
(1978) 11 AHC CK 0066
In the Allahabad High Court

Manik Chand Gupta and Another

APPELLANT

Vs

Virendra Kumar and Others

RESPONDENT

Date of Decision : 22-11-1978

Acts Referred:

Contempt of Courts Act, 1971 — Section 12
Criminal Procedure Code, 1973 (CrPC) — Section 146
Contempt of Courts Act, 1971 — Section 12
Criminal Procedure Code, 1973 (CrPC) — Section 146
Contempt of Courts Act, 1971 — Section 12
Criminal Procedure Code, 1973 (CrPC) — Section 146

Citation : (1979) CriLJ 412

Hon'ble Judges : V.N. Misra, J;B.N. Katju, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

B.N. Katju, J.—This petition had been filed by Manik Chandra Gupta and Mohammad kaleem praying that the opposite parties namely Virendrea Kumar, Sampadak (Editor) ?Deshdoot? (Dainiki Jagran Jhansi Prakash) Rajender Gupta Managing Editor ?Deshdoot (Dainik Jagran Jhansi Prakashan), Bajrang Lal Local correspondent of Desdoot Hindi Daily, Cr. Mohammad Usman Chheola and Izhar be punished under the contempt of Court Act.

2. It is alleged in the petition that after the order of Sri Gulab Singh Sub-Divisional Magistrate, Machhlisahar, district Jaunpur dated 1-2-1978 was passed releasing the land in dispute in favour of the petitioner u/s 146 Cr. P.C the opposite parties Bajtang Lal Dr. Mohmmad Usman chheola and Izahar with a view to scandalize the Magistrate got an article published in ?Deshdoot? in Collusion with the Editor of the said paper. The said article runs as follows :

Uttar Pradesh ke anchal se Praganadhikari ke pakshpatpurn ravaiye ke biruddh hartal: Sabzimandi me punah nirman karya shuru hone ki asshanka se tanavpum sthiti ?

Mungra Badshahpur (Jaunpur)

Ni Sa./ Sthaniya subzimandi Id kurksuda jamin ke sambandh me Machhalishahr ke Parganadhikari Sri Gulab Singh ke tathakathit pakshpatpurn awam aniyamit ravaye ke birodh me nagar ke samast subji avam phal vikretaon ne aaj purnrup se hartal rakkha jisse samanya upbhoktaon ko atyadhik kathinaiyon ka samana karna para aisa nagirikon ne aarop lagaya.

Smarniya hai ki ukt subzimandi ki jamin par bigat pachason varsh se 30-35 garib kunjaron avam Bharbhujon ka kabja raha jis par chhoti chhoti dukane lagakar wey apane parvar ka jivikoparijan karte hai Nagar ke kati-pay dhaninimani log usi bhumi par galat kabja karke apna makan taiyar karna chahte hai. Is nimitt isse purva Apatkal me 23 March 1976 ko bhi uprokt kathit prabhavshali logon ne ratonrat uprokt garibon ko ujarkar makan taiyar karne ka prayas kiya tha kintu tatkaalen prashashnik adhikariyon ki tatparta avam satarkta ke karan ukt jamin ko shanti bhaang ki ashanka ke adhar par kurk karke yah aadesh parit kiya tha ki bena kisi sakshan Adalat ke aadesh ke koi bhi nirman karya nahin karney diya jayega. Kintu uprokt Parganadhikari ne ekpaksh ko nirman karya karne ka aadesh pradan kar diya aisa bataya jata hai ki nirmankarya punah prarambh hone ki ashanka se pure nagar me tanav byapt hai.

Is hartal ke bad aaj nagar ke samast subzi avam phal vikretaon ki ek baithak ukt mandi prangan par hui jisme Rajya Sarkar avam Zila Prashasan se mang ki gai ki nagar me shanti byavastha kayam rakhne hetu yah awa-shyak hai ki ukt kurki adesh ko kisi tarah se na prabhavit kiya jay jabtak ki kisi paksh ko adalat se nirnya na prapt ho jay. Sath hi sath yah bhi mang ki gai ise Rajya Sarkar adhigrihit karke swayam mandi ka nirman karke uprokt garibon ko pradatt kare.

3. It is also alleged in the petition that Bajrang Lal, opposite party No. 3 propagated against the Magistrate Sri Gulab Singh by a loudspeaker and incited the Kunjras to close their shops. A supplementary affidavit was filed by Suleman on behalf of the petitioners in which it was stated by Suleman that he was approached by Bajrang Lai and Izahar, opposite parties and was paid Rs. 5/- for announcing on a loudspeaker that the Magistrate, Sri Gulab Singh had passed a dishonest and wrong judgment in collusion with the petitioners which he did for two hours.

4. Dr. Mohammad Usman Chheola, opposite party No. 4 and Izahar, opposite party No. 5 have filed counter affidavit in which they have denied the allegations made against them to the petition that they got the above mentioned news item published in the "Deshdoot" Daily. Izahar has also denied that he paid Rs. 5/- to Suleman for propagating by a loudspeaker that the judgment of the Magistrate was dishonest and wrong. In view of their denial we are not prepared to accept the allegations made against them in the petition and in the affidavit of Suleman. They cannot, therefore, be held guilty of any offence under the Contempt of Courts Act.

5. Rajendra Gupta opposite party No. 2 has filed a counter affidavit in which he

has stated that he is the Managing Editor of the "Deshdoot" but his permanent work is in Jhansi and he has no hand in the publication of "Deshdoot" at Allahabad and that he came to know about the publication of the article after it had taken place. In these circumstances he cannot also be held guilty of any offence under the Contempt of Courts Act.

6. Virendra Kumar, opposite party No. 1 and Bajrang Lai, opposite party No. 3 have admitted that they are the Editor and the Local correspondent respectively of "Deshdoot" which is published from Allahabad. Their defence is that the above mentioned article which was published in the "Deshdoot" was a fair comment of the incident mentioned therein. In our opinion the words "Parganadhikar ke pakshpatpurn ravaiya ke biruddh hartal" and "Parganadhikari Sri Gulab Singh ke tathakathit pakshpatpurn avam aniyamit ravaye ke birodh me nagar ke samast subzi avam phal vikretaon ne aaj purnrup se hartal rakkha" cannot be held to be fair comment on the merits of the case as they clearly amount to scandalizing the Court as they mean that the Magistrate acted in a partial manner in deciding the case. When partiality is attributed to a Court in passing an order or deciding a case the limits of fair comment on the merits of the case are clearly crossed and gross contempt is committed as impartiality is a basic characteristic of a Court and any attack on it seriously affects its prestige and dignity. We are supported in our view by the undermentioned observations of the Supreme Court in the case of Aswini Kumar Ghose and Another Vs. Arabinda Bose and Another, :

But when it proceeded to attribute improper motives to the Judges, it not only transgressed the limits of fair and "bona fide" criticism but had a clear tendency to affect the dignity and prestige of this Court. The article in question was thus a gross contempt of Court.

7. Both, Virendra Kumar opposite party No. 1 and Bajrang Lai opposite party No. 3 are, therefore, clearly guilty u/s 12 of the Contempt of Courts Act, 1971 for having committed criminal contempt and deserve to be sentenced to one month's simple imprisonment. It may be mentioned that contempt of Court committed by publication in news paper causes incalculable damage to the prestige and dignity of the Court owing to the wide publicity it receives. We are, therefore, not prepared to accept the apology tendered by both Virendra Kumar opposite party No. 1 and Bajrang Lai opposite party No. 3.

8. A notice was issued to Suleman to show cause why he should not be punished under the Contempt of Courts Act for propagating by a loudspeaker that the judgment of the Magistrate was dishonest and wrong in view of the admission made by him in his affidavit filed in support of the petition. In the affidavit filed by him in reply to the notice issued by us it was stated by him that he did not know the implication of the announcement made by him which, however, is of no consequence. He is, therefore, also clearly guilty u/s 12 of the Contempt of Courts Act for scandalizing the Court and deserves to be sentenced to one month's simple imprisonment. We are also not prepared to accept the apology tendered by him as his conduct in making the announcement by a loud-j speaker

for two hours that the judgment of the Magistrate was dishonest" and illegal was highly improper.

9. Virendra Kumar opposite party No. 1 and Bajrang Lai opposite Party No. 3 and Suleman are convicted u/s 12 of the Contempt of Courts Act and sentenced to one month's simple imprisonment. They shall be taken into custody forthwith to serve out the sentences awarded to them.

10. The notice issued to opposite parties Nos. 2, 4, 5 namely, Rajendra Gupta, Dr. Mohammad Usman Chheola and Izahar to show cause why they should not be punished under the Contempt of Courts Act is discharged. Order accordingly.