
(2003) 08 AHC CK 0030

In the Allahabad High Court

Case No : C.M. Contempt Petition No. 2144 of 2003

Raj Bahadur Tiwari

APPELLANT

Vs

Pradeep Kumar and Another

RESPONDENT

Date of Decision : 08-08-2003

Acts Referred:

Citation : (2003) 6 AWC 5707

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Hariom Tewari, for the Appellant; Jagdish Tewari, G.A, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.-

1. Heard counsel for parties.

2. This contempt petition has been filed against the Respondents for non-compliance of the order of this Court dated 18.8.1994, passed in Criminal Misc. Application No. 3789 of 1994 Sant Ram Tiwari v. State of U.P. and others, and order dated 18.12.1997, passed in Criminal Misc. Application No. 8451 of 1997 and order dated 13.12.2002 passed in Civil Misc. Modification/Clarification Application No. 191298 of 2002 in Criminal Misc. Application No. 8451 of 1997 Raj Bahadur Tiwari v. State of U.P. and others.

3. A protest application was filed in Criminal Misc. Bail Application No. 3789 of 1994, Sant Ram Tiwari v. State of U.P., on the complaint made by complainant Ravindra Kumar Tiwari who is said to younger brother of the applicant. The aforesaid protest application was allowed vide judgment and order dated 18.8.1994 with following observation:

"Learned Counsel for the complainant files an application along with certain annexures for a direction by this Court to the State Government and the police

authorities for providing protection to the complainant and the members of his family through armed police guard with a shadow and a gunner at the cost of the Government during the pendency of investigation and the trial of Crime Case No. 68/92 P.S. Mahobkanth, Hamirpur. I have gone through the affidavit as well as annexures thereto and find that the complainant has been making written request to the State Government as well as the other authority and police authorities to provide protection to him and his; family member as he apprehends danger from the side of six co-accused persons who have been enlarged on bail. The application is hereby allowed and the Principal Secretary, Home Department, Government of U.P., Lucknow is directed to direct the Director General of Police, U.P., Inspector General of Police Kanpur Range, Superintendent of Police, Hamirpur and the S.H.O. police station Mahobkanth, district Hamirpur to provide full and effective protection to the complainant and the members of his family by posting an armed police guard at his residence with a shadow and gunner on their movement at the cost of Government during investigation and till conclusion of the sessions trial in Crime Case No. 68 of 1992, under Sections 147, 148, 149, 302-B, I.P.C. and 506, I.P.C. P. S. Mahobkanth, district Hamirpur and to report the compliance of these directions to this Court on or before 26.8.1994."

4. From Annexure-2 it appears that the Petitioner moved Criminal Misc. Application No. 8451 of 1997 alleging that no proper investigation has been done by the police hence investigation by C.B.C.I.D. may be ordered. He also prayed that the protection of gunner issued to him be continued. Vide order dated 18.12.1997 this Court directed the Senior Superintendent of Police, Jhansi, to ensure proper protection to the Petitioner and his family till pendency of investigation and trial. The Court refused to pass any order in respect of inquiry by C.B.C.I.D.

5. The Petitioner, thereafter again moved a Modification/ Clarification Application No. 191298 of 2002 (Annexure-6), which was disposed of in following terms:

This is an application for modification of the order dated 18.12.1997. It is alleged that two of the Principal accused have absconded and thus session trial was made a separate being Session Trial No. 82 of 1994, which is still pending. Hence the order dated 18.12.1997 is modified and it is directed that police protection shall be given to the applicant and family member of the applicant during the pendency of that trial also.

Application is accordingly disposed off.

Sd/- M. Katju, J. 13.12.2002.

6. In compliance of the Court's order, the Petitioner and his family was given police protection. Now the police protection at the cost of State has been withdrawn. The order of withdrawal of police protection is as under:

other language

7. The Petitioner is a big businessman. In district Jhansi he is running a Hotel Sita and has other valuable properties. To provide security to private persons is a great burden on the exchequer, particularly in the State of Uttar Pradesh, where gunners and shadow at Government expenses is considered to be status symbol. The Petitioner can very well afford to have his own private security personal. It appears from the record that sessions trial of Case No. 68 of 1992 is pending since last more than 12 years and there has been no progress. The Government cannot be compelled to continue security of gunner/shadow to the Petitioner indefinitely on the ground that the Respondents are hardened criminals.

8. The security may be provided to private individual in rare and worthy cases. The incident was 12 years back and has become stale for providing continued security to the applicants as murder, etc. are committed every day. The State has limited resources for providing security how much the State exchequer can be burdened can only be impugned.

9. There is no justification to continue security to the Petitioner by the Government. The Petitioner is a influential and rich person and can afford to have his own security.

10. For the aforesaid reasons, the contempt application is dismissed. No order as to costs.