

(1996) 03 KAR CK 0047
In the Karnataka High Court
Case No : C.C.C. (Cri) No. 13 of 1994

The High Court of Karnataka

APPELLANT

Vs

Prof. P.N. Shetty

RESPONDENT

Date of Decision : 07-03-1996

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 12 (1)

Citation : (1996) CriLJ 2957 : (1996) 1 KarLJ 397 : (1996) 2 RCR(Criminal) 13

Hon'ble Judges : J. Eswara Prasad, J;A.B. Murgod, J

Bench : Division Bench

Advocate : Rajagopal, Govt. Pleader, for the Appellant; K. Gopal Hegde, for the Respondent

Judgement

1. The applicant, who was the accused in C.C.C. (Cri.) No. 13/1994 has made this application, praying for recalling the order of this Court dated 19th January, 1996 by accepting his unconditional apology, submitted along with this application and to drop the matter.

2. By the order dated 19th January, 1996, this Court held the applicant guilty of criminal contempt of Court. The apology tendered by the applicant at that time was rejected and he was convicted and sentenced to imprisonment for three months and to pay a fine of Rs. 1,000/- and in default of payment of fine, to undergo simple imprisonment for a further period of one month.

3. Now, the applicant has filed an affidavit dated 14-2-1996 stating that he ought not to have, and should not have made the statements he made in I.A. II filed in Writ Appeal No. 2928/91. He further stated that he realized that he had no right to make such statements in whichever circumstances he was placed and that he has realised that there was a mistake on his part not to seek the advice of a legal counsel before filing the said I.A. He states that the remarks he made were indiscreet and he did not intend to cast aspersion against any of the Hon'ble Judges of this Court or scandalize the judiciary in any way and that he was under the wrong impression that he could attract the attention of the judiciary to his

suffering at the hands of his employer. He expressed his sincerity and he unconditionally withdrew all the statements made by him and tendered unconditional apology.

4. Learned counsel for the applicant submits that the unconditional apology tendered by the applicant may be accepted and the sentence imposed against him may be remitted as provided in the proviso to Section 12 of the Contempt of Courts Act, 1971. He further submits that Rule 19 of the High Court of Karnataka Rules, 1959 may be applied and the apology tendered by the applicant may be accepted and the order may be recalled, as the warrant has not been executed so far. The learned Government Advocate submits that the application is not maintainable and it is liable to be dismissed. He further contended that the apology now tendered is belated and may not be accepted.

5. Proviso to Section 12(1) of the Contempt of Courts Act lays down that the accused can be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court. In view of the proviso, which enables the Court to remit the punishment on the apology being made to the satisfaction of the Court, the application has to be held to be maintainable as the Court has the power to remit the punishment, which will be only after the conviction of the accused on the imposition of punishment.

6. In our view, proviso to Section 12 enables this Court to remit the sentence, if this Court is of the view that the unconditional apology is made to the satisfaction of this Court.

7. Having regard to the circumstances of this case, that the applicant indulged in making repeated statements, which amounted to criminal contempt, and the present apology is tendered by the applicant, we would like to be convinced that the present apology tendered by the applicant is bonafide. For that purpose, we suspend the sentence imposed against the applicant for a period of three years from the date of the order convicting the applicant for contempt of Court, at the end of which, the applicant shall be entitled to full remission of the sentence, provided he does not indulge in committing any further contempt of any Court during the said period. If the applicant indulges in committing contempt of Court during the said period, the sentence shall come into immediate operation and the applicant shall be heard with regard to the further orders that may be required to be passed. The sentence imposed against the applicant is suspended for a period of three years from 19-1-1996. As the sentence is suspended, it shall not be taken into consideration with regard to his service conditions. The application is accordingly disposed of.

8. Application allowed.