

(1989) 07 AP CK 0009
In the Andhra Pradesh High Court
Case No : Contempt Case No. 373 of 1989

K. Yadamma

APPELLANT

Vs

K. Balamma and Another

RESPONDENT

Date of Decision : 19-07-1989

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 15, 2

Citation : (1991) 2 ALT 182

Hon'ble Judges : K. Ramaswamy, J

Bench : Single Bench

Advocate : Syed Shareef Ahmed, for the Appellant; Gopal G. Naik, for the Respondent

Judgement

1. The office raised the objection regarding maintainability of the Contempt Case filed by the petitioner u/s 12 of the Contempt of Courts Act 70 of 1971 (in short the Act). According to the petitioner this Court by order dated 22-9-87 directed the suit O.S. No. 4306 of 1985 on the file of the IV Asst. Judge, City Civil Court, Hyderabad to be transferred to the court of the VI Asst. Judge, City Civil Court, Hyderabad for a joint trial along with O.S. No. 3090 of 1985 on the file of the VI Asst. Judge, City Civil Court, Hyderabad. The respondents suppressing the factum of this transfer order, have compromised the dispute in O.S. No. 3090 of 1985 in the proceedings of the Lok Adalat. That was a deliberate disobedience of the order of this court. Accordingly they are liable for punishment u/s 12 of the Act.

2. If the facts alleged are found to be true, then it constitutes criminal contempt within the meaning of Section 2(c) of Act and therefore it is condition precedent that the consent of the Advocate General has to be obtained u/s 15 of the Act before instituting the proceedings and the matter has to be dealt with by a Division Bench but not by a single Judge.

3. Sri Syed Shareef Ahmed, learned counsel for the petitioner contends that when this court has directed by an order to transfer the suit O.S. No. 4306 of

1985 on the file of IV Assistant Judge, C.C. Court Hyderabad to a Court of the VI Asst. Judge, for a joint trial along with O.S. No. 3090 of 1985 and when the matter has been compromised getting the suit dismissed by the Lok Adalat, it amounts to wilful disobedience of the order of this court coming within the meaning of Section 2(b) of the Act. I find difficult to accept this contention. As regards transfer is concerned, already the suit was transferred to VI Asst. Judge, City Civil Court, Hyderabad, but before making a joint trial, the respondents compromised the matter in the Lok Adalat proceedings and the matter was settled. The question then is the respondents had made false representation before the Lok Adalat to have the matter compromised without making a joint trial along with the suit O.S. No. 4306 of 1985.

4. Without going into merits of the matter if the allegations on its face-value as stated by the petitioner, are accepted, it constitutes criminal contempt within the meaning of Section 2(c) of the Act which postulates that "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice in any other manner. Therefore if the respondents" compromise the matter without taking a joint trial as ordered by this court along with the suit O.S. No. 4306 of 1985 prima facie without going into merits it may amount to a criminal contempt. If that be so necessarily prior consent of the Advocate General before instituting the proceedings u/s 15 of the Act is condition precedent which postulates thus : "In the case of a criminal contempt, other than a contempt referred to in Section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by - (a) the Advocate General or (b) any other person, with the consent in writing of the Advocate General." Therefore in a case of criminal contempt power is given u/s 15(1) of the Act to the Courts to take action on its own motion or on a motion made by the Advocate-General or if it is done any other person with the written consent of the Advocate-General. Therefore written consent of the Advocate General is condition precedent before instituting the proceedings u/s 12 of the Act. As per the Contempt Rules framed by this Court all Criminal contempt cases shall be posted only before a Bench.

5. Under these circumstances the objections raised by the office are upheld and the office is directed to return the papers to the petitioner for a presentation before the appropriate forum.

6. Order accordingly.