

PETITIONER:
DR. VIJAY KUMAR KATHURIA & ANR.

Vs.

RESPONDENT:
STATE OF HARYANA & ORS.

DATE OF JUDGMENT 29/04/1983

BENCH:
TULZAPURKAR, V.D.
BENCH:
TULZAPURKAR, V.D.
ERADI, V. BALAKRISHNA (J)

CITATION:
1983 SCR (2) 1037 1983 SCC (3) 333
1983 SCALE (1) 580

ACT:

Supreme Court Rules, 1966, order XLI, Rule 2 read with Order XLVII, Rule 6 and Order XVI, Rule 4 Special Leave to appeal and interim orders of status quo ante, as on the date of filing obtained by false representation to the Court-By reason of such conduct not only the special leave petitions should be dismissed and the interim order, cancelled, but costs should be awarded under Order XLI, Rule 2.

HEADNOTE:

The petitioners, filed two petitions for special leave to appeal and also obtained interim orders of status quo ante as on 1.10.82 averring that they were continuing their studies as post-graduate students of Medical College, Rohtak. Since a dispute was raised whether the provisional admissions granted to them had continued till October 1, 1982 or were cancelled long prior to that date, an issue was sent to the District Judge, Rohtak for inquiry and a finding thereon. The said report contained not only a finding against the petitioners, but also revealed how the two petitioners and their counsel have indulged in telling lies and making reckless allegation of fabrication and manipulation of records against the college authorities and how in fact the boot was on their leg.

Dismissing the petitions, the Court

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HELD: (1) It is clear from the report that on 1.10.1982, the petitioners made a false representation to the Supreme Court that they were continuing their studies as post graduate students of Medical College, Rohtak on 1.10.1982 and obtained an order of status quo ante as of that date to be maintained from this Court. But for the misrepresentation this Court would never have passed the said order. By reason of such conduct, they have disintitiled themselves from getting any relief or assistance from this Court and the special leave petitions are liable to be dismissed. [1038 F-H]

(2) In view of their conduct, the petitioners will pay a sum of Rs. 2,500.00 each by way of costs to the respondents. [1039 E]

[The Court took a lenient view, on the tender of apology by the counsel on his own behalf and on behalf of

the petitioners and awarded only costs under order XLI Rule 2, instead of drastic action by the respective professional bodies to which they belonged.]

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JUDGMENT:

CIVIL APPELLATE JURISDICTION : Special Leave Petitions (Civil) Nos. 9009 and 9010 of 1982.

From the Judgment and Order dated the 21st day of September, 1982 of the High Court of Punjab & Haryana at Chandigarh in C.W.P. No. 2484/82 and 2479/82.

Dr. Adarsh Kapoor and Mrs. V.D. Khanna for the petitioner.

K.G. Bhagat, Additional Solicitor General and R. N. Poddar with him for the respondents.

The Order of the Court was delivered by

TULZAPURKAR, J. In the above matters since a dispute was raised as to whether the provisional admissions granted to the two petitioners had continued till 1st October, 1982 or were cancelled long prior to that date, an issue was sent to the District Judge Rohtak for inquiry and a finding thereon. The District Judge Rohtak was required to submit his report within a specified time. Later for some reasons, which it is unnecessary to mention, the enquiry was transferred to the District Judge, Hissar who has now submitted his report to this Court through his letter dated 4th February, 1983. After holding a full-fledged enquiry during the course of which oral as well as documentary evidence was produced by the parties in support of their respective versions, the District Judge has recorded a finding against the petitioners to the effect that to their knowledge their provisional admissions had been cancelled by the concerned Authorities much before the crucial date namely, 1.10.1982. In other words, it is clear that on 1.10.1982 the petitioners made a false representation to this Court that they were continuing their studies as post-graduate students of Medical College Rohtak on 1.10.82, and obtained an order of status quo as of that date to be maintained from this Court. But for the misrepresentation this Court would never have passed the said order. By reason of such conduct they have disintitiled themselves from getting any relief or assistance from this Court and the Special Leave Petitions are liable to be dismissed.

Counsel for the petitioners attempted to challenge the finding recorded by the District Judge as also some of his observations made against the petitioners but after going through the report and other material and after considering all the contentions urged against

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it we are satisfied that it is a very thorough, balanced and satisfactory report and we accept the finding recorded therein. In view of this C.M.P. No. 27798 of 1982 taken out by the petitioners for contempt as also the Special Leave Petition Nos, 9009/82 and 9010/82 deserve to be dismissed.

Before parting with the case, however, we cannot help observing that the conduct or behaviour of the two petitioners as well as their counsel (Dr. A.K. Kapoor who happens to be a medico-legal consultant practising in Courts) is most reprehensible and deserves to be deprecated. The District Judge's report in that behalf is eloquent and most revealing as it points out how the two petitioners and their counsel, (who also gave evidence in support of the petitioner's case before the District Judge) have indulged

in telling lies and making reckless allegation of fabrication and manipulation of records against the College Authorities and how in fact the boot is on their leg. It is a sad commentary on the scruples of these three young gentlemen who are on the threshold of their carriers. In fact, at one stage we were inclined to refer the District Judge's report both to the Medical Council as well as the Bar Council for appropriate action but we refrained from doing so as the petitioners' counsel both on behalf of his clients as well as on his own behalf tendered unqualified apology and sought mercy from the Court. We, however, part with the case with a heavy heart expressing our strong disapproval of their conduct and behaviour but direct that the petitioners will pay a sum of Rs. 2,500 each as by way of costs to the respondents. The two S.L.Ps and C.M.P. are thus dismissed with the aforesaid direction in regard to payment of costs.

S.R.

Petitions dismissed.

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