

(2001) 07 PAT CK 0013
In the Patna High Court
Case No : C.W.J.C. No. 9183 of 2001

Rabindra Mohan Prasad Madhur

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-07-2001

Acts Referred:

Citation : (2001) 4 PLJR 114

Hon'ble Judges : Ravi S. Dhavan, C.J.;Shashank Kr. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Petitioner Rabindra Mohan Prasad Madhur calls himself a senior press reporter of Khagaria district and also the Chairman of the Press Association of Bihar. He contends that he is a representative of the public "and he is bound to agitate the corruption and scam of Govt. Officers of District Khagaria". He has made allegations against a certain official, who has been made a party-Respondent by name and position both, but it will not be appropriate for the court to disclose the designation or the name of this Respondent because that also would be a publicity of sorts which the Petitioner has already indulged in, as may be seen from the reports published in a newspaper "Akshay Bharat" on 2nd August 1999. The Petitioner mentions that the officer concerned "is a man of corruption and also of criminal activities" and this has been proved from the newspaper report in "Ambedkar Lahar" dated 1.6.1998. Then it is contended that the officer concerned "has also done gross scam" in certain matters. It is also stated that the officer concerned "has also done gross illegality in the matter of fake appointment of teachers by taking gratification". The newspaper report "Dainik Sandhya Khabar" of 31 March 2001 is cited to back up the alleged facts. Then it is contended that this officer "has also done gross corruption of Rs. seventeen thousand four hundred and seven (Rs. 17,407/-) from the Govt. fund and misused the Govt. amounts with the help of some teachers". For this it is contended that the fact is based on a report in "Dainik Paper News" appended as

Annexure 6. It is further contended that this officer "has violated all the rules and regulations in doing corruption" and that this in effect has been proved by a news item in "Dainik Rashtriya Sahara" dated 22.5.2001.

2. It is contended that "the Petitioner is an Independent reporter and always fights battle for the grievance of the public and the Petitioner by this petition seeks a direction from the Hon"ble Court for passing an order of C.B.I, enquiry or C.I.D. enquiry in the matter of corruption and scam done by..." The Petitioner further states that he "has already sent a letter to the Hon"ble Chief Justice, Patna High Court, Patna on 19.2.2001 stating all the facts in details in the matter of alleged corruption and scam done...."

3. With equal vehemence the matter has been submitted at the bar by counsel for the Petitioner Mr. Rajendra Kumar Jain. The court has also been reminded that a letter was sent to the Hon"ble Chief Justice but no steps were taken upon it. This letter is appended as Annexure 8 to the petition. The letter has been endorsed to Hon"ble the Chief Minister of Bihar, the Regional Deputy Director, Khagaria and the Press Council of India, New Delhi.

4. The court has no hesitation in recording that both the Petitioner and his counsel have abused the process of the court. This petition brought as a public interest litigation (PIL) the Petitioner has virtually framed charges against the officer concerned. No responsibility has been taken by the Petitioner or his counsel that they seriously tried other means under the law by which inquiries and investigation can be made but the efforts have failed. Before filing this petition as a PIL, the Petitioner could have filed or advised that he may file a first information report and in case those which are supposed to enquire do not proceed then a complaint before a Magistrate in jurisdiction. A PIL writ petition cannot be brought to the High Court for the asking by any citizen (or a lawyer) in a sabre-rattling no holds barred belligerence. A court is court, whether the munsifs court or the High Court. Humility and politeness is the form of address. Then, a prerogative jurisdiction of the High Court is a discretionary remedy. A PIL does not make it a writ of right. Any person who addresses the court has to come with humility. It is the discretion of the court whether on a cause notice may issue.

5. Neither the Petitioner nor his counsel accept that what is being insinuated has not been fortified except by self generated newspaper reports. The Petitioner is the author of the reports. It is only an allegation against a third party, not a statement of fact. Such reports cannot become a cause for PIL. A PIL will have to be brought with much more responsibility with facts. A press correspondent cannot chase up his own report and call it a PIL. Investigative journalism of quality has to be based on facts which challenge verification.

6. In submission with much assertion counsel reminds the Bench that the Petitioner had cautioned the Chief Justice virtually telling the High Court to be prepared on the subject matter of the writ petition as a PIL. The Petitioner is

referring to the letter written to the Chief Justice. The Court respects the press. But, the latitude of persons like the Petitioner, who write for the press, will have to circumscribe by the limits of law. Good press reporters have a self imposed discipline. They do not write to the Court-They report on what the Court decides. Good press reporters know the nuances of the Constitution of India. They do not take issues being discussed on the floor of the legislature to the High Court. The Constitution does not permit it. Anyone who attempts it may breach the privilege of the legislature. The Petitioner and his counsel may have done this. This matter raised in this writ petition has been raised before the State legislature. The High Court is not about to permit parallel proceedings.

7. After much time of the court has been used in the matter the court needs to record that counsel having had his say and finding that the Court was not inclined to issue notice on this writ petition, boldly and without hesitation declared that then he must be permitted to withdraw this petition. This is testing the pulse of the Court. This in itself is an abuse of the process of the court that after having consumed so much time of the court and having assessed the court, counsel should have the effrontery to state that he would like to withdraw the petition. Let counsel be reminded that where he is submitting his case are courts of law and equity not of right and champerty.

8. The court has no hesitation in expressing today that the time has come for the High Court to take certain remedial measures to ensure responsibility in filing of cases, in presentation and pleadings, and to preserve the time tested convention bound limits beyond which litigants and counsel in their causes may not transgress the limitations at the Bar. The conduct for practice at the High Court by rules prescribing for Advocates on Record on the rolls of the High Court has become a necessity. The court recalls the concern of the Supreme Court in this very context.

9. This writ petition, either as PIL or otherwise was ill advised.

10. Dismissed.