

(1996) 12 MAD CK 0077
In the Madras High Court

In Re: J. Sudarshan

Date of Decision : 17-12-1996

Acts Referred:

Consumer Protection Act, 1986 — Section 3
Contempt of Courts Act, 1971 — Section 2(c)

Citation : (1997) 1 LW 559 : (1997) 2 MLJ 287

Hon'ble Judges : S. Jagadeesan, J

Bench : Division Bench

Judgement

S. Jagadeesan, J.—The writ petitions W.P. Nos. 4538 to 4542 of 1996 filed by Mrs. S. Srimathi, Mr. G. Jambunathan, Mrs. Srimathi, Mr. B.K. Moorthy and Mr. S.K. Rajagopalan respectively came up for admission on 12.4.1996. The counsel on record did not appear on that date. But, however, on his behalf, adjournment was sought for. At request, the matters were adjourned to 15.4.1996, on which date a request for adjournment was made stating that the petitioners had engaged some other counsel, viz., Dr. Krishnamurthy. Hence once again the case was adjourned to 16.4.96. On 16.4.1996 there was no representation either on behalf of the counsel on record or on behalf of the other counsel who is said to have been engaged by the petitioners. Hence the matters were posted in default list on 17.4.1996.

2. The writ petitions have been filed challenging the jurisdiction of the State Consumer Disputes Redressal Commission, Madras to proceed with the cases filed against the petitioners by some of the respondents in the writ petitions. As the petitioners are all advocates, having some connection with the Legal Aid Cell, which had been restrained from functioning by order dated 14.12.1993 in W.P. No. 17145 of 1993 which was later on disposed of by a Division Bench on 26.4.1995, giving directions to the police authorities, I have my own doubt with regard to the genuineness of these proceedings. Hence on 17.4.1996 when Dr. Krishnamurthy, the learned Counsel appeared on behalf of the petitioners, I told him that if the petitioners appear before this Court and file an affidavit stating that they have no connection with the Legal Aid Cell any longer, then only the matter can be heard on merits. On the request of the counsel, the matter was

adjourned to 19.4.1996.

3. On 19.4.1996 when the case was called, another advocate by name Mr. Ram Mohan represented on behalf of the counsel on record Mr. Damodaran and requested for an adjournment of 10 days on the ground that the said Mr. Damodaran was admitted in the hospital. I told him that the counsel on record never appeared before this Court and the petitioners had engaged Dr. Krishnamurthy to come to the Court and make representation. None appeared and the matters were adjourned to 22.4.1996. On that date, Dr. Krishnamurthy appeared and represented that none of the petitioners are inclined to file any affidavit. Hence, I issued bailable warrants to the petitioners. Pursuant to the bailable warrants, Mr. Jai Sudarshan who was running the Legal Aid Cell was brought before this Court along with another petitioner Mrs. Srimathi. Mr. Jai Sudarshan admitted that the other four petitioners Mrs. Srimathi, Mr. Jambunathan, Mr. B.K. Moorthy and Mr. S.K. Rajagopalan had been working under him when the Legal Aid Cell was functioning. Hence I directed him to produce them before this Court. Only S.K. Rajagopalan and Mr. Jambunathan appeared. The rest of the two Mr. B.K. Moorthy and Mrs. Srimathi did not appear.

4. On enquiry Mr. Jai Sudarshan represented that both the above said petitioners Mr. B.K. Moorthy and Mrs. Srimathi had left the Legal Aid Cell on 1.10.1993 and since then they had set up practice at Delhi.

5. As the statement of Mr. Jai Sudarshan that B.K. Moorthy and Mrs. Srimathi had left to Delhi in 1993 is patently false, I decided to probe the matter further, since the police had filed a report in the meanwhile stating that Mr. Jai Sudarshan is known as B.K. Moorthy, Jai Sudarshan, Seshadri and Mrs. Vasanthi is known as Mrs. Srimathi and Mrs. Srinithi. If the statement of M. Jai Sudarshan is corrected that Mr. B.K. Moorthy and Mrs. Srimathi had left for Delhi in 1993 and thereafter they did not come to Madras, it is not possible for them to swear to the affidavit filed in the writ petitions filed by them at Madras. In their respective affidavits sworn before this Court Mrs. Srimathi's address is given as No. 15, Rameshwaram Road, T. Nagar, Madras 17 and that of Mr. B.K. Moorthy is No. 12, 7th street, Madras-61.

6. On further probe, the report of the police dated 3.5.1996 revealed that Mrs. Srimathi had filed a writ petition W.P. No. 17145 of 1993 and in support of W.M.P. No. 2676 of 1993 she filed an affidavit, in which she had described herself as follows:

I, Mrs. Srimathi, W/o B. Moorthy, aged about 41 years, Honorary Secretary of Legal Aid Cell, having office at No. 15, Rameshwaram Road, T. Nagar, Madras-17.

The premises at No. 15, Rameshwaram Road, T. Nagar, is used as the office of Legal Aid Cell and she had described herself as wife of B.K. Moorthy, whereas in another affidavit filed by her on 10.12.93 in SLP (Civil) Nos. 111 and 112 of 1993 before the Supreme Court of India, the said Mrs. Srimathi had described herself as follows:

I, Mrs. Srimathi, W/o. J. Sudarshan, aged about 44 years, residing at No. 25, Krishna Street, T. Nagar, Madras-17.

When she had described herself as wife of B.K. Moorthy and wife of Mr. Jai Sudarshan in the year 1993, it could refer only one person, having different names, unless the said Mrs. Srimathi proves that she got separated from either one of them and got married to the other. In the absence of any such plea, I have no hesitation to find that both Mr. B.K. Moorthy and Jai Sudarshan are the one and the same especially drawing reliance on the basis of the police report.

7. Not only the police report reveals the different names adopted by these two, in fact, in a complaint filed against these two before the State Consumer Disputes Redressal Commission, Madras, out of which W.P. No. 4539 of 1993 arises, the respondents therein are shown as J. Sudarshan alias Mr. B.K. Moorthy, Mr. Seshadri and S. Vasanthi alias Srimathi alias Srinithi. When J. Sudarshan and Vasanthi were questioned about this, they pleaded ignorance of the said complaint No. 396 of 1993 before the State Consumer Disputes Redressal Commission, Madras and they also denied that they filed any counter in the said complaint.

8. One Mr. Kuberan, Advocate who was watching the proceedings and apparently for the complainant in the E.P. volunteered himself by producing the copy of the order in O.P. No. 396 of 1993 dated 28.4.1995 wherein the respondents therein that is these two Mr. Jai Sudarshan and Mrs. Vasanthi were directed to refund a sum of Rs. 1,58,443 with interest therein at 24% and also to pay a compensation of Rs. 2 lakhs to the complainant therein. They were represented by counsel in spite of the production of the order, these two persons claimed that it is an ex parte order. But Mr. Kuberan, advocate represented that he appeared for the complainants in the said complaint before the State Consumer Disputes Redressal Commission, Madras and produced the copy of the counter filed by them and in the verification portion it has been clearly stated as Jai Sudarshan and Mrs. Vasanthi. The parties therein, declared that what is stated in the said counter are true. The counter was sworn by them on 30.11.1993.

9. After the Division Bench Judgment, directing the closure of the Legal Aid Cell, the records seized by the police reveal that Jai Sudarshan and Mrs. Vasanthi who are the prime persons concerned with the Legal Aid Cell had changed the name of the "Legal Aid Cell" as "Legal Centre" and informed the telephone department to change the telephone numbers in the new name of "Legal Centre". In their resolution dated 7.8.1995, it is stated as follows:

Resolved to change the name of the "Legal Aid Cell" as "Legal Centre" with immediate effect and to authorise the Executive Secretary Mrs. S. Srimathi to carry out the amendment with the Registrar of Societies, banks, the telephone department etc., and to execute necessary documents thereof.

If, as contended by Jai Sudarshan that Mrs. Srimathi had left for Delhi as early as 1.10.1993, then it is not known as to how she has been directed to carry out the

amendment with the Registrar by the resolution dated 7.8.1995 of the Legal Centre. This makes clear that Mrs. Srimathi is very much with Mr. Jai Sudarshan. The affidavit filed by him before this Court stating that Mr. B.K. Moorthy and Srimathi had left for Delhi in 1993 is totally false, and misleading, Mr. Jai Sudarshan filed an affidavit before this Court on 7.5.1996 as follows:

I am making serious efforts to locate the advocates M/s. B.K. Moorthy and Srimathi who had left the Legal Aid Cell on 1.10.1993 and now practising at Delhi from 1.10.1993. I shall trace them and produce them in Court as soon as possible.

Since not satisfied with the affidavit filed by Jai Sudarshan, a show-cause notice was issued to him as to why he should not be punished for contempt narrating all the facts stated above, after receipt of the said show-cause notice, the said Jai Sudarshan filed an affidavit as follows:

(1) I humbly submit that it was never my intention to cause any interference in the administration of justice.

(2) I further submit and undertake that I will not run any institution to related to the legal profession.

(3) I further undertake to withdraw all suits filed by me against the officials.

(4) I further undertake to co-operate with the court for expeditiously disposing of the criminal cases against me that are pending trial.

(5) I further undertake I will not file any writ petition for others.

For any commissions and omissions committed by me in the cause, I hereby tender my unconditional apology before this Hon"ble Court and beg to be pardoned.

This affidavit was filed on 12.6.1996. Thereafter he filed on 15.6.1996 an additional counter in which he has stated that M/s. B.K. Moorthy, and Mrs. Srimathi are advocates and were panel lawyers of Legal Aid Cell till its dissolution dated 1.8.1993 and at present he is unable to contact them because all panel lawyers were left abruptly on 1.10.1993 and since the transactions were earlier to 1.10.1993 both of them appeared to have used the Madras address in their affidavits and that in O.P. No. 306 of 1993 in the counter filed, no alias name have been admitted and the same had been denied and that the first floor of No. 25, Krishna Street is the residence of contemner and the legal counselling centre office was not functioning at this address. The contemner has not attempted to give false statements intentionally and begs to be pardoned. Mr. B.K. Moorthy is a party in O.P. No. 1439 of 1993.

10. I carefully considered the averments made in the counter. From the above statement of facts, it is clear that the contempt proceedings have been initiated against Jai Sudarshan only on the ground that Mr. B.K. Moorthy is no other person except himself and he denied the same. In the counter also he has

specifically stated that B.K. Moorthy and Mrs. Srimathi are different persons working for the Legal Aid Cell till October, 1993 and on the dissolution of the same, he had no contact with them. But the materials available on record clearly reveal that Mr. B.K. Moorthy, Mrs. Srimathi are none other than the Jai Sudarshan and Mrs. Vasanthi.

11. To justify his claim on 14.6.1996 he filed a memo, furnishing the address of the two as follows:

The address of M/s. B.K. Moorthy and Srimathi to the best of my knowledge are as under:

M/s. B.K. Moorthy and Srimathi, Advocates Teez Hazari Courts, New Delhi.

12. This conduct of these two persons by filing the false affidavits and giving false statements before this Court taking into consideration the fact that the writ petition W.P. No. 4538 of 1996 had been filed seeking for the relief of prohibition, prohibiting the State Consumer Redressal Commission from proceeding with the complaints against the petitioners in the W.P. Nos. 4538 to 4542 of 1996 in spite of the dismissal of the W.P. Nos. 21577 of 1996, etc. filed by the same petitioners earlier challenging the validity of Section 3 of the Consumer Protection Act, 1986 Vide : Srimathi and others Vs. The Union of India, and others, and seeking for stay of further proceedings before the State Consumer Disputes Redressal Commission, Madras, establishes the fraud they played on Court.

13. I find that their intention is only to interfere with the proceedings of the court" especially when the proceedings before the said Commission had reached finality. As point out already, in respect of the complaint O.P. No. 396 of 1993 the State Consumer Disputes Redressal Commission, Madras had already passed an award and having submitted to the jurisdiction of the said Commission and suffered an award, it is not open to the said Mrs. Srimathi, who is known as Mrs. Vasanthi to ask for the suspension of the proceedings. This would amount to misleading the Court, since the attempt is made to stall the proceedings which were already over.

14. Above at Mr. Jai Sudarshan has filed an affidavit in W.P. No. 4541 of 1996 in the name of Mr. B.K. Moorthy, in which he has stated as follows:

I submit that I assumed the name as B.K. Moorthy as alias name for the purpose of this writ petition.

2. I hereby admit the usage of the-alias name as B.K. Moorthy in the writ petition and beg to be excused for the same.

3. I further assure that I will not use any alias name for any purpose in future.

15. Equally Mrs. Vasanthi also filed an affidavit in W.P. No. 4538 of 1996 filed in the name of Mrs. Srimathi as follows:

(1) At the outset I tender my unconditional apology and beg to be excused.

(2) I further state that I admit the usage of alias name as Srimathi in the above writ petition.

(3) I further say that the said name was not used with any ulterior motive. I further humbly submit that for this mistake I tender my unconditional apology and beg to be excused by this Hon"ble Court.

(4) I further reconfirm that I will not use any alias name in future for any purpose.

Surprisingly in the affidavit filed in W.P. No. 4538 of 1996, Mrs. Vasanthi had described herself as wife of Col. Komondor whereas she also described herself as wife of J. Sudarshan and B.K. Moorthy as stated earlier.

16. From all the above stated facts, it is very clear that Mr. Jai Sudarshan is having the alias name of B.K. Moorthy and Mrs. Vasanthi is having the alias name of Srimathi and they refused to admit the same. In spite of the police filing a detailed report after an elaborate enquiry and the production of the certified copy of the award of the said State Consumer Disputes Redressal Commission, Madras in complaint O.P. No. 396 of 1993, Jai Sudarshan had filed an affidavit stating that Mr. B.K. Moorthy and Mrs. Srimathi had left for Delhi and gave their address as Teez Hazari Court Buildings, Bar Association, New Delhi, which is patently a lie. By this attitude, both Mr. Jai Sudarshan and Mrs. Vasanthi had not only attempted to interfere with the normal proceedings of the Court; but also made an attempt to divert the attention of the Court to the non-existing persons. But ultimately both have filed the affidavits admitting that they are the alias names. However, the conduct of the having both in giving false informations and filing false affidavits would amount to criminal contempt. The filing of false affidavit and the statement made before the court that both of them were not aware about the proceedings in complaint O.P. No. 396 of 1993. Since it is an ex parte decree and they never filed any counter, are all false. I am of the opinion that their act will amount to criminal contempt and they are liable to be punished for the same.

17. In a recent Judgment reported in Dhananjay Sharma Vs. State of Haryana and Others, , the Apex Court has held that filing of affidavits in Court containing false averments not only obstructs but prevents course of Justice. It has been held as follows:

Section 2(c) of the Contempt of Courts Act, 1971 (for short, the Act) defines criminal contempt as the publication (whether by words, spoken or written or by signs or visible representation or otherwise) of any matter of the doing of any other act whatsoever to,

(1) scandalise or tend to scandalise or lower or tend to lower the authority of any Court; (2) Prejudice or interfere or tend to interfere with the due course of Judicial proceeding or (3) Interfere or tend to interfere with, or obstruct or tend

to obstruct the administration of justice in any other manner. Thus, any conduct which has the tendency to interfere with the administration of Justice or the due course of judicial proceedings amounts to the commission of criminal contempt. The swearing of false affidavits in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceedings but has also the tendency to impede, obstruct and interfere with the administration of justice. The filing of false affidavits in judicial proceedings in any court of law exposes the intention of the concerned party in preventing the course of justice. The due process of law cannot be permitted to be slighted nor the majesty of law be made a mockery by such acts or conduct on the part of the parties to the litigation or even while appearing as witnesses.

Anyone who makes an attempt to impede or undermine or obstruct free flow of the unsoiled stream of justice by resorting to the filing of false evidence commits criminal contempt of the Court and renders himself liable to be dealt with in accordance with the Act. Filing of false affidavits or making false statement on oath in courts aims at striking a blow at the Rule of law and no court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake.

It would be a great public disaster if the fountain of justice is allowed to be poisoned by any one resorting to filing of false affidavits or giving of false statements and fabricating false evidence in a court of law. The stream of justice has to be kept clean and pure and anyone soiling its purity must be dealt with sternly so that the message percolates loud and clear that no one can be permitted to undermine the dignity of the Court and interfere with the due course of judicial proceeding or the administration of justice. In *Chandra Shashi Vs. Anil Kumar Verma*, the respondents produced a false and fabricated certificate to defeat the claim of the respondent for transfer of a case. This action was found to be an act amounting to interference with the administration of justice. Brother, Hansaria, J speaking for the Bench observed:

The stream of administration of justice has to remain unpolluted so that purity of Court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment so also to enable it to administer justice fairly and to the satisfaction of all concerned. Any one who traces recourse to fraud deflected is done with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

[Italics is mine]

From the above extracted portion of the judgment, it is clear that filing of false affidavits or making false statements on oath in courts aims at striking a blow at the rule of law and no court can ignore such conduct which has the tendency to

shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake.

18. Mr. J. Sudarshan had filed affidavits to the effect that he has no alias name as B.K. Moorthy. The said B.K. Moorthy and Smt. Srimathi are settled at Delhi since October, 1993. This contention had been proved to be false as detailed above and as such there is no doubt that Mr. J. Sudarshan had filed the said affidavit containing false statement with full knowledge. When himself and Mrs. Vasanthi were placed in a situation of no escape, they filed affidavits admitting that Mr. B.K. Moorthy and Mrs. Srimathi are not different persons but they are their alias names, Hence it is clear that though Mrs. Vasanthi was present throughout the proceedings along with J. Sudarshan she played a role of passive witness to the mischief of Mr. J. Sudarshan till she was caught in a corner about their conduct of filing false affidavits. Hence both are liable to be punished for contempt of court.

19. It may be worthwhile to refer to other conducts of these two persons. The proceedings have been initiated by some of the respondents against the Legal Aid Cell, seeking relief for the fraud they have committed on several individuals. The aggrieved persons have resorted to go before the State Consumer Disputes Redressal Commission and challenging those proceedings, these writ petitions have been filed. The so called petitioner Mr. S.K. Rajagopal has filed an affidavit before this Court that he never signed the affidavit and he did not give any instruction to the counsel on record. The counsel on record also filed an affidavit stating that he had not signed the vakalaths and the petitions filed in the W.Ps. Equally the counsel who is said to have attested the affidavits and the vakalaths of the petitioners in these Writ Petition Nos. 4538 to 4542 of 1996 has filed an affidavit that he never attested any of the documents. In view of this, the opinion of the handwriting expert was sought for and the opinion is to the effect neither the counsel on record had signed the vakalaths or the petitions nor the attesting advocate has attested the affidavits and the vakalaths sworn and vakalath. As J. Sudarshan and Vasanthi are the prime persons concerned with the Legal Aid Cell and these writ petitions have been filed only to safeguard their interest, I am of the opinion that only these two alone had done all these mischiefs. So far as the forgery is concerned, I am passing separate orders and this order confines only with regard to the contempt for filing false affidavits and furnishing false informations. I find Mr. J. Sudarshan guilty u/s 2(c) of the Contempt of Courts Act and sentence him to undergo six months imprisonment and additional fine of Rs. 2,000 (Rupees two thousand only) in default in payment of fine, he is to undergo imprisonment for one month.