
(1987) 05 AHC CK 0067
In the Allahabad High Court
Case No : Contempt Appeal No. 3041 of 1986

Kishan Swarup and Another	Vs	APPELLANT
R.P. Pandhi and Another		RESPONDENT

Date of Decision : 12-05-1987

Acts Referred:

Contempt of Courts Act, 1971 — Section 19, 19(1)

Citation : (1987) 11 ACR 483

Hon'ble Judges : B.N. Katju, J; B.L. Yadav, J

Bench : Division Bench

Advocate : Tejpal, for the Appellant;

Final Decision : Dismissed

Judgement

B.L. Yadav, J.—This is an appeal u/s 19 of the Contempt of Courts Act, 1971 (for short the Act) against an order dated 21.7.1986 passed by a learned Single Judge of this Court dismissing the application filed by the Appellants for punishing the Respondents for having committed civil contempt by disobeying an interim injunction order of the Civil Judge.

2. It appears that an injunction order was passed by the Civil Judge which was in favour of the Appellant and against the Respondents and in accordance with the allegations of the Appellants, the injunction order was disobeyed. The Appellants filed an application for civil contempt. On the date of hearing, however, no body appeared for either of the parties and as the Appellants had an alternative remedy under Order XXXIX Rule 2 (a) of the Code of Civil Procedure, hence the application was dismissed.

3. As the appeal was directed not against an order of the learned Single Judge holding the contemnors to be guilty, hence the question was as to whether the appeal was maintainable u/s 19 of the Act against an order discharging the notice or not holding the contemnors guilty. Sri Tejpal, the learned Counsel for the Appellants, urged that the provisions of Section 19 of the Act were

comprehensive enough to include the maintainability of the appeal even against an order not holding the contemnors to be guilty. He placed reliance on Vishwanath Khanna v. Ram Swaroop Rastogi 1980 CriLJ 109 and L.D. Khanna and Others Vs. Chohan Huhtamaki (India) Pvt. Ltd., .

4. In order to appreciate the controversy involved in the appeal it is better to set out the relevant statutory provisions of Section 19 of the Act. Section 19(1)(a) of the Act reads as under:

19. Appeals - (1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt -

(a) Where the order or decision is that of a Single Judge, to a Bench of not less than two Judges of the Court:

5. A bare reading of Section 19 of the Act indicates that an appeal has been provided as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt.

6. The legislature has employed the words "an appeal shall lie as of right". The decision of this appeal must turn upon the interpretation of this clause u/s 19 of the Contempt of Courts Act, 1971. In fact, by interpretation or construction is meant the measure by which the Courts seek to ascertain the intent of the legislature. A common principle of interpretation is that every part of a statute must be construed in a harmonious way by reading every part of it together. Similarly it is also an elementary rule that interpretation of a section is to be made by reading all parts together. It is not permissible to omit any part of it- See Balasindor Nagrik Cooperative Bank Ltd. Vs. Babubhai Shankerlal Pandya and Others, at page 851. There is a maxim "A Verbis Legis Non Est Recedendum" which obviously means you must not vary the words of a statute. Keeping that in view we have no doubt in our mind about the purport and effect of the first clause of Section 19 that "an appeal shall lie as of right". The present Appellants brought the facts of opposite parties having committed a contempt of court to the notice of this Court. It is well known that the nature and concept of contempt proceedings are that they are criminal in nature and virtually they are between the contemner and the Court. The informant is not a party to contempt proceedings. The moment he brings facts about contempt being committed to the notice of the Court, he ceases to be a party. By rejecting an application for initiating contempt proceedings the informant cannot be said to be aggrieved, nor his rights can be said to be affected.

7. In Halsbury's Laws of England (Fourth Edn), Volume 9 (Paras 106 and 107 are relevant). About position of a party in contempt it has been stated that the general rule is that a party in contempt is a person against whom an order of committal has been made. He may appeal with a view to setting aside the order in which his contempt is founded. Under para 107 it has been stated that after the enforcement of The Administration of Justice Act, 1960. a uniform procedure for appeal has been provided. But an appeal lies at the instance of the Defendant

i. e. the contemner.

8. It is obvious that a proceeding for punishment of the person who has committed the contempt, is between the Court and the contemner. Any person bringing the facts to the notice of the Court is just an informant. The aggrieved party is the court as the order of the court has been disobeyed or in criminal contempt the court has been scandalised. It is, therefore, apparent that in case the Defendant, (i. e. contemner) has been held guilty it could very well be said that he has a right of appeal, whereas when the contemner has been held not guilty or on account of some reasons the application has been dismissed by the impugned order as in the present case, in that event it cannot be said that the rights of the informant or the present Appellants have been affected and they can prefer an appeal as of right as none of their rights is affected or jeopardised. Similar view has been taken by a Full Bench of this Court (one of us, B.N. Katju, J. was a member to that Full Bench) in S. It was held in that case on page 413 as follows:

The Appellant has no right to file an appeal u/s 19(1)(a) of the Act against an order of the learned Single Judge dated 11th October. 1984 dismissing his application for initiating contempt proceedings against opposite party No. 1.

9. In this view of the matter it is clear that it is only the contemnors who could have right to file an appeal against the decision of the learned Single Judge holding them to be guilty for having committed the contempt. But in case the informant's application has been dismissed or notice has been discharged the informant shall have no rights to prefer the appeal nor the appeal would be maintainable.

10. Reverting to the cases relied upon by the learned Counsel for the Appellants L.D. Khanna's case (Supra) was a case in which it was held that only against the decision concluding the contempt proceedings the appeal would lie and not against some interlocutory order. This case stands on different footings and hence does not help the Appellant. Vishwanath Khanna's case (Supra) was a Division Bench case of the Delhi High Court which apparently helps the Appellant. But in fact in that case it was not considered as to whether the right of the informant in the peculiar nature of contempt proceedings was affected by the dismissal of the application. But in fact the contempt proceedings remain virtually between the court and the contemner and the duty of the informant comes to an end when he brings the facts to the notice of the Court, hence that decision is clearly distinguishable in the view of Full Bench decision in Ravi Saraswat v. Ram Chandra Maheshwari, (Supra) which has considered in detail as to whether the right of the informant is affected when the application for contempt is dismissed or that the notice is discharged or the contemnors having not been held to be guilty.

11. In view of the discussions made above, we are of the view that as the application for contempt proceedings moved by the Appellants was dismissed by

the learned Single Judge, their rights as envisaged u/s 19(1) of the Act were not affected.

12. We are accordingly of the view that the present appeal is not maintainable and the same is dismissed.