
(2014) 04 MAD CK 0081

In the Madras High Court

Case No : Writ Petition No. 11099 of 2014

Mrs. Aarthi Shankar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 21-04-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 226
Contempt of Courts Act, 1971 — Section 15(1)

Citation : (2014) 2 LW 913

Hon'ble Judges : Satish K. Agnihotri, Acting C.J.; M.M. Sundresh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The petitioner is a student of Dr. B.R. Ambedkar Law College, Chennai and she is the wife of one Mr. Achimuthu Shankar, who is a Senior Assistant (under suspension) at the Directorate of Vigilance and Anti Corruption at Chennai. The present writ petition has been filed by her alleging that a witch hunting has been going on against her husband and therefore she has to file a criminal complaint before this Court. However, she is unable to do so in view of the statutory prescription as mandated by Section 15(1) of the Contempt of Courts Act. As she may not be able to get a sanction from the learned Advocate General, Section 15(1) of the Contempt of Courts Act will have to be declared as ultra vires of Articles 14 and 21 of the Constitution of India. Based upon unsubstantiated allegations the petitioner has sought for the following prayer:

Appropriate Writ(s) envisaged by Article 226, propounding Section 15(1) of the Contempt of Courts Act as ultra vires Articles 14 and 21 of the Constitution of India and consequently authorize the petitioner to move criminal contempt proceedings for the offences of manipulation and obstruction of justice, abuse of the judicial process, theft of court records, etc., sans the sanction of the Advocate General.

2. Mr. Manikandanvathan Chettiar, learned counsel for petitioner submitted that

the learned Advocate General, being a representative of a party, cannot be invested with duty of granting sanction. The learned counsel also submitted that the said exercise of power would lead to bias. He further submitted that the petitioner's husband has been hounded and therefore she could get the relief only when Section 15(1) of the Contempt of Courts Act is declared as ultra vires of the Constitution.

3. We do not find any merit, whatsoever, in the writ petition filed. The writ petition has been filed based upon unsubstantiated allegations. It is very unfortunate that allegations have been made against persons holding high office without any basis. The petitioner has not raised any substantial legal ground except bias. It is settled law that a provision of law has to be challenged on the touch stone of Constitution of India. Even in a case, where the facts are established, the resultant inconvenience by itself cannot be a ground to declare a provision of law as unconstitutional. On the contrary, the petitioner has come forward to file this writ petition based upon unwarranted and baseless allegations. It is unfortunate that instead of seeking remedy against a judicial order if aggrieved, the petitioner has thought fit to file the writ petition before this Court. We also do not find any violation of Article 14 or 21 involved in the impugned provision of law.

4. The question of bias will have to be established by a person, who raises the same. There is also a difference between an apprehension that an action would be biased as against the likelihood of a bias. There is absolutely no material on bias. This writ petition has been filed based upon the presumptions and assumptions. It is also surprising to note that the petitioner's husband has not come before this Court though allegations have been made in the affidavit in support of him. Bias cannot be presumed merely for the reason that the learned Advocate General appears for the State. In such view of the matter, we find that absolutely there is no reason to entertain this writ petition.

5. A party should avoid making unwarranted, disparaging remarks against the presiding judges. If a party is not satisfied, law provides for challenging the same in the higher courts to file review before the same Court or other appropriate court. Unwarranted remarks against the decision of the judges make a serious dent in the majesty and dignity of the judicial system, which must be avoided. The Supreme Court, in the matter of Haridas Das Vs. Smt. Usha Rani Banik and Others and Apu Banik, held as under:-

Judge bashing and using derogatory and contemptuous language against Judges has become a favourite pastime of some people. These statements tend to scandalize and lower the authority of the Courts and cannot be permitted because, for functioning of democracy, an independent judiciary to dispense justice without fear and favour is paramount. Its strength is the faith and confidence of the people in that institution. That cannot be permitted to be undermined because that will be against the public interest.

6. Accordingly, this writ petition is dismissed. However, taking into consideration of the fact that the petitioner is said to be a law student, and in view of the submission made by the learned counsel for the petitioner that she has delivered a child few months before, we do not wish to impose any costs.