

The State of Karnataka Vs. Shivadeva

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Court : Karnataka

Decided On : Jul-27-1976

Reported in : 1976CriLJ1958

Judge : D.S. Tewatia and ;M.K. Srinivasa Iyengar, JJ.

Appellant : The State of Karnataka

Respondent : Shivadeva

Judgement :

D.S. Tewatia, J.

1. The Judicial Magistrate First Class, Davangere, brought to the notice of this Court through the District and Sessions Judge, Chitradurga, the two letters written to him by Shivadeva accused dated 10-10-1975/18-11-1975 Ex. p-1 and 30-11-1975/2-12-1975 Ex. P-2 containing language which according to the learned Magistrate was highly contemptuous of this Court. These letters are alleged to have been written by the accused after the Magistrate aforesaid had dismissed his complaint under Sections 447, 500 and 323, I.P.C. against one Narappa and Rajashekarappa after obtaining the report of the Sub-Inspector of Police, Davangere Town Police Station to whom the complaint had been referred for enquiry and report under Section 156 (3), Criminal P. C.

2. This Court, on perusal of the aforesaid letters written by Shivadeva accused, issued notice to him to show cause. In pursuance of the show cause notice, he appeared in Court and when questioned as to whether the two letters in question had been written by him, his reply was in the affirmative. Since the material before the Court disclosed a prima facie case for taking action under the Contempt of Courts Act, so a charge was framed which was read over, explained and delivered to the accused. The accused who is fairly educated person M. Sc. (M. A.) pleaded that he had not done any wrong in writing the aforesaid letters.

3. The case was adjourned for evidence of the prosecution. On the adjourned date, Mr. Advocate General appearing for the Court, tendered in evidence the aforesaid letters and the envelopes in which the same had been posted to the Magistrate and closed the evidence.

4. The accused when asked as to whether he had any evidence to adduce, merely stated that the two letters that he had written to the Magistrate which were already on the record were themselves evidence and that he had no other evidence to adduce.

5. After the learned Advocate General had addressed this Court, the accused was asked if he had anything to say and in response thereof he handed over a statement in writing which is placed on the record. Since this statement had no relevance to any defence that could be pleaded by the accused, so no comment thereon is needed. When asked as to whether he has anything else to state, the answer of the accused was that he had nothing more to say. When questioned as to his job and occupation, he stated that he ran a tutorial institution at Davangro for High School and College Students. To a further question as to whether he had any family, he stated that he was alone and had no family.

6. The language used by the accused in the letters in question is full of invectives and is highly vituperative and abusive of the Magistrate, and this Court, the Government and the Lawyers. The following few extracts by way of instances may be noticed which would show as to how scurrilous and contemptuous is the language used by the accused:

If you can declare the judgment (declared on Friday on 10-10-1975) with the support of Police report that the appeal of Shivadeva is worthy of being dismissed, Shivadeva too can declare judgment against you with the support of heaven that you and your place of justice is certainly worthy of being dismissed and disappeared.

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But O, Judge, You must try to know that just as you have declared the judgment boldly with the help of some Acts, Sections and Laws - so also Shivadeva too is herewith declaring the judgment with the help of Universal Acts, truth, justice and righteousness - whether you are a fit person to be Magistrate or whatdoubts that you are unfit to be a Magistrate, and then shows that your judgment is false But only thing is, you Magistrate do not want to take all that strain conscientiously that's all.

With all this, Shivadeva concludes that you too, like an ordinary third class citizen have utterly failed to do your duty. Hence, better you think yourself whether you are fit to be a Magistrate or what

when you had told in a manner of assurance to provide him a chance to speak orally in the Court, how is that you have suddenly rooted out the very chance by dismissing the case Perhaps, you must have got something very interesting from outside as to change your mind so suddenly and so abruptly are not you: But when you have dismissed the case without an iota of enquiry, don't you think the words of the Magistrate are proved to be invalid Don't you think that, if the words of the Magistrate are invalid, it follows that the Magistrate is weak, inefficient and unfit to occupy such a place of justice But being a Magistrate if you do not have so much care and prudence, naturally, it can be said that you are not deserving to be a Magistrate.....But your judgment was leaked out prior to not one or two days but prior to 8-10 days. That is, Shivadeva received the information about your judgment at about 8 O'clock in the night on Monday the 29-9-1975; This clearly goes to say that you do not keep yourself aloof from the citizens, and that you have contact with other people too, here please note that the policy of keeping yourself aloof from the citizens has many

advantages..... In case you deny that you have not leaked out, Shivadeva will be compelled to fix a nothing stage especially for you to swear the same - not in the Court which is, in the eyes of Shivadeva, supposed to be the earthly hell...is really a superior place which, in any way, cannot be compared with the place of any Court for true justification, place of God

Any way, now can you guess what is all this due to? Don't you think this is all due to your very loose personality Yes, it is true; and so, such a personality is no doubt unfit to be a Magistrate don't you.

Perhaps, during that period you must have got something very interesting for your mind and physique as to change your mind, and got poised the matter to the public are not you ?.

but now you being a judge, do you have any right words to say that you have done your job well worthy of the fees you take - or at least worthy of any part of the court-fees you have taken..... No doubt Shivadeva has condemned you (the Magistrate) upholding your offences, in the letter dated 4-8-1975 addressed to Sub-Inspector. So it can easily be presumed that you did have personal grudge on Shivadeva. Hence, you better consult some holy persons for surety whether you are fit to occupy a place of justice or what.....So now it can easily be presumed that it must be the ill-work of Jayadeva or it must be the ill-will of the Magistrate, or both the Magistrate and the lawyer must have taken part in this heinous task Perhaps, the Sub-Inspector, seizing this as heaven sent opportunity, must have taken revenge on Shivadeva in this way; that is, preparing the report completely in favour of M. N. Narappa who, by chance, is fit to feed them properly with corruption. And, it is also quite possible that both you and your Sub-Inspector must have used combined force as already explained in the Item No. 4, and guessed that Magistrate too might have become against ShivadevaBut you Magistrates do not seem to have possessed this divine quality for the reason that you must have had revengeful actions due to the hurting point mentioned in the letter (dated 27-6-1975) addressed to you and from the letter (dated 4-8-1975) addressed to the Sub-Inspector Magistrate, can a savage and not a civilized man, approve of it Have you ever thought of the

meaning hidden in those words Anyway Shivadeva is wonderfully doubtful whether you had written it in confusion or what, or you were mentally sound then or what; you being a Magistrate, ought to be always very reasonable and sensitive, don't you feel ashamed to state like a drunkard.....If you are to give such a judgment, why should Government have to appoint a qualified man for the post Do you think that giving judgment is a child's play? Better, you, say, you are inefficient to find the reasons, say, you are diligent and indolent to go deep in search of reasons - say, you are until to be a Magistrate as to give satisfactory reasons for your judgment - but, don't say that there is no reason Magistrate, don't think that all men of this world are as foolish as you to accept everything without reason. Better, you should go back once again for training for the perfection of your profession. Shivadeva really wonders with blazing fire in him how the Government of India has appointed such a Judge like you who is capable of giving judgment without reason If this is the ill-nature and fickleness of yours, can any citizen ever think that you are constant, perfect and dutiful Anyway, because of your false judgment (in future it will be proved to be false) Shivadeva is terribly doubtful whether you have the title 'Magistrate' only for your body, and allow the spirit of your body to play mischief on it.....

.....Thus you having the title 'Magistrate' (Meaning a man occupying a seat of Dharma and judging carefully without an iota of partiality to anybody) have committed unbearable offences like that. Perhaps, you have not tried to understand the meaning of your own title

Hence with all this Shivadeva is doubtful whether you have judged properly. So, you must tell before God whether it is your revenge or it is the ill-will of his (Shivadeva) own lawyer. If you do not satisfy Shivadeva by any means, Shivadeva will be forced to take some other steps to rectify the doubts, and thereby attain the 'Great Truth'. But this much is certain that Shivadeva would struggle hard to attain the 'Great Truth' even at the cost of his life but Shivadeva never in his life listen those useless Acts and Sections. Here, Shivadeva calls those Acts and Sections useless thinking that the Acts and Sections might have been the main cause for the suffering of the 'Great Truth' as the great truth is suffered So, now on account of his Hell like failure in his noble duty the Hon'ble Magistrate entitled as Divine Preceptor, is only looked upon as mere man - man

living in a street. So, for such an ineffable injustice that Magistrate caused to Shivadeva, Shivadeva is even prepared to so the extent of challenging the Magistrate and his Government proclaiming that the appeal of Shivadeva is absolutely true. But only thing is either the Magistrate or his Government should come forward to challenge with him - that's all..... But, when Shivadeva noticed that you have dismissed the case without exercising your judging capabilities and psychological faculties, Shivadeva concludes that you have the qualities of low class people only..... Now you should challenge stating that you and your Sub-Inspector would give up posts and go begging in the streets of Davangere, if the appeal of Shivadeva comes true in the eyes of the public.....

Now by your very immoral judgment and your low class behaviour in the Court, Shivadeva decisively declares that you are insincere, unrighteous in your duty. This being so, the judgment given by you, naturally follows the same; Otherwise you would not have been so much negligent of your duty as to make innocent people suffer due to the injustice you cause. This happens because of the fact that the Government has selected such unworthy fellows to sit on such a place of worship..... If this is the worst state of Magistrate how could ordinary people be can anybody ever imagine that a Magistrate too has come down to such a state - the state of ordinary third class citizen.....

Thus, all the qualities of a Magistrate are absolutely nill in you; and so, it seems you have taken the title 'Magistrate' only for your inert body like that of a significant board at an office building, and in other words, spiritually speaking like an ordinary man who calls himself Rama without any qualities of Rama or Dasaratha in him

O, destroyer of the Great truth, do you think that there are no right and daring persons in the world to question you sternly when you go wrong Do you think that every plaintiff or defendant who comes to your Court is so blind enough to accept whatever illegal decision you decisively declare Do you think that you are all powerful and do whatever non-sense you like Do you think that Shivadeva is helpless and you are helpful with all the support of police and thereby arrest Shivadeva at a spot in case he (Shivadeva) speaks or writes anything with the

effect of your judgment Remember, there are persons who will check you how you perform your noble duty. Remember too that there are persons who are born not for only food and shelter but for only truth, justice and righteousness. Mind, in case you try to arrest Shivadeva unjustly, you will be arrested and removed from your post by some other means. So, before arresting Shivadeva, analyse the present matter distinctly and see whether Shivadeva is fit to be arrested.

O, unrighteous man, it is better you should remove the photo of Mahatma Gandhi that hangs at your back in the Court Hall, for you are really unworthy to keep hanging the great man's photo O, Man Shivadeva would not have worried and fired you so much if you had really tried at your best and then dismissed case, but, as you had not tried what anybody else had least expected naturally any rational being is forced to condemn position and prestige - not by writing so daringly as that of Shivadeva but by oral - that too with somebody else for they are actually afraid of writing so daringly as that of Shivadeva

And fortunately, if you are already a true Magistrate, and you having gone through this letter, do not punish Shivadeva (if his condemnation is unnecessary) for condemning you like this, it is evident that you are a real culprit in the field of Government, and that you seem to accept whole heartedly all the bad remarks that Shivadeva has poured in this letter

But, the Magistrate (P. Gopala Krishna) has failed in every aspect of his duty, that is, from the aspect of judicial duty, from the aspect of saving his lawyer and his Sub-Inspector from blames, from the aspect of safe-guarding the truth, justice and righteousness, and from the aspect of safeguarding the honour of his Government and its merited Judges because of the Magistrate P. Gopalakrishna, other meritorious Judges too have to take blames while generalising and other high authorities etc.....

And so. the offence (the offence of the Magistrate committed in case of Shivadeva) of the Magistrate though it is not very great, it can be treated as that of a crime of a very ordinary man who murders somebody else..... That is to say the present offence of the Magistrate is very serious as that of a person who murders somebody else, when his position, profession and thereby his prestige is

deeply, sensitively and thoughtfully considered. So, he should be punished first.

The contents of the letters and the few passages that are extracted above would show that the accused had issued open threats and challenged the Magistrate and had tried to overawe him if he took any action against him on account of writing the aforesaid letters to him.

7. If the kind of language used in the letters and the posture struck therein by a literate and educated person like the accused is allowed to go unpunished, then the functioning of judicial Courts and their presiding officers would become impossible.

8. Since the language used in the letters not only has the effect of scandalising and lowering the authority of the Court of the Judicial Magistrate, Davangere, but also has the effect of substantially interfering with and obstructing the administration of justice, so the same clearly tantamounts to the criminal contempt of the Court of the learned Judicial Magistrate, Davangere. Further, since the accused has not shown any remorse or regret and has, on the contrary, adopted even in this Court an arrogant and contemptuous attitude, it calls for deterrent punishment.

9. We, therefore, sentence the accused to undergo two months simple imprisonment and to a fine of Rs. 500/- in default of payment thereof, he shall undergo a further sentence of one month's simple imprisonment.

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