
(1997) 05 PAT CK 0019
In the Patna High Court
Case No : M.J.C. No. 245 of 1997 (R)

Mangalmoy Banerjee

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 13-05-1997

Acts Referred:

Citation : (1997) 2 BLJR 1565

Hon'ble Judges : Prasun Kumar Deb, J

Bench : Single Bench

Judgement

Prasun Kumar Deb, J.—Today again a supplementary show cause has been filed by opposite party No. 2, Parwez Akhter, Deputy Superintendent of Police (Law and Order), Hirapur, Dhanbad, and in paragraphs 1 and 2 of the supplementary show cause, the officer expressed his unqualified apology for the letter which is Annexure 2 to the contempt petition written by him by which definitely the prestige of not only the individual lawyer has been derogated but the whole class of lawyers who are considered to be the officers of the Court are being disgraded.

2. Mr. P.K.Sinha, appearing for and on behalf of the officer concerned (opposite-party No. 2) submits that without going in to the further controversy into the matter, the whole letter as contained in Annexure-2 is withdrawn as a whole. Now the question comes in whether by withdrawal of the letter (Annexure-2) alone can make the writer of it immuned from contempt?. Definitely insultation and insinuation already made cannot be restored to by simple withdrawal of it and expressing unqualified apology in the Court. The facts and circumstances are to be considered and the action of the officer concerned should be construed in its proper perspective while deciding this issue of punishment as contempt has already been held to be committed buy the officer concerned as is expressed by this Court in earlier order dated 8-4.1997.

3. There was a contract in between the B.C.C.L. and M/s. Gaya Coke Company, Private Limited and the advance money given by the Company was not returned by the B.C.C.L. and the Company came up before this Court when delivery of

coal was not there for getting back his advance money. The B.C.CO. came up with counter-affidavit annexing a letter of this officer which was marked as Annex re 3 to the writ petition stating that advice has been given by this officer not to return the money as investigation was going on some criminal cases against that Company. I have given the impression that when the letter was written till then there was no criminal case pending against the Company. It is not known, how the investigation was being taken without registration of the case by that time. However, this Court by its order dated 4.12.1996 had disposed of the writ petition giving direction to the B.C.C.L. to pay up the money, then again there was a letter by this officer concerned to B.C.C.L. reiterating his previous stand, then the B.C.C.L. came up for modification of the order of this Court. It was held by this Court by passing the order on the modification petition that the Deputy Superintendent of Police, Dhanbad, has got no authority to make any advice in the matter when the Court was in seisin of the same. It was not understood how the officer concerned could get himself so involved in respect of criminal case and was harping again and again for making non-payment to the Company when the money was advanced to under the contractual agreement. The matter was in between the company and the B.C.CL. and if there was any criminal case against the Company, the Investigating agency is to proceed as per the Code of Criminal Procedure. There was no scope of the Investigating agency or the officer concerned who himself submitted in writing that he was entrusted with Law and Order duty and was only supervising authority of criminal investigation in the district of Dhanbad, had no authority or jurisdiction to inter-meddle with the Court proceedings in any manner whatsoever. However, when the modification petition was also disposed of then this opposite-party No. 2 Officer took another stand maligning the Advocate who appeared on behalf of the B.C.CL. to the effect that in connivance with the Legal Section of B.C.CL. that Advocate has not taken proper stand before this Court. He has not mentioned anything in the letter at Annexure-2 nor in the reply to show cause filed as to where from he could get such a noble proposition bringing slur against the officer of a Court. Perhaps the officer concerned was posing himself to be above board.

4. The wordings of the letter if read in between the lines, clarifies the wilful intention of the officer not only to malign the officer of the Court but to put a slur on the Court itself. It very much reveals that to feed fat his grudge against the Company, he was bent upon to get the refund order passed by this Court to be reversed. Even if this Court's order was wrong, the officer concerned, had not authority to intermeddle with the Courts' order again and again by posing himself to be a self-styled Legal Adviser of B.C.CL. When he failed in his attempt, he started maligning the Court, lawyer and the Legal Section of B.C.CL. by writing Annexure 2 to this contempt petition. Then the Advocate concerned i.e. Mr. M.M. Banerjee had filed this contempt petition. Definitely by that letter not only his prestige has been lowered down but has also hampered his profession because of insinuating remarks which has farfetched effect on his professional career. When the court was passing the order again and again, being a third

party, the officer was trying to pressurise the B.C.CL. for obvious purpose and intention. He has failed to bring into the record as to on what basis and on what consideration he was making such sort of self-styled advice time and again to a party to the proceeding before the High Court: This is not only over-doing but taking advantage and exploiting his designation, he was trying to obviate the cause of the Court proceedings.

5. Being a Deputy Superintendent of Police, it cannot be said that he is not a prudent man and due to inadvertence he was interfering with the Court proceedings and if he really lacks in prudence then he is not fit to remain in such high post when the law and order of the district is entrusted to him on his own admission. So by tendering unqualified apology, I do not think the opposite-party No. 2 Officer can be allowed to get rid off. He has already lowered down the prestige of the lawyer as a class with motive and that he was going intentionally again and again

6. The language of the letter has been referred to by Mr. P.K Sinha to submit that such language may not be considered to be a slur on the Court itself but the inner meaning of it can be well understood by every one having prudence, perhaps not to this officer only.

7 In that view of the matter, I hold that the Officer concerned, namely, Parwez Akhter, Deputy Superintendent of Police (Law and Order), Hirapur, P.S. Dhanbad, District-Dhanbad, has committed contempt of Court and he is liable to be punished. In respect of punishment, the unqualified apology tendered by the contemnor is not accepted by the Court although the letter written by him as per Annexure 2 is withdrawn by him by filing affidavit.

8. The Director General of Police, Bihar, Patna, be informed immediately that proper action should be taken against him for committing contempt of Court and to inform this Court by filing affidavit about the action taken against the officer abovenamed as I have already held that this officer is not fit to remain on the post which he is now holding.

9. Let this case be listed after six weeks to get the report from the Director General of Police, Bihar, Patna.

10. Joint Registrar of this Bench is directed to send a copy of the order through FAX the Director General of Police, Bihar, Patna, immediately as an advance information.