

(1986) 05 DEL CK 0005

In the Delhi High Court

Case No : Criminal Contempt Appeal No. 1 of 1986

Jai Parkash Aggarwal

APPELLANT

Vs

Vishambhar Dutt Sharma and Others

RESPONDENT

Date of Decision : 21-05-1986

Acts Referred:

Citation : (1986) 3 Crimes 60 : (1986) 30 DLT 21 : (1986) 11 DRJ 121 : (1986) 2 RCR(Criminal) 503

Hon'ble Judges : N.N. Goswamy, J;D.K. Kapur, J

Bench : Division Bench

Advocate : M.C. Bhandare, C.S. Vaidhyanathan, R.P. Bansal, N.N. Agarwal, Kapil Sibal, Arun Jaitley and M.R. Sagi, for the Appellant;

Judgement

N.N. Goswamy, J.

(1) This reference u/s 15 of the Contempt of Courts Act, 1971 has been made by the Addl. District Judge, Delhi to this Court for taking appropriate proceedings.

(2) Shri Vishambhar Dutt Sharma filed an election petition challenging the election of the returned candidate Shri Jai Parkash Aggarwal to the Municipal Corporation of Delhi. The election petition had reached the stage of final arguments. In the issue dated 13-8-1985 of Jansatta and 14-8-1985 of Punjab Kesari, almost similar news items were published. The sum and substance of the said news item was to the following effect :-

"That it had been learnt that Mr. Jai Parkash Aggarwal had met the- Hon"ble Minister of State for Law Mr. Hans Raj Bhardwaj and had requested him to get transferred the Presiding Officer of this Court but the matter reached the ear of Hon"ble Cabinet Minister of Law Mr. Asoke Sen and it is stated that Mr Sen held out that in case any interference was made in the Judiciary then he would bring the facts to the notice of the Hon"ble Prime Minister and Mr. Bhardwaj is then stated to have mentioned later on that he would not interfere in the Judiciary."

(3) On publication of the aforesaid news items Shri Aggarwal filed a petition u/s 12 of the Contempt of Courts Act before the Addl. District Judge. It was stated that the petitioner namely Vishambhar Dutt Sharma having lost the election in the year 1983 has been carrying on a verification campaigning against the returned candidate. The said Shri Vishambhar Dutt Sharma is a Journalist and has used his considerable influence in the journalistic circles for the purpose of maligning the petitioner and defaming him. He had connived with the other respondents in the petition for contempt in getting published the two news items by the two Hindi Dailies published from Delhi. Thereby the respondents have committed a criminal contempt of serious nature against the dignity of the Court. The learned Addl. District Judge, on consideration of the entire matter, came to the prima facie finding that the said news items constitute contempt of Court and has thus made this reference to this Court for taking appropriate proceedings.

(4) Notice of this reference was issued to the respondents. On the very first date of hearing unqualified apologies were tendered on behalf of the two News Papers Punjab Kesari and Jansatta. The unqualified apologies are in the form of affidavits of Mr. Ram Babadur Roy, Chief Reporter of "Janiatta" and of Mr. Sheetal, Sub-Editor of "Punjab Kesari". In both the affidavits it is stated that the deponents while writing news items did not realize that any part of the article could be construed as amounting to contempt of court. It is further stated that they have the highest regard and respect for the judiciary in this country and the concerned papers always stood for the dignity of the judiciary in this country.

(5) On consideration of the aforesaid unqualified apologies we were inclined to accept the same but the learned counsel for the petitioner strenuously canvassed that he had no objection to our accepting the unqualified apologies provided the respondents were directed to disclose the source of their information for publishing the item inasmuch as according to the learned counsel for the petitioner, the source was the petitioner in the election petition. It is categorically stated in both the affidavits, that the news items were not published at the behest of Shri Vishambhar Dutt Sharma. The question for consideration is whether the two newspapers should be asked to disclose the source of their information for publishing the items in question. Reliance was placed at the bar on Attorney-General v. Mulholland, 1963 (1) All England Reports 767 and British Steel Corpn v. Granada Television Ltd., 1981 (1) All E R 417. It is not necessary to discuss the facts of those two cases because the same are entirely different from the facts in the present case. However, the ratio of the two decisions is to the effect that Press does not have an absolute privilege not to disclose the source of information on the basis of which the news item has been published. The journalists or the information media have no absolute immunity or obligation to disclose their source of information in court when asked for to do so. However, it is not in every case that the Press must be asked to disclose the source Before the Court directs the disclosure of source it must satisfy itself that it is in the nature of justice and is not against the public interest It will necessarily depend on the nature of the case and the offending item of the news published. 1986(11)

(6) Considering the facts of the present case, we are of the opinion that in .the news items there is no attack made on the Presiding Officer of the Court but it does put Shri Aggarwal in an awkward position in the eyes of public that such a responsible person who is also a Member of Parliament can go to the extent of seeking transfer of the Presiding Officer who is dealing with his case through the agency of the Minister. Admittedly, the Ministers have no power or right to transfer the Presiding Officer of a Court as it is entirely the business of the High Court. The election petition as we are told at the bar is concerned mainly with the recount of the ballot papers and for which the result is bound to be the same before any Presiding Officer. In the circumstances, it is unimaginable that a person of the status of Shri Aggarwal would go to the extent of seeking transfer of the Presiding Officer. On a careful consideration of the entire matter, we have no doubt that the apologies tendered, are unqualified and are bona fide. The nature of the case does not require any further action to be taken against the respondents and Therefore we have no hesitation in accepting the unqualified apologies tendered to this Court. The rule is, Therefore, discharged.