

(1998) 07 MP CK 0019

Madhya Pradesh High Court

Case No: Contempt Petition No. 32 of 1997

Jagdish Prasad Parashar

APPELLANT

Vs

Rajendra Kumar

RESPONDENT

Date of Decision: July 16, 1998

Acts Referred:

- Contempt of Courts Act, 1971 - Section 10, 12

Citation: (1999) 2 MPJR 360 : (1999) 2 MPLJ 521

Hon'ble Judges: D.M. Dharmadhikari, J

Bench: Single Bench

Advocate: Ravish Agarwal, Amicus Curiae, for the Appellant; A.K. Pathak, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

D.M. Dharmadhikari, J.

This is a reference u/s 15 of Contempt of Courts Act, 1971 to this Court made by the First Additional Sessions Judge, Satna for taking suitable punitive action against the contemner Rajendra Kumar, Superintendent of Police, Satna, in showing scant regard to the communications made to him by the Court for service of summons on the witnesses in the Sessions Trial and thereby causing obstruction in expeditious disposal of the case within the time frame fixed by this Court.

Sessions Trial No. 88 was pending in the Sessions Court since 1984. On 25-3-1996 in a Misc. Criminal Case No. 1417/96 this Court rejected the prayer of the accused for quashing the whole trial on the ground of inordinate/undue delay. While rejecting the prayer for quashing the proceedings the Court made the following observations and directed conclusion of the Sessions Trial within a period of three months :

"This is a petition u/s 482, Criminal Procedure Code for quashing of the trial as the trial is pending since 1984. Speedy trial is a fundamental right of an accused and

delay violates Article 21 of the Constitution. It is stated that it is the prosecutor who is not allowing the trial to proceed further as the Court has allowed an application u/s 311, Criminal Procedure Code as long as in February, 1986 to examine witnesses who were cited in the list of the prosecution witnesses in charge-sheet as Court witnesses. Considering the circumstances the trial Court is directed to conclude the trial within a period of three months from the date of filing of the certified copy of this order or from the next date of hearing whichever is earlier. If necessary the trial to proceed day to day. The petitioners to produce a copy of this order before the trial Court. It is expected of the prosecution as well as of the petitioners that they shall co-operate in conclusion of the trial."

The learned Sessions Judge by this contempt petition has complained that the contemner despite repeated letters and communications sent to his office did not co-operate and the summonses sent for service on witnesses were returned unserved. As a result of non-co-operation and disrespectful attitude adopted by the contemner, the Trial could not be concluded within the time fixed by this Court and ultimately it resulted in passing a Judgment of acquittal on 1-2-1997.

Prima facie from the record of the case and the copies of communications exchanged between the Court and the office of Superintendent of Police, it appears that contemner showed scant-regard to them and failed to ensure timely disposal of the Sessions trial. He did not show even normal courtesy of explaining in writing his difficulties to the Sessions Judge in effecting services of summons on the witnesses.

The contemner appeared in this Court and has filed a reply. He has taken a defence and at the same time has offered his apologies for the lapse on the part of his subordinates.

I have heard Shri Ravish Agarwal learned counsel who at the request of the Court appeared as amicus curiae and Shri Ashish Pathak, learned counsel for the contemner.

After reading the reply submitted by the contemner and hearing his counsel it appears to this Court that the contemner, as an afterthought, has tried to somehow explain his conduct by assigning some different reasons for delay in service of summons than those which were mentioned by him in the communication from his office and on the endorsement made on the summonses returned unserved. The discrepancy in his explanations offered would be evident from the chart prepared by the learned amicus curiae which is kept on record.

The Sessions Judge, out of sheer disgust, for not being able to proceed with the trial within the permissible time limit, sent a letter to the contemner on 11-7-1996 calling upon him to inform on that very date the report on the service of six summonses sent to the witnesses. The above letter remained unresponded. The explanation now being offered is that the letter dated 11-7-1996 was received at 4.00 in the evening by the contemner and there was hardly any time to send any information

during the working hours of the Court. It is a fact that no explanation or reply was even sent thereafter within the reasonable time to the Judge to explain or give report on the non-service of summonses.

The letter and notices exchanged inter se between the Court and the contemner clearly reflect the most callous and casual approach of the contemner in the matter of service of summonses on the witnesses. The apathy is not only disrespectful but virtually amounts to obstruction in due course of justice. This Court had occasion to deal with similar culpable conduct on the part of police officer involved in a Sessions Trial as prosecuting agencies. This Court made adverse comments on the machinery of the State in the matter of speedy disposal of Sessions trial and suggested some remedial methods.

The learned Single Judge of this Court in the case of Salim v. State of M.P. 1990 JLJ 600, made the following observations and directions which need reproduction for the purpose of reiteration :

"There is a race and rush for enacting laws. Those entrusted with passing legislations are rarely concerned with the implementation. The Welfare State seems to be happy by placing on record that it has passed anti-dowry laws and several other laws providing for stringent and deterrent punishments for dowry deaths, illegal traffic in narcotics and psychotropic substances and similar other crimes. They feel that their responsibility is over by giving the public sop by hard bound statutes, taking away sometimes the discretion of the Court in the matter of bails and passing sentences. The police is happy by releasing statistics to the press as to number of cases registered, investigated and challaned by it in the Court. If the cases are not decided the blame is placed at the doors of the judiciary to say that the fault lies there. Rare and possibly never, one bothers to took at and find out the cause for delay and take effective remedial steps at eradicating such causes. This is neither a voice of frustration nor a hollow criticism. It is what necessarily follows from the hard facts of the present case."

Keeping in view the stage of proceedings in the said Sessions trial amongst others the following directions were given :

"12. On four occasions, I have denied bail to the petitioner for the reasons already indicated. I am alive to the fundamental right to the petitioner to a speedy trial. To strike a balance it is ordered :-

- (i).....
- (ii).....
- (iii).....
- (iv).....

(v) The trial Court shall maintain a proper record of the summons warrants issued and the person entrusted with service thereof. In the event of default the matter shall be reported to High Court for taking action under Sections 10 12 of Contempt of Courts Act, 1971 because the default may tantamount to obstructing the Administration of Justice;"

The said Judgment of the Court was sent to all the concerned Authorities of the State and the Police Department. As per the directions contained in paragraph 13 of the Judgment in the case of Salim (supra), concerned highest officials in the State and Police Departments were advised and directed to devise ways and means to help expeditious disposal of Sessions cases. It is clear that all the directions issued by this Court have fallen on deaf ears.

Coming back to the facts of the case in hand, the officer arraigned before us has tried to offer some explanation for the lapses on his own parts and his subordinates which I find to be lame and partly untrue. From the proceedings of the case it is clear that the contemner has not only neglected his duties but has shown scant regard and courtesy to the Court in not co- operating in expeditious trial of the case within the time limit fixed by the Court. Putting the blame on staff under him cannot always be allowed to be offered as an excuse for not ensuring smooth and expeditious trial of Sessions Cases.

In his reply the contemner has offered the following explanation and tendered his apologies :

"It is further respectfully submitted that the police department is facing varieties of problems due to insufficient staff. The position of the staff as was in the year 1962 is stand still where as the crime rate and population has been increased several times. The police is now-a- days required not only to maintain law and order problems but also to attend other problems like water problem, electricity problems etc. when the public agitate against same. Further forces are also required for VIP, VVIP duties. Therefore looking to all these problems, if there is some inadvertent omissions and/or delay on the part of answering respondent, the answering respondent tenders unqualified apology and undertakes to be more cautious in future."

The above stand and reply of the contemner is generalisation and poorly reflects on the efficiency of the police administration. The said reply submitted by the contemner as an officer of Police Department deserves attention by the State in its appropriate Home and Police Department. The officer before us has not given any priority to the proceedings of the Court. The apology offered by him is, therefore, rejected. He is punished with imposition of a fine of Rs. 500/- or to, suffer simple imprisonment of one day. He shall also pay a sum of Rs. 500/- as costs of these proceedings.

This Court is grateful to the learned counsel Shri Ravish Agarwal for assisting this Court as *amicus curiae*.