

PETITIONER:
IN RE.

Vs.

RESPONDENT:
BALWAN SINGH

DATE OF JUDGMENT: 22/11/1996

BENCH:
S.C. AGRAWAL, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

S.C. AGRAWAL, J.:

These contempt proceedings have been initiated against Balwan Singh (hereinafter referred to as "the Contemner") on the basis of notice dated August 3, 1996 issued in pursuance of the direction contained in the order dated July 12, 1996 passed by the Court in Writ Petition (Criminal) No. 296 of 1993. The facts, briefly stated, are as follows.

Jugti Ram and Bhura Ram are brothers. They were 300 bhigas land in their joint Khata in village Farmana in District Rohtak in the State of Haryana. 150 bhigas of the said land belonged to Jugti Ram. Jugti Ram has eight daughters, three from his first wife Smt. Sarti and five daughters from his second wife, Smt. Birmati, the petitioner in the aforementioned Writ Petition. The Contemner is the son of Bhura Ram and was the Sarpanch of village Farmana. The Writ Petition was filed by Smt. Birmati in this Court with the allegation that one Shamsher Singh had kidnapped her two minor daughters, Geeta and Seema, and was keeping them in illegal confinement. On the basis of orders passed by this Court the said two daughters of Smt. Birmati were recovered by the police. In the writ petition Smt. Birmati was being supported by Mahila Dakshita Samiti (for short "the Samiti"), a voluntary organisation. An application for directions (Cr. M.P. No. 240 of 1994) was filed in the Writ Petition wherein it was stated that Mrs. Vinay Bhardwaj, Secretary of the Samiti, had been threatened by Shri Anand Singh Dangi and the Contemner and it was prayed that appropriate action be taken against them for their blatant attempts to interfere with the administration of justice. The said application was accompanied by the affidavit of Smt. Bhardwaj dated January 15, 1994 wherein it was stated that on November 30, 1993 Shri Anand Singh Dangi requested her to meet him at Haryana Bhavan at New Delhi and that she met him there and that at that time the Contemner was also present and had demanded that Smt. Birmati and her three daughters, Geets, Rekha and Seema, be handed over to him to which Smt. Bhardwaj refused. In the said affidavit Smt. Bhardwaj also stated that there was another meeting between her and Shri Anand Singh Dangi and the Contemner on January

7, 1994 at the Samiti office at 19, Fire Brigade Lane, Cannaught Place, New Delhi and in the said meeting Shri Anand Singh Dangi suggested that the case pending in this Court be withdrawn and the three girls be handed over to the Contemner who would be their guardian and Smt. Bhardwaj was also threatened by Shri Anand Singh Dangi who stated that this Court cannot pass any order as regards the land and even if it does they shall ensure that it is not implemented and that no one can sell the land nor cultivate it without his approval. Notices were issued to Shri Anand Singh Dangi and the Contemner and in response to the said notices counter affidavits were filed by Shri Anand Singh Dangi as well as the Contemner. In their counter affidavits they admitted the two meetings with Smt. Vinay Bhardwaj but denied any high handed acts of intimidation as alleged by her. In the circumstances this Court, by order dated April 26, 1994, directed Shri Dharmendra Kumar, Deputy Commissioner of Police of the area where the Samiti's premises are situate, to conduct an investigation into the matter and submit a Report as to the correctness and probabilities of the situation. the Contemner as well as Shri Anand Singh Dangi and other persons whose involvement were alleged by Smt. Bhardwaj were directed to appear before Shri Dharmendra Kumar (who had been appointed as Commissioner of the Court) and to assist him in the investigation. In pursuance of the said order Shri Dharmendra Kumar, after recording the statements of Smt. Bhardwaj and the witnesses produced by her as well as the statements of Shri Anand Singh Dangi, the Contemner and their witnesses, has submitted his report dated May 24, 1994. A copy of the said report was forwarded to Shri Anand Singh Dangi as well as the Contemner. The Contemner filed his affidavit dated November 28, 1994 setting out his submissions on the said report. On May 12, 1996, the Court, after satisfying prima facie that a case is made out for issuing a notice to the Contemner for having committed criminal contempt by interfering with the proceedings pending before this Court, directed that notice be issued to the Contemner requiring him to show cause why he be not punished for contempt of this Court. In pursuance of the said direction notice has been issued to the Contemner and contempt proceedings have been initiated. In response to the said notice the contemner has filed his affidavit dated September 20, 1996.

We have heard Shri Hardev Singh, the learned senior counsel, for the Contemner.

In his report dated May 24, 1994 Shri Dharmendra Kumar has found that no threats were extended during first meeting at Haryana Bhavan on November 30, 1993. Referring to the second meeting held on January 7, 1994 at the office of the Samiti, Shri Dharmendra Kumar has said that during the course of conversation with Smt. Bhardwaj, the Contemner angrily told them that the Samiti wants to sell off the girls' land and that the villagers would not let them do it and that this matter related to land and that the Samiti should remove itself and that there would be bloodshed if attempts were made to sell it. Shri Dharmendra Kumar has also stated that from the statements recorded by him it appears that the Contemner made desperate attempt to take the girls back to the village and in the process used harsh words which were construed as a threat by the Samiti. Shri Dharmendra Kumar has mentioned that the Contemner has always had an interest in Jugti Ram's land which could have been his, had Jugti Ram not married again and simply adopted him as his son and since the land falling in the share of Jugti

Ram and his daughters was still in joint Khata and with Jugti Ram in his control Birmati and the rest of the family out of the way, the Contemner could have had direct control over the land. The possibilities of sale of the land by the girls and Smt. Birmati came as a rude shock to the Contemner and that he was trying to hide his true motive by posing as a benefactor of the girls and trying to show that he had been wanting to take the girls back at the behest of their father Jugti Ram which was not true because Jugti Ram was not even present in the village when the Contemner and his fellow villagers came again to Delhi for the second meeting. According to Shri Dharmendra Kumar, the baser motive of the Contemner in taking the girls back and in the process threatening the Samiti cannot be denied.

Shri Hardev Singh has submitted that in the affidavit dated January 15, 1994 Smt. Bhardwaj has only referred to threats being extended by Shri Anand Singh Dangi and no reference is made to any threat being extended by the Contemner and, therefore, the inference drawn by Shri Dharmendra Kumar in his report that it was the Contemner who had uttered the threatening words cannot be accepted. We do not find any merit in this contention. Shri Dharmendra Kumar has pointed out that Smt. Rachna Saxena, Counselor in the Samiti, has recorded the important pieces of conversation in Exhibit-I which is a reliable record of the proceedings of the second meeting held on January 7, 1994 at Samiti's office and that the said record shows a continuous dialogue between Smt. Bhardwaj and the Contemner and that the statement of Smt. Bhardwaj indicates that it was the Contemner and not Shri Anand Singh Dangi who has uttered the words "she (Smt. Bhardwaj) was wanting to sell off the land which was joint property and the villagers would not let her do it and any attempt to touch the land in Farmana or an effort to sell it off would lead to bloodshed". Smt. Bhardwaj has also stated that she had tried to pacify the enraged Sarpanch (Contemner). Shri Dharmendra Kumar, in our opinion, has rightly come to the conclusion that the aforesaid statement was made by the Contemner.

The submission of Shri Hardev Singh that on the date of the second meeting the Contemner was not aware of proceedings of the Writ Petition in this Court cannot be accepted in view of the fact that the letter dated November 5, 1993 sent by the Samiti to the Contemner clearly mentioned that the matter was pending in this Court and the receipt of the said letter had not been disputed by the Contemner.

Shri Hardev Singh has lastly submitted that since the land has been sold now, the matter may be closed and the apology tendered by the Contemner be accepted.

We have given due consideration to the aforesaid submission of Shri Hardev Singh. It is established from the record that by uttering the threatening words complained of the Contemner, who happened to be the Sarpanch of village Farmana, tried to use his influence as Sarpanch to brow beat the members of the Samiti as well as the petitioner in the Writ Petition to desist from prosecuting the said Writ Petition and seeking direction in the said writ petition regarding sale of the land of Jugti Ram and his daughters in village Farmana. He thereby sought to interfere in a proceeding pending before this Court. The said conduct of the contemner constitutes criminal contempt of Court. In the circumstances, we are of the view that the apology tendered by the Contemner cannot be accepted. We, therefore, hold the Contemner guilty of having committed criminal contempt of Court. He is sentenced to pay a fine of Rs. 1000/- which

amount shall be deposited by him in this Court within a period of one month. In case the Contemner fails to deposit the amount of fine within the aforesaid period, he shall undergo simple imprisonment for a period of fifteen days.

JUDIS