

R. Sachdev Vs. Presiding Officer, District Consumer Forum

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Dec-02-2008

Judge : J.D. Kapoor, President & the Honourable Ms. Justice Rumnita Mittal, Member

Appeal No. : Appeal No. FA-08 of 1072

Appellant : R. Sachdev

Respondent : Presiding Officer, District Consumer Forum

Judgement :

Mr. Justice J.D. Kapoor, President (Oral):

1. This is a hard case where an old man was awarded three months imprisonment under Section 228, IPC only for misbehaving with the President and Members of the District Forum as he lost his temper. The Judges should neither be too touchy nor too sensitive nor should get offended as to their dignity. The appellant is very old and is stated to be in depression.

2. On the face of it, the impugned order is beyond jurisdiction and is illegal. Section 345 Cr. P.C. prescribes the procedure in certain case of contempt and reads as under:

345. Procedure in certain cases of contempt(1) When any such offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of any civil, criminal or revenue Court, the Court may cause the offender to be detained in custody and may at any time before the rising of the Court on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees and in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

(3) If the offence is under Section 228 of the Indian penal Code (45 of 1860), the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted and the nature of the interruption or insult.

3. In the instant case, the District Forum has while invoking its power as Judicial Magistrate has taken cognizance of an offence under Section 228, IPC and without trial has awarded sentence which is prescribed under Sec. 288. Had the District Forum intended to put the appellant on trial, it would have followed the procedure of trial. Otherwise, under the provisions of Section 345, Cr.P.C. it should have at any time or before the rising of the Court on the same day taken cognizance of the offence and, after giving the appellant a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees and in default of payment of fine, to simple imprisonment for a term which may extend to one month.

4. Section 346 of the Cr. P.C. prescribes the procedure where the Court considers that the case should be dealt with under Section 345, as has been done by the District Forum, provides as under:

346. Procedure where Court considers that the case should not be dealt with under Section 345(1) If the Court in any case considers that a person accused of any of the offences referred to in Section 345 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under Section 345 such Court, after recording the facts constituting the offence and the statement of the accused as herein-before provided may forward the case to a Magistrate having jurisdiction to try the same and may require security to be given for the appearance of such person before such Magistrate or if sufficient security is not given shall forward such person in custody to such Magistrate.

5. As is apparent from the above provisions there were two options before the District Forum. First was to sentence the offender to fine not exceeding two hundred rupees and in default of payment of fine, to simple imprisonment for a term which may extend to one month. Second choice was to forward the case to a Magistrate having jurisdiction to try the offence under Section 228 after recording the facts constituting the offence and the statement of the accused and may require security to be given for the appearance of such person before such Magistrate or if sufficient security is not given shall forward such person in custody to such Magistrate. The Magistrate to whom the case is forwarded is also required to proceed and deal with the same as if it were instituted on a police report.

6. Since the aforesaid provisions have not been followed by the District Forum, the appeal is admitted at the outset and the impugned Order is set aside.

7. If the appellant is in custody he should be released forthwith by the jail authorities.

8. Appeal stands disposed of in aforesaid terms. The aforesaid directions shall be complied with immediately.

9. A copy of Order as per statutory requirement be forwarded to the appellant and to the concerned jail authorities for immediate compliance and also to the Presidents of all the District Forums for their information.

Appeal allowed.

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