

(1957) 11 AHC CK 0013

In the Allahabad High Court

Case No : Criminal Miscellaneous Contempt No. 12 of 1957

President, Municipal Board, Fatehpur

APPELLANT

Vs

Raghubir Sahai Kaithwar

RESPONDENT

Date of Decision : 21-11-1957

Acts Referred:

Contempt of Courts Act, 1971 — Section 3

Citation : AIR 1958 All 436 : (1958) 28 AWR 137 : (1958) CriLJ 714

Hon'ble Judges : S.N. Sahai, J; H.P. Asthana, J

Bench : Division Bench

Advocate : S.N. Misra, for the Appellant; S.N. Duvedi, for the Respondent

Final Decision : Allowed

Judgement

H.P. Asthana, J.—The opposite party Raghubir Sahai Kaithwar, who is the Vice-President of U. P. Kori Mahasabha and President of the District Depressed Class Sangh, Fatehpur, has been called upon on an application of the President, Municipal Board, Fatehpur, to show cause as to why he should not be dealt with for committing contempt of the court of the Additional Munsif, Fatehpur.

2. It appears that one Sri Devi Dayal was prosecuted under the U. P. Pure Food Act for selling adulterated ghee on the report of Sri Ram Shanker Pandey, Food Inspector, Fatehpur. That case ended in the acquittal of Devi Dayal. Thereupon Devi Dayal brought a suit for damages for malicious prosecution against Sri Ram Shanker Pandey. During the pendency of this suit a pamphlet was published by the opposite party.

It is admitted by the opposite party himself that this pamphlet was distributed in the town of Fatehpur on the 21st September, 1956. The suit for damages which was pending in the court of the Additional Munsif, Fatehpur was decided on the 29th September, 1956. The said pamphlet contains 14 paragraphs and is headed as follows:--

"Fatehpur Municipality ke Praja Socialist Bhesdhari-Jansanghi Mahaprabhuaon ki

Jati-ata, pakshpat, tatha-bhrastachar pooran niti ka nanga roop."

"Praja Socialist Chairman, Member tatha tanashah Executive Officer badnam Congress ke bhi kan kat rahe hain."

The relevant paras of this pamphlet are 7 and 8. They run as follows :

"7. Uprokt Executive Officer apni jatiabandi va bhrasht niti ke anusar apne jatiya prabhay wale Board ke bal par apne niji virodhi gharibon ko kuchalne ke liye jiska dar jhute mukadmen chalaye aur jhoti gawahaiyan din is kadar aaj tak kisis ne aur kahin nihin kiya hoga. Inke chalaiye hue aur kharij hue mukadmen ke adalti phaisle chilla chilla karkah rahen hain ki aisa avishvasniye kathan karne wala afsar aise zimmedar pad ke yog nahin hai."

(7. The instances of false cases started and the false evidence given by the aforesaid Executive Officer on account of his communal and corrupt practices, on the strength of the Board of Communal influence in order to suppress the poor persons, opposed to him, must not have been surpassed by anyone, anywhere up to this time. The court judgment of the cases started by him and those dismissed speak in glaring terms that an officer making such unreliable statement is not fit to hold such post.)

"8. Is tarah Janta ke taxon se wasool Board ki rakkam kis kadar uprokt Executive Officer ki niji bhrasht niti ke karan vyarth men kharch ki gaie aur gharibon ba saikron rupiya vakilon ke mahantana aadi men barbad karaya gaya. Isi Prakar Sanitary Inspector Shri R.L. Pande ke deara vyaktigat ranjish ke adhar par Shri Devi Dayal ke virodh chalaye gaye jhute mukadmen ke phaisle hone per Devi Dayal ne uprokt Inspector ko yeh khilaf Diwani Men Mukadma Dair Kiya hai Jismen Board ke rupye se uprokt Inspector ko yeh mukadma larnе ke liye sahuhiyat di ja rahi hae."

(8. In this way it is not known how much amount of the Board realized from the taxation of the public was squandered, on account of the corrupt private policy of the aforesaid Executive Officer and hundreds of rupees belonging to the poor was caused to be wasted in paying the fee of the vakils. In the same manner when the false case started by the Sanitary Inspector Sri R.L. Pandey, due to personal enmity against Sri Devi Dayal was decided the aforesaid Devi Dayal filed the case against the Sanitary Inspector in the Civil Court, in which, the aforesaid Inspector is being granted facility to fight the case with the money of the Board.)

3. After the publication of the pamphlet an application was made by the petitioner before the Additional Munsif for taking contempt proceedings against the opposite party Raghubir Sahai Kaithwar, This application was rejected by the learned Munsif on the ground that he had no jurisdiction to take action as the alleged contempt was not committed in his court but outside. It was after the rejection of that application that the petitioner moved this court.

4. The question which arises for consideration is whether the allegations referred to above in the said pamphlet amount to contempt of the court of the Additional

Munsif or not. There is no doubt that at the time the pamphlet was published the case was pending in his court. There is also no doubt that the points which were involved in the case before him were whether the complaint was malicious, false and without reasonable and probable cause.

It was clearly stated in the pamphlet that the case which had been started against Devi Dayal was false and out of enmity. The writer of the pamphlet has therefore expressed an opinion about the merits of the case which was pending in the lower court. There is also no doubt that this pamphlet had a tendency to influence the mind of the court with respect to the subject matter in dispute. It is quite immaterial if he was actually prejudiced or not as a result of the publication of the above allegations in the said pamphlet. It may be mentioned here that the opposite party has appeared in person before us and has filed a counter-affidavit.

He has, however, not denied that he published the said pamphlet and therein made the allegations contained in paragraphs 7 and 8 which have been referred to above. Tek Chand in his law of Contempt of Court and of Legislature, second edition, at page 292 says;

"During the pendency of a criminal case between a zamindar and his ryots, a pamphlet appeared accusing the zamindar of having deliberately launched false cases against his ryots, and in other ways oppressing them. It was held to be a contempt of a grave nature, as it tended to prejudice the minds of the public against persons concerned as parties in cases, before the cause was finally heard. Moreover, it was no excuse to urge that the mind of the trial Judge would not be affected by the statements."

5. In Gottepulla Bapayya Naidu Vs. Peta Bapayya and Others, , it was held by a Division Bench of that Court that nothing was more incumbent upon Courts of justice than to preserve their proceedings from being misrepresented; nor was there anything of more pernicious consequence than to prejudice the minds of the public against persons concerned as parties in causes, before the cause was finally heard, and that it was no excuse to urge that the mind of the trial Judge would not be affected by the statements. A similar view was taken in the case of Tushar Kanti Ghose and Another Vs. The Governor of Bengal in Council,

6. In view of the above decision we are of opinion that the allegations made in the pamphlet by the opposite party, which was published during the pendency of the civil suit, had a tendency to prejudice the mind of the court before which the suit was pending and, as such, it does amount to contempt of that court. In our opinion it does not make any difference whether the mind of the court was actually prejudiced by the said publication.

7. We are, therefore, of opinion that the opposite party has committed contempt and we, therefore, find him guilty of it. We sentence him to a fine of Rs. 200/- and also direct him to pay the costs of the petitioner and the Government Advocate which we assess at Rs. 80/- each. The opposite party is allowed one month's time to pay the fine and the costs.