

PETITIONER:
NATIONAL TEXTILE WORKERS' UNION

Vs.

RESPONDENT:
P.R. RAMAKRISHNAN & OTHERS

DATE OF JUDGMENT 05/05/1983

BENCH:
CHANDRACHUD, Y.V. ((CJ)
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TULZAPURKAR, V.D.
VARADARAJAN, A. (J)

CITATION:
1983 AIR 750 1983 SCR (3) 12
1983 SCC (3) 105 1983 SCALE (1)530

ACT:

Contempt of Courts Act, 1971-Section 12-Contemner made serious allegations of corruption against Judges of High Court-Agreed to apologies-But resiled and published scurrilous writings-Whether should be punished.

HEADNOTE:

The contemner, a journalist, was charged with committing contempt of court for publishing in his journals articles that certain judgments given by four Judges of the High Court proceeded from corrupt motives. At the end of the hearing of the contempt petition in this Court he was given a choice to submit apologies to this Court as well as to each of the four Judges of the High Court and if he chose to do so he should publish them on the front page of his papers. He submitted an apology to this Court; but within 10 days thereafter he published an article purporting to give a gist of the proceedings of this Court in the contempt petition stating that this Court told him that "if you tender apology we will consider. Under the circumstances I agreed for tendering apology". Later he came out with a front page article that his "conscience did not permit him to tender apologies to each of the four Judges and that he had decided to go to jail rather than tender apology to them".

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HELD: The conduct and writings of the contemner constitute serious interference with the administration of justice, since his sole object in giving publicity to the defamatory allegations against the Judges was to deter them from deciding cases against him or against those in whom he is apparently interested. The apology tendered by him was an eye wash, a make-belief, and cannot be accepted. In fact, there was no apology to accept because he had resiled from it. Indeed he was penitent for having apologised to the High Court Judges whose character he had assailed without the semblance of sincerity of purpose or purity of means. He was not penitent for his conduct. [17 E-G]

The apology tendered by the contemner to this Court was a mere device to escape punishment for his culpable conduct. He had committed a breach of the undertaking given by him to

this Court that he would not make similar charges against Judges and that he would publish his apology in the two journals. Far from carrying out that undertaking he had ventured into another bout of scurrilous writings against the High Court Judges. [16 D-E]

13

From the tenor of his articles and his conduct it was apparent that he was inspired by some others working from behind the curtain. But the fact that the contemner was writing at the behest of undisclosed principals is not an extenuating circumstance.

Very often, contemnors are so contemptible that it is useless to take serious notice of their conduct but it is necessary to take action in this case because nothing else would stop a systematic campaign of vilification against the defenceless Judges of the High Court. [18 B]

JUDGMENT:

ORIGINAL JURISDICTION : Civil Misc. Petition No. 24899 of 1982.

(For Contempt of Court)

In

Special Leave Petition (C) No. 9661 of 1981.

From the Judgment and Order dated the 30 September, 1981 of the Madras High Court at Madras in O.S.A. No. 148 of 1981 arising in Company Petition No. 30 of 1981.

G. Vasant Pai, O. C Mathur, S. Sukumaran and D. N. Mishra with him for the petitioner.

S.K. Jain and S. Ramaswamy for the Contemner.

P.M. Kumaraswamy @ Kailaimannan was present in person.

The Judgment of the Court was delivered by

CHANDRACHUD, C.J. While special leave petition No. 9661 of 1981 (National Textile Workers' Union v. P.R. Ramakrishnan) was being argued before a five Judge Bench on September 8, 1982, Shri G. Vasantha Pai, who was appearing on behalf of the respondents, drew the attention of the Court to certain statements which had appeared in the Press under the name of one P.M. Kumaraswamy alias Kailaimannan. On a petition presented by Shri Pai on behalf of one R. Baba Chandrasekhar under the Contempt of Courts Act, 1971, the Court issued a notice to P. Kumaraswamy asking him to show cause why he should not be committed for committing contempt of Court.

14

Thereafter, the Contempt Petition came up for hearing before us on various dates. On some of those dates the contemner asked for adjournment on the ground of his illness while on some dates he remained absent. On one occasion, he was absent without informing the Court as to the reasons of his absence. At long last, the contempt petition was heard at some length on March 30, 1983. On a motion made by Shri S.K. Jain. Advocate, on behalf of the contemner, the latter was permitted to argue his case in person, in Tamil. Another Advocate whom the contemner had engaged, Shri S.Ramaswamy, translated the contemnor's argument in to English for our benefit. One of us, namely, Varadarajan, J., of course knows Tamil. We reserved our Judgment on that date and directed that the matter be listed for Judgment on April 26, 1983. We observed that the contemner may, if so advised, tender a written apology to this Court as also to each of the four Learned Judges of the Madras High Court against whom he had made unfounded allegations, namely, Justice Gokulakrishnan, Justice Ramanujam, Justice V. Ramaswami and Justice

Shunmugham. We directed that the apologies be tendered in writing, if at all, by April 7, 1983 and be published on the front page of the two so-called newspapers, 'International Chronicle' and 'Sigappu Nada', which the contemner conducts.

The contemner submitted a written apology to this Court on March 30, itself, to the following effect:

"I state that I understand that my writings created an impression in the mind of this Hon'ble Court that the articles are contemptuous in nature. I am therefore submitting my sincere and honest apology to this Hon'ble Court and also to Mr. Justice Gokulakrishnan, Mr. Justice Ramanujam, Mr. Justice Shunmugham of the Madras High Court and I am extremely sorry for writing the impugned article.

I further undertake not to write anything against the Madras High Court Judges in my journals 'Sigappu Nada' and 'International Chronicle' in future. I also undertake to publish the text of this affidavit in the above said two journals."

How hollow and unmeaning the apology was, is clear from the fact that within 10 days after submitting the apology to this Court,

15

the contemner published an article in 'Sigappu Nada' on April 8, 1983 purporting to give an account of what had transpired in this Court on March 30, 1983. This is what he says in the said issue of his journal :

"The Court told me

We convict you to the maximum punishment of six months imprisonment and Rs. 1,000 fine; if you tender apology, we will consider. Under the circumstances, what can I do ? I agreed for tendering apology.

After this, they told me that I have to appear before each and every Judges about whom, I have written in my paper and tender apology. Since, I have accepted for the first apology, I have agreed for this also."

On April 14, 1983 the contemner came out with a front page article in 'Sigappu Nada' in which he has stated as follows :

"Kailaimannan is ready to go to Jail

In the case filed against me in the Supreme Court, Judgment is to be delivered on 26.4.1983.

The Judgment has been announced already it has been published as news item in Newspapers. The Supreme Court has ordered that I must go to four of the High Court Judges personally and tender apology. But my conscience does not permit me to tender apology to them.

I have decided to go to Jail, rather than tendering apology to them.

But my case will make a new turn in India. I do not wish to say anything about it now. My enemies are jubilant that 'Kailaimannan' will be finished with this. Sigappu Nada will not be published hereafter.

Even if I go to Jail, Sigappu Nada will be published continuously.

16

How can the corruption of a Judge be proved in the Supreme Court. Only if C.B.I. enquiry is ordered on the counter filed by me, truth will be known. For that, Supreme Court has not done anything and it is the highest Court.

I have written to the Secretary, Home Department, Central Government, seeking for permission to file complaints against two Judges regarding corruption

charges.

As soon as sanction is given, I will file the case against the two Judges in Court and I will prove that those corruption news published by me are true only.

If I do not prove those charges, it will not be conducive to my self-respect."

The apology tendered by the contemner to this Court on March 30 was thus a mere device to escape punishment for his culpable conduct. He has no real repentance for the wanton charges of corruption made by him against the four Judges of the Madras High Court. He has committed a breach of the undertaking given by him to this Court to the effect that he will not make similar charges against the Madras High Court Judges and that he will publish his apology in the two journals. Far from carrying out that undertaking, he has ventured into another bout of scurrilous writings against the High Court Judges. His pose now is of injured innocence. And, he warns that he will not apologise to those Judges and that he will persist in his campaign of vilification. Incidentally, he never apologised to Justice V. Ramaswami, with or without contrition.

We do not propose to give publicity to the grossly defamatory allegations made by the contemner, by reproducing them in our Judgment. The gist of those allegations is that certain Judgments given by the four Judges of the High Court proceeded from corrupt motives. The contemner seems to think that he can deter the Judges from discharging their duty by maligning them before the public, by alleging that their judgments are influenced by corrupt motives. The fact that the contemner has made allegations of corruption against the four Judges is not denied by him and indeed, he stated before us that he wanted an opportunity to establish those
17

allegations. If we were to grant him such an opportunity, that would have aggravated the contempt. A reckless and malicious person like the contemner could have borrowed the support of some disgruntled litigants of his own feather to aid and abet him. Even then, in order to test the bona fides of the contemner, we asked him to furnish to us a list of the names of persons, particularly advocates, whose affidavits he proposed to file in support of the charges of corruption levelled by him against the High Court Judges. He did scribble a few names in our presence but that was the end of the matter. He conveniently forgot all about his tall claim that he will be able to get the affidavits of even practising lawyers in support of his case. It is clear that the contemner was only trying to trick the Court into believing that he is not a lone fighter in his demand for justice against the four dispensers of justice. No one came forward to support him. No one possibly could. He is not fighting in the cause of justice. He has become an enemy of the Courts because certain decisions given by them are not to his liking. "I will leave you alone, if you decide in my favour. I will charge you of corruption if you dare to decide against me" -That sums up his attitude to the Courts. Judges must tread their path of rectitude uneterred by such threats. This Court is there to protect them from scurrilous accusations prompted by malice.

The conduct and writings of the contemner constitute serious interference with the administration of justice, since his sole object in giving publicity to the defamatory allegations against the High Court Judges is to deter them from deciding cases against him or against those in whom he is apparently interested. The apology tendered by him is an eye-wash, a make-belief, and cannot be accepted. In fact,

there is no apology to accept because he has resiled from it. He is penitent for having apologised to the High Court Judges whose character he has assailed without the semblance of sincerity of purpose or purity of means. He is not penitent for his conduct.

We are inclined to believe that the writings in the two journals conducted by the contemner are inspired by some others who are working from behind the curtain. They appear to have promoted the contemner to speak and write with such great venom. But the fact that the contemner is acting at the behest of undisclosed principals is not an extenuating circumstance. Indeed, many hirelings are equally despicable, since they charge their price for blackmail.

18

We hold that the conduct of the contemner constitutes serious interference with the course of justice. He has exhibited a dogged determination to pursue the four Judges of the High Court, come what may. He is not sorry for his ways. He is sorry that he was even apparently sorry. Perhaps, having charged his price, he has to play to the tune of his masters. Very often, contemnors are so contemptible that it is useless to take any serious notice of their conduct. We are compelled to take action in this case because nothing else will stop this systematic campaign of vilification against the defenceless Judges of the High Court.

As we were coming to the end of this Judgment, a communication was received from before the contemner, which is filed by his Advocate, Shri S. K. Jain. That communication contains an additional affidavit affirmed by the contemner at Madras on April 28, 1983. He says therein :

"I wholeheartedly and sincerely tender my apologies before this Hon'ble Court if this Hon'ble Court feels that I have committed contempt by my writings. I also undertake that I will not write anything about the Hon'ble Judges of the High Court in my journals 'Sigappu Nada,' and 'International Chronicle' About the other two conditions, I would like to submit the following few lines for the benevolent consideration and sympathetic approach of this Hon'ble Court."

In paragraph 5 of the said affidavit he says that he is a freedom fighter, that he was arrested during freedom movement at the early age of 18 and that he was detained under MISA during the emergency. "So prison life is not new to me". After saying all this, he has reiterated in paragraph 7 of the affidavit that though he is unable to justify his writings and substantiate his allegations 'at present', he was certain that he will be able to do so. He says that he has already addressed a letter to the Government of India and the Government of Tamilnadu for according sanction to prosecute "corrupt Judges for offences punishable under section 161 IPC and the provisions of the Prevention of Corruption Act". He winds up the affidavit by saying that he believes that he will be able to prove that his writings contain the truth. Any comment on this affidavit is superfluous.

19

For the reasons abovesaid, we convict the contemner under section 12 of the Contempt of Courts Act, 1971 and sentence him to suffer simple imprisonment for three months and to pay a fine of Rs. 2,000. He shall be taken in custody forthwith. If he is suffering from any physical ailment, care ought to be taken of the state of his body. Those who have spurred him into this kind of activity will take the

care of his mind.

P.B.R.

20

Petition allowed.

JUDIS