as follows :-

19-9-94. From the office of Sukhvir Singh Malhotra, Metropolitan Magistrate, Room No. 11, Karkardooma Courts, Delhi :- 51.

To,

Hon"ble District & Sessions Judge, Tis Hazari Courts, Delhi.

Through :- Shri S. N. Kapoor, In-charge Karkardooma Courts, Delhi.

Sir,

The present atmosphere prevailing in the Shahdara Courts of intimidating the judicial officer, at the hands of lawyers is quite disturbing feature. Few lawyers, including Shri R. P. Kaushik, B. K. Sharma, R. S. Goswami and certain other have created scenes in the Court of undersigned, particularly then, when the desired relief could not be achieved by them in due process of law. Furthermore, we are compelled to adjust these advocates and all the other advocates, during the time of their strike, against us or against our esteemed colleagues, and we have to bear all the suffocation and it creates germ of apprehension in our mind while discharging judicial functions.

In these circumstances, you are requested to please look into the matter and advise us.

Thanking you,

Yours faithfully,

(S. S. Malhotra)

D.J.S.

3. As regards the slogan shouting, we find that no particulars of any actual incident with date or time, have been mentioned in the reference, and in the absence of specific particulars, we do not think that this Court would be right in assuming that B. K. Sharma has indulged in slogan shouting. We are aware that a view has been taken in *Morris v. Crown Office* (1970) 2 QB 114, that slogan shouting in Court premises would amount to contempt of Court, but in that case, there were specific particulars available to Court.

4. As regards the mentioning of slogan shouting in the complaints by Judicial Officers specially S. S. Malhotra, M. M., Mr. B. K. Sharma has, in his reply, referred to all the cases, which he was dealing with in the Court of Mr. S. S. Malhotra. These cases are mentioned by him in paragraph No. 4 of the reply, which reads as under :-

"4. That it is humbly submitted that I have only three cases in the Court of Shri S. S. Malhotra, M. M., Karkardooma. Delhi :-

(i) *Smt. Arvinder Kaur v. Rajinder Singh*. This is a case u/s 125, Cr.P.C. 125, Cr.P.C. for grant of maintenance allowance; I am representing the petitioner.

The file of this case was received in the Court of Shri S. S. Malhotra, M. M. on 30-8-1994 on transfer by learned ACMM and on 30-8-1994 the following order

was passed :-

30-8-1994.

Present : Petitioner in person. Respondent with counsel.

Case file received from the Court of 1d. ACMM. Be checked and registered. Put up for arguments on I.A. for maintenance on 6-9-1994 at 2.00 P.M.

sd/-

M.M.

6-9-1994.

Present : Parties in person.

Lawyers are reported to be on strike. Put up for 13-9-1994 at 2 P.M.

sd/-

M.M.

13-9-1994.

Present : Both the parties in person.

Ld. P.O. is on half day leave. To come up on 21-9-1994.

sd/-

M.M.

21-9-1994.

Present : Parties in person.

Lawyers on strike. Put up for argument on interim maintenance on 26-9-1994.

sd/-

M.M.

26-9-1994.

Present : Petitioner in person.

Respondent in person.

Put up for arguments at 12.30

26-9-1994.

Present : Petitioner in person.

Respondent with counsel.

Application on interim maintenance allowed vide my separate orders. Put up for

petitioner's evidence and payment on 26-10-1994.

sd/-

M.M.

(ii) Smt. Vijay Laxmi v. Kuldeep Tyagi; Master Keshav v. Kuldeep Tyagi.

The above cases are being tried together, being cases for grant of maintenance allowance to wife and child u/s 125 Cr.P.C. I represent the petitioners.

The following orders require consideration :-

6-8-1994.

Present : Parties in person.

Lawyers of both parties are not available since morning. Payment of Rs. 250/- made by the respondent to the petitioner in case.

Respondent seeks adjournment. Put up for respondent's evidence, 14-9-1994,

sd/-

M.M.

6-8-1994.

14-9-1994.

Present : Parties in person.

Rs. 250/- paid by the respondent to the petitioner in cash. Put up for R.E. on 12-10-1994 as Lawyers today are reported on strike.

sd/-

M.M.

14-9-1994.

(iii) State v. Madan Lal u/s 279/304A IPC.

This case was pending in the Court of Shri Y. S. Jonewal, M.M., and was transferred to the Court of Shri S. S. Malhotra, M.M. on 4-7-1994. The next date fixed on 4-7-1994 for recording evidence was 4-10-1994. It has now been adjourned to 19-12-1994 for evidence."

5. In the above also, there is no mention of any kind of slogan shouting or intimidation, whatsoever, by Mr. B. K. Sharma. Intimidation or attempt to intimidate a judicial officer is, in our view, a serious enough matter which would require to be taken up in exercise of contempt jurisdiction, but in this case there seems to be no particulars of any kind of intimidatory behavior, which could be ascribed to Mr. B. K. Sharma.

6. In addition to what Mr. B. K. Sharma has stated in his reply, he has also filed certified photo copies of the orders in the cases of Arvinder Kaur v. Rajinder Singh and Vijay Laxmi v. Kuldeep Tyagi. No copy has been filed in the case State v. Madan Lal, because that case does not appear to have been dealt with during the strike period.

7. For the reasons stated above, we do not think that any contempt action can be taken against Mr. B. K. Sharma on the basis of the record seen by us. The notice issued is, Therefore, discharged.

8. Order accordingly.