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Indrani Dutta and Another Vs Baldeo Sharma and Others

Miscellaneous Criminal Case No. 683 of 1993

Court: Madhya Pradesh High Court

Date of Decision: Aug. 20, 1993

Acts Referred:

Contempt of Courts Act, 1971 â€" 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"", ""Daink 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 - annexued 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:-

Ã-¿Â½ifr dh izfedk dh fiVkbZÃ-¿Â½

 $\tilde{A}^-\hat{A}_{\dot{c}}\hat{A}^{\prime\prime}_{a} = Lr \text{ ifRu }_{kjk}, \text{defgyk U}_{kjk}, \text{defgyk U}_{kj$

vf/koDrkvksa ds e/; ppkZ dk fo""k; cuh gqbZ gSA

U;k;ky; ifjlj esa O;klr 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 Is 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 cjken fd, x, A vf/koDrk dh cjkenxh 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 FkliM+ 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 qSaA

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 rely.

6. Shri V.G. Tamaskar, Advocate, Durg, representing the respondents-contemners 1 to 3 and 5 to 8, filed a written reply to the show cause notice

on behalf of the respondents-contemners, 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 facouritism, 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 contemners 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-contemners

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-contemners 1 to 3 and 5 to 8, represented by Shri V. G. Tamaskar, Advocate, that the reply filed on behalf of the

aforesaid respondents-contemners 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-contemners, 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-Al 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 pews item, published in the news paper as per Annexures-Al 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 he petitioners, shall stand dismissed and the proceedings under the

Contempt of Courts Act, against the respondents-contemners, are dropped and they shall stand discharged.