

(1934) 09 AHC CK 0002
In the Allahabad High Court
In Re: Ram Mohan Lal Agarwala

Date of Decision : 26-09-1934

Acts Referred:

Citation : AIR 1935 All 38 : 155 Ind. Cas. 33

Judgement

1. Mr. Ram Mohan Lal Agarwala, an advocate practising in the High Court at Allahabad, has been directed to show cause why he should not be convicted for contempt of Court in respect of certain passages in election manifestoes which were issued by him in furtherance of his candidature for membership of the Bar Council of Allahabad at the recent Bar Council election. In five of these manifestoes the advocate made certain statements in respect of which the Court issued these notices. For the sake of convenience the arguments of the counsel for the advocate will, be dealt with in one judgment. In the manifesto which is the subject of case No. 436 Mr. Ram Mohan Lal stated:

The favoured few get tons and tons of money every month and also command respect because they are on the top already. They are above board. The Judge cannot snub them.

2. Coming from a member of the Bar this statement is undoubtedly highly objectionable. It is a statement, to which we would have thought no respectable member of the Bar would have committed himself either in public or in private. We are not of the opinion however that it constitutes a serious contempt of Court, although it does imply a certain criticism of the Court. It amounts to no more, in our opinion, than a technical contempt and in the circumstances therefore so far as the particular statement is concerned, we discharge the notice which was issued against Mr. Ram Mohan Lal. In the manifesto which is the subject of Miscellaneous Case No. 437 Mr. Ram Mohan Lal stated as follows : A judicial officer however impertinent, arrogant and conceited, is protected while a poor advocate is:

at the mercy of a Judicial Officer at every turn. The Bar Council is entitled to be as jealous about the interest of an advocate as the High Court is about a Judicial Officer. A report whether correct or incorrect by a Munsif may be attended with

direst consequences against an advocate while the poor advocate is helpless. The Court snubs an advocate and treats him with contempt while a mild retort from him is often met with direst result.

3. The advocate through his counsel has stated that by the words used he did not intend to convey any criticism either of the subordinate Courts or of the High Court. Learned Counsel has argued that interpreting the words in their ordinary meaning they do not imply any reflection upon the judiciary. We have considered all that learned Counsel has urged in this respect and we are of opinion that we cannot accept his contention. The particular statement must be read along with the rest of the manifesto of which it forms part, and it is apparent to us that what Mr. Ram Mohan Lal intended to convey by this passage was that whilst the judicial officer could always look to the High Court or to the law for protection - it may be against an advocate practising before him - when a report made by a judicial officer in regard to the conduct of an advocate came before the High Court for disposal, the advocate against whom the report was made did not get a square deal. In other words, that the High Court before whom the reports about the conduct of advocates came did not deal with these reports in an even-handed and impartial manner. That, in our view, is the plain meaning of this passage and we are confirmed in our view upon a consideration of the terms of the manifesto as a whole.

4. Such reflections upon the conduct of the Court undoubtedly amounts to contempt of Court. We hold therefore that in uttering and publishing the passage complained of Mr. Ram Mohan Lal has been guilty of contempt of Court. We convict him of contempt of Court and impose upon him a fine of Rs. 50. Further, he will pay the Government's costs in connection with this case. The statement in respect of which notice was issued in case No. 438 is as follows:

The writer objects to the procedure adopted by the leaders of the Bar in our High Court in certain contempt cases and cases of professional misconduct. They invariably, without going into the merits of the case, throw him at mercy of the Court. I respectfully submit, abject apologies are harmful to the dignity of the profession....

5. We have carefully considered this passage and the manifesto of which it forms part and we are of opinion that it does not amount to contempt of Court, although the statement is highly objectionable and one which we are surprised to see in a manifesto issued by an advocate. We accordingly discharge the notice in case No. 438. The passage in respect of which notice was issued in case No. 439 is as follows:

Ministerial Officers under the connivance of of the presiding officers almost everywhere with some honourable exceptions accept bribes openly in the Courts.... No proceedings against me can desist me from exposing them who are in the wrong.

6. There can be no doubt whatever what was the intention of the writer of this

passage. He clearly meant to convey to those to whom the pamphlet in which the passage appears was addressed that, with one or two exceptions, the subordinate judiciary in this Province was corrupt, that they allowed bribes to be taken in the Courts and that they indeed connived at this conduct. This, of course, is clear contempt of Court. Mr. Ram Mohan Lal was under the impression that he was entitled to make the statement referred to and further that in these proceedings he was entitled in his defence to prove that the statement was true. He therefore intimated to the Court by a written application that he proposed to call more than 1600 witnesses to prove his allegation. Later he reduced the number of the witnesses which he asked this Court to summon to give evidence today. He was required by the Court to furnish an affidavit stating upon what grounds he alleged that any of these witnesses would admit the truth contained in the passage referred to. From his affidavit it was perfectly clear that he had no ground whatever for alleging that the witnesses whom he named would support him in the sweeping allegations he had made against the Subordinate Judiciary. In these circumstances, had the leading of evidence in these proceedings been open to Mr. Ram Mohan Lal, we should have refused to summon the witnesses whose names he mentioned in his application to the Court. Clearly there can be no justification of contempt of Court, even assuming that the writer of the manifesto believed all he stated therein to be true. If anything in the manifesto amounts to contempt of Court, he is not permitted to lead evidence to establish the truth of his allegations. Contempt of Court is saying or writing anything about the Court which may lower the the prestige of the Court or bring it into contempt. Learned Counsel was unable to cite any case in which evidence had been permitted in justification of an offence in a case for contempt. Not only therefore was the advocate not entitled to lead evidence in support of his allegations, but from his affidavit it was abundantly plain that he had no reason for believing that the witnesses he named would support him in the very grave and sweeping allegations he had made against the Subordinate Judiciary.

7. Learned Counsel has contended that we ought to take a lenient view of the offence of his client in respect that the manifesto was written in an excess of zeal for the public Interest. The passage is in a manifesto which the advocate issued for the purpose of securing votes from members of the Bar at the recent Bar Council election. It is not uncommon to attack abuses and to attack persons in an election manifesto whether the abuses be existent or not, or whether the persons deserve the vituperation which is often showered upon them in these productions, but to slander the whole Judiciary of a Province in an attempt to secure votes at a Bar Council election is not only contemptible but almost criminal in its purpose. Nothing that learned Counsel for the advocate has been able to say has in any way lessened the heinousness of the offence which Mr. Ram Mohan Lal has undoubtedly committed. If he had been of the opinion that abuses existed in the subordinate Courts there were other methods which he could have adopted if he had been truly concerned with the removal of these abuses. It is apparent to us however that the main consideration present in Mr.

Ram Mohan Lal's mind when he wrote this manifesto was to secure sufficient number of votes to return him as a member of the Bar Council.

8. We accordingly convict Mr. Ram Mohan Lal of contempt of Court in respect of the passage referred to in case No. 439 and we sentence him to a fine of Rs. 200. Further he will pay the Government's costs in connection with these proceedings. The passage in respect of which notice was issued in Miscellaneous Case No. 440 is as follows:

I believe you must have seen my name prominently in the press in connexion with a contempt of Court case again under the Legal Practitioners Act last year. I was conducting my private case. It was not a case of a client and was not a case of moral turpitude but even then I was punished twice over for the same alleged offence. We are helpless. Being a fighter and having suffered for the strength of my convictions I can assure you that I will fight for your fights as well.

9. In our view this is a clear reflection upon the High Court. The writer alleges that he was punished twice for the same offence and anyone reading the passage would understand that the High Court was responsible for imposing double punishment upon the accused for the same offence. Further the writer infers in the passage that he was unjustly convicted, that he had suffered for his convictions and he assures his audience that he would continue to fight as he had fought in the past for their rights as well. In our view this is a flagrant contempt of Court. We have listened to all that has been urged on behalf of the advocate by his counsel. We cannot however giving due consideration to all, that he has stated, regard this merely as a technical contempt. The passage clearly shows that no matter what the decision of the High Court is, he is going to repeat the conduct for which he has already been punished and that he has really in effect suffered serious, injustice. There can be no doubt that such an aspersion upon the Court amounts to serious contempt of Court. We convict Mr. Ram Mohan Lal of contempt of Court in respect of the passage mentioned in Miscellaneous Case No. 440. We sentence him to a fine of Rs. 50 and we direct that he do pay the Government's costs of these proceedings. Mr. Ram Mohan Lal is ordered to pay all the fines and. the costs within two months from this date. Failing to pay the costs and the fine of Rs. 50 imposed in case No. 437 Mr. Ram Mohan Lal is sentenced to simple imprisonment of one month. In default of the payment of the costs and the fine of Rs. 200 imposed in case No. 439 Mr. Ram Mohan Lal is sentenced to a period of simple imprisonment of two months. In default of payment of the costs and Rs. 50 fine imposed in case No. 440 Mr. Ram Mohan Lal is sentenced to undergo a. period of simple imprisonment of one month. The costs of the Government Advocate in each case will be Rs. 80.

10. In Miscellaneous cases Nos. 436, 437, 438, and 440 notices to show cause-were also issued to Mr. Mohammad Shafi, the proprietor of the Imperial press, printers of the manifestoes referred to in these cases. In case No. 440 notice was also issued to a co-proprietor, Mr. Mohammad Azimuddin. These persons have appeared before us today and through their counsel they have filed statements

in Court. In these statements they say definitely that they had no intention to make any aspersion either against the High Court or against the Subordinate Judiciary, that they were unaware that what they were printing contained a contempt of Court and further that if they have unwittingly committed contempt of Court they offer an unconditional apology.

11. We take into consideration the fact : that the pamphlets in question were printed upon the instructions of a member of the Bar and therefore there is some excuse for Mr. Mohammad. Shafi and Mr. Mohammad Azimuddin. and the fact of their explanation that they were unaware that what they were printing contained anything amounting to a contempt of Court. No doubt it is true that they relied entirely upon the advocate who gave instructions that nothing was being printed that was contempt of Court-It is not unreasonable that they should have relied upon the fact that they had been instructed to do the printing by an advocate.

12. They have undoubtedly in law been guilty of contempt of Court in respect of all the statements except one referred to in Miscellaneous Case No. 438. In view of the unqualified apology which they have tendered and of the other circumstances which we have referred to above, we do not think that in justice the Court should impose any punishment upon them in respect of the offence for which they are guilty. We think, in the circumstances, that a warning is sufficient in their case. In their case the notices will be discharged.

13. Mr. Ghulam Azhar, proprietor of the City Press, Allahabad was ordered to show cause in connection with the passage referred to in case No. 439. He also has tendered an unqualified apology and through his counsel and his written statement assured the Court that it was not his intention to cast any aspersion upon the Court. In his case also therefore we accept the apology and we think that it is unnecessary to impose any punishment on him in respect of the offence of which he has been guilty. We consider that in his case also a warning will be sufficient. We discharge the notice in his case.