

CASE NO.:
Appeal (crl.) 666 of 1993

PETITIONER:
P.G. Patra

RESPONDENT:
Puran Foods & Anr.

DATE OF JUDGMENT: 13/12/2002

BENCH:
Y.K. Sabharwal & K.G. Balakrishnan.

JUDGMENT:

J U D G M E N T

[with Criminal Appeal No.665 of 1993]

Y.K. Sabharwal, J.

The appellants, by the impugned judgment and order of the High Court have been held guilty of civil contempt. The case against the appellants is that despite the order dated 27th September, 1997 passed by the competent forum granting an order of injunction restraining the department not to disconnect the electricity of respondent no.1 from the premises in question, the electricity was disconnected. The order of restraint was admittedly communicated to the counsel for the Electricity Board. It is further not in dispute that the said order had also been communicated to the appellants. The case of the appellants was that respondent no.1 was under some misapprehension that its power supply alone was disconnected. In fact, the power supply of more than 30 industries in the industrial estate in question including that of the respondent no.1 was disconnected in the morning of 28th September, 1991 at about 9.30 a.m. to undertake repair work which was completed by 9.50 a.m. and power supply was restored to all consumers including respondent no.1. It has been held by the High Court that respondent no.1 was in the business of Ice Cream manufacture and, as a result of the disconnection, despite the injunction order, the ice cream and its mix that was in process, got spoiled. According to the respondent no.1, a letter dated 28th September, 1991 was sent to the Executive Engineer at about 2.30 p.m. bringing to his notice the disconnection despite the injunction order and requesting for immediate connection of the line to save the balance stock of material inside the cold room. It was also pointed out in that letter that Junior Engineer was not accepting their request. Before writing to the Executive Engineer, the respondent had written to the Junior Engineer on the similar lines but the Junior Engineer was not ready to accept the letter.

The High Court has found that the general supply that had been disconnected at 9.30 a.m. was restored at 9.50 a.m. but not that of the respondent no.1. The finding has been arrived on perusal of the official record and the letters sent by the respondent. The High Court has further found that two phase supply was restored at about 9.15 p.m. and supply of all three phases at about 10.45 p.m.

On the question of sentence, in respect of the Executive Engineer (Appellant In Criminal Appeal No.665/93), the High Court noticing that his fault lies in either aiding the Junior Engineer in committing the violation or in not asserting his authority to see that the Junior Engineer does not violate the order of the Court, fine of Rs.1,000/- was imposed. The Junior Engineer (P.G. Patra) (appellant in Criminal Appeal No.666/93) has been sentenced to civil imprisonment for seven days. Both the appellants have challenged the impugned judgment and order of the High Court in these appeals filed under Section 19 of the Contempt of Courts Act, 1971.

The finding of the High Court, therefore, is that the electric connection of respondent no.1, despite injunction order, remained disconnected from 9.50 a.m. to 9.15 p.m. and 10.45 p.m. as aforesaid during which time there was no general disconnection.

Having heard learned counsel for the parties, in our view the finding of the High Court that the appellants committed contempt of court is unassailable. On the question of sentence, it was contended by the learned counsel that the Junior Engineer

r is due to retire in about six months time whereas the Executive Engineer has already retired and this Court may, therefore, consider the matter sympathetically. In our view, in respect of appellant in Criminal Appeal No.666/93 also the ends of justice will be met if on him too fine is imposed instead of civil imprisonment as directed by the High Court. Accordingly, setting aside sentence of civil imprisonment on P.G. Patra, we impose on him a fine of Rs.2,000/- and to that extent modify the judgment and order under challenge.

Criminal appeal No.665/93 is, therefore, dismissed. Criminal Appeal No.666/93 is partly allowed as above.

JUDIS