
(1984) 09 AP CK 0001

In the Andhra Pradesh High Court

Case No : Contempt Case No. 12 of 1981

Kishan Singh

APPELLANT

Vs

T. Anjaiah, Chief Minister and Others

RESPONDENT

Date of Decision : 18-09-1984

Acts Referred:

Contempt of Courts Act, 1971 — Section 20

Citation : (1985) CriLJ 1428

Hon'ble Judges : P. Ramakrishnam Raju, J;M. Jagannadha Rao, J

Bench : Division Bench

Advocate : D. Prasanna Kumari, for the Appellant; K. Janardhana Rao for MCH and A.G., for the Respondent

Judgement

Jagannadha Rao, J.—This Contempt application is filed by one Kishen Singh, son of Ramachander. The said Ramachander who is the son of Chunnilal was the first writ petitioner in W.P. No. 4250 of 1975. The said writ petition was allowed by the learned single Judge on 31-12-1977. The Board of Revenue and the District Collector, Hyderabad preferred Writ Appeal No. 509/77 which we have allowed today.

2. During the pendency of the writ appeal the petitioner Kishen Singh son of Ramachander filed W.A. No. 142/81 for reviewing an order dated 15-5-1979 made in W.A.M.P. No. 229/79. In the course of our judgment in W.A. No. 509/77, we have dealt with these miscellaneous petitions. In W.A.M.P. No. 229/79 an order was passed restraining the District Collector, Hyderabad not to interfere with the possession of the petitioner, Kishen Singh. There was no order against the Municipal Corporation or others even though they were impleaded in W.A.M.P. No. 229/79 as respondents by virtue of orders in W.A.M.P. No. 141/81 and W.A.M.P. No. 145/81, with the result that the order of injunction dt. 15-5-1979 was effective against the District Collector, Hyderabad.

3. It was in that situation that the petitioner filed W.A.M.P. No. 142/81 while two other persons, M/s. K. L. N. Prasad and Vadda Venkateswara Rao (who were

respondents in the writ petition and Writ appeal) filed W.A.M.P. No. 138/81 to review the order in W.A.M.P. No. 229/79 dated 15-5-1979. (These latter two persons were not parties to W.A.M.P. No. 229/79.)

4. In this contempt petition, we are concerned with the order dt. 27-2-1981 in W.A.M.P. No. 142/81 filed by the petitioner Kishen Singh, son of Ramachander in W.A. No. 509/77. In that order dt. 27-2-1981 a Division Bench of this Court directed the four respondents, including the Special Officer, Municipal Corporation of Hyderabad and the District Collector (Respondents 1 and 4 in this contempt case) not to interfere with the possession of the petitioner.

5. That order dt. 27-2-1981 is the foundation for this contempt case. It is alleged that the four respondents (1) Sri T. Anjaiah former Chief Minister of Andhra Pradesh, (2) Smt. Sarojini Pulla Reddi, the then Minister for Municipal Administration, (3) Sri C. Arjuna Rao, Special Officer, Municipal Corporation of Hyderabad, and (4) Sri B. V. R. K. Murthy, District Collector, Hyderabad committed contempt of this Court by violating the order dated 27-2-1981 passed by this Court in W.A.M.P. No. 141/81. The violation is said to be on 5-7-1981. The contempt case is presented on 13-7-1981.

6. It came up before a Division Bench of this Court on 12-8-1981 and the petition was dismissed as against respondents 1 and 2 namely the former Chief Minister and the former Minister for Municipal Administration but the contempt case was not admitted against respondents 3 and 4. The petition was adjourned on 12-8-1981 stating :

"Smt. Prasannakumari, undertook to file a better affidavit giving better particulars for initiating action against respondents 3 and 4. Post this application after the affidavit is filed."

Thereafter this contempt petition has not been posted for admission till it came up before us now. The petitioner's counsel states that she had filed a better affidavit as directed by the Bench into Court but the original affidavit is not available in the Court record. But the petitioner's counsel gave us a copy said to be the copy of the affidavit dt. 26-8-1981 by the petitioner.

7. Whatever be the reason, the fact remains that the contempt petition has not been admitted by this Court so far as against respondents 3 and 4. It is admitted that there is no such order in the contempt case so far.

8. It is contended for the respondents that this contempt petition cannot be admitted at this stage and that S. 20 of the Contempt of Courts Act, 1971 is a bar to its admission.

9. That section reads :

"No Court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed."

In the Advocate General v. A. V. Koteswara Rao, 1983 (2) ALT 57 : 1983 (2) AP LJ 42 : (1984 Cri LJ 1171) one of us (Jagannadha Rao, J.) held after referring to the judgments of the Supreme Court in Baradakanta Mishra Vs. Justice Gatikrushna Misra, Chief Justice of the Orissa High Court, and Purshotam Dass Goel Vs. Hon"ble Mr. B.S. Dhillon and Others, that the word "initiation" of contempt proceedings as stated in S. 20 of the Contempt of Courts Act 1971 has a definite connotation and cannot be equated with the mere presentation of the petition. It was observed :

"initiation of the contempt proceeding is the time when the Court applies its mind to the allegations in the petition and decides to direct, under S. 17 the alleged contemner to show cause why he should not be punished."

It was held that the provisions of S. 20 of the Act apply to cases of Contempt of the High Court also and that in view of the decisions of the Supreme Court in Sukhdev Singh v. Teja Singh, AIR 1954 SC 186 : (1954 Cri LJ 460) R.L. Kapur Vs. State of Madras, , S.K. Sarkar, Member, Board of Revenue, U.P., Lucknow Vs. Vinay Chandra Misra, ; C. Beepathumma and Others Vs. V.S. Kadambolithaya and Others, and the two judgments earlier referred to, the provisions of S. 20 are not ultra vires of Art. 215 of the Constitution. It was held that Parliament could impose limitations upon the power of committing for contempt envisaged by Art. 215 of the Constitution of India. We agree with the above view in the Advocate General v. A. V. Koteswararao, (1984 Cri LJ 1171) (supra).

10. In the present case, the order in W.A.M.P. No. 142 (141 ?)/81 in W.A. No. 509/77 is dt. 27-2-1981 which is said to have been violated on 5-7-1981 by respondents 1 to 4. The contempt petition was presented on 13-7-1981. It was dismissed on 12-8-1981 against respondents 1 and 2 by a Division Bench and the petitioner was directed to file a better affidavit for the purpose of taking up the case for admission against respondents 3 and 4. It is therefore clear that the court had not, within one year of the period limited by S. 20 applied its mind nor decided to issue show cause notice to respondents 3 and 4. The petition is in August 1984, yet to be admitted against respondents 3 and 4. There is thus no initiation of action under S. 17 of the Act within one year of the violation.

11. We are therefore of the view that this petition is barred by time against respondents 3 and 4 under S. 20 of the Contempt of Courts Act. This petition is therefore dismissed but in the circumstances without costs.

12. Petition dismissed.