

(1986) 04 DEL CK 0003

In the Delhi High Court

Case No : Criminal Contempt Appeal No. 3 of 1986

S.P. Mahna

APPELLANT

Vs

P.N. Lekhi

RESPONDENT

Date of Decision : 09-04-1986

Acts Referred:

Citation : (1986) ILR Delhi 469

Hon'ble Judges : R.N. Aggarwal, J;M. Sharief-ud-din, J

Bench : Division Bench

Advocate : Salman Khurshid and G.M. Farooqui, for the Appellant;

Judgement

Aggarwal, J.

(1) This petition under the Contempt of Courts Act is an echo of the judgment dated 22nd January 1986 delivered by Shri Mahesh Chdha, Additional Sessions Judge, in the "Indira Gandhi murder case" in which Satwant Singh, Balbir Singh and Kehar Singh were held guilty of the offences of conspiracy and murder and were sentenced to death.

(2) Mr. P. N. Lekhi advocate for Satwant Singh accused, it is alleged, after the pronouncement of the judgment called the Judgment "a farce upon a farce". He further is alleged to have stated that "the Judge is in haste to be elevated to the High Court".

(3) The Hindustan Times of the date 23rd January 1986 reported the statement of Mr. Lekhi under two captions : (1) "Lekhi calls verdict a farce", and (2) "High tension at Tihar".

The relevant portions of the news item under the caption "verdict a farce" read as follows :

"MR,P. N. Lekhi, whose client, Satwant Singh was today convicted and sentenced to death for the murder of Prime Minister Indira Gandhi, today called the judgment "a farce upon a farce". The Judge is in haste to be elevated to the High

Court", he alleged.

"Satwamti Singh will not die a death accelerated by judicial murder", Mr. Lekhi said to newsmen in the court premises."

(4) The relevant portions under the caption "High tension at Tihar" read as under :

"MR.Lekhi stood on a chair and read out from a hand-written paper. "This is just a mockery of the entire judicial system. This is a trial and not justice". Mr. Lekhi alleged that the defense counsel was not given an opportunity to prove his case, The defense counsel also alleged that the prosecution had totally failed to prove its theory of conspiracy.

MR.Lekhi told newsmen that the Supreme Court was reputed of opening new vistas of natural justice but a subordinate judicial court just 20 kms. from the Supreme Court building conducted a mock trial. He said the trial court laboured hard to earn these comments."

(5) On 10th February, 1986 Shri S. P. Mahna advocate through Shri Atul Krishna Das advocate filed a petition under Article 215 of the Constitution of India read with section 10 of the Contempt of Courts Act, 1971 in the High Court of Delhi at New Delhi for suo motu taking cognizance & proceedings for contempt against Shri P. N. Lekhi advocate for making vilificatory criticism and scurrilous attack on the judgment of Shri Mahesh Chandra. Additional Sessions Judge, and thereby scandalising the Judge and imputing improper motive and casting aspersions against the Judge and thereby lowering his prestige, dignity and ability in the public estimation and creating distrust in public mind regarding the fairness of the trial and the verdict.

(6) The petition [Crl. M. (M) 346186] came up for consideration before Mr. Justice G. R. Luthra on 17th February 1986 and the learned Judge felt that u/s 15 of the Contempt of Courts Act the High Court could take action on its own motion, and that the allegations contained in the issue of the Hindustan Times dated 23rd January 1986 prima facie make out a case but the Judge felt that it would be proper if the matter is placed before a Division Bench for consideration, since a criminal contempt u/s 15 of the Contempt of Courts Act has to be heard and determined by a Bench of not less than two Judges.

(7) Thereafter the matter was listed before Mr. Justice Charanjit Talwar and Mr. Justice G. R. Luthra and on 20th February 1986 they passed an order for registering the case as Criminal Contempt Petition and further directed for issuing notice before admission for 3rd April, 1986.

(8) Shri P. N. Lekhi has appeared in the court today and he has filed an affidavit running into 21 pages in which he has made detailed submissions. Shri Lekhi has not disputed the correctness of the offending statements imputed to him. He has stated that he has the highest regard and respect for the courts and he would not even dream to bring the court into contempt. He has further stated that he is

unable to express his regrets for the expressions he has used because submission to such state of affairs shall be an affront to the Constitution and he would be failing in his fundamental duties if he did so. Shri Lekhi further in support of his plea that he has not committed any contempt has referred to a number of events. We do not think it necessary to detail these events.

(9) Shri Lekhi contended that he has no objection to the holding of the trial of the contempt petition for he shall have the opportunity to demonstrate what happened in the court of Shri Mahesh Chandra on 22nd January 1986 after he delivered the verdict finding the accused guilty and soon thereafter without following the mandatory requirements of law pronounced the sentence of death.

(10) We have given our very careful consideration to all the aspects of the case and have come to the conclusion that this petition should not be proceeded with. One of the considerations that has weighed with us in our above view is that Satwant Singh, Kehar Singh and Balbir Singh have filed appeals against their convictions and sentences and they are pending in the High Court. The reference for confirmation of death sentence is also pending and both the reference and the appeals are likely to be heard in the near future. The appeal by Satwant Singh has been filed through Shri P. N. Lekhi and in all probability he would be arguing the appeal for Satwant Singh. The appeal by Kehar Singh and Balbir Singh has been filed by Shri P. P. Grover, advocate.

(11) Shri Lekhi in reply has raised certain contentions which also may have been raised in the appeals. We are of the view that if we proceed with the contempt petition our decision could prejudice the accused or the prosecution at the hearing of the appeals.

(12) Shri Salman Khurshi, advocate for the petitioner, Realizing the force in our above view contended that the matter may be postponed sine die and taken up after the appeals are finally decided.

We are not inclined to accept the above suggested course.

(13) We, however, do feel the need to express ourselves on the scope of what is fair, reasonable and legitimate criticism of a Judge acting in his judicial capacity.

SECTION 2(c) of the Contempt of Courts Act defines the expression "criminal contempt" and the relevant portion of it reads as under :

"(C)"Criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(I)scandalises or tends to scandalise or lowers or tends to lower the authority of, any court, or

*** **"

SECTION 5 provides that a fair criticism of judicial act does not amount to

contempt.

(14) As we see, the judiciary is not immune from criticism. It is open to any one to express fair, reasonable and legitimate criticism of any act of a Judge in his judicial capacity or even to make a proper and fair comment on any decision given by him, but the criticism must not be made in a manner which seems designed to lower respect for the judiciary and destroy public confidence in it. Any comment or criticism which tends to scandalise or lower or tends to lower the authority of any court can come within the grips of "criminal contempt" as defined in section 2(c).

(15) We have read with care the offending passages as well as the reply filed by Mr. Lekhi. We are of the view that the language and the expressions used in the offending passages are unfortunate and they over-step the limits of fair, reasonable and legitimate criticism. Shri Lekhi is a senior and a seasoned lawyer and a member of the noble profession of "lawyers" and he should have exercised greater control in giving vent to his feelings, irrespective of the fact whether there was or was not a reasonable justification for his alleged outbursts. It is the duty of the lawyer to protect the dignity and decorum of judiciary.

(16) If the Judge had committed any irregularities or illegalities in the conduct of the trial the proper forum to ventilate the grievances is the High Court, by an appeal or otherwise. Section 6 provides that a person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer of any subordinate court to (a) any other subordinate court, or (b) the High Court, to which it is subordinate. The expressions and the language, used in the offending passages are very strong and in our view should have been avoided by Shri Lekhi.

With these observations we drop the proceedings. The petition is disposed of.