

(1954) 03 CAL CK 0005

In the Calcutta High Court

Case No : Criminal Miscellaneous Case No. 131 of 1953

Surendra Kumar Datta Gupta

APPELLANT

Vs

Govinda Kumar Singha

RESPONDENT

Date of Decision : 04-03-1954

Acts Referred:

Citation : (1954) 1 CALLT 24 : 58 CWN 433 : (1956) 1 ILR (Cal) 99

Hon'ble Judges : Debabrata Mookerjee, J; Das Gupta, J

Bench : Division Bench

Advocate : N.C. Sen, for the Appellant; Anil Chandra Roy Choudhury and Shambhu Nath Banerjee, for the Respondent

Judgement

Das Gupta, J.—I do not think it is necessary to say much out this matter. The Rule was issued on Govinda Kumar singha to show cause why he should not be proceeded against for attempt of the court of the Munsif of Garbetta. The Rule was issued on the basis of an allegation by the Munsif of Garbetta obtained in a letter addressed to the Registrar. Two allegations are made therein. One was that according to the reports which and reached the Munsif, Govinda Kumar Singha in course of a beech in a public meeting that was held to devise ways and means or maintaining a local examination centre for the Matriculation d the Intermediate Examinations "severely criticised" an order passed by the Munsif in a pending Title Suit granting Rs. 75 as costs to the Defendants of that suit. The second allegation was at Govinda Kumar Singha also severely criticised in the meeting be control exercised by him over examination and cross-examination of witnesses by defence lawyers in a Small Cause court suit which" had been disposed of. Affidavits were filed one Bhupaty Nath Mukherjee and one by Krishna Lal Ghose in Criminal Miscellaneous Case, No. 131 of 1953, arising from Rule issued for attempt of court at the instance of the Munsif at Garbetta. Support of the allegations of the Munsif-Bhupaty Nath Mukherjee"s affidavit supporting only the allegations as regard the criticism of award of cost of Rs 75. The opposite party Govinda Kumar Singha has sworn an affidavit himself denying

that he made the statements as alleged but admitting statement-

that Midnapore was a poor district and people say that heavy costs are award which, if true, would be harassing to the people of Midnapore which is a much poor district than the other districts of Bengal.

2. This version of what was stated is supported by the affidavits Radhanath Kundu, President of the Bar Association, Garbett Bihari Lal Chakravartti, Head Master of the local High English School, Bepin Behari Das, another lawyer of Garbetta practising for the last thirty-three years, and some other lawyers what claimed to have been present at the meeting.

3. It is important to remember that the Munsif himself was no present at the meeting and his report to this Court was based on what had been carried to him by others. It is not unlikely that people who thought it interesting to carry the reports of the nature to the Munsif would enjoy adding to and embellishing the statements which had actually been made by Govinda Kumar Singha. In view of this I am inclined to believe that the version given in the affidavits of Govinda Kumar Singha, Radhanath Kundu, the President of the Bar Association, and other senior lawyers is more likely to represent correctly what was said by Govinda Kumar Singha than the affidavits sworn by Bhupati Nath Mukherjee and Krishna Lal Ghose.

4. If the only statement made was that if heavy costs had been awarded it would be harassing to the people of Midnapore, cannot think how that would, in any way, be considered to amount to a contempt of court. Assuming, however, that a more defining statement was made and the speaker did, in fact, criticise a order of payment of Rs. 75 as costs in a case, I am of opinion that it would be wrong for us to take any action against the speaker for contempt of court with regard to this statement.

5. Whether the award of Rs. 75 as costs was proper or not is matter on which it is not necessary nor possible for us to express any opinion. I think it very unlikely that the actual facts which led the Munsif to pass that order were known to the speaker and so I have no hesitation in saying that if he made that criticism it was very probably an uninformed criticism. It has been held by the highest authorities, however, that legitimate criticism should be allowed to be made of all people who have to perform public duties, of Judges no less than those who have executive nties to perform. The classic observation of Lord Atkin in the case of *Ambard v. Attorney General for Trinidad and abago* (1936) A.C. 322, 335 at p. 335:

The path of criticism is a public way. The wrong headed are permitted to err wherein; provided that members of the public abstain from, imputing improper motives to those taking part in the administration of justice, and are genuinely precising a right of criticism, and not acting in malice or attempting to impair the administration of justice, they are immune, justice is not a cloistered virtue; the must be allowed to suffer the scrutiny and respectful, even though outspoken,

comments of ordinary men,

6. Has been held by our Supreme Court to state the law applicable in this country correctly. In my judgment even if the opposite party id criticise the Munsif's award of costs in a particular case, it as done by way of criticism against which it would be wholly improper for us to take any action.

7. I would accordingly discharge the Rule.

Debabrats Mookerjee, J.

8. I agree.