
(2007) 01 AHC CK 0050
In the Allahabad High Court

Sri Pradeep Singh, Additional Civil Judge (Senior Division)	APPELLANT
Vs	
Sri Jyoti Swaroop Singh, Advocate	RESPONDENT

Date of Decision : 25-01-2007

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 15, 2
Criminal Procedure Code, 1973 (CrPC) — Section 156
Penal Code, 1860 (IPC) — Section 147, 323, 324, 352, 504

Citation : (2007) 01 AHC CK 0050

Hon'ble Judges : R.N. Misra, J;Imtiyaz Murtaza, J

Bench : Division Bench

Final Decision : Allowed

Judgement

R.N. Misra, J.—Heard Sri Jyoti Swaroop Singh, Advocate, (Contemnor) in person and learned A.G.A. for the State at length and perused the written argument filed by the contemnor.

2. This reference for drawing contempt proceeding against Sri Jyoti Swaroop Singh, Advocate practicing in District Courts/Allahabad had been received on the report of Sri Pradip Singh, Additional Civil Judge (Senior Division), Allahabad, addressed to the Registrar General of this Court and forwarded by District Judge, Allahabad vide endorsement No. 1514/XV dated 24.9.2005. After receiving the letter of officer concerned, the office of this court submitted a note dated 15.10.2005 for initiating Contempt proceeding against the aforesaid contemnor and the above note was endorsed by Hon"ble Administrative Judge concerned on 26.10.2005 requesting Hon`ble the Chief Justice to order for initiation of contempt proceeding, who permitted so vide order dated 27.10.2005 and consequently this proceeding was initiated.

3. The letter of Sri Pradip Singh for initiating contempt proceedings against the contemnor reads as under:

From: Pradip Singh Addl. Civil Judge (Senior Division), Allahabad.

To

The Registrar General, Hon'ble High Court of Judicature At Allahabad.

Through the District Judge, Allahabad.

Subject: Reference u/s 15(2) of the Contempt of Courts Act, 1971 for the request of initiation of criminal contempt of court proceedings against Sri Jyoti Swaroop Singh, son of late Vanshpati Singh, Advocate, District Court, Allahabad.

Sir

Most respectfully it is submitted as under:

1. That the facts constituting the background are that Sri Jyoti Swarup singh, Advocate is a practicing lawyer at District Court Allahabad and junior of Sri Subedar Singh Advocate one of the alleged contemnor in criminal contempt Case No. 25/04 Administrative Judge, Allahabad v. Jagat Pal Singh and Ors.. The said Sri Jyoti Swaroop Singh is a trouble maker, quarrelsome and mischievous advocate who has always been pressurizing the judicial officers, in order to seek favourable orders by making false, frivolous concocted and baseless complaints against them and later on compromising the matters. He had made hundreds of such false complaints against various judicial officers court, officials and local residents out of which only a few came to my knowledge. He made false and frivolous complaints against Sri Sarvesh Kumar, Smt. Vani Ranjan Agarwal and Sri Vikas Saxena all the then Addl. Chief Judicial Magistrates, Allahabad in the years 2000, 2003 and 2005 respectively. As well as he is an accused and complainant in some of these cases viz, criminal cases Nos. 1088/04, 2094/04, 2212/04 under Sections 352, 504, 147, 506, 323 & 324 I.P.C and F.R. No. 214/04, 436/04 & 250/04 which go to show that the said Jyoti Swaroop Singh is habitual to make false complaint and misusing the Law process being an advocate. (Copies of relevant documents of these cases & complaints are annexed herewith as Annexure 1,2, 3,4, 5,6, 7,8, 9.

2. That on 31.8.2005, while hearing cases in the court at about 12.45 PM, the said Jyoti Swaroop Singh advocate entered the court, room in a very angry mood and losing control started shouting loudly saying:

rgeus izkFkZuk i+= 156 ?3? lh vkj ih lh ij mls ifjokn ds :i esa ntZ djus dk vkns"K D;ksa ikfjr fd;k mls Lohdkj D;ksa ugh fd;k eSa rqEgkjH f"kdK;r d:axkA rqEgs ukSdjH djuk fl[kk nwaxk rge eq>s tkurs ughA

(Why have you not allowed application u/s 156(3) Cr.P.C?. How have you dared to pass an order to register it as a complaint rather than allowing it in toto. I will make complaints against you and teach you the lesson. Perhaps you don't know my powers. I tried to pacify him but he was reluctant to be cool. The said counsel/contemnor has been asked to explain as to why not the matter be referred to Hon'ble Court for action against him. At this he became very furious and questioning the authority of the court said that he has already seen a, lot of

such contempt cases and he shall not bow down before anybody at any cost. Meanwhile some advocates accompanied him outside the court.

3. That the conduct of the said counsel Sri Jyoti Swaroop Singh, advocate has been to pressurize the court to seek favourable orders. The language spoken by the said counsel in the court is absolutely contemptuous and amounting to scandalizing, lowering and insulting the authority of the court as well as obstructing and interfering with the administration of justice and against the normal flow of the stream of justice in the pending matters which falls within the four corners of the meaning of the contempt of court.

Under the aforesaid facts and circumstances, it is requested Your Honour, that the matter be placed before Hon"ble Court for appropriate action against the aforesaid contemnor under the contempt of court Act 1971.

4. Sri Jyoti. Swaroop Singh, Advocate filed objection with affidavit against the reference made by the officer concerned. In his affidavit, he denied the entire story given in the said letter. He has alleged his false implication in this case. He has further alleged that he had made a complaint against this officer to District Judge, Allahabad and as a counter-blast, the officer concerned made this reference. He has further alleged that the officer concerned rejected his application under Section 156(3) Cr.P.C. in a malafide way whereas other application of other counsels and parties on similar facts were being allowed by him in the past. He has also denied that he was ever junior to Sri Subedar Singh, Advocate. He has also denied that he had ever misbehaved with any officer named in the reference letter. Some annexures have been filed along with the affidavit.

5. On the basis of allegations made in the reference Letter, the following charge was framed against the contemnor vide order dated 7.2.2006.

That you on 31.8.2005, in the court of Sri Pradip Singh, Additional Civil Judge (Senior Division), Allahabad, who was hearing cases in the court at about 12.45 P.M., entered into the court room in a very angry mood losing control started shouting loudly-.

Tumne prarthna patra 156(3) Cr.P.C. par oose pariwad ke roop main darj karne ka adesh kyon parit kiya, ouse swikar kyon nahin kiya, Mai tumhari shikayat karoonga, Tumhe naukri karna sikha doonga, Tum Mujhe jante nahin.

"The Presiding Officer tried to pacify you, but you were reluctant to be cool and you were asked by the Presiding Officer to explain your conduct for referring the matter to the Hon"ble High Court for initiating action against you, you became very furious and questioned the authority of the court saying that you had seen a lot of such complaints in the past also and will not bow down before any body or authority at any cost.

Your above conduct was with the intent to scandalize and lower down the dignity of the court and amounted to interference and obstructions in the administration

of justice constituting an offence u/s 2(c) of the Contempt of Court Act, 1971 and punishable u/s 12. of the said Act and you are charged accordingly.

You are hereby directed to be tried by this Court on the said charge.

6. Sri Pradip Singh appeared in the witness box and corroborated the contents of reference letter. He has stated that he joined in Allahabad Judgeship on 20.12.2003. The contemnor used to appear in his court as counsel, therefore, he was "known to him. Prior to the incident in question, the contemnor had abused him twice in his court when the orders were passed against him, but to avoid tussle, he did not take any action against him. On 31.8.2005 at 12.45 P.M, when he was hearing a civil case, the contemnor appeared in his court. Earlier to this, the application u/s 156(3) Cr.P.C. moved by him had been ordered to be registered as complaint. He expressed his annoyance regarding said order, passed on this application and threatened him to make a complaint against him and to teach him way of doing service. The relevant word and sentence uttered by him are quoted below:

rgeus izkFkZuk i+= 156 ?3? lh vkj ih lh ij mls ifjokn ds :i esa ntZ djus dk vkns"k D;ksa ikfjr fd;k mls Lohdkj D;ksa ugh fd;k eSa rqEgkjh f"kdk;r d:axkA rqEgs ukSdjh djuk fl[kk nwxk rge eq>s tkurs ugha -----ftles iSlk fey tkrk gS mlesa vkMZj dj nsrs gksA

7. The contemnor remained shouting in the court for 3-4 minutes and so many lawyers and litigants assembled there. When the Presiding Officer told him that he would initiate contempt proceedings against him, the contemnor said that he has seen so many contempt proceedings. The work of the court was paralyzed. Since the Presiding Officer was insulted in the court, this was set back to him.

8. A lengthy cross examination was made by the contemnor from Sri Pradip Singh. He has stated that civil case, in which hearing was being made at the time of incident in question was titled "Rajesh Singh v. Rajesh Pal Singh. There was some delay in making the reference which has been satisfactorily explained by Sri Pradip Singh. He has stated that after this incident, he got permission of District Judge and inspected some records, in which contemnor is himself litigant. He also inspected some earlier reports made by the other Presiding Officers against him with whom, he allegedly misbehaved. He has further stated that probably, the contemnor approached Sri Narendra Singh, the then Special C.J.M, Allahabad for making efforts for compromise. Sri Narendra Singh came to his chamber and the contemnor also reached there and talks for compromise were initiated by Sri Narendra Singh, but of no use. Sri Pradip Singh has further stated that the contemnor was so agitated in the court that some lawyers intervened and requested him to leave the court.

9. Alongwith reference letter, Sri Pradip Singh has annexed some papers which are complaints made by Sri Sarvesh Kumar, A.C.J.M., Allahabad and Smt. Vani Ranjan, A.C.J.M, Allahabad against the contemnor. In those letter also, misbehaviour of the present contemnor with the said Presiding Officers are

alleged. However, those are not very relevant in the present matter because present matter is to be decided on merits regarding incident reported by Sri Pradip Singh. Sri Pradip Singh has stated that he has no knowledge about any complaint made by the contemnor to District Judge against him. Some other litigation of the contemnor are also pending in his court, but those are also not very relevant for the decision of this case.

10. The contemnor has produced Sri Vijay Kumar Mishra, Advocate in his defence, who has also supported the contempt case. He has stated that in Original Suit No. 505 of 2005; Rajesh Singh v. Rajesh Pal Singh, he was counsel for the defendant. The case was pending in the court of applicant, Sri Pradip Singh, Addl. Civil Judge (S.D.) (Court No. 13), Allahabad. On 31.8.2005, the case was listed for hearing in said court and he participated in the same. When after hearing of the case, he was just going out of the court, the contemnor, Jyoti Swaroop Singh, Advocate entered the court room of Pradip Singh. He was not present in the court at the time when altercations had taken place between the Presiding Officer and the contemnor. He came to know on the same day from some advocates that the contemnor was talking to the Presiding Officer loudly and some of the advocates who were present in the court at that time forbade him from doing so. He named Sri Vijay Shyam Pandey, Advocate, one of them who had told this fact to him. However, he could not remember the names of other advocates who had communicated the said altercations between the Presiding Officer and the contemnor in the court to him. They had also told him that they had advised the contemnor not to behave like this and persuaded the contemnor to leave the court. Thus, from the defence witness also, the charge against the contemnor gets support.

11. There was no enmity between the Presiding Officer and the contemnor on personal level. Even if this version of the contemnor that he had moved some applications against the Presiding Officer concerned is taken to be correct even then it was not justified to behave like this in the Court. There is no reason to disbelieve the testimony of Sri Pradip Singh, Addl. Civil Judge (S.D.), Allahabad. Since the result of application, u/s 156(3) Cr.P.C. was against the contemnor, therefore he wanted to pressurize the Presiding Officer to change his order in his favour and when the Presiding Officer expressed his inability to do so, the contemnor misbehaved with him.

12. There was some delay in referring the matter, but reason is very clear. Sri Pradip Singh has clearly stated that he had to inspect some record and get permission of District Judge for inspection of the records. Some time was spent in that process. Moreover, Sri Narendra Singh, the then Special C.J.M, Allahabad also wanted to intervene in the matter and some time was also spent in that process. Ultimately, the Presiding Officer referred the matter for initiating contempt proceedings. Much emphasis has been laid by the contemnor on the fact that the report submitted by the Presiding Officer for initiating contempt proceeding against him was not dated. No doubt, no date has been given on the

reference application, but it was merely a clerical mistake. The application was received in the office of District Judge, Allahabad on 24.9.2005 and in the High Court on 28.9.2005. There was no chance of manipulation because this fact has been admitted by the contemnor also that before a few days of the incident in question, the application, u/s 156(3) Cr.P.C was ordered to be registered as a complaint by the Presiding Officer concerned and he was aggrieved by that order. According to him, he had made a complaint also to District Judge concerned. The defence witness has also corroborated this fact that on the same day, he had heard about the incident in question from brother advocates. The words uttered by the contemnor in the court were highly contemptuous. Sri Pradip Singh has stated on oath that due to scene created by the contemnor in the court, the court work was fully paralysed and clearly constituted contempt of court.

13. In the case of Goodwill Paint and Chemical Industry Vs. Union of India and another, , the Hon"ble Apex Court has expressed its views as follows:

The definition of criminal contempt is wide enough to include any act by a person which would tend to interfere with the administration of justice or which would lower the authority of court. The public have a vital stake in effective and orderly administration of justice. The court has the duty of protecting the interest of the community in the due administration of justice and, so, it is entrusted with the power to commit for contempt of court, not to protect the dignity of the Court against insult or injury, but to protect and vindicate the right of the public so that the administration of justice is not perverted, prejudiced, obstructed or interfered with. It is a mode of vindicating the majesty of law, in its active manifestation, against obstruction and outrage.

If the judiciary has to perform its function in a fair and free manner the dignity and authority of the court has to be respected by all concerned. Failing that, the very constitutional scheme and public faith in the judiciary runs the risk of being lost. Since the contemnor is also an Advocate, the matter has to be considered with little more seriousness. An advocate is not merely an agent or servant of his client, but he is the officer of the court. He owes a duty towards the court. There can be nothing more serious than an act of an advocate if it tends to obstruct or prevent the administration of law or destroys the confidence of the people in such administration. In the case of M.B. Sanghi, Adv. Vs. High Court of Punjab and Haryana and others, , the Apex Court observed "The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure the desired order is ever on the increase and it is high time that it is nipped in the bud. And, when a member of the profession resorts to such cheap gimmicks with a view to browbeating the judge into submission, it is all the more painful. When there is a deliberate attempt to scandalize which would shake the confidence of the litigating public in the system, the damage caused is not only to the reputation of the concerned judge but also to the fair name of the judiciary. Veiled threats, abrasive behaviour, use of disrespectful language and at times blatant condemnatory attacks like the present one are often designedly

employed with a view to taming a judge into submission to secure a desired order. Such cases raise larger issues touching the independence of not only the concerned judge but the entire institution. The foundation of our system which is based on the independence and impartiality of those who man it, will be shaken if disparaging and derogatory remarks are made against the presiding judicial officers with impunity. It is high time that we realize that the much cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are an integral part of the system. An independent judiciary is of vital importance to any free society. Judicial independence was not achieved overnight. Since we have inherited this concept from the British, it would not be out of place to mention the struggle strong-willed judges like Sir Edward Coke, Chief Justice of the Common Pleas and many others had to put up with the Crown as well as the Parliament at considerable personal risk. And when a member of the profession like the appellant who should know better so lightly trifles with the much endeared concept of judicial independence to secure small gains it only betrays a lack of respect for the martyrs of judicial independence and for the institution itself. Their sacrifice would go waste if we are not jealous to protect the fair name of the judiciary from unwarranted attacks on its independence.

14. In the case of *Ishwar Chand Jain Vs. High Court of Punjab and Haryana and Another*, it has been observed that "under the Constitution, the High Court has control over the subordinate judiciary. While exercising that control it is under a constitutional obligation to guide and protect judicial officers. An honest strict judicial officer is likely to have adversaries in the mofussil courts. If complaints are entertained on trifling matters relating to judicial orders which may have been upheld by the High Court on the judicial side no judicial officer would feel protected, and it would be difficult for him to discharge his duties in an honest and independent manner. An independent and honest judiciary is a sine qua non for rule of law. If judicial officers are under constant threat of complaint and enquiry on trifling matters and if High Court encourages anonymous complaints to hold the field, the subordinate judiciary will not be able to administer justice in an independent and honest manner. It is therefore, imperative that the High Court should also take steps to protect its honest officers by ignoring ill-conceived or motivated complaints made by the unscrupulous lawyers and litigants".

15. The word uttered by the contemnor in the court ^r qeus izkFkZuk i+= 156 ? 3? lh vkj ih lh ij mls ifjokn ds :i esa ntZ djus dk vkns"k D;ksa ikfjr fd;k mls Lohdkj D;ksa ugh fd;k eSa rqEgkj f"kd;k; d:axkA rqEgs ukSdj dhuk fl[kk nwxx r qe eq>s tkurs ugha -----ftles iSlk fey tkrk gS mlesa vkMZj dj nsrs gksA^^ clearly indicate that being an advocate (the protector of law), the contemnor threatened the court to pass order in his favour. The Presiding Officer has stated on oath that the contemnor continued shouting for 3 or 4 minutes in the court and a huge crowd was assembled there. When he was asked by the Presiding Officer not to behave in such a manner as it amounts to contempt, he said that

he has seen so many contempt proceedings. The law does not permit a lawyer to show disrespect to the court in any manner lowering its dignity. A judge has a duty to discharge and pass orders in the manner as he thinks fit to the best of his capability under the facts and circumstances of the case before him. No litigant, far less an advocate, has any right to take law in his own hands. The court cannot be intimidated to seek favourable orders. This conduct amounts to intimidating the court and lowering the authority and to interfere with the due course of judicial proceedings, which were being conducted by the Presiding Officer.

16. In the case of Preetam Pal v. High Court of M.P. 1993 (1) SCC 529, the following observations has been made by the Hon''ble Apex Court:

To punish an advocate for contempt of court, no doubt must be regarded as an extreme measure, but to preserve the proceedings of the courts from being deflected or interfered with and to keep the streams of justice pure, serene and undefiled, it becomes the duty of the court, though painful to punish the contemnor in order to preserve its dignity. No one can claim immunity from the operation of the law of contempt if his act or conduct in relation to court or court proceedings interferes with or is calculated to obstruct the due course" of justice".

17. In the present case before us, the conduct of the contemnor being an advocate clearly comes under the definition of contempt of court as defined u/s 2(c) of the Contempt of Courts Act, 1971 and is punishable u/s 12 of the said Act. The charge against the contemnor is fully proved.

18. Consequently, the reference is allowed and the contemnor Jyoti Swaroop Singh, Advocate, Allahabad is convicted u/s 12 of Contempt of Court Act and is sentenced to undergo simple imprisonment for a period of one month and to pay fine of Rs. 5000/(Five thousand only) and in default of payment of fine, he shall further undergo simple imprisonment of two weeks and in that case, both the sentences will run consecutively.

19. However, the punishment so imposed shall be kept in abeyance for a period of sixty days to enable the contemnor to approach the Hon''ble Supreme Court, if he so desires. He shall be taken into custody to serve out the sentences immediately after expiry of sixty days, if no stay order is obtained from Hon''ble Supreme Court in the meantime.

20. Let the matter come up before this Court on 04th April, 2007 for ensuring compliance.