
(1965) 12 MP CK 0003
In the Madhya Pradesh High Court

The State of Madhya Pradesh	Vs	APPELLANT
Pranlal Shankerlal Thakkar		RESPONDENT

Date of Decision : 21-12-1965

Acts Referred:

Penal Code, 1860 (IPC) — Section 228

Citation : (1966) CriLJ 1087 : (1966) ILR (MP) 665 : (1966) JLJ 115 : (1966) 11 MPLJ 373

Hon'ble Judges : P.V. Dixit, C.J

Bench : Single Bench

Judgement

P.V. Dixit, C.J.

This is a very strange case of an arbitrary and illegal conviction u/s 228 of the Indian Penal Code by the Special Railway Magistrate, Ratlam. The record of the case was called by this Court when the matter was brought to my knowledge by the District Magistrate, Ujjain, and Shri Pranlal Thakkar, who has been found guilty u/s 228, Indian Penal Code. Shri Pranlal Thakkar also filed a revision petition before the Sessions Judge, Ujjain. The record of the revision petition has also been -called up here.

The facts as revealed by the orders passed by the Railway Magistrate and the evidence on record are that the Special Railway Magistrate, Ratlam, is required to go to Ujjain from time to time for trial and disposal of cases under the Indian Railways Act, 1890. Shri M.L. Sharma, the Railway Magistrate, arrived at Ujjain on 29th October 1965 and was staying in Retiring Room No. 2 at Ujjain Railway Station. It appears that the Railway Magistrate desired to occupy "Officers" Rest House" at the Railway Station; but as the keys of this Rest House were with Shri Thakkar, Station Master, Ujjain, who was out of Ujjain when the Railway Magistrate arrived, the Magistrate could not occupy the Rest House. At about 10-30 p m. on 29th October 1985, Shri Sharma called Shri Thakkar to the retiring room and enquired as to why the Rest House was not made available to him for occupation when lhe arrived at Ujjain.

In the record, which the Magistrate made about his talk with Shri Pranlal Thakkar, it has been stated that when he enquired about the Officers' Rest House, Shri Thakkar started misbehaving with him and said that the keys of the Rest House were always in his personal custody so that if he was not at any time available at the railway station the Rest House could not be occupied by anyone. In that record the Magistrate has further stated that when it was pointed out to Shri Thakkar that the keys of the Rest House were not his personal property and could not be kept in his personal custody, Shri Thakkar "went wild and asked this Court to be a gentleman, and on being asked as to what does he mean by asking the Court to be a gentleman he accused this Court of misusing its power." According to the record made by the Magistrate, after this talk Shri Thakkar was asked to express regret for his behaviour, and when he failed to do so, proceedings u/s 228, Indian Penal Code were drawn up against him.

The charge, which the Railway Magistrate framed against Shri Thakkar, was in the following terms:

That on 29.10.65 at 10-30 p.m. when I was staying in retiring room No. 2 at Ujjain Railway Station for doing judicial work and when I called you for enquiry about the keys of Officer's Rest House you offered intentional insult to this Court by asking this Court to be a gentleman and not to misuse powers and you thereby committed offence u/s 228, I.P.C.

The accused pleaded that he was not guilty. Thereupon the Magistrate recorded the statements of two clerks of the Additional District Magistrate, Railways, Indore, who happened to be in the retiring room at the time when Shri Sharma summoned Shri Thakkar to the retiring room.

These witnesses deposed that during the course of the talk the Railway Magistrate had with Shri Thakkar, Shri Thakkar got excited and told the Magistrate to be a gentleman and said that he was misusing his power. The Magistrate then examined Shri Thakkar u/s 342, Criminal P.C. and then convicting him u/s 228, I.P.C., sentenced him to pay a fine of Rs. 50/- According to a note recorded by the Magistrate, the accused refused to pay the fine and, therefore, a warrant for his arrest was issued. All this happened between 10.30 P.M. and Order 43 A.M., as noted by the Railway Magistrate himself.

It is plain that Shri Sharma expected to occupy the officer's Rest House on arrival at Ujjain. But contrary to this expectation, he had to occupy Retiring room No. 2 at the Railway station as the keys of the Rest House were with Shri Thakkar, the Station Master, who was off duty when the Railway Magistrate arrived at Ujjain. This annoyed the Magistrate so much that he thought it fit to call Shri Thakkar to the retiring room late at night, that is, at 10-30 p.m. Shri Sharma has not recorded as to what precisely he said to Shri Thakkar, and in what manner and tone he spoke to him. It is difficult to believe that a simple enquiry made by the Magistrate in polite words provoked Shri Thakkar so much as to tell the Magistrate to be a gentleman and not to misuse his powers. The

probability is that the Railway Magistrate said some harsh words to Shri Thakkar, which he resented, and when Shri Thakkar replied back, the Magistrate threatened him with contempt of Court proceedings, and when the Railway Magistrate did that, Shri Thakkar told the Magistrate to be a gentleman and not to misuse his powers.

Even if it be taken that while making enquiries about the keys, Shri Sharma, the Railway Magistrate, spoke very gently and sofly with Shri Thakkar and did not use any provocative language and Shri Thakkar, without any reason or justification, asked the Magistrate to be a gentleman and not to abuse his power, still the conviction of Shri Thakkar u/s 228, I.P.C., for using the words attributed to him cannot be sustained. Section 228, I.P.C. is as follows:

whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

The essential ingredients of this offence are (a) intention, (b) insult or interruption, and (c) the public servant insulted or interrupted being then sitting in any stage of a judicial proceeding. The insult or interruption must be intentional. The fact that the court feels insulted is no reason for holding that any insult was intended.

It must be shown that the accused knew that the court was at that time doing judicial work, and that having this knowledge, he intentionally insulted the Judge or did something in order to interrupt the work of the Court. Here, there is no evidence whatsoever to establish any of the essential ingredients of an offence u/s 228, I.P.C. It is manifest from the note recorded by Shri Sharma and the evidence of the two witnesses examined by him that at the time when Shri Thakkar uttered the words attributed to him, Shri Sharma was not "sitting in any stage of a judicial proceeding" - At that time the Magistrate was not hearing any case or recording any evidence in any case. He was simply, while in occupation of retiring room No. 2 as a private citizen or an official, engaged in a discussion with Shri Thakkar on the subject of custody of the keys of the Rest House and the non-availability of the Rest House to him when he arrived at Ujjain. I am unable to comprehend as to how a magistrate or a public officer can be said to be "sitting in any stage of a judicial proceeding" when he is simply in occupation of a retiring room and is having a private interview with a person. The fact that the Magistrate came to Ujjain for disposal of judicial work and had to stay at the retiring room does not mean that from the moment he occupied the retiring room till he vacated it he was all along in "a stage of judicial proceeding". It cannot also be held that the very fact that the Magistrate could not get the Officers' Rest House for occupation when he arrived at Ujjain for disposal of judicial work made Shri Thakkar guilty of contempt of Court, and that the interview which the Magistrate had with Shri Thakkar at the retiring room was nothing but a stage in contempt of court proceeding which commenced when

Shri Thakkar arrived at the retiring room.

In my opinion, the conviction of Shri Thakkar cannot be upheld. In initiating proceedings u/s 228, I.P.C., against Shri Thakkar late at night, and in finding him guilty of the offence, Shri Sharma, the Railway Magistrate, acted with utter lack of judicial propriety and balance, and he showed a spirit of vindictiveness in issuing thereafter a warrant for Shri Thakkar's arrest on his refusal to pay the fine then and there. Obviously, Shri Sharma has wrong and queer notions of "contempt of court". The essence of the crime of "contempt of court" lies in the respect due to the administrator of justice and the necessity and importance of protecting him against interruptions, insults and interference in the administration of justice. I deprecate and strongly disapprove of any Judge making contempt of court proceedings the medium of securing for oneself personal comfort and prestige. I have no doubt that proceedings of the kind initiated by Shri Sharma is an abuse of the process of the court and those proceedings which he started against Shri Thakkar were just for the purpose of satisfying his vanity born out of false ideas of prestige.

For these reasons, the decision dated the 29th October 1985 of the Special Railway Magistrate Ratlam is set aside and Shri Pranlal Thakkar is acquitted of the offence u/s 228, I.P.C. The amount of fine paid by him shall be refunded to him. The revision petition Bled by Shri Pranlal Thakkar before the Sessions Judge, Ujjain, is accordingly accepted.