
(1994) 04 KAR CK 0040
In the Karnataka High Court
Case No : C.C.C. (Cr.) 6 of 1988

M.D. Muthu and Others

APPELLANT

Vs

Rev. D.P. Shettian

RESPONDENT

Date of Decision : 21-04-1994

Acts Referred:

Citation : (1996) ILR (Kar) 3663 : (1996) 7 KarLJ 859

Hon'ble Judges : K.B. Navadgi, J;B.N. Krishnan, J

Bench : Division Bench

Advocate : B.P. Holla, for the Appellant; V. Tarakaram, for the Respondent

Judgement

K.B. Navadgi, J.—In this matter, complainants 1 to 6 have produced documentary evidence marked as Exs. P.1 to P.8. They have to adduce oral evidence.

2. The matter relates to the criminal contempt committed by the accused, of this Court and the Courts subordinate to this Court in which judicial proceedings between the complainants 1 to 6 and others and the accused and others are pending.

3. The accused has come forward to tender unqualified and unconditional apology with a prayer to accept the same and purge him of the contempt.

4. We have heard Sri B.P. Holla, Learned Counsel for complainants 1 to 6 and Sri V. Tarakaram, the Learned Senior Counsel for the accused, on the question as to whether the apology the accused wants to tender should be accepted and if so in what form. We have taken the assistance of the Learned Advocate General to decide the question.

5. We have perused the apology placed on record by the accused in the form of his affidavit for our perusal and acceptance.

6. Sri B.P. Holla, Learned Counsel for complainants 1 to 6, made a two-fold submission. In the forefront he urged that apology as it has come at the belated

stage of the proceedings should not be accepted particularly in view of the grave nature of the contempt committed by the accused and the unjust and improper abusive epithets used by him in the two offending publications against complainants 1 to 6 and others belonging to United Basel Mission Church in India (South Kanara and Coorg Unit). In the alternative he submitted that if the Court were to accept the apology it should be not in the form in which it is now tendered, but in a form showing in clear language the withdrawal of the offending passages in the two publications which are the subject matter of the accusation. In support of his main submission and alternative submission, Sri B.P. Holla, invited our attention to the law pronounced by the Hon"ble Supreme Court in a series of decisions including the decision in the case of Tarun Bharat Sangh, Alwar Vs. Union of India and others, We have given our careful consideration to the entire matter.

7. We have studied the decisions cited at the Bar. Before we proceed further in the matter, it appears necessary for us to record a finding that the accused has committed the criminal contempt of this Court and the Courts subordinate to the Court in which the judicial proceedings between the complainants and the others on the one hand and the accused and others on the other hand are pending. We may observe that in a contempt case apology takes the character of admission. Apology is accepted to purge the contempt of the charge of contempt and exonerate him. It is also accepted in lieu of the punishment the contempt is liable for having committed the offence of contempt.

8. Of course, by the two offending publications marked as Annexures "C" and "D" to the contempt petition, published by the accused in the two issues of Udaya Vani, a Kannada daily, published from Manipal in South Kanara District, the accused interpreted the decision of the Hon"ble Supreme Court in the case of DISTRICT COUNCIL OF UNITED BASEL MISSION CHURCH v. SALVADOR NICHOLAS MATHIAS ILR 1989 KAR 587, tried to convey to the members of the public that the question of merger of United Basel Mission Church with the Church of South India and the implementation of the merger had received the approval of the highest House of Law in the country, in the decision and that the proceedings questioning the implementation of the merger resolution was a futile exercise. But on a careful reading of the publications, we are unable to subscribe to the submission made by Sri B.P. Holla that the accused has by interpreting the decision of the Hon"ble Supreme Court has chosen the course of rewriting the judgment or pre-judging the issue of the implementation of the merger. True, the accused is a lettered man enjoying high position and status in the protestant circle of Christianity. But it is difficult to sustain the contention of Sri B.P. Holla that the accused with an intention to commit the criminal contempt of this Court and the Courts subordinate to this Court, or with a deliberate design or a sinister motive it published Articles to obstruct the smooth administration of justice in the pending judicial proceedings relating to the controversy. Nor can it be said that offending articles were published with a view to mislead the public on the issue. We are unable to endorse the view of Sri B.P. Holla that the contempt the

accused has committed, is of gravest nature calling for a serious view. On the other hand, in our considered view, the contempt committed by the accused is purely technical in nature.

9. The accused should not have used undesirable words in the two publications against the complainants and members belonging to United Bassel Mission Church, which must have hurt their feelings.

10. Having regard to the stage of the proceedings at which the accused has come forward tendering unconditional and unqualified apology, we find extremely difficult to accept the submission of Sri B.P. Holla that the accused has come forward with the apology at a belated stage of the proceedings and to save himself from the punishment. The Learned Advocate General expressed the view that the apology deserves to be considered for its worth. The fact that we have framed accusation against the accused and we have asked him to face the trial did not mean that the accused committed the contempt. On the basis of the existence of prima facie case, we directed the framing of the accusation against the accused for the contempt. It is only after he has come forward tendering unconditional and unqualified apology, on perusing the same, the record and the evidence led so far, we have recorded our finding that the accused has committed the contempt charged against him.

11. There is absolutely no material even remotely showing that the apology the accused wants to tender is not bona fide. On the other hand, if we may say so, the apology appears to be the effect of real repentance and contrition. He has come forward to admit the contempt at the proper stage of the proceedings.

12. The apology is bona fide. It is both unconditional and unqualified in clear and unambiguous language. The accused has stated in his affidavit that he tenders unqualified and unconditional apology and he withdraws the two offending publications in their entirety. He also expresses his regret for the two publications issued by him leading to the unfortunate consequences.

13. When the accused has come forward to withdraw the two offending publications in their entirety, we do not see any point in the submissions made by Sri B.P. Holla that the accused should be asked to withdraw the statements in the offending publications which form the subject matter of different heads in the accusation claimed against the accused. We find on the facts and in the circumstances of the case, acceptance of the apology would uphold the majesty of law, vindicate the authority of this Court and the Courts subordinate to this Court and would remove the impression in the minds of the public, the two offending publications might have created, relating to the controversy. Acceptance of apology in our view would prevent and forestall the likelihood of the two offending publications, obstructing the fair course of justice. We, therefore, accept the apology and close the proceedings.

14. The accused is a Bishop of Karnataka Diocese of Church of South India exercising his jurisdiction over six revenue districts of this State, namely,

Dakshina Kannada, Coorg, Mysore, Mandya, Chickmagalur and Hassan. We are informed by Sri V. Tarakaram that in his position as Bishop the accused exercises supervision and control over all the Churches situated in the six districts and manages the affairs of the institutions like educational institutions, hospitals attached to the said Churches. We are also informed by Sri V. Tarakaram that 85 Pastors and 185 Pastorates are under the charge of the accused. Having regard to the high status the accused is having in the religious world, the nature of duties, functions and responsibilities assigned to him as Bishop, Sri Tarakaram submits that the initiation of the contempt proceedings and its culmination in the manner now proposed should not in any way affect his Status and position and should not come in any manner in the way of the discharge of his duties, functions and responsibilities as Bishop.

15. We entirely agree with him. Since the accused would be, by the acceptance of apology exonerated of the contempt proceedings, its termination in the manner cannot and would not in any manner affect his status and position in the discharge of his religious duties, functions and responsibilities. Nor will it affect his right to manage the affairs of the Churches and the institutions attached to them.

16. The complainants and others on one hand and the accused and others on the other, are agitating their rights over the properties belonging to United Basel Mission Church Trust Association-Complainants 1 to 6 and others asserting that the merger resolution has not been implemented so as to transfer a valid title in the properties owned by U.B.M.C. in India Trust Association, in favour of the C.S.I. Trust Association, and the accused and others on the other hand, maintaining that there has been implementation of the merger resolution and that as a result thereof, there has been valid transfer of the properties belonging to U.B.M.C. in India Trust Association in favour of C.S.I. Trust Association. That is the bone of contentions taken up by them in the various judicial proceedings pending in this Court and in the Court subordinate to this Court. Needless to add, the initiation of this proceedings and its termination by this order cannot and will not affect in any manner the determination of the controversy is adverted to earlier, the parties are agitating in the various judicial proceedings. The judicial proceedings between the parties would be determined in accordance with law without being in any manner affected or influenced by the initiation of this proceedings and its culmination by this order.

17. Having regard to the facts and circumstances of the case and the probable consequences the two offending publications might have created and might create in minds of the concerned on the controversy between the parties and in the interest of justice, we find it expedient and necessary that this order of ours should be published in any issue of Udaya Vani within three months from this date at the cost of the accused.

18. x x x x