

(2024) 02 CHH CK 0016

Chhattisgarh High Court

Case No: Contempt Case (Criminal) No. 2 Of 2022

Himank Saluja

APPELLANT

Vs

Badshah Prasad Singh

RESPONDENT

Date of Decision: Feb. 8, 2024

Acts Referred:

- Constitution of India, 1950 - Article 215
- High Court of Chhattisgarh (Designation of Senior Advocates) Rules, 2018 - Rule 7
- Contempt of Courts Act, 1971 - Section 2(c), 12, 15, 15(1)(b)
- Advocates Act, 1961 - Section 16
- Indian Penal Code, 1860 - Section 182, 183

Hon'ble Judges: Ramesh Sinha, CJ; Ravindra Kumar Agrawal, J

Bench: Division Bench

Advocate: Badshah Prasad Singh, Somnath Verma, Rajesh Kumar Kesharwani

Final Decision: Dismissed

Judgement

Ramesh Sinha, CJ

1. When the matter was called out for hearing, petitioner in person is not present physically or through virtual mode. No representation is made. However, the Contemnors-Respondent No.1-Badshah Prasad Singh, Respondent No.2-Somnath Verma and Respondent No.3-Rajesh Kumar Kesharwani are present in person.

2. The present contempt petition has been filed by the petitioner under Article 215 of the Constitution of India read with Sections 12 and 15 of the Contempt of Courts Act, 1971 (hereinafter called as 'Act of 1971') for initiation of criminal contempt proceedings against the respondents / contemnors who are guilty of noticeably making scurrilous, offensive, intimidatory and malicious remarks against the Selection Committee to designate Senior Advocate.

3. Contemnor No.1 has filed a writ petition bearing WPC No.4416/2021 (Badshah Prasad Singh v. High Court of Chhattisgarh and 12 others) on 27.10.2021 for setting aside the notification No.5333/SCDSA/2021 dated 14.06.2021 whereby in exercise of powers conferred under Section 16 of the Advocates Act, 1961 read with Rule 7 of the High Court of Chhattisgarh (Designation of Senior Advocates) Rules, 2018 and in pursuance of the judgment of the Supreme Court dated 12.10.2017 in Indira Jaising vs Supreme Court Of India reported in 2017 (9) SCC 766, this Court in its Full Court meeting dated 11.06.2021 has resolved to designate twelve Advocates as Senior Advocates. The contention of contemnor No.1 in the said writ petition was that the Selection Committee to designate the Senior Advocate has adopted non transparent and arbitrary procedure to give benefit to their own relatives and known people and has done arbitrariness, bias, nepotism and has taken unconstitutional process in designation of Senior Advocate.

4. This is willful contempt because Badshah Prasad Singh has participated in the process of the High Court of Chhattisgarh (Designation of Senior Advocates) Rules, 2018. It is very surprising that a person who claim himself to be designated as Senior Advocate is either not aware about the law with regard to any selection process, appearance in selection process and the way of challenge of selection process.

5. In the instant contempt petition, the petitioner has made an allegation against respondent No.1/Contemnor No.1 that he has called a press conference wherein he has made derogatory and disparaging remarks against the Selection Committee to designate Senior Advocate, which is reproduced hereinbelow for ready reference:-

The petitioner has also made an allegation against respondent No.2/Contemnor No.2 that he has made derogatory and disparaging remarks against the Selection Committee to designate Senior Advocate which is reproduced hereinbelow for ready reference:-

6. It has been pleaded that the Advocates who have been arrayed as respondents / contemnors had convened press conference which scandalizes the judges and the High Court and lower down the image of the Institution. Consequently, it would be within the ambit of criminal contempt for scandalizing the Court and the judges. It has been further pleaded that since Advocate General (Shri Satish Chandra Verma) who in person was designated as Senior Advocate, in his capacity as Advocate General, as such the consent of Advocate General in writing may be dispensed with as required under Section 15 (1) (b) of Contempt of Courts Act, 1971.

7. Respondents No.1 and 2 have filed their reply stating inter-alia that the petitioner is not practicing Advocate. He has not passed examination held by the Bar Council of India. Unless and until pass such examination, he cannot be treated as an Advocate. Mr.Rajesh Kumar Kesharwani, Advocate, has been made a party without alleging anything against him only to intend injure him in the society only on account of the fact that he was the counsel of contemnor No.1-Mr.B.P.Singh in WPC No.4416/2021, which was filed by him challenging the notification dated 14.06.2021. As such, the petitioner has committed offence punishable under Section 182/183 of the IPC. It is submitted that challenging the Notification No.533/SCDSA/2021 dated 14.06.2021 by filing writ petition is not an offence or barred by law. It is submitted that the petitioner has no right to object in regard to pleadings of WPC No.4416/2021 because he is not a party in that petition. The process of the Selection Committee was not transparent and the provisions contained in the Chhattisgarh (Designation of Senior Advocates) Rules, 2018 were not followed strictly. The respondents/contemnors have not given malicious statements and have not scandalized the Court and the Court procedure. The petitioner is misconceived to understand the Court functioning and the official functioning. The respondents have not made unwarranted and malicious comments against the Selection Committee to designate Senior Advocate. The respondents/contemnors have specifically denied that they have not called a press conference. It is specifically denied that the contemnors had made derogatory and disparaging remarks against the Selection Committee to designate Senior Advocate.

Respondent No.1 had not made any allegation against High Court-respondent No.1 or judicial system. The translated copy of interview of contemnor No.1 is incorrect and untrue. As such, no criminal contempt in terms of Section 2(c) of the Act of 1971 is made out against the respondents herein.

8. We have heard learned counsel for the parties, considered their rival submissions made herein-above and also went through the records with utmost circumspection. ”

9. The question for consideration would be, even if the entire so-called allegations as alleged by the petitioner against respondents No.1 and 2 are presumed to be true, whether it would amount to criminal contempt within the meaning of Section 2(c) of the Act of 1971.

10. Section 2(c) of the Act of 1971 provides as under:-

“2. Definitions.-In this Act, unless the context otherwise requires,-

(a) & (b) xxx xxx xxx

(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise), of any matter or the doing of any other act whatsoever which-

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

(d) xxx xxx xxx.”

11. The Supreme Court in the matter of R.N.Dey v. Bhagyabati Pramanik (2000) 4 SCC 400 has observed as under:-

“7. We may reiterate that the weapon of contempt is not to be used in abundance or misused.....Discretion given to the court is to be exercised for maintenance of the court's dignity and majesty of law.....”

12. The Supreme Court in the matter of Chair. West Ben. Admin. Tribunal & Anr. v. SK. Monobbor Hossain & Anr. 2012(3) SCALE 534 has clearly held that the contempt jurisdiction enjoyed by the Courts is only for the purpose of upholding the majesty of the judicial system that exists. It was further held that while exercising this power, the Courts must not be hyper-sensitive or swung by emotions, but must act judiciously.

13. The present contempt petition appears to be filed with oblique motive through the petitioner who had passed law and was about to enter in legal profession. Even if the entire so-called allegations are presumed to be true, the comment, if any, made by contemnors No.1 and 2 herein only to criticize and deprecate the selection process to designate Senior Advocate which lacks transparency because of the fact that Shri S.C.Verma who was the Advocate General was one of the member of the Selection Committee to designate Senior Advocate.

14. From perusal of the records, it appears that the petitioner has not filed the copy of entire proceedings of designation of Senior Advocate on which the complaint is based and designation of Senior Advocate is not a judicial proceeding, but is administrative proceeding. The respondents / contemnors have specifically denied the allegations as alleged by the petitioner that they have called a press conference, which is otherwise also not substantiated by any other authentic material on record.

15. Considering the pleadings made in the contempt case, reply of contemnors No.1 & 2 and the law laid down by the Supreme Court in the above-stated judgments (supra), we are of the considered opinion that it is not a case where the majesty of the Court has been attacked by the respondents / contemnors herein and the aforesaid criticism made by the respondents herein / contemnors would not fall within the definition of criminal contempt as defined in Section 2(c) of the Act of 1971. Accordingly, we hereby hold that no criminal contempt in terms of Section 2(c) of the Act of 1971 is made out against the respondents/contemnors. Rule issued is hereby discharged. The contempt petition is accordingly dismissed.

16. Before parting with the case, we would like to observe that the ‘petitioner in person’ who has filed the present contempt petition is put to a strict caution not to misuse the process of law in future for oblique motive, otherwise, adverse inference would be drawn against him. It further appears that he has deliberately not appeared in the present case though he has filed the present contempt petition ‘in person’ to avoid embarrassment that would have been caused to him by the respondents/contemnors.

17. The Court also hopes and trusts that the respondents/contemnors will also uphold the dignity of this Court without raising any aspersion on the administrative or judicial working of this holy Institution either by their demeanor, conduct or action.