

(2000) 02 DEL CK 0091

In the Delhi High Court

Case No : Criminal Contempt Petition No. 17 of 1999 in Criminal Writ Petition No. 755/99

P.C. Singhal

APPELLANT

Vs

R.B.S. Tyagi

RESPONDENT

Date of Decision : 04-02-2000

Acts Referred:

Citation : (2000) 2 AD 561 : (2000) 84 DLT 264 : (2000) 53 DRJ 76

Hon'ble Judges : R.S. Sodhi, J;A.D. Singh, J

Bench : Division Bench

Advocate : Mr. P.N. Lekhi and Mr. Sanjay Gupta, Adv Mr. K.C. Mittal, Standing Counsel, for the Appellant;

Judgement

Anil Dev Singh, J.—By this application the applicant prays that the respondent Shri R.B.S. Tyagi, ACP Crime Branch be held guilty of having committed the Contempt of Court for violating the order of this Court dated September 13, 1999 passed in Civil Writ Petition No. 755/99 and he be punished in accordance with law. The contempt petition arises in the following circumstances.

2. A writ petition, being Writ Petition No. 755/99 was filed by the Bank of Baroda against the State and the Station House Officer, P.S. Shakarpur seeking a direction to the SHO to register a formal FIR against M/s. Singhal Strips Ltd., Loha Mandi, Naraina and its Directors. It was claimed in the writ petition that M/s. Singhal Strips Ltd. approached the Bank for grant of certain credit facilities including cash credit against (hypothecation of stocks and book debts) bill discounting and term loan in the year 1994. The said facilities were reviewed & enhanced at the request of M/s. Singhal Strips Ltd. from time to time. According to the petitioner as on January 6, 1998 and on the date of filing of the petition viz. August 10, 1999 a sum of Rs. 7.2 crores (approximately) was due and payable to the Bank. The allegations on the basis of which the Bank filed the writ petition seeking direction to the concerned SHO to register the FIR is set out in para 10 thereof and few other paragraphs. However, for the purposes of this

application, it will be sufficient to quote para 10 of the writ petition:-

"That on verification from HSIDC and HFC it was revealed that the company filed forged documents/outstanding certificates which were never issued by the said financial institutions namely, HSIDC and HFC and this fact came to the knowledge of the petitioner when those institutions, vide their letters dated 12.5.1999 (from HSIDC) and letter dated 26.5.1999 (from HFC) informed the petitioner-bank that no such outstanding certificates were ever issued by them and the same are forged. Copies of both the letters are annexed hereto as Annexure P3 and P-4."

3. It was also stated in the writ petition that on July 25, 1999 the Bank filed a complaint with the Station House Officer, Shakarpur but the latter failed to register the FIR. On August 11, 1999 in view of the fact that the complaint disclosed commission of a cognizable offence, we directed the concerned Station House Officer to register the FIR. The order of August 11, 1999 reads as follows:-

"Notice. Mr. Mittal accepts notice on behalf of the respondents.

The petition can be disposed of at this stage itself. We have perused the complaint. It discloses the commission of a cognizable offence. Accordingly, the concerned SHO is directed to register the FIR on the basis of the complaint. In the circumstances, we also consider it appropriate to direct that the investigation should be conducted by an officer of the rank of Additional Commissioner of Police, Economic Offences Cell. We order accordingly.

With the above observations, the writ petition is disposed of. DASTI."

4. On September 8, 1999 an application was filed on behalf of M/s. Singhal Strips Ltd. and its Directors for recall of the order dated 11th August, 1999. On September 13, 1999 the application of the petitioner was disposed of with the following observations:-

"We would like to clarify that the arrest of a person should not be made merely on suspicion about his complexity (complicity) in the crime. In Joginder Kumar Vs. State of U.P. and others, we and D.K. Basu Vs. State of West Bengal, , it has been held by the Supreme Court that the police officer making an arrest must be satisfied about the necessity and justification of such an arrest on the basis of some investigation. No arrest can be made in violation of the dicta laid down in Joginder Kumar and D.K. Basu's cases (supra)."

5. Thereafter the petitioner filed the instant application for seeking initiation of proceedings for Contempt of Court against R.P.S. Tyagi, respondent-herein, on the ground that he arrested Shri Vijay Kumar Singhal on October 27, 1999 in flagrant violation and disregard of the Order of this Court dated September 13, 1999. We have perused the case diary of October 27, 1999. We are satisfied that the officer concerned did not contravene the Order of this Court dated September 13, 1999 as before making the arrest, he recorded the necessity and justification for custodial interrogation of Sh. Vijay Kumar Singhal. There being no violation of

the order of September 13, 1999, the rule is discharged.

6. Petition stands disposed of.