
(2025) 03 AP CK 0408

In the Andhra Pradesh High Court, Amaravati

Case No : Contempt Appeal No: 30, 31 Of 2015

M. Srinivasa Rao

APPELLANT

Vs

Tangirala Ramana Reddy And Others

RESPONDENT

Date of Decision : 07-03-2025

Acts Referred:

Citation : (2025) 03 AP CK 0408

Hon'ble Judges : R Raghunandan Rao, J; Harinath.N, J

Bench : Division Bench

Advocate : P Subash, D Krishna Murthy

Final Decision : Partly Allowed

Judgement

R. Raghunandan Rao, J

1. As these two contempt appeals arise out of a common order, they are being disposed of by way of this common order.

2. Heard Sri P. Subhash, learned counsel appearing for the appellants and Sri D. Krishna Murthy, learned counsel appearing for the 1s respondent, in both the appeals.

3. The 1st respondent was a permanent fair price shop dealer of Shop No.35 of Perurupadu Village, Bollapalli Mandal, Guntur District. His authorization was suspended by the appellant, in C.A.No.30 of 2015, by proceedings, dated 01.10.2014, on certain allegations. Aggrieved by the said order of suspension, the 1st respondent approached the erstwhile High Court of A.P. by way of W.P.No.37203 of 2014. The appellant, in C.A.No.30 of 2015, appeared before the erstwhile High Court and admitted his mistake in issuing such proceedings. Thereupon, the writ petition was allowed by order dated 15.12.2014, setting aside the proceedings leaving it open to the appellant in C.A.No.30 of 2015 to hold a detailed enquiry and to pass an order.

4. Pursuant to the order of the Court, the appellant in C.A.No.30 of 2015, by

proceedings, dated 24.12.2014, restored the fair price shop authorization of the 1st respondent and directed the appellant, in C.A.No.31 of 2015, to allot essential commodities to the shop of the 1st respondent from the month of January 2015 onwards.

5. The 1st respondent, contends that when he had approached the appellant, in C.A.No.31 of 2015, for release of essential commodities, he was informed by the appellant, in C.A.No.31 of 2015, that no stocks would be allotted to him on account of the oral instructions received from the appellant, in C.A.No.30 of 2015. The 1st respondent, on the basis of the above complaint and the other grounds raised in the contempt case, approached the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, by way of C.C.No.361 of 2015. The contempt case was admitted on 24.04.2015 and thereafter, the appellants personally appeared and filed their counter affidavits. The defense of the appellant, in C.A.No.30 of 2015, as set out in his counter affidavit, was that essential commodities have to be released to the permanent fair price shop dealers, upon consideration for such essential commodities being paid by way of Demand Drafts or cheques, which are produced on or before 18th of every month, for distribution in the next month. As the 1st respondent had not remitted these amounts in time, for the months of January and February, 2015, except in respect of kerosene oil for the months of January and February, 2015, in-charge arrangements were made by the appellants, by proceedings, dated 30.12.2014, by allotting stocks to a neighbouring fair price shop and it was only upon the 1st respondent filing challans for allotment of kerosene oil, on 16.02.2015, that the kerosene oil was released to the 1st respondent. It is also stated that since the 1st respondent had not remitted the amounts for release of essential commodities for the month of March, 2015 another proceeding, dated 25.03.2015, was issued by the appellant in C.A.No.31 of 2015, authorizing the neighbouring fair price shop dealer to distribute the commodities in public interest. The appellant in C.A.No.30 of 2015 also stated that the enquiry initiated against the 1st respondent was completed and final orders, dated 30.05.2015, were passed dropping all further proceedings against the 1st respondent.

6. The appellant, in C.A.No.31 of 2015, in his counter affidavit, made various allegations against the 1st respondent including that of obstruction of inspecting officers and threatening them with dire consequences, due to which criminal cases were filed against the 1st respondent. The appellant, in C.A.No.31 of 2015, also reiterated the averments of the appellant, in C.A.No.30 of 2015, to the effect that the stocks could not be released to the 1st respondent on account of non-remission of necessary payments for release of such stocks.

7. The 1st respondent replied to these allegations, by filing reply affidavits. In the said reply affidavits, the 1st respondent stated that the appellant, in C.A.No.30 of 2015, had created fabricated documents to show as if inspections were carried out, in September 2014, when no such inspections were carried out.

The 1st respondent also contended that the appellants initially, having refused to supply the commodities, started supplying the same only after becoming aware of the filing of the contempt case against them. He would also contend that the appellants tried to pressurize him to drop the contempt case and to give a statement that he could not lift the stocks for the months of January and February 2015 due to financial problems. The 1st respondent would also contend that the appellants, after supplying the stocks for the month of March, 2015, got a raid organized against his shop through VROs. One of the VROs, under the pressure of the appellants, is said to have filed a criminal complaint against the 1st respondent herein and in that manner the appellants were seeking to harass the 1st respondent for withdrawing his complaint.

8. The learned Single Judge, after considering the allegations raised on both sides, and the submissions made by the learned counsel on both sides, had come to the conclusion that both the appellants were guilty of contempt of this Court.

9. The learned Single Judge examined all the events prior to the order passed by the learned Single Judge in W.P.No.37203 of 2014 and the period thereafter. The learned Single Judge, having observed that no action had been initiated against the 1st respondent, under Clause 5(1)(B) of the A.P. Public Distribution System (Control) Order, 2008, which stipulated that action should be initiated against the fair price shop dealer, who does not remit the value of the allotted essential commodities, on or before the date fixed, took the view that non-initiation of proceedings under this provision, clearly demonstrates that there was no failure on the part of the 1st respondent in remitting necessary amounts. The learned Single Judge also considered the fact that while the 1st respondent, according to the appellants, having failed to remit any money towards release of stocks, is said to have made selective payments for release of kerosene alone, for the month of February, 2015. The learned Single Judge took the view that such contradictory behavior belies the contention of the appellants.

10. The learned Single Judge also considered the fact that the 1st respondent had submitted a representation to the appellant in C.A.No.31 of 2015, on 28.01.2015, complaining of non-issuance of essential commodities and had held that no person, who had defaulted in payment, would have submitted a representation for release of stocks. The learned Single Judge, on the basis of these factors, had held that the appellants herein had deliberately withheld the stocks which should have been released to the 1st respondent. Apart from this, the learned Single Judge also went into various complaints that had been initiated against the 1st respondent, on the ground of obstructing the inspecting parties, from March, 2015 onwards, and had held that the entire exercise appears to be an exercise to pressurize the 1st respondent for withdrawing the contempt case filed against the appellants.

11. On the basis of these findings, the learned Single Judge held that the appellants were guilty of contempt of Court and sentenced both the appellants to undergo imprisonment for one month in civil prison and to pay a fine of

Rs.2000/- each, in default, to undergo imprisonment for one week.

12. Aggrieved by this judgment, dated 14.10.2015, the appellants have moved the present contempt appeals before this Court.

13. Sri P. Subhash, learned counsel appearing for the appellants would contend that the judgment of the learned Single Judge is based on probabilities and conjectures. He would submit that in the absence of any concrete proof of refusal of the appellants in supplying the essential commodities, a finding of guilt against the appellants, in quasi criminal proceedings, would not be warranted and the said findings need to be set aside.

14. Sri P. Subhash, apart from assailing the order of the learned Single Judge, on merits, has also raised a contention, regarding procedural violations that are said to have been committed in the course of the proceedings in C.C.No.361 of 2015.

15. The learned counsel would rely upon the judgments of the Hon'ble Supreme Court in the cases of Sahdeo Alias Sahdeo Singh vs. State of Uttar Pradesh and Ors., (2010) 3 SCC 705 (para 27); Ram Kishan vs. Tarun Bajaj and Ors., (2014) 16 SCC 204 (paras 11 and 12); Muthu Karuppan, Commissioner of Police vs. ParithiIlamvazhuthi and Anr., (2011) 5 SCC 496 (para 17); and R.S. Sehrawat vs. Rajeev Malhotra and Ors., (2018) 10 SCC 574 (para 18).

16. In Sahdeo Alias Sahdeo Singh vs. State of Uttar Pradesh and Ors., the Hon'ble Supreme Court while considering the procedure that needs to be followed in contempt proceedings had held as follows:

27. In view of the above, the law can be summarised that the High Court has a power to initiate the contempt proceedings suo motu for ensuring the compliance with the orders passed by the Court. However, contempt proceedings being quasi-criminal in nature, the same standard of proof is required in the same manner as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights which are provided in the criminal jurisprudence, including the benefit of doubt. There must be a clear-cut case of obstruction of administration of justice by a party intentionally to bring the matter within the ambit of the said provision. The alleged contemnor is to be informed as to what is the charge, he has to meet. Thus, specific charge has to be framed in precision. The alleged contemnor may ask the Court to permit him to cross-examine the witnesses i.e. the deponents of affidavits, who have deposed against him. In spite of the fact that contempt proceedings are quasi-criminal in nature, provisions of the Code of Criminal Procedure, 1973 (hereinafter called "CrPC") and the Evidence Act are not attracted for the reason that proceedings have to be concluded expeditiously. Thus, the trial has to be concluded as early as possible. The case should not rest only on surmises and conjectures. There must be clear and reliable evidence to substantiate the allegations against the alleged contemnor. The proceedings must be concluded giving strict adherence to the statutory rules framed for the purpose.

17. Learned counsel would also contend that no person can be convicted under contempt of Court, on mere conjecture and probabilities, in as much as the conviction under Contempt of Courts Act is essentially a criminal conviction which can only be passed upon true facts being available.

18. In Muthu Karuppan, Commissioner of Police vs. ParithiIlamvazhuthi and Anr., the Hon'ble Supreme Court, in paragraph 17, had held as follows:

17. The contempt proceedings being quasi-criminal in nature, burden and standard of proof is the same as required in criminal cases. The charges have to be framed as per the statutory rules framed for the purpose and proved beyond reasonable doubt keeping in mind that the alleged contemnor is entitled to the benefit of doubt. Law does not permit imposing any punishment in contempt proceedings on mere probabilities, equally, the court cannot punish the alleged contemnor without any foundation merely on conjectures and surmises. As observed above, the contempt proceeding being quasi-criminal in nature require strict adherence to the procedure prescribed under the rules applicable in such proceedings.

19. In Ram Kishan vs. Tarun Bajaj and Ors., the Hon'ble Supreme Court, while considering the question of level of proof in contempt proceedings, had held as follows:

11. The contempt jurisdiction conferred on to the law courts power to punish an offender for his willful disobedience/contumacious conduct or obstruction to the majesty of law, for the reason that respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen that his rights shall be protected and the entire democratic fabric of the society will crumble down if the respect of the judiciary is undermined. Undoubtedly, the contempt jurisdiction is a powerful weapon in the hands of the courts of law but that by itself operates as a string of caution and unless, thus, otherwise satisfied beyond reasonable doubt, it would neither be fair nor reasonable for the law courts to exercise jurisdiction under the Act. The proceedings are quasi-criminal in nature, and therefore, standard of proof required in these proceedings is beyond all reasonable doubt. It would rather be hazardous to impose sentence for contempt on the authorities in exercise of the contempt jurisdiction on mere probabilities. (Vide V.G. Nigam v. Kedar Nath Gupta [V.G. Nigam v. Kedar Nath Gupta, (1992) 4 SCC 697 : 1993 SCC (L&S) 202 : (1993) 23 ATC 400] , Chhotu Ram v. Urvashi Gulati [Chhotu Ram v. Urvashi Gulati, (2001) 7 SCC 530 : 2001 SCC (L&S) 1196], Anil Ratan Sarkar v. HIRAK GHOSH [Anil Ratan Sarkar v. HIRAK GHOSH, (2002) 4 SCC 21] , Bank of Baroda v. Sadruddin Hasan Daya [Bank of Baroda v. Sadruddin Hasan Daya, (2004) 1 SCC 360], Sahdeo v. State of U.P. [Sahdeo v. State of U.P., (2010) 3 SCC 705 : (2010) 2 SCC (Cri) 451] and National Fertilizers Ltd. v. Tuncay Alankus [National Fertilizers Ltd. v. Tuncay Alankus, (2013) 9 SCC 600 : (2013) 4 SCC (Civ) 481 : (2014) 1 SCC (Cri) 172] .)

12. Thus, in order to punish a contemnor, it has to be established that

disobedience of the order is "wilful". The word "wilful" introduces a mental element and hence, requires looking into the mind of a person/contemnor by gauging his actions, which is an indication of one's state of mind. "Wilful" means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bona fide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a "bad purpose or without justifiable excuse or stubbornly, obstinately or perversely". Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. "Committal or sequestration will not be ordered unless contempt involves a degree of default or misconduct." (Vide *S. Sundaram Pillai v. V.R. Pattabiraman* [*S. Sundaram Pillai v. V.R. Pattabiraman*, (1985) 1 SCC 591] , *Rakapalli Raja Ram Gopala Rao v. Naragani Govinda Sehararao* [*Rakapalli Raja Ram Gopala Rao v. NaraganiGovindaSehararao*, (1989) 4 SCC 255 : AIR 1989 SC 2185] , *Niaz Mohammad v. State of Haryana* [*Niaz Mohammad v. State of Haryana*, (1994) 6 SCC 332 : AIR 1995 SC 308] , *Chordia Automobiles v. S. Moosa* [*Chordia Automobiles v. S. Moosa*, (2000) 3 SCC 282] , *Ashok Paper Kamgar Union v. Dharam Godha* [*Ashok Paper Kamgar Union v. Dharam Godha*, (2003) 11 SCC 1], *State of Orissa v. Mohd. Illiyas* [*State of Orissa v. Mohd. Illiyas*, (2006) 1 SCC 275 : 2006 SCC (L&S) 122 : AIR 2006 SC 258] and *Uniworth Textiles Ltd. v. CCE* [*Uniworth Textiles Ltd. v. CCE*, (2013) 9 SCC 753] .)

20. In *R.S. Sehrawat vs. Rajeev Malhotra and Ors.*, the Hon'ble Supreme Court, considering the same issue, in paragraph 18, had held as follows:

18. In the present case, going by the material on record it is not possible to conclude beyond reasonable doubt that the appellant had contributed to the reconstruction of the unauthorized structure before or after 27-9-2000. Furthermore, the appellant was not served with any charges much less specific charge which he was expected to meet. Yet, the final conclusion in the impugned judgment is that the acts of the appellant tended to substantially interfere with the due course of justice and amounted to committing criminal contempt of court for having filed incorrect affidavit. The High Court made no attempt to verify or examine the contemporaneous record relied upon by the appellant in support of his plea that the factual position stated in the affidavit filed by him was borne out and reinforced from the said record. The affidavit so filed cannot be termed as incorrect or misleading by relying on the report of the Advocates' Committee, which was prepared after a gap of 6 months from the date of first demolition (7-6-2000) and 3 months from the second demolition (14-9-2000).

21. Sri D. Krishna Murthy, learned counsel appearing for the 1st respondent, on the question of procedure that needs to be followed, placed reliance upon the judgment of a Constitution Bench of the Hon'ble Supreme Court in the case of C.K. Daphtary, Sr. Advocate and Ors., vs. O.P. Gupta and Ors., AIR 1971 SC 1132. The Constitution Bench, while considering the procedure that needs to be followed in a contempt matter, had held as follows:

22. In Sukhdev Singh Sodhi v. Hon'ble Chief Justice S. Teja Singh and the Judges of the Pepsu High Court (1953) 2 SCC 571 : AIR 1954 SC 186 : (1954) SCR 454, 463 : 1954 SCJ 67 this Court observed:

"We hold therefore that the Code of Criminal Procedure does not apply in matters of contempt triable by the High Court. The High Court can deal with it summarily and adopt its own procedure. All that is necessary is that the procedure is fair and that the contemner is made aware of the charge against him and given a fair and reasonable opportunity to defend himself. This rule was laid down by the Privy Council In re. Pollard [LR 2 PC 106 at 120] and was followed in India and in Burma in In re, Vallabhdas [ILR 27 Bom 394 : 5 Bom LR 343] and Ebrahim Mamoojee Parekh v. King-Emperor. [AIR 1926 Rang 188 : ILR 4 Rang 257 at 259-261] "

78. In our view that is still the law. It is in accordance with the practice of this Court that a notice was issued to the respondents and opportunity given to them to file affidavits stating facts and their contentions. At one stage, after arguments had begun Respondent 1 asked for postponement of the case to engage some lawyers who were engaged in fighting elections. We refused adjournment because we were of the view that the request was not reasonable and was made with a view to delay matters. We may mention that the first respondent fully argued his case for a number of days. The procedure adopted by us is the usual procedure followed in all cases.

81. In para 6 of the petition, dated January 28, 1971, he stated that "the charges against the alleged contemnors must be specifically written. It is not sufficient to leave the respondents searching for the charges from the entire petition". He submitted that the petition did not clarify specifically as to what the distinct charges against each respondent were. In the course of his arguments he referred to a number of authorities in support of this para. It is unnecessary to refer to them except one, because it is clear that on the facts the charge against the first respondent is quite clear and simple and it is not necessary that a formal charge should be drawn up by the petitioners or the Court.

23. In the light of the decision of the Constitution Bench, this Court would have to see whether appellant in C.A.No.30 of 2015 and appellant in C.A.No.31 of 2015 were put to notice about the charge against them, though a formal charge may not have been framed. In the present case, the counter affidavits filed by the appellants, before the learned Single Judge makes it amply clear that both the appellants were aware of the case against them and sought to answer the

said case. In the circumstances, there is no lacuna in the procedure adopted by the learned Single Judge.

24. On the question of burden of proof, there can be no quarrel about the aforesaid propositions laid down by the Hon'ble Supreme Court in various judgments cited above. However, the findings of the learned Single Judge are not based on simple suppositions or conjecture. The learned Single Judge, in an elaborate analysis of the conduct of the appellants, had come to the conclusion that the appellants had deliberately withheld the commodities which should have been released to the 1st respondent and the same was done in clear defiance of the directions of the Court.

25. The action of the appellants, in not releasing the essential commodities to the 1st respondent, despite full knowledge of the directions of the Court, can only mean that the appellants had willfully and deliberately violated the directions of the Court. In the circumstances, we are convinced that the order of the learned Single Judge does not require any interference.

26. However, the fact remains that the appellants have been under the shadow and threat of imprisonment in civil prison for the last 10 years. In such circumstances, it would be appropriate to modify the sentence imposed on the appellants.

27. Accordingly, this Court, affirming the findings of fact, by the learned Single Judge, holds that the appellants are guilty of contempt of Court. However, this Court modifies the sentence to that of payment of fine of Rs.1500/- only, by each of the appellants, by setting aside the sentence of civil imprisonment.

28. Accordingly, these contempt appeals are partly allowed. As a sequel, pending miscellaneous applications, if any, shall stand closed.