

(1993) 08 MP CK 0013

Madhya Pradesh High Court

Case No: Miscellaneous Criminal Case No. 683 of 1993

Indrani Dutta and
Another

APPELLANT

Vs

Baldeo Sharma and
Others

RESPONDENT

Date of Decision: Aug. 20, 1993

Acts Referred:

- Contempt of Courts Act, 1971 - Section 10, 12, 15, 2, 2

Citation: (1994) CriLJ 1958

Hon'ble Judges: P.N.S. Chouhan, J; D.K. Jain, J

Bench: Division Bench

Advocate: Ruprah, for the Appellant; V.G. Tamaskar, (for Nos. 1 to 3, 5, 6 and 8) and
Fakhruddin, (for No. 4), for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. The following order of the Court was passed by D. K. Jain, J. - The order passed in Miscellaneous Criminal Case No. 683 of 1993 shall also dispose of the connected Miscellaneous Criminal Case No. 837 of 1993.

2. Madam Indrani Dutta, Fourth Additional Judge to the Court of District Judge, Durg and Madam Smt. Vimla Singh, Third Civil Judge (Class XX), Durg, are the petitioners (in Miscellaneous Criminal Case No. 683 of 1993), who have made a joint reference u/s 10 of the Contempt of Courts Act, 1971, for punishing the accused-contemners u/s 15 of the said Act, for having committed criminal contempt of the subordinate courts of the High Court of Madhya Pradesh, for having published, printed and distributed the false and frivolous news on 31-1-1993 and on other dates in February, 1993, in the premises of the District Court at Durg, as per Annexures-A-1 to A-5, and that, the news so published and printed, was scandalous and tends to lower the reputation and character of the lady Judges of any Court of the District.

The news was published and printed in "Swadesh Hindi Daily", "Roudra Mukhi", "Dainik Pahat" and "Amar Kiran" newspapers. The act of the accused-contemners, in publishing the news in their respective newspapers, was condemned by the Advocates of the District Bar Association, Durg and the letter of the Advocates of Bar Association, Durg is Annexure-A6, while the letter of the lady Advocates, is Annexure A-7 - annexed to the petition. The news item, published in the newspaper "Swadesh" (Raipur), on 31-1-1993, filed vide Annexure A-1, is reproduced as under:-

❖ifR dh izfedk dh fiVkbZ❖

❖nqxZ ❖fu❖❖❖❖ vf/koDrk izfr ds izse izlax ls =Lr ifRu }kjk ,d efgyk U;k;k/kh" k dks FkIiM+ ekjsu dh ?kVuk bu fnuksa LFkkuh; vf/koDrkvksa ds e/; ppkZ dk fo" k; cuh gqbZ gSA

U;k;ky; ifjlj esa O;kIr ppkZvksa ds vuqlkj ,d efgyk U;k;k/kh" k dk izse izlax xr dqN eklksa ls ,d vf/koDrk ds lkFk tkjh Fkk vkSj blh izse izlax ds pyrs vf/koDrk egksn; vius fuokl LFkku ls nks fnu vkSj jkr xk;c gSaA xk;c vf/koDrk dh ifRu tc mudh [kkst [kcj ysus fudyh tks vf/koDrk mDr efgyk U;k;k/kh" k ds ;gka ls cken fd, x, A vf/koDrk dh ckenxh ds i" pkr~ ifRu rFkk efgyk U;k;k/kh" k ds e/; ikd ;q) fNM+ x;k vkSj bl ;q) us bruk mxz :i /kkj.k dj fy;k fd vf/koDrk dh ifRu }kjk U;k;k/kh" k ij FkIiM+ cjlk fn, gSaA

cgjgky mDr ?kVuk vkbZ xbZ lh ckr gks xbZ ysfdu LFkkuh; U;k;ky; ifjlj esa vkt Hkh mDr ?kVuk dh ppkZ pV[kkjs ys ysdj dh tk jgh gSaA

Similar news items were published in me other newspapers, vide Annexures-A-2 to A-5.

3. Shri Yashwant Tiwari, Advocate, Durg, along with eight other Advocates of Durg, are the petitioners in Miscellaneous " Criminal Case No. 837 of 1993, who have made a reference u/s 15, read with Section 2(c-1), (c-2), 10 and 12 of the Contempt of Courts Act, 1971, for taking action against the accused-contemners 1 to 11, for having published, printed and distributed false and frivolous news tending to scandalise and to lower the authority of the lady Judges of any Court of Durg District, which is subordinate to the High Court of Madhya Pradesh and that, the news so published, prejudices or tends to interfere with, the due course of any judicial proceedings - thereby committing an act of criminal contempt. The petitioners have annexed photo-copies of the news published in "Swadesh Daily", "Roudra Mukhi Daily", "Dainik Pahat" and "Amar Kiran Daily" (Annexures-A-1 to A-5) and they have further annexed application of he Advocates and lady Advocates and notices issued by the Bar Association, Durg (Annexures-A-6 to A-10).

4. Both the aforesaid references (Miscellaneous Criminal Case Nos. 683 of 1993 and 837 of 1993) arise out of the same news items published in the aforesaid newspapers and that, in both the references, the contemners-accused are the same person against whom action is sought to be taken under the Contempt of Courts Act, 1971.

5. In reply to the show cause notice, issued against the contemner (respondent No. 2), represented by Shri Fakhruddin, Advocate, he filed a written reply tendering unqualified, sincere and unequivocal apology before this Court, for anything which has, in any way, affected the honour and dignity of this Honourable Court, supported by an affidavit of Balkrishna Agarwal. A similar apology was also published in the newspaper "Roudra Mukhi", dated 10-2-1993, copy of which has been annexed along with the aforesaid reply.

6. Shri V.G. Tamaskar, Advocate, Durg, representing the respondents-contemnors 1 to 3 and 5 to 8, filed a written reply to the show cause notice on behalf of the respondents-contemnors, raising certain preliminary objections, to the effect that the publication of news dated 31-1-1993 in "Swadesh Hindi Daily", which was the subject-matter of the show cause notice, was not related to any judicial proceeding, either civil or criminal, and that, it did not reflect against any Judicial Officer in respect of judicial functioning or integrity and, so, the said publication was not covered under the concept of "Scandalizing the Court". The said publication does not interfere, or tends to interfere with, the broad administration of justice, and it also does not impute any favouritism, partiality or bias. The said publication also does not scandalize the Court, or abuses the parties concerned in cause therein, or prejudices the mankind against persons before the cases are heard. The said publication, is at the most, libel for which remedy lies under the Indian Penal Code. Publication of truth is neither contempt nor libel.

Further, according to the reply, filed on behalf of respondent No. 2, the publication of the news item dated 31-1-1993, in "Swadesh Hindi Daily", at page 6 (Annexure-A-I), does not relate to Honourable Shrimati Vimla Singh, Third Civil Judge (Class II), Durg, and, so, the respondents respectfully tender their unqualified apology to her. The reply, filed on behalf of respondent No. 2, is supported by an affidavit of Alok Mishra, i.e., respondent-contemner No. 2.

Other contemnors Nos. 9, 10 and 11 have not appeared and, hence, no reply has been filed on their behalf.

7. In Miscellaneous Criminal Case No, 837 of 1993, no reply has been filed to the show-cause notices issued against the respondents-contemnors 1 to 11, but, during the course of arguments, it had been submitted on behalf of the respondent-contemner No. 4, represented by Shri Fakhruddin, Advocate and respondents-contemnors 1 to 3 and 5 to 8, represented by Shri V. G. Tamaskar, Advocate, that the reply filed on behalf of the aforesaid respondents-contemnors in Miscellaneous Criminal Case No. 683 of 1993 be also read in Misc. Criminal Case No. 837 of 1993.

8. Before proceeding to decide the aforesaid references, moved on behalf of the petitioners against the respondents-contemnors, it would be worthwhile to reproduce Section 2 of the Contempt of Courts Act, 1971, i.e.,-

" 2. Definitions. - xxx xxx xxx

(a) "contempt of court" means civil contempt or criminal contempt;

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

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

(i) scandalises or tends to scandalise, or lowers 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) "High Court" means the High Court for a State or a Union Territory, and includes the court of the Judicial Commissioner in any Union Territory."

In the light of the aforesaid section, it has now to be seen: as to whether the news item published, printed and distributed in the news papers, vide Annexures-A1 to A-5, is covered by the Definition given in Section 2(c), (i), (ii) and (iii) of the Contempt of Courts Act, 1971.

9. From a careful perusal of the news item, published in the news paper as per Annexures-A1 to A-5, by the respondents-contemners, it is clear that the news item so published, does not relate to any judicial proceeding, civil or criminal, and it also does not reflect against any judicial officer in respect of judicial functioning or integrity, and, hence, it cannot be said that the said publication interferes with, or tends to interfere with, the administration of justice in any way. The publication does not impute any favouritism, partiality or bias against the petitioners. If any imputation is published, printed and distributed in the news paper against a judicial officer in personal capacity, then the remedy lies for taking action under the Indian Penal Code for libel against the person publishing, printing and distributing the defamatory matter against the judicial officer concerned.

10. In [Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh](#), certain guidelines and principles have been laid down, which are reproduced as under

"Contempt of Courts Act (1952), Section 3. -

Contempt and libel - Scandalizing Court - Purpose of contempt proceeding - Resolution by Bar Association pointing out to superior authorities that certain judicial Officers were incompetent - Publication of resolution - How far contempt. [State Vs. Brahma Prakash and Others](#), Reversed.

The summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the courts. The object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals, it is intended to be a protection to the public whose interests would be very much affected if by the act of conduct of any party, the authority of the court is lowered and the sense of confidence which people have in the administration of justice by it is weakened.

Cases of contempt which consist of scandalising the Court itself, are fortunately rare and require to be treated with much discretion. Proceedings for this species of contempt should be used sparingly and always with reference to the administration of justice. If a Judge is defamed in such a way as not to affect the administration of justice, he has the ordinary remedies for defamation if he should feel impelled to use them.

There are two primary considerations which should weigh with the court when it is called upon to exercise the summary powers in cases of contempt committed by "scandalising the court itself. In the first place, the reflection on the conduct or character of a judge in reference to the discharge of his judicial duties, would not be contempt if such reflection is made in the exercise of the right of fair and reasonable criticism which every citizen possesses in respect of public acts in the seat of justice. It is not by stifling criticism that confidence in courts can be created.

In the second place, when attacks or comments are made on a judge or judges, disparaging in character and derogatory to their dignity, care should be taken to distinguish between what is a libel on the judge and what amounts really to contempt of court. The facts that a statement is defamatory so far as the judge is concerned, does not necessarily make it a contempt.

A defamatory attack on a judge may be a libel so far as the judge is concerned and it would be open to him to proceed against the libelor in a proper action if he so chooses. If, however, the publication of the disparaging statement is calculated to interfere with the due course of justice or proper administration of law by such court, it can be punished summarily as contempt. One is a wrong done to the judge personally while the other is a wrong done to the public. It will be an injury to the public if it tends to create an apprehension in the minds of the people regarding the integrity, ability or fairness of the judge or to deter actual and prospective litigants from placing complete reliance upon the court's administration of justice, or if it is likely to cause embarrassment in the mind of the judge himself in the discharge of his judicial duties."

Keeping in view the aforesaid principles and guidelines, laid down by the Apex Court in the aforesaid citation, and after considering all the relevant material on record, we are of the considered opinion that this Court does not consider it just the proper

for taking action against the respondents/contemners 1 to 11 and for punishing them u/s 12 of the Contempt of Courts Act, and the petitioners, in both the aforesaid references, shall be at liberty to take action against the respondents-contemners under the relevant provisions of the Indian Penal Code.

11. In view of the above, both the aforesaid references, made on behalf of the petitioners, shall stand dismissed and the proceedings under the Contempt of Courts Act, against the respondents-contemners, are dropped and they shall stand discharged.