
(1995) 08 KL CK 0038
In the High Court Of Kerala
Case No : Unnumbered C.C.C. of 1995

Vakkanad G. Nagappan, Advocate

APPELLANT

Vs

M.S. Mani and Others

RESPONDENT

Date of Decision : 03-08-1995

Acts Referred:

Contempt of Courts Act, 1971 — Section 14, 15, 15(1)

Citation : (1995) 2 ALT(Cri) 520 : (1996) CriLJ 134 : (1995) 3 ILR (Ker) 626

Hon'ble Judges : M.M. Pareed Pillay, C.J.;P. Shanmugam, J

Bench : Division Bench

Advocate : M. Gopikrishnan Nambiar and T.P.K. Nambiar, for the Appellant;
None, for the Respondent

Judgement

M.M. Pareed Pillay, C.J.—The question that arises for consideration is whether a party can initiate criminal contempt action before the High Court overlooking Section 15 of the Contempt of Courts Act. Section 15(1) provides that in the case of a criminal contempt, other than a contempt referred to in Section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by the Advocate-General, or any other person, with the consent in writing of the Advocate-General. Petitioner's contention is that as he has brought to the notice of this Court of the contempt committed by the respondents this Court can certainly take action de hors the consent in writing of the Advocate-General as provided u/s 15(1)(b) of the Act.

2. From a reading of Section 15(1) of the Act it can be discerned that consent in writing of the Advocate-General is the sine qua non for initiating criminal contempt before the High Court by any person other than the Advocate-General. Initiation of criminal contempt by any person without the written consent of the Advocate-General cannot be entertained on the ground that sufficient information with regard to the contempt has been laid by him before the High Court and it is for the High Court to take action thereon, A person cannot circumvent the provisions contained in Section 15(1) and seek initiation of

contempt action by the High Court on the plea that he has invited this Court's attention to the contempt matter. In this context it is apposite to refer to *State of Mizoram v. Biakchhawna*, (1995) 1 SCC 1567], where the Supreme Court held that when the statute indicated that the action be taken was to be in a particular manner, it must be done in that manner and in no other way.

3. Requirement of written consent of the Advocate-General in an application for initiating proceedings for criminal contempt by a private individual cannot be lightly brushed aside as the relevant section consciously and purposefully limited the power of a private individual while charging any person for having committed criminal contempt of a Court. The object behind it is to curtail vexatious petitions for settling personal disputes with the ostentatious purpose of upholding the majesty and dignity of Court. As criminal contempt is essentially a matter between the Court and the Contemner and not between two adversaries it cannot be said that every person has unfettered right to set the law in motion to initiate action of his own without the written consent of the Advocate-General. Initiation of contempt proceedings cannot be considered to project reputation of a party as against another or for private vendetta. It is an order to safeguard such a situation that provision has been made u/s 15(1) imposing limitation upon a private person for initiating criminal contempt. Instead of filing application before Court directly the provision u/s 15(1) requires him to file application with the written consent of the Advocate-General who holds a constitutional position. The Advocate-General can certainly scrutinise any such application before giving his consent. Thereby frivolous complaints filed by private individual do not reach the Court. Section 15(1) really puts hurdle against frivolous motions as the Advocate-General has been entrusted with the function of giving consent. By virtue of his legal training, acumen, experience and responsibility he has the exalted role of going through the motions before him for consent for initiating criminal contempt.

4. The salutary purpose behind Section 15(1) is that the necessary motion for contempt should ordinarily be made by the Advocate-General and in case if a private person wants to initiate action he can do so only with the consent of the Advocate-General in writing. This is certainly to ensure that the High Court is not flooded with frivolous motions, but receives only motions of substance. By virtue of his legal training, experience and responsibility the Advocate-General is expected to consider every motion before him impartially and with circumspection. If a private person thinks that certain occurrences amount to contempt of the High Court and that the Court has to take cognizance of it he can certainly approach the Advocate-General and satisfy him that this is a fit case for initiating contempt action. As this is the only mode provided for a private citizen to initiate contempt action the important role assigned under the Act to the Advocate-General cannot be whittled down.

As the petition is filed without the written consent of the Advocate-General we hold that it cannot be entertained. Hence it is returned to the party.