

RAKESH KAUL AND ORS

v.

THE REGISTRAR, HIGH COURT OF JAMMU AND KASHMIR

AUGUST 12, 1994

[M.N. VENKATACHALIAH, CJI., R.M. SAHAI AND S. MOHAN,
JJ.]

Contempt of Court Act, 1971

Litigants attempting to assault and manhandle the other party—Court condemning such behaviour and issuing non-bailable warrants—Held : Law must be allowed to take its own course—Circumventing the orders of Court can not be tolerated—Direction to appear before the High Court and tender unconditional apology without pleading any technicality—High Court to take a sympathetic view and pass such orders as it may deem fit.

Being aggrieved by the change of dates in relation to the Degree Examinations by the University of Kashmir, the petitioners preferred Writ petitions before the High Court. The Assistant Controller of Examination appeared in person and sought two days' time to obtain necessary instructions from the University. The matter stood adjourned to 17.7.1992. However, the matter was recalled on 15.7.1992 itself during the absence of the petitioners, and the Writ Petition was dismissed.

After the order was pronounced the petitioners attempted to assault and manhandle the Assistant Controller of Examinations outside the Court room, The High Court condemned the behaviour of the petitioners and issued rule against them to show cause as to why they should not be punished for contempt of court. Some of the petitioners appeared before the High Court and some others did not. Non-bailable warrants were issued against them. Against this, the present Special Leave Petition has been filed.

On behalf of the petitioners it was contended that they were not responsible for the alleged manhandling of the Assistant Controller of Examination; and that even otherwise they cannot be held responsible concerning a matter which took place outside the Court.

A Disposing of the Special Leave Petition, this Court

- HELD :** Contempt is essentially a matter for the court concerned. Such a jurisdiction is vested in the court in order that the majesty of law can be upheld. If any interference is made or sought to be made in the course of justice, the court must take a serious view of the same. As to what exactly happened on 15.7.1992 is a matter which will have to be correctly ascertained and law must be allowed to take its course. Circumventing the orders of court cannot be tolerated. Therefore, this Court cannot interfere. However, petitioners are directed to appear before the High Court and tender their unconditional apology without pleading any technicality. In such a case, the court may take a sympathetic view and pass such orders as it may deem fit. [626-A to C]

CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Crl.) No. 135 of 1994.

- D** From the Judgment and Order dated 8.12.93 of the Jammu & Kashmir High Court in C.O.A. No. 76 of 1992.

S.K. Bhattacharya for the Petitioners.

- E** The following order of the Court was delivered :

- The petitioners herein aggrieved by the change of dates in relation to B.A., B. Com, B.Sc. examinations by the University of Kashmir from 5.9.1992 to 17.25 and 31.7.1992 preferred writ petitions to the High Court of Jammu & Kashmir. On 15.7.1992, Shri Mohd. Yasin Malik, the Assistant Controller of Examination appeared in person in Court. He sought two days' time to obtain necessary instructions from the University of Kashmir. The matter stood adjourned to 17.7.1992. However, the matter appears to have been recalled on 15.7.1992 itself during the absence of the petitioners. An order was passed dismissing the writ petition.

- G** After the order was pronounced, the petitioners attempted to assault and man-handle Mr. Mohd. Yasin Malik, Assistant Controller of Examination outside the court room. While dismissing the writ petition, the learned Single Judge took a serious view of the conduct of the petitioners. Such a conduct *prima facie* appears to coerce authorities into submission and obstruct the administration of justice. He concluded as under :
- H**

"It is a matter of regret that petitioners, being educated youth should have taken law into their won hands with a view to strike terror in the minds of authorities or to influence the functioning of this court. It will be a sad day if the litigating parties are given licence to pressurise and brow beat the authorities and the courts which have the consequence of impeding the course of justice. Such actions require to be curbed for the sake of upholding the majesty of law."

On this, a rule was issued against the petitioners requiring them to show cause why they should not be punished for the contempt of court. As regards petitioner No. 2 Ajay Razdan, a non-bailable warrant was issued which was to be executed by the DIG, Jammu Range. However, the warrant was not executed and the police pleaded helplessness which conduct came for consideration. Some of the petitioners appeared before the Court while Ramesh Kumar Bhat and Romesh Trakroo did not appear. So much so, non-bailable warrants had to be issued against them. In view of the passage of one year from the date of impugned order dated 8.12.1993, fresh warrants were directed to be issued and executed by SSP concerned against Ramesh Kumar Bhat and Romesh Trakroo.

It is argued on behalf of the learned counsel for the petitioners that neither of them responsible for the alleged man-handling of the Assistant Controller of Examination, Mohd. Yasin Malik. Even otherwise concerning a matter which took place outside the court, they cannot be held responsible. There fore the errant students punished in this manner, may not be warranted in the circumstances of the case.

The impugned order dated 8.12.1993 states as follows :

"Two contemnors, namely, Ramesh Kumar Bhat and Romesh Trakroo have been successfully evading the process of this Court for the last about one year. The SSP Jammu was directed to execute the non- bailable warrants against them by an order dated 3.12.1992. On his failure to do so he was ordered to remain present before this Court vide order dated 10.3.1993 for 30.3.1993.

.....Fresh warrants shall be issued against the aforesaid two contemnors to be executed by the SSP concerned and shall remain valid till the same are executed."

- A Contempt is essentially a matter for the court concerned. Such jurisdiction is vested in the court in order that the majesty of law can be upheld. If any interference is made or sought to be made in the course of justice, the court must take a serious view of the same. As to what exactly happened on 15.7.1992 is a matter which will have to be correctly ascertained and law must be allowed to take its course. For students to circumvent orders of court cannot be tolerated. Therefore, we cannot interfere. However, we would direct the petitioners to appear before the High Court and tender their unconditional apology without pleading any technicality. In such a case, the court may take a sympathetic view and pass such orders as it may deem fit. Subject to these observations, the present S.L.P. is disposed of.
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- C

G.N.

Petition disposed of.