

(1997) 09 KAR CK 0073
In the Karnataka High Court
Case No : C.C.C. (Cri.) No. 11 of 1997

K. Shriman Narayana

APPELLANT

Vs

S. Mariyappa and another

RESPONDENT

Date of Decision : 24-09-1997

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2
Constitution of India, 1950 — Article 129, 215

Citation : (1998) CriLJ 1300 : (1997) 4 KarLJ 670

Hon'ble Judges : V. Gopala Gowda, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : Mohandas N. Hegde, for the Appellant; H.S. Jois for M/s Vagdevi Associates and B.R. Nanjundaiah, SPP, for the Respondent

Judgement

1. The present complaint filed under Art. 215 of the Constitution of India involves a simple but important question of law as regards the jurisdiction of the High Courts in India to initiate proceedings for alleged contempt of the Supreme Court.

2. The complaint is directed against the Addl. City Civil Judge, Metropolitan Area, Bangalore. The allegation levelled against him is that, in his order dated 6th March, 1997 passed in O.S. 3272/96 on an I.A. filed under Order 39, Rules 1 and 2 of the Code of Civil Procedure, he had made certain observations about the order dated 6-2-1996 passed by the Supreme Court in Civil Appeal No. 1489/98, which according to the complainant is unwarranted and lowers the prestige of the Apex Court.

3. At the instance of the complainants, notices were issued to the respondent as well as the State of Karnataka who are respectively represented by Sri H. S. Jois, learned Senior Advocate and Sri B. R. Nanjundaiah, learned State Public Prosecutor who have taken objection to the maintainability of the present complaint on the very ground of jurisdiction of this Court to entertain the same. Learned counsel appearing on both sides have taken us through the Contempt of Courts Act, 1971 ("Act" for short) and Articles 129 and 215 of the Constitution of

India which read as under :-

"Article 129 : The Supreme Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself."

"Article 215 : Every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself."

4. So far as the Contempt of Courts Act, 1971, is concerned, the relevant provisions touching upon the jurisdiction of this Court in the matter of initiation of contempt proceedings are contained in Sections 10 and 14 of the Act, which read as under :

"Section 10. Power of High Court to Punish Contempt of Subordinate Courts.- Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of Courts subordinate to it as it has and exercises in respect of contempts of itself :

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code, 1860 (45 of 1860).

Section 14. Procedure where contempt is in the face of the Supreme Court or a High Court. - (1) When it is alleged, or appears to the Supreme Court or the High Court upon its own view, that a person has been guilty of contempt committed in its presence of hearing, the Court may cause such person to be detained in custody, and, at any time before the rising of the Court, on the same day, or as early as possible thereafter, shall -

(a) cause him to be informed in writing of the contempt with which he is charged;

(b) afford him an opportunity to make his defence to the charge;

(c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed, either forthwith or after adjournment, to determine the matter of the charge; and

(d) make such order for the punishment or discharge of such person as may be just."

5. On a plain reading of the aforesaid provisions it is abundantly clear that so far as Article 215 is concerned, it empowers the High Court to punish for contempt of itself alone and no other Court including the Supreme Court. Similarly, under Sections 10 and 14 of the Contempt of Courts Act as well, the High Court can initiate proceedings for contempt either of itself or that of the Court subordinate to it. u/s 14 as well the High Court can initiate contempt proceedings if the same is committed in its face.

6. From the foregoing provisions, it is quite clear that, the High Court has no jurisdiction to entertain any complaint alleging contempt of the Supreme Court.

7. For the aforesaid reasons, we do not find ourselves competent to enter into the merits of the allegations but nonetheless, keeping in view the facts of the present case, we cannot but observe that the filing of the present complaint before this Court is not only misconceived but is also malicious and the litigants cannot be encouraged to resort to such practices. Accordingly, the present contempt case is dismissed with costs assessed at Rs. 5,000/- as an exemplary measure. The said amount should be deposited in this Court within two weeks from today.

8. Petition dismissed.