

(1962) 12 CAL CK 0013
In the Calcutta High Court

Radha Raman Dhar

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 13-12-1962

Acts Referred:

Citation : (1963) CriLJ 818

Hon'ble Judges : N.K. Sen, J

Bench : Single Bench

Judgement

N.K. Sen, J.—The petitioner is a muktear and was appearing: on behalf of the defence in a certain case pending Senra Sri C. Samaddar, Magistrate, 1st Class, Ranaghat. the case was fixed for 31st of July, 1962 for cross-examination or certain witnesses. On this date the prosecution filed a hajira showing the attendance of 10 or 11 prosecution witnesses. The learned Magistrate then announced that the case would be continued from day to day, that is, from the 1st of August, 1962, to the 9th of August, 1962, when only one witness would be examined and cross-examined on each day. On the following day the petitioner muktear filed an application praying that the Court should examine at least four witnesses a day so that the purpose of cross-examination would not be defeated. It was stated that the Court's order was arbitrary and unreasonable from the stand point of law and justice.

2. The learned Magistrate thought that by stating that the order was "arbitrary and unreasonable from the stand point of law and justice" the petitioner had cast imputations against the judicial order of the Magistrate and had undermined its dignity. He therefore thought it expedient in the interests of administration of Justice that the petitioner and his mohurir Sudhir Kumar Biswas should show cause why proceedings for contempt of Court should not be drawn up against them and the matter reported to the High Court. The petitioner in showing cause stated:

It was the submission made by me on behalf of my client looking to the best interests of my client to whom I owe a duty; By using these words I have not

made any aspersion against the Court nor have I shown any disrespect to the Court. Those words were never directed to wards the Court itself. It was a submission only ana nothing else.

He reiterated that he had never intended to insult or attend the Court. Finally, he said:

In spite, if your honour thought "hat I have ottenaea your honour for having used these words in my petition dated the 1st of August 1962 I would like to express my sincerest regret.

3. This cause shown was taken by the learned Magistrate to be an offer of apology. On this view he purported to accept the same and drop the proceeding with a warning that the petitioners should be careful in future ana should not use such unparliamentary words or expressions before a Court of law.

4. Mr. Kishore Mokherji contends that the order of the learned Magistrate was wholly a misconceived one ana he had no jurisdiction to pass such an order.

5. I have read the petition filed by the petitioner where he used the expression complained of. I cannot think of a more inappropriate case where, a proceeding for contempt should have been drawn up. I find nothing in the words "arbitrary and unreasonable" which could undermine the dignity of a Court, If challenging the order or a Court on the ground that it was arbitrary and unreasonable could be said to be amounting to contempt, it would be impossible for a conscientious lawyer to do his duty on behalf of his client.

6. I would therefore set aside the order of the learned Magistrate warning the petitioner and his monurir, even though the latter has not come up to this Court in revision. This Rule is accordingly made absolute.