

(1996) 10 KAR CK 0018

In the Karnataka High Court

Case No : Contempt of Courts Case (Crl.) No. 24 of 1996

Manjula Kudligi

APPELLANT

Vs

S.V. Patil

RESPONDENT

Date of Decision : 25-10-1996

Acts Referred:

Contempt of Courts Act, 1971 — Section 15(B)
Penal Code, 1860 (IPC) — Section 77

Citation : (1997) 5 KarLJ 272

Hon'ble Judges : H. N. Narayan, J; M. F. Saldanha, J

Judgement

M.F. Saldanha, J.-The learned State Public Prosecutor is requested to take notice in this matter.

2. The petitioner in this case appears in person. According to her, in the course of some litigation, an appeal was filed by her before the then III Additional District Judge, Belgaum, Mr. Arali Nagaraj, which appeal came to be dismissed. The petitioner contends that she was aggrieved by this order and therefore, she filed a suit against the Judge claiming damages from him. The plaint came to be rejected after which, an identical plaint was presented for the second time which was also rejected and the petitioner followed this up by filing a third suit which also came to be rejected. The petitioner thereafter did not stop in her efforts, but went to the Criminal Court and filed a private complaint under Section 219, I.P.C. against the learned Judge who had rejected the plaints. On this complaint, Sri S.V. Patil, the then Principal C.J. and C.J.M., Belgaum, passed an order dated 14-9-1995 which is a speaking order and which is the subject matter of the present petition. The learned Judge has, in the order in question, recorded the finding that no criminal proceeding is maintainable in law against the learned Judge who had rejected the plaints irrespective of what the facts or the grievances may be and under these circumstances, he has dismissed the matter itself outright. The petitioner has now presented the present petition alleging that the learned Judge Sri S.V. Patil is guilty of criminal contempt in so far as according to her, the learned Judge did not take down the verification statement

of the complainant and the learned Judge also did not afford her an opportunity of producing further evidence and material. According to her, the dismissal in question constitutes interference with the course of a judicial proceeding and is, therefore, actionable under the Contempts of Courts Act.

3. The office has raised a series of objections most of which are procedural, but has also pointed out that as far as an allegation of criminal contempt is concerned, that the sanction of the Advocate General is essential. The petitioner has contended that this is not so. The scheme of the Contempt of Courts Act is very clear as far as criminal contempt is concerned, in so far as no private party has a right in the first instance to institute or initiate criminal contempt proceedings before the High Court. The learned Advocate General is a sufficiently senior and highly designated member of the bar and by virtue of the office which he holds, he is invested with the power of scrutinising applications and complaints and according sanction in appropriate cases and refusing sanction in cases that do not qualify for sanction. It is true that over a period of time, even in cases where the learned Advocate General may have refused sanction, if the petitioner-applicant is able to satisfy the Court that sufficient ground exists for the Court of its own motion to take cognizance of an act of criminal contempt, that in a few exceptional cases, the Court will examine the grievance and perhaps either take cognizance or refuse to do so. This does not under any circumstances mean that the requirement of applying in the first instance to the learned Advocate General can be by-passed. The petitioner before us has contended that such an application is unnecessary. This is not the scheme of the law and under these circumstances, in so far as the application which ought to have been made to the learned Advocate General for sanction has not been made, this petition itself is not maintainable.

4. There is another aspect of the matter in so far as the grievance that is sought to be projected namely, that it was obligatory on the part of the learned Judge Sri Patil to afford the petitioner an opportunity of substantiating her complaint and producing such witnesses or material in support thereof as was concerned, and that this procedure should not have been bypassed. We need to record that there do exist a small category of cases where there exists a legal bar to the maintainability of the complaint itself and in those instances, a learned Magistrate would still be justified in dismissing the complaint outright in so far as it is virtually still born. The requirement of verifying the correctness of the complaint and of deciding as to whether a prima facie case has been made out, presupposes the fact that the complaint itself is maintainable in law. In the present instance, the complainant had come with an allegation against a judicial officer that he has committed a criminal offence in so far as he has rejected the plaint filed by her on three occasions. If that order was an incorrect order, the petitioner had her remedies in law and we take a very serious view of the fact that the petitioner at all dared to present a complaint in a Criminal Court against a Judge on the ground that he has rejected her plaint. Such practices will have to be very strongly deprecated as any lenience shown to a person indulges in such

practices will seriously undermine the administration of justice, the status of the Judges and the working of the law Courts. We are of the view that the complaint itself was thoroughly devoid of substance. Section 77, I.P.C. which is one of the Sections in the chapter under, "General Exceptions", prescribes a total and complete or a blanket bar to the entertainment of any such complaint and in this background, the learned Judge was more than fully justified in having dismissed it outright. There is not even a shade of impropriety that can be alleged against the learned Judge or with regard to the correctness of the order passed by him.

5. Before parting with this petition, we need to record that the conduct of the petitioner in the course of the litigations which are the subject matter of this petition, leaves much to be desired and it is necessary for this Court to issue a stern warning to the petitioner that if she persists in any such conduct in future, that the Court will be forced to take rigorous action against her.

6. With these observations, this petition to stand dismissed. The learned State Public Prosecutor shall file his memo of appearance within 3 weeks.