

(1966) 08 MP CK 0016

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 142 of 1966

In Re: Vinod Maheshwari and Others

Date of Decision : 25-08-1966

Acts Referred:

Constitution of India, 1950 — Article 215
Contempt of Courts Act, 1971 — Section 1

Citation : AIR 1967 MP 104 : (1967) CriLJ 498 : (1966) 11 MPLJ 1096

Hon'ble Judges : P.V. Dixit, C.J; R.G. Bhavare, J

Bench : Division Bench

Advocate : A.P. Sen, General, R.S. Dabir, for Nos. 1 and 2 and R.P. Agarwal, for No. 3, for the Appellant;

Judgement

Dixit, C.J.

These contempt of Court proceedings have been initiated against Shri Purushottam Kaushik, Secretary. "Samyukta Socialist Party". Madhya Pradesh, Shri Narayanan, Editor of Madhya Pradesh Chronicle, a daily newspaper published from Bhopal and Shri Vinod Maheshwari, printer and publisher of the said newspaper, in respect of a statement contained in an account of a Press Conference held by Kaushik on 20th May 1966, which was published in the issue dated Bhopal the 22nd May 1966 of the Madhya Pradesh Chronicle:

The report of the Press Conference, so far as it is material here, appeared thus:

"The Slate Samyukta Socialist Party has threatened to boycott the Pande Commission on Bastar firing in case the Party's demands for ensuring confidence of the people in the Commission were not conceded. Mr. Purshottam Kaushik, Secretary, S. S. P. told reporters this morning that a decision to this effect was likely to be taken at the Executive meeting of the S. S. P. to be held at Bhopal in next month.

The demands of the Party are immediate transfer of the local officials responsible for the Bastar firing, enlargement of the Probe Commission by three Judges to be headed by a Supreme Court Judge among Other things

Mr. Kaushik said that the Party had no confidence in the Pande Commission. He also listed the reasons for the same, one of which was that Justice Pande, he alleged, had on one occasion helped the Chief Minister. Mr. D.P. Mishra in the election petition filed against him (Mr. Mishra) by the P. S. P. leader, Mr. Kamal Narain Sharma.

XX XX XX XX."

The offending statement in the report of the Press Conference for which notices were issued to the aforesaid three persons to show cause why they should not be committed for contempt of Court is:

"He also listed the reasons for the same, one of which was that Justice Pande, he alleged, had on one occasion helped the Chief Minister, Mr. D.P. Mishra in the election petition filed against him (Mr. Mishra) by the P. S. P. leader, Mr. Kamal Narain Sharma."

In response to the notices issued to them, Shri Narayanan and Shri Maheshwari appeared before us and tendered in writing an unqualified apology for publishing the objectionable statement saying that it was an act of "extreme indiscretion on their part" and assuring this Court that they have the highest respect for it and every Honourable Judge thereof and that they would take the utmost care hereafter "not to be caught again in an unguarded action of this kind so as to bring them in conflict with any Court or member thereof in discharge of its judicial duties". They have thrown themselves at the mercy of this Court saying that they have "realised that their action in publishing the impugned report has rendered them guilty". The editor and the printer and publisher of the newspaper have also said in their written apology that the account they published was on the basis of a cyclostyled statement circulated by the Samyukta Socialist Party for information of the public and the Press.

In this reply Purshottam Kaushik has admitted that he held a Press Conference and made a statement thereat and that an account of the Press Conference was published in certain newspapers. His explanation is that he has been misreported by the Staff Reporter of the M.P. Chronicle and that during the course of the Press Conference he never uttered the offending statement. Purushottam Kaushik has relied on a report of his Press Conference which appeared in the issue dated 21st May 1966 of the Hitavada, another daily newspaper printed and published at Bhopal, as containing a correct report of the statement he made at the Press Conference. He has added that :

"as a lawyer by profession I have very great respect of the judiciary as a whole and it is beyond me even to think that an honourable Judge of the High Court can be scandallised in any public speech (sic).

He further said:

"I am really sorry and sincerely regret that a misreporting on the part of the staff reporter of M.P. Chronicle should have given use (sic) to the present

proceedings."

The first question to consider in this case is whether Purushottam Kaushik made the offending statement at the Press Conference he held on 20th May, 1966 or any statement to that effect. At the hearing. Shri Narayanan and Shri Maheshwari produced before us a copy of the cyclostyled statement issued by the Samyukta Socialist Party, Madhya Pradesh, giving an account of the Press Conference which Kaushik held on 20th May 1966. Purushottam Kaushik did not deny before us that copies of the cyclostyled statement were given to the Press for information and publication. That statement contains the following passage:

^^,slh ifjLFkfr esa fcuk LFkkuh; vf/kdkfj;ksa dk LFkkukUrj fd, rFkk iqfyl iYVu dks pkgS os fcuk onhZ esa gh D;ksa u gksa] ogka ls gVk;s vkSj lokZPp U;k;ky; dk ,d U;k;k/kh" k tkap vk;ksx ;s lEefyr fd, lEiw.kZ tkap dsoy ,d ukVd gh jg tku okyk gSA ;g blfy, Hkh vf/kd t:jh gks tkrk gS D;ksafd orZeku tkap vk;ksx ds lnl; Jh ikaMs eq[; ea=h ia- }kjdk izlkn feJ ds fo:) pquko ;kfpdk ds ,d izkfjHkd eq?s esa muds i{k esa fu.kZ; fn;k Fkk tks mPp U;k;k? esa j? gqokA U;k;"kkL= dk ewyHkwr fl)kUr gS fd U;k; nsuk gh iz;kZIr ugha gS U;k; ikusokys dks ,slk ekywe gksuk Hkh t:jh gS fd mls U;k; fey jgk gSA eq[; ea=h ia? feJ dh ,slh gjdrksa ls yksxksa dk fo"okl mPp U;k;ky;ksa dh fu"i{krk ls Hkh mBus yxk gS tks iztkra= ds fy, ije ?kkrd gSA**

From the above passages reproduced from the account circulated by the Samyukta Socialist Party itself of the Press Conference held by Kaushik it is clear that at the Press Conference Kaushik first expressed lack of confidence in the one-man commission appointed and presided over by our brother Shri Justice Pandey for an investigation into certain incidents which occurred in Jagdalpur on 25th March 1966 resulting in the death of Shri Pravin Chandra Bhanjdeo, Ex-Ruler of Baster. While expressing his want of confidence in the Commission he said that Shri Justice Pandey had in an election petition against the Chief Minister Pandit Dwarka Prasad Mishra, given a decision in his favour on a preliminary issue which was set aside by the Supreme Court. After making this statement he further said that it is one of the first principles of justice that justice must not only be done but it must appear that justice has been done and that on account of such "interference ?gjdrksa?"** of the Chief Minister the public is losing confidence in the impartiality of the High Court and "this is destructive of and injurious to democracy".

A bare statement that the decision of the High Court in a case has been set aside by the Supreme Court no doubt does not by itself contain any suggestion attributing motive or partiality to the Judge or Judges giving the judgment set aside by the Supreme Court But when such a statement is made by a person who is himself a lawyer, along with statements expressing want of confidence in a Commission headed by a Judge of this Court and saying that the public was losing confidence in the impartiality of the High Court on account of interference of the Chief Minister, it cannot but be held that the statement which Purshottam Kaushik made at the Press Conference namely,--

^^;g blfy, Hkh vf/kd t:jh gks tkrk gS D;ksafd orZeku tkap vk;ksx ds lnL; Jh ikaMs eq[; ea=h ia? }kjdk izlkn feJ ds fo:) pquko ;kfpdk ds ,d izkjafHkd eq?s esa muds i{k esa fu.kZ; fn;k Fkk tks mPp U;k;k? esa j? gqokA**

was by way of suggestion that Shri Justice Pandey gave a decision in favour of the Chief Minister in order to favour him.

If Purushottam Kaushik made this statement at the Press Conference, then the English version of it, namely, that "Justice Pandey he alleged, had on one occasion helped the Chief Minister, Mr. D.P. Mishra in the election petition filed against him (Mr. Mishra) by the P. S. P. leader, Mr. Kamal Narain Sharma" which was published in the M.P. Chronicle of 22nd May 1966 cannot be said to be an incorrect report of what Purushottam Kaushik said at the Press Conference. In the cyclosyled account which the Samyukta Socialist Party circulated to the public and the Press, Kaushik is not reported to have said that Shri Justice Pandey helped the Chief Minister. The use of the word "helped" in the account that appeared in the M.P. Chronicle may be inaccurate. But the fact remains that at the Press Conference Purushottam Kaushik, while expressing lack of confidence of his party in the Commission headed by Shri Justice Pandey, did make statements suggesting that, in the election petition filed against the Chief Minister, Shri Justice Pandey gave a decision on a preliminary issue in favour of the Chief Minister for favouring and helping him.

We are satisfied in this case that the report which appeared in the M.P. Chronicle that Purushottam Kaushik said at the Press Conference that Shri Justice Pandey had on one occasion "helped the Chief Minister Mr. D.P. Mishra in the election petition filed against him" is substantially correct. This statement of Purushottam Kaushik which scandalizes this Court clearly constitutes gross contempt of this Court. By making that statement Purushottam Kaushik committed contempt not of Shri Justice Pandey individually or of the Commission over which he is presiding but of this Court itself.

It is not necessary to examine the reasons which animated the Press Conference Purushottam Kaushik gave and the statements including the objectionable statement which he made thereat. Whatever might have been Kaushik's motive in expressing his party's lack of confidence in the Commission headed by Shri Justice Pandey in the tone and manner that he did, the fact remains that the statement which he made in regard to Shri Justice Pandey is one calculated to impair the confidence of the people in this Court judgments and aims at lowering the authority of the Court as a whole and that of the Judges and giving rise to misgivings as to the integrity, propriety and impartiality of the Judges of this Court. In making that statement Purushottam Kaushik acted most irresponsibly and without even taking the trouble of reading the decisions of this Court and the Supreme Court in the election petition to which he referred at the Press Conference. The decision in the election petition which was set aside by the Supreme Court was delivered not by Shri Justice Pandey but by one of us.

If, before calling the Press Conference, Kaushik had read the decisions of this Court reported in *Dwarka Prasad Mishra Vs. Kamalnarain Sharma and Others*, and *Kamalnarain Sharma Vs. Pt. Dwarka Prasad Mishra and Others*, and that of the Supreme Court in *Kamal Narain Sharma Vs. Shri Pandit Dwarka Prasad Mishra and Others*, , he would have discovered that in the High Court Kamalnarain accepted that the affidavit accompanying the election petition filed by him, in support of the allegations of corrupt practices, had not been sworn before any of the authorities mentioned in Rule 94-A of the Conduct of Election Rules, 1961, and that the only question that was canvassed on his behalf in this Court was whether the provisions of Rule 94-A were mandatory or directory. He would have further discovered that the Supreme Court allowed Kamalnarain Sharma to withdraw the concession he had made in this Court and there the matter was decided on a point not urged in the High Court. It is thus obvious that the statement which Kamalnarain made was not of an informed person but of a person whose sole aim was to run down the Commission headed by Shri Justice Pandey by scandalizing this Court itself.

It is well settled that the jurisdiction to punish cases of contempt consisting of scandalizing the Court itself is not given for the purpose of protecting the Judges personally from imputations to which they may be exposed as individuals. It is for the purpose of preventing interference with the course of justice which arises from publications which tend to detract from the authority and influence of judicial determinations and which are calculated to impair the confidence of the public in the Court as a whole.

As the Supreme Court has observed in *In the matter of Article 143, Constitution of India*, *In the matter of: Under Article 143 of the Constitution of India*, at p. 791:

"Wise Judges never forget that the best way to sustain the dignity and status of their office is to deserve respect from the public at large by the quality of their judgments, the fearlessness, fairness and objectivity of their approach, and by the restraint, dignity and decorum which they observe in their judicial conduct."

Judges of this Court know that their dignity and prestige rest mainly upon the correctness of their pronouncements and on their own inherent qualities and conduct and not on contempt of Court proceeding. At the same time, it is equally important that the dignity and authority of this Court should be maintained and any statement, or publication or calumny which has the tendency of embarrassing and hindering the administration of justice must be repressed. This is very important in our Democratic Republic founded on rule of law which is upheld and sustained by the Judiciary. Unfortunately, these days much importance is attached to whatever appears in newspapers and whatever is said at Press Conferences. It is, therefore, difficult to believe that the mind of the public was not poisoned with grave doubts as to the impartiality and integrity of the Judges of this Court on reading the statement that Kaushik made. Therefore, in the interest of the administration of justice the Court cannot overlook this

contempt.

In our opinion, Kaushik is clearly guilty of contempt of Court by making a statement at the Press Conference he held on 20th May 1966 scandalizing this Court and which statement was published in the M.P. Chronicle dated 22nd May 1966. We regret we are unable to accept the expression of regret he has offered. In the interests of administration of justice and the gravity of the offence require that he should be punished. We accordingly order that he should pay a fine of Rs. 1,000 (Rs. one thousand) or in default suffer four months' simple imprisonment. We allow him time till 30th September 1966 for the payment of the fine.

In regard to Shri Narayanan, Editor of the M.P. Chronicle, and Shri Maheshwari, printer and publisher of the paper, they are also clearly guilty for their act of printing and publishing the offending statement made by Purushottam Kaushik at the Press Conference. But having regard to the fact that they have pleaded guilty and tendered an unqualified and unreserved apology realising that their act of printing and publishing the statement was one of "extreme indiscretion" and "careless supervision" and after taking into account their assurance to profit by the result of these proceedings and to take utmost care in future in regard to the matter that goes into the paper, we do not think it necessary to impose any punishment on them. We find them guilty but discharge them by accepting their apology.

Shri Purushottam Kaushik shall pay to the State costs of these proceedings and costs of the paper-book. Counsel's fee is fixed at Rs. 100.