

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL Nos. 2056-2059 OF 2011
(@ SLP(Cr1.) Nos. 844-847 of 2008)**

H.G. RANGANGOUD

... APPELLANT

VERSUS

**M/S.STATE TRADING CORPORATION
OF INDIA LIMITED & ORS.**

...RESPONDENTS

J U D G M E N T

CHANDRAMAULI KR. PRASAD, J.

1. Petitioner, aggrieved by the order passed by the Division Bench of the Karnataka High Court initiating proceeding for contempt in exercise of its *suo motu* power, has preferred these special leave petitions.
2. Leave granted.

3. Bereft of unnecessary details the facts giving rise to the present appeals are that the appellant applied on 16th of April, 2003 for grant of mining lease for iron ore over an area of 350 acres in Yeshawanthnagar Range of the Kumarswamy Reserve Forest Area within Sandur Taluk in Bellary District of the State of Karnataka. The State Government processed the request and in exercise of powers under Section 5 (1) of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'the Act') by its letter dated 9th of February, 2004 recommended to the Central Government for grant of mining lease in favour of the appellant to the extent of 16.8 hectares. However before any decision could be taken, the Central Government issued notification dated 27th of June, 2005 in exercise of the power under Section 17 A (1A) of the Act and reserved iron ore deposits in the area in question for exploitation by State Trading Corporation of India Limited, a public

sector undertaking. In view of the aforesaid reservation the Central Government returned the proposal of the State Government to grant mining lease to the appellant by its letter dated 21st of July, 2005. Aggrieved by the aforesaid notification appellant preferred WP No. 19339 of 2005 (H.G. Rangangoud v. Minister of Coal & Mines, represented by the Secretary & Ors.) before the Karnataka High Court, inter alia praying for quashing the notification reserving the iron ore deposits in favour of the State Trading Corporation of India Limited. The writ petition filed by the appellant was heard along with another writ petition filed by Salgaocar Mining Industries Private Limited and the learned Single Judge by its judgment and order dated 14th of August, 2007 quashed the aforesaid notification dated 27th of June, 2005. Armed with the order of the High Court, appellant represented to the State Government to consider his application for grant of

mining lease by its representation dated 18th of September, 2007. After one day of filing of the representation i.e. on 20th of September, 2007 the State Trading Corporation, aggrieved by the order of the learned Single Judge preferred appeal before the High Court. Said appeal was posted for consideration on 3rd of October, 2007 and the Division Bench of the High Court taking into consideration the 'enormity' of the case and finding that all the parties have been served and represented, directed for its final disposal on 11th of October, 2007. However, no interim order was passed. As directed, the matter was heard and reserved for judgment but before the judgment could be pronounced the State Trading Corporation, the appellant before the High Court, brought to its notice that "when the matter was in the hearing process, Government of Karnataka has sent a communication to the Union of India for mining lease in favour of the writ petitioners". The

Division Bench of the High Court, when informed about the aforesaid fact "called upon the Government Advocate to explain this situation". The explanation was furnished in which it was inter alia stated that "as there was no interim order granted in the writ appeal and keeping in view the fact that if the mining area is not sanctioned to the writ petitioners the existing mining operation would be forced to close down and keeping in view the jeopardy to the workmen, such recommendation has been made." The explanation put forth by the State Government did not find favour with the High Court and on its prima facie finding that the aforesaid conduct "amounts to interference with the due course of judicial process" initiated *suo motu* criminal contempt proceedings against the appellant herein and K. Jayachandra, Under Secretary to the Government of Karnataka, Commerce and Industries Department. While doing so the High Court observed as follows:

".....On going through the affidavit as well as the records, prima facie it appears to us that there is a clear attempt on the part of the writ petitioner Mr. H.G. Rangangoud and the concerned official to take such action when the grant of lease/licence itself was seized and was under consideration by this Court thereby cause on the merit or decision of this court."

4. Mr. P. Vishwanatha Shetty, Senior Advocate appearing on behalf of the appellant submits that the appellant had filed the representation in the light of the order of the learned Single Judge even before the appeal was filed against the judgment of the learned Single Judge and hence it cannot be said that the appellant in any way interfered with the due course of judicial process. Accordingly he submits that the order initiating the proceeding for criminal contempt deserves to be set aside. Ms. Anitha Shenoy appears on behalf of the State of Karnataka and submits that the act of filing the representation by the appellant and the recommendation made by the Under Secretary in no

way interferes with the due course of judicial process and in such a state of affairs she is not in a position to defend the order of the High Court. At the same breath she reminds us that contempt is a matter between the court and the contemnor and this Court may take the view which it considers just and proper.

5. We have given our most anxious consideration to the submissions advanced and at the outset we may observe that this Court seldom interferes with an order initiating a contempt proceeding and ordinarily relegates the person charged with contempt to file a show cause before the court which had initiated the proceeding. But this is not an absolute rule and in the facts of a given case when this Court comes to the conclusion that the allegation made, even when not denied do not constitute contempt, interferes with the order initiating contempt proceeding so as to avoid unnecessary harassment to the person served with

contempt notice. We proceed to consider the present appeal bearing in mind the aforesaid principle.

6. It is relevant here to state that the proceeding has been initiated against the appellant for criminal contempt on the ground that the act done by the appellant amounts to interference with the due course of judicial process. The expression "criminal contempt" has been defined under Section 2 (c) of the Contempt of Courts Act, 1971 and in the present case we are concerned with Section 2 (c) (ii), the same reads as follows:

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

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 -

xxx

xxx

xxx

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

xxx

xxx

xxx."

From a plain reading of the aforesaid provision it is evident that an act which prejudices or interferes or tends to interfere with the due course of judicial proceeding comes within the mischief of criminal contempt. The power to punish for contempt is inherent in Courts of record and described as a necessary incident to every court of justice. The power is inalienable attribute of court and inheres in every Court of record. This power though inherent to the High Court is given a constitutional status by Article 215 of the Constitution. It is to secure public respect and confidence in the judicial process. Rule of law is the basic rule of governance of any civilized democratic polity. It is only through the courts that rule of law unfolds its contours and establishes its concept. For the judiciary to

carry out its obligations effectively and true to the spirit with which it is sacredly entrusted the task, constitutional courts have been given the power to punish for contempt, but greater the power; higher the responsibility.

7. In the present case, even before filing of the appeal the appellant has brought to the notice of the State Government the order passed by the learned Single Judge and sought its implementation. In the representation he had not voiced and could not have voiced any opinion on the appeal as the same was not filed till then. The Under Secretary while making recommendation also did not voice any opinion on the pending appeal. It has to be borne in mind that any attempt to influence the outcome of the matter pending before the court to prejudice the parties therein may prejudice or interfere with the due course of any judicial proceeding but in our opinion, mere filing of the representation and

making recommendation thereon in no way prejudices or interferes or tends to interfere with the due course of any judicial proceeding. In our opinion, it is criminal contempt to voice opinion on a case pending in court as that would seem to influence the outcome of the matter and to prejudice the parties therein. However, we hasten to add that fair reporting of court proceedings and fair comments on the legal issues do not amount to contempt. The order of the learned Single Judge was not stayed. Further, mere filing of the appeal would not operate as a stay of order appealed from.

8. When tested on the aforesaid anvil we are of the opinion that the act alleged in no way prejudices or interferes or tends to interfere with the due course of any judicial proceeding. From the conspectus of the discussion aforesaid we have no doubt in our mind that the proceeding initiated against the appellant as also the Under Secretary to the Government of Karnataka, Commerce and

Industries Department is not just and appropriate and an abuse of the process of the court. This being so, we are duty bound to interfere at this stage itself.

9. True it is that Under Secretary to the Government of Karnataka, Commerce and Industries Department against whom the contempt proceeding has been initiated by the impugned order, not chosen to file any petition before this Court but in view of what has been observed above we are of the opinion that it shall be too technical to deny him the relief by this Court, which has jurisdiction for doing complete justice in any cause or matter pending before it. Therefore, he shall also be entitled to the same relief as that of the appellant.

10. Accordingly, these appeals are allowed, the impugned judgment and order is set aside.

..... J.
(H.L. DATTU)

..... J.
(CHANDRAMAULI KR. PRASAD)

NEW DELHI,
NOVEMBER 11, 2011.

