
(2004) 09 CAL CK 0023

In the Calcutta High Court

Case No : CC No. 329 of 2000 and 144 of 2002, APD No. 66 of 1997 and EOS No. 60 of 1987

Mayapur Sri Chaitanya Math and Another

APPELLANT

Vs

Bhakti Bikash Sajjan Maharaj and Others

RESPONDENT

Date of Decision : 14-09-2004

Acts Referred:

Citation : (2005) 2 CALLT 375 : (2005) 3 CHN 25

Hon'ble Judges : Rajendra Nath Sinha, J; Dilip Kumar Seth, J

Bench : Division Bench

Advocate : P.K. Dutta and C.K. Dutta, for the Appellant; J.C. Ghosh, for the Respondent

Judgement

Dilip Kumar Seth, J.—Pursuant to our order dated 5th August, 2004, since the Court did not sit on 2nd September, 2004 at 2 p.m., the alleged contemner No. 1 had reported his appearance before the Registrar, Original Side which is noted by us.

2. In this contempt petition, contempt is alleged to the order dated 9th September, 1998 passed by the Division Bench in APO No. 66 of 1997 arising out of Suit No. 939 of 1978. The suit arose out of execution of the two deeds of lease, which are at page 92 of the contempt application on June 4, 1999 by the alleged contemner Bhakti Bikash Sajjan Maharaj as Secretary of the governing body of Sri Chaitanya Math Mayapur, Nadia in respect of its property of Purushottam Goudia Math branch at Puri in favour of Sri Joy Krishna Mahapatra and others. These leases were executed by the said Sajjan Maharaj on the authority of his being the Secretary of the governing body of Sri Chaitanya Math, Mayapur, Nadia claiming to be in possession. The Appellate Court while disposing of the appeal, as it appears from page 89 of this application, was pleased to couch its conclusion with the following expression :

"Accordingly, while we hold that the learned Trial Judge was justified in declaring the two deeds of appointment dated July 7, 1976, Exts. B & C, to be void,

inoperative, ineffective and also in restraining the defendants from interfering with the affairs of the Mayapur Sri Chaitanya Math as also Sri Chaitanya Research Institute on the basis of the said deeds of appointment. It was alleged that the execution of the said lease deeds were in violation of the order of injunction restraining the alleged contemner Sajjan Maharaj from interfering with the affairs of the Mayapur Sri Chaitanya Math as also Sri Chaitanya Research Institute on the strength of his alleged appointment as Secretary.

3. By or under our order dated 17th February, 2004 after having heard the respective Counsel for the parties and perusing the materials, for the reasons given in the order dated 17th February, 2004, we had held Sri Bhakti Bikash Sajjan Maharaj and the alleged contemner No. 5 guilty of contumacious conduct and directed Sri Sajjan Maharaj and the respondent No. 5 to appear in person before this Court on 16th of March, 2004 at 2 p.m. and also to appoint a Special Officer for the purpose indicated in the said order.

4. The Special Officer has submitted his report. Various orders were passed from time to time in connection with the contempt matter. On 11th of March, 2004, having regard to the report of the Special Officer and after having heard the respective Counsel for the parties, we had issued suo motu rule of contempt calling upon the alleged contemnors including some other persons named in the report to show cause why they should not be sent to prison for the contumacious conduct and violation of the order dated 17th February, 2004 as reported by the Special Officer. Accordingly, all the alleged contemnors had appeared before us and had tendered respectively their unqualified apology, which were accepted except that of Sri Bhakti Bikash Sajjan Maharaj. Having accepted the apology, the rule of contempt was discharged as against the other persons against whom suo motu rule was issued as well as the alleged contemner No. 5 by or under our order dated 10th June, 2004.

5. In the said order dated 10th June, 2004, we recorded that the apology tendered on behalf of Sri Sajjan Maharaj was not serious. On the other hand, he was more serious to vindicate his own right and insisted and asserted that he had every right to continue with the management of the affairs of the Math and obstruct the access of the applicant in the Math, which he had been repeating even on the visit of the Special Officer on the two occasions. However, we had not taken into account the visit of the Special Officer and only on the strength of the finding we had arrived at in our order dated 17th February, 2004, we were fully convinced that Sri Sajjan Maharaj was more interested in asserting his own right. The learned Counsel Mr. J. C. Ghosh on behalf of the alleged contemner No. 1 insisted that the alleged lease had expired and that Mayapur Sri Chaitanya Math or Sri Chaitanya Research Institute had no connection with the Purushottam Goudio Math occupied by Sri Sajjan Maharaj. Mr. Ghosh further contended that originally it was called Purushottam Math not Goudio Math.

6. It was found by us that despite having been given opportunity, Sri Sajjan Maharaj had come up with the same contention, which virtually amounted to

negating the order dated 9th September, 1998. He had been claiming right contrary to the said order and had supported his action on the strength of his right contrary to the said order. Therefore, we did not find any reason to accept the apology. At the same time, on account of the stand taken and the manner in which the matter was being dealt with by Sri Sajjan Maharaj, we were of the view that he should be punished for contempt. We suggested that Sri Sajjan Maharaj should be punished, for contempt, of imprisonment for a period of fortnight in our order dated 10th June, 2004. Accordingly, we were inclined to give an opportunity to Sri Sajjan Maharaj to show cause why this punishment should not be inflicted upon him. At this stage Sri Sajjan Maharaj present in Court, in person submitted before us that he may be given sometime to make his submission on the question as to how the order of this Court can be implemented and on which ground he would pray for consideration of the question of inflictment of punishment. Accordingly, we had adjourned the matter 16th July, 2004. Now the matter has come up before us.

7. Thus, we had held that the alleged contemner was guilty of contumacious conduct. At one point of time we had proposed to inflict punishment of imprisonment for a period of fortnight. The law warranted infliction of punishment because of the stand taken by Sri Bhakti Bikash Sajjan Maharaj. But due to our own limitation, we were unable to pass an order of punishment against a Sannyasi which we expressed in Court and ultimately the alleged contemner on 10th June, 2004 agreed to comply with Court's orders which were staring on him and by which he was bound. We had given time and had given certain directions.

8. On 5th August, 2004, an affidavit was presented before this Court affirmed by Sri Bhakti Bikash Sajjan Maharaj on 28th July, 2004 before a notary at Cuttack. In the said notarized affidavit in paragraphs 2 and 3 the following statement has been made :

"2. On the 10th June, 2004 the matter appeared before the Hon''ble Justice D.K. Seth and the Hon''ble Justice R.N. Sinha when the Hon''ble Justice D.K. Seth personally called on me before him and insisted me to give my consent in passing a consent order to the effect that I shall hand over possession and management of Purushottam Math at Puri in favour of the representatives of the petitioner through Sri Amit Kumar Pan, the Special Officer and in that event no order of punishment would be passed. In default the Hon''ble Judge would send me in the prison for longer time and also I have to pay fine. The matter was adjourned till 16th July, 2004. The matter not appear in the list of 16th July, 2004.

3. After the said order dated 10th June, 2004, on the 13th June, 2004 some agents and/or association of the petitioner No. 2, Sri B.P. Yati Maharaj along with several unknown antisocial elements forcibly attempted to trespass into the Math premises. The said agents and/or representatives against whom warrant of arrest was issued due to wrongful trespass into the Math and abused the inmates

of the Math previously. The said persons treated me and the inmates of the Math to the effect if I do not hand over possession and management of the Math in that event they would kill me. However due to timely arrival of the police personnel, the said persons ran away. A General Diary was duly lodged with the local police station about the said incident."

9. We distinctly recollect that after we proposed the punishment, we were hesitating to pass the order of punishment of imprisonment upon the alleged contemner for non-compliance of the order of the Court and ultimately the Sannyasi was called on to the dias, where we were expressing our limitation to him within the hearing of the open Court, that though the law has to be obeyed and is to be respected but due to our own limitation we were feeling ourselves embarrassed to inflict a punishment of imprisonment upon a Sannyasi and that the Sannyasi is a disciple of Lord Sree Sree Chaitanya Mahaprabhu and following Vaishnab cult where the humbleness is the principle and a person should consider himself humbler than a grass and more tolerant than a tree. Therefore, he should think twice before he decides what he would be doing and requested him to save us from the embarrassment of inflicting any order of punishment upon a Sannyasi which we never intend to do from the core of our heart and expressed that if we inflict punishment upon a Sannyasi then our heart would bleed. In such circumstances, he agreed as recorded in the order dated 10th June, 2004. But God knows why this affidavit was affirmed and something strange has been incorporated in the affidavit! Those had hurt our feeling and had in effect made us Very sad and sorrow. We did not expect from a Sannyasi following Vaishnab cult to tell something untrue even in his life not to speak of in a Court of Law. In any event, his learned Counsel Mr. J. C. Ghosh had attempted to defend his client because he was obliged to do so and had pleaded that he was doing it professionally not personally and upon being so instructed to do. However, he did not make any comment with regard to the events what had happened on the relevant day when the order dated 10th June, 2004 was passed. In his usual fairness he submitted that he does not want to make any comment with regard to those events except pointing out certain materials to draw the attention of the Court in order to enable the Court to pass appropriate order. He had left the matter at the discretion of the Court.

10. Ultimately he submitted that all said and done, his client had not done anything wilfully and deliberately and what he had done involuntarily he repents for that and surrenders to the Court and tenders unqualified apology. In his usual fairness, the learned Counsel Mr. J. C. Ghosh for the alleged contemner has himself also tendered apology. It is not necessary that a lawyer should tender his own apology while arguing in a contempt matter in the process of defending his client. However, I appreciate his fairness and fair stand taken in Court and we think that he is not supposed to tender his apology for the reason that he has defendant his client in contempt.

11. In fact, the way in which the alleged contemner No. 1 has behaved, invites a

very strict order in order to make it clear to him that the Court's orders are to be respected, regarded and obeyed. Spiritually he may be above us, but when in a mundane material world he is embroiled in litigation before a Court of Law, he steps down from his spiritual identity and enters the domain of mundane human society and he has to accept all the rules that govern the human society. May be he is beyond the rule of the society in his spiritual existence, but that spirituality is distinct and different and something else and he can maintain the same in his spiritual world. But the moment he steps down therefrom and enters the ordinary human society and behaves like an ordinary human being as an ordinary litigant, he is subjected to the rule of the society and the law and cannot claim himself to be above the law. By his conduct in which he has behaved himself in Court and outside, we believe that even a punishment of a fortnight in prison for the contumacious conduct would be too insignificant and would not suffice. Even the maximum punishment period provided under the Contempt of Courts Act would be less judging the depth of the insubordination and confrontation he has exhibited before the Court and repeatedly, particularly, in making allegations, which were untrue to his own heart.

12. The Court had never insisted him to give his consent. The only thing upon which the Court had insisted that he should not compel the Court to its embarrassment to pass an order of punishment of imprisonment for a fortnight against him because the Court was feeling hurt in its own heart to inflict the punishment on a Sannyasi out of its own deep respect for the spiritual existence of the person whom the Court was proposing to punish. It is the inherent sense of the Court itself, which was preventing it from passing the said punishment and the heart was revolting and crying against such a proposal. However, the stand taken by Sri Sajjan Maharaj in the said affidavit is not being retraced today. This is still supported today by the alleged contemner and the comments supported by the learned Counsel for the parties who were present in Court on 10th June, 2004 were criticized. It is also pointed out that the affidavits should have been filed by the respective parties instead of the comments by their learned Counsel.

13. But the fact remains that each of the learned Counsel in their comment had reiterated identical situation and facts which had transpired in Court on 10th June, 2004 as reflected by us hereinbefore. We really feel sorry to hold that the alleged contemner is guilty of contumacious conduct as alleged in the contempt application as well as by reason of his conduct in Court and the affidavit he had affirmed and which he supported, deserves very very strict punishment.

14. It may, however, be noted that after all the possession has been given and the Special Officer is in possession of the Math. However, except two rooms on the doors of which the Special Officer has put his lock and the alleged contemner has put his own lock thereon. We, therefore, feel that even if the Sannyasi could confront the Court even to the extent of stating wrong things but the Court cannot afford to retaliate in the same manner. Therefore, though we hold him guilty of contumacious conduct we refrain from passing any order for punishment

since our heart is preventing us from passing an order of punishment against the Sannyasi. We do not want to embarrass us and remind us constantly that we had punished a Sannyasi. In order to save ourselves from the embarrassment, we are not inclined to pass any order for punishment against him and accept the apology tendered unqualified before this Court today and also because of the fair stand taken by his lawyer Mr. Ghosh representing him in Court today.

15. However, we expect that we have been able to impress the Sannyasi with some example how the Sannyasi is expected to behave, particularly, a Sannyasi of the Vaishnab cult. We further expect that he should remove the padlock put by him on the doors of the two rooms and not to obstruct the management of the Math by the Mayapur Sri Chaitanya Math, Purshottam Goudio Math branch at Puri, the decree-holder in terms of the decree. However, the Mayapur Sri Chaitanya Math shall not remove Sri Sajjan Maharaj and allow him to continue as he is unless Sri Sajjan Maharaj non-cooperates with them. So long Sri Sajjan Maharaj will cooperate with them he will be entitled to continue at the same position and at the same manner and participate in the worships and other ceremonies etc. and shall not disturb and/or interfere with the management and discharge of functions by Mayapur Sri Chaitanya Math in performing the seva puja and other functions and management of the affairs of the Math, branch Purushottam Goudio Math at Puri. We expect that in a true sense of the discipline of Vaishnab cult Sri Sajjan Maharaj and the management of Mayapur Sri Chaitanya Math branch Purushottam Goudio Math, Puri shall cooperate between themselves and follow the principle of love above all (prem) and the tenet of the said cult "yet you've hurt me by splinter. My love to you wont deter" and forgive and forget and embrace each other and continue to do so in future. We except that our gesture would appeal to the conscience of both the parties. We believe that the order we have passed hereby would be sufficiently apt punishment for a Sannyasi following the Vaishnab cult of Lord Sri Chaitanya.

16. The Special Officer appointed shall continue on the same terms for a period of one year from today, unless extended further, in order to ascertain that the orders of this Court are being respected, followed and obeyed and in case of necessity to submit report. Liberty to the parties and the Special Officer to mention.

17. With these observations, we dispose of the contempt application being CC No. 329 of 2000 and all other applications filed in this case. There will, however, be no order as to costs.

18. All parties are to act on a signed xerox copy of this Dictated Order on the usual undertaking.

Rajendra Nath Sinha, J.

19. I agree.