
(1965) 07 AP CK 0006

In the Andhra Pradesh High Court

Case No : Contempt Case No. 11 of 1965

Taluri Sessaiah and Another

APPELLANT

Vs

M. Narayan Rao and Another

RESPONDENT

Date of Decision : 08-07-1965

Acts Referred:

Contempt of Courts Act, 1971 — Section 3

Citation : AIR 1967 AP 19 : (1967) CriLJ 19

Hon'ble Judges : Venkatesam, J;Jaganmohan Reddy, J

Bench : Division Bench

Advocate : D.M. Deshmukh, for the Appellant;

Judgement

Jaganmohan Reddy, J.

(1) This application seeks to have the respondent committed for contempt of the orders of this Court passed on 5-5-1965 in C. M. p.n. 4013/65 in W. P. 1068/63. It appears that in C. M. P. No. 2916/65 in W. P. 1068/63, Gopalakrishnan Nair, J. by an order dated 31-3-1965, directed the Tashildar, Burgampad, to release the cattle belonging to the petitioners on condition that the petitioners should furnish security to the satisfaction of the Tashildar for a sum of Rs. 4000 within two weeks from that date. During the vacation, the petitioners filed an affidavit stating that pursuant to the orders passed on 31-3-1965 they had given security before the Tashildar on 14-4-65 that in spite of it, the Tashildar is not releasing the cattle and that uptill then 19 cattle have died due to starvation. They have also stated that on 9-4-1965, they furnished a security bond for Rs. 4000 in the Tashil Office, giving their own patta land of Ac. 31.00, assessed at Rs 92.50, but that the Tahsildar, out of malice & personal enmity, returned the security bond and stated that he would not be satisfied with any security other than cash. It was further averred that on 9-3-1965, i.e. a month prior to the alleged furnishing of the security bond the Tashildar lodged a false complaint with the police against both the petitioners, and got them arrested, that he complained that they (the petitioners) had abused him and tried to attack him with shoes that the police

had filed a charge sheet against them on 12-4-1965 and that due to this enmity, it was humanly impossible to satisfy the Tashildar with any security.

(2) On these representations, our learned brother, Kumarayya, J., passed the following orders on 5-5-1965 in C. M. P. No. 4013/65:

"The Tashildar under an erroneous impression that the petitioners have to deposit a sum of Rs. 4000 is reported to have refused to accept the security furnished by the petitioners within two weeks from the date of the order of this Court. What the order contemplated was security and not cash deposit. Security of immovable property must satisfy the Tashildar. If he has not accepted the same, it means that he has not understood the tenor, purport of the implications of the order. Since the petitioners have done their duty, the Government Pleader has no objection if the cattle are directed to be released. They will be released forthwith."

This order though addressed to the Deputy Secretary to the Government, who was the only respondent to the Writ Petition was a direction to the Tashildar. It is alleged in the affidavit of one Hari Subbaro, Advocate, resident of Khammam, engaged by the petitioners, that he filed a petition before the Tashildar of Burgampad on 10-5-1965, that he also enclosed with that petition a carbon copy of the High Court's order dated 5-5-1965 in C. M. P. No. 4013/65 in Writ Petition No. 1068/63, that the Tashildar read it but actually did not pass any orders on the petition for the release of the cattle, that again on 13-5-1965, he filed another petition by way of reminder, for the release of the cattle, that the Tashildar orally told him that he was waiting for appropriate direction from his superiors and that he would not release the cattle unless he receives orders from his superiors, and that he also refused to give an acknowledgment receipt of that petition and as such, it was sent by registered post. At the time when the matter came up in the Vacation Court before a Bench consisting of our learned brothers, Kumarayya and Narasimham, JJ., it was there stated: "As there is no controversy before us that security as directed by this Court has been furnished, notice will issue to the respondent, returnable by 7-6-1965." Even to this contempt petition, the Tashildar was not made a party, but subsequently his name was brought on record, and the original respondent was given up. Then in Appln. No. 63/65 we passed an order directing the release of the cattle to the petitioners forthwith.

(3) The respondent in his counter has refuted the allegations made in the affidavit in C. M. P. No. 4013/65, that he had insisted on depositing Rs. 4000 cash and had refused to accept the security bond.

(4) It will be remembered that allegation that the Tashildar is not releasing the cattle in spite of their furnishing security, was the basis of the order made by our learned brother Kumarayya, J., and the learned Government Advocate also assumed that the only question was whether the order of Gopalakrishnan Nair, J., dated 31-3-1965 required cash security alone or whether security of Immovable property could be furnished. Having regard to the order, it was clear, and the

learned Government advocate conceded, that cash security could not be insisted upon, and on that assumption, which was based on the specific averment in the affidavit that security was in fact furnished and the cattle were required to be released. It so happened that as the counter affidavit of the Tashildar shows, the security bond was sent by registered post on 14-4-1965. It was not registered. Besides, the Tashildar was not satisfied where the properties of one Sri. B. Venkaiah can be accepted as security. The Tashildar denied that he had ever insisted on each security being furnished, but stated that he had directed the petitioners to furnish third party security.

(5) It is apparent now, that after the orders were passed, and, whether just before the contempt application was made or after that, security bond was got registered, so that at the time when the order dated 5-5-1965 was passed, the statement of the petitioners that they had furnished security was not correct. The learned advocate tries to take shelter but submitting that what was stated in the affidavit is not that a registered security bond was filed, but that a bond was filed. It is obvious that the Tashildar could not release the cattle unless the security bond pertaining to immovable property was duly registered in accordance with the Registration Act. That the petitioner so understood it is obvious by the subsequent registration of the bond. Be that as it may the question whether the order of 5-5-1965 was obtained on a misstatement of fact is one thing, and the non-compliance with the orders of the High Court by the Tashildar is another thing. In respect of this allegation, the Tashildar states thus:

"I humbly submit that a copy of this order was not marked to me and a copy of it was only marked to the Deputy Secretary to the Government in Revenue Department. I honestly believed that since a copy of the order was marked only to the Deputy Secretary, I should get instructions from him for the release of cattle. So I told the petitioners that I will obtain instructions from the higher authorities and release the cattle. I submit that I was anxious to implement the order of this Hon"ble Court but before doing so, I thought I should give prior intimation of this to the higher authorities might find fault with me if I released the cattle without intimating them. I humbly submit that I had no intention of showing the slightest disrespect to this Hon"ble Court" order. Now I realise that I should have immediately released the cattle without waiting for the instructions from the higher authorities. For this act of mine I tender my unconditional apology and crave pardon of this Hon"ble Court."

(6) In so far as the reasons for his not complying with the orders of this Court are concerned, they cannot be accepted as having any validity. When an order of the High Court directs a person to do something or omit to do something, it is incumbent on that person to comply with that order forthwith without any doubt or hesitation in his mind. The excuse that he may be found fault with by the higher authorities or that he should consult the higher authorities before complying with the orders of Court can be of no avail when he is asked to show cause why he should not be committed for contempt. No official superior can

take any action against any of his Subordinates for complying with the orders of Court. It is somewhat regrettable that there should prevail an attitude of mind, namely, that when orders of Court are received, a public servant should think that he has to approach his official superior and get further directions and get their permission also to comply with the directions of Subba Rao, C. J. (as he then was) in D. Jones Shield Vs. N. Ramesam and Others,

"this Court will take a serious view, if public officers of responsibility act in such a manner as to obstruct the course of justice or disobey to implement the orders of Court, for such acts will undermine the prestige of Courts and set a bad example to the public."

The risks involved in hesitation or delay, for whatever reason, in complying with the orders of Court are serious, and the person disobeying them or not complying with them will alone be responsible for the consequences and he cannot be heard to say that he has referred the matter to his official superiors; and for that matter, his official superiors cannot give him any kind of protection. It may be pointed out that the arm of the law is long enough to reach even the superior officers themselves if they give instructions contrary to the orders of the Court, or give an impression to the Subordinate officials that compliance with orders of Court without their approval will pen them to disciplinary action or make them blameworthy. Similarly an excuse as we have found stated in some cases, that the order was received in office by some clerk and it was not placed before the officer to whom it is addressed and who has to comply, would not be of any avail. In our view, it is desirable that the Government should issue suitable instructions to their subordinate officials bringing to their notice the serious consequences of non-compliance with the orders of Court, on the plea that they have to first obtain orders of their official superiors before complying with the Court's orders. Such instructions will obviate any fear or misconception in the mind of these officials that they may be opening themselves to disciplinary action if they comply with the orders of Court.

(7) In this case, having regard to the unconditions apology of the respondent and putting himself on the mercy of the Court, we think interests of justice will be served by accepting the apology. In the circumstances, no action is called for. The petition is accordingly dismissed.

(8) Petition dismissed.