
(1967) 09 AHC CK 0029
In the Allahabad High Court
Case No : Special Appeal No. 707 of 1967

Ravi Dutt Singh	Vs	APPELLANT
R.N. Gupta, Advocate		RESPONDENT

Date of Decision : 11-09-1967

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 5

Citation : (1968) 38 AWR 72

Hon'ble Judges : V.G. Oak, C.J.; Bishambhar Dayal, J

Bench : Division Bench

Advocate : Satya Prakash and B.C. Saxena, for the Appellant;

Final Decision : Dismissed

Judgement

V.G. Oak, C.J.—This is an appeal by Ravi Dutt Singh, who has been sentenced to imprisonment and fine by a learned single Judge of this Court under the Contempt of Courts Act. We have considered the question whether this appeal is maintainable. We heard Mr. B.C. Saxena for the Appellant and the learned Government Advocate.

2. According to Mr. B.C. Saxena, the present appeal lies u/Ch. VIII, Rule 5, Rules of Court. Ch. VI, Rule 5, Rules of Court states:

An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made by a court subject to the superintendence of the Court and not being an order made in the exercise of revisional jurisdiction, or in the exercise of its power of superintendence or in the exercise of criminal jurisdiction) of one Judge.

3. In order to decide whether the present appeal is maintainable u/Ch. VIII, Rule 5, Rules of Court, it is necessary to investigate whether the order under appeal was passed by the learned single Judge in the exercise of criminal jurisdiction. According to Mr. B.C. Saxena, an order passed for contempt of court is not in the exercise of criminal jurisdiction of the High Court. This position is disputed by the

learned Government Advocate.

4. Article 215 of the Constitution of India states:

Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

It may, therefore, be said that in taking action for contempt of court the High Court exercises its constitutional power conferred upon it by Article 215.

5. The nature of proceedings for contempt of court came up for consideration before a Full Bench of this Court in *State Vs. Padma Kant Malviya and Another*, . It was held by the Full Bench that contempt of court is not an offence within the meaning of Section 5(2) of the Code of Criminal Procedure. Desai, J. observed on page 532:

Contempts are divided into civil and criminal contempts...there is a right of appeal or review from an order passed in a civil contempt while an order passed in a criminal contempt is held to be final.

In *Shyam Sunder v. Daw Dayal Khanna* 1955 AWR 582 it was held that contempt proceedings are neither civil nor criminal but *suigeneris*. A High Court punishes contempt of court as a court of record in exercise of its inherent jurisdiction and the procedure that is adopted is governed neither by the CPC nor by the Criminal Procedure.

In *Sukhdev Singh v. Teja Sinsrh* AIR 1954 S.C. 186 it was held that the power of a High Court to institute proceedings for contempt and punish where necessary is a special jurisdiction which is inherent in all courts of record.

In *Andre Paul v. Attorney General* 1936 AWR 600 PC it was held that, generally speaking, orders passed in contempt proceedings are treated as orders in criminal cases.

In *Shyam Sundar Halwasiya Vs. Jodhraj Halwasiya*, it was held that an order passed by one Judge of Calcutta High Court in contempt proceedings is an order in the exercise of criminal jurisdiction. Consequently, art appeal would not lie under Clause 15 of letters Patent of Calcutta High Court.

Similarly, in *In Re: S. Govind Swaminathan*, it was held that no appeal lies Under Clause 15 of Letters Patent of Madras High Court against an order of a single Judge finding a person guilty of contempt and sentencing him to a fine.

6. The learned Government Advocate drew our attention to the general plan of Rules of Court. Rules of Court have been divided into a number of parts. Part I is general. Part II deals with civil jurisdiction. Part III deals with criminal jurisdiction. Ch. VIII, Rule 5 occurs in Part I of Rules of Court dealing with general topics. The rule in question appears in Ch. VIII of Part I. Ch. VIII has been divided into a number of sections. Section C covering Rules 4 to 9 deals with civil jurisdiction of the Court. Section D of Ch. VIII deals with criminal

jurisdiction of the Court. It is to be noted that Rule 5 relied upon by the Appellant appears in that section of Ch. VIII, which deals with civil jurisdiction of the Court. The plan of Ch. VIII suggests that Rule 5 was largely concerned with appeals in civil matters. It is true that it is expressly mentioned there that exercise of criminal jurisdiction is to be excluded. But that exception merely emphasises the point that Rule 5 is largely concerned with civil appeals. Admittedly, the impugned order was not passed by the learned single Judge in the exercise of his civil jurisdiction.

7. Part III of Rules of Court dealing with criminal jurisdiction covers Chs. XVII to XX. Ch. XVIII, Rule 19 deals with contempt of court. The learned Government Advocate points out that this special provision dealing with contempt of court occurs in Part III dealing with criminal jurisdiction. This circumstance suggests that the framers of the Rules considered that contempt of court is a matter touching the criminal jurisdiction of the Court.

In *Narendrabhai Sarabhai Hatheesing Vs. Chinubhai Manibhai Seth*, it was held that an order of the Court refusing to commit a person for breach of an undertaking given to the Court and embodied in the order of the Court cannot be said to be a judgment within the meaning of Clause 15 of Letters Patent of Bombay High Court, as it does not affect the merits of any question between the parties and hence is not appealable.

8. Somewhat similar considerations arise when a Judge of a High Court passes a sentence for contempt of court. In the present case proceedings were initiated by R.N. Gupta. Upon R.N. Gupta's complaint the Court made an enquiry and passed a sentence on Ravi Dutt Singh for contempt of Court. In the appeal the proceeding has been described as a matter between Ravi Dun Singh and R.N. Gupta. But that is not the real nature of the proceeding. A High Court takes action for contempt of court in order to maintain dignity of the Court and to safeguard administration of justice. This is not a matter between a private person and the person who is ultimately sentenced. When a Court passes an order sentencing a person for contempt of court, no rights of parties are decided. All that the Court does is to take appropriate action to maintain the dignity of the Court. Such an order does not appear to be a judgment as contemplated by Ch. VIII, Rule 5, Rules of Court.

9. It may be that, strictly speaking, the Court does not exercise criminal jurisdiction in contempt proceedings. But in order to decide whether the present appeal is maintainable u/Ch. VIII, Rule 5, Rules of Court, we have to ascertain the meaning of the expression "criminal jurisdiction" as assigned in the Rules themselves. We have pointed out that according to the plan of the Rules, contempt of court has been treated as a matter falling within the criminal jurisdiction of the Court. Secondly, the impugned order does not amount to a "judgment" within the meaning of Ch. VIII, Rule 5, Rules of Court. For these reasons, we are of the opinion that the present appeal is not maintainable u/Ch. VIII, Rule 5, Rules of Court.

10. There is a good deal of authority in support of the proposition that when a High Court Judge sentences a person for contempt of court, no appeal lies from such an order. Mr. B.C. Saksena could not refer us to a single reported case where a Division Bench of a High Court has entertained an appeal from an order of a single Judge sentencing a person for contempt of " court. We, therefore, uphold the preliminary objection, and decide that the present appeal is not maintainable.

11. The appeal is rejected.

12. On 5-9-1967 we enlarged the Appellant on bail without deciding the question whether the appeal is maintainable. We have now come to the conclusion, that the appeal is not maintainable. So the order granting bail must be vacated. We, therefore, vacate our order, dated 5-9-1967 granting bail. The Appellant must surrender to bail, and serve put his sentence.