

**Vijay Rao Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/426434](http://sooperkanoon.com/426434)

**Court :** Andhra Pradesh

**Decided On :** Feb-23-1953

**Reported in :** 1953CriLJ1856

**Judge :** Siadat Ali Khan, J.

**Appellant :** Vijay Rao

**Respondent :** State

**Judgement :**

ORDER

**Siadat Ali Khan, J.**

1. This is a reference from the District & Sessions Court, Gulbarga, recommending that the sentence of a fine of Its. 50/- and in default 15 days imprisonment passed by the Munsiff Court, Tandur, on. 30.6.1952 against the accused Vijay Rao for contempt under Section 228, Indian Penal Code, be set aside as it is bad in law. The revision-petitioner, Vijay Rao, is present in person. I have carefully considered the record and put down my opinion below.

2. Tile offence charged against the revision-petitioner is, as already stated, that of contempt of court, an offence which may be tried under the provisions of the Contempt of Courts Act or under the inherent powers of the Court of Record or under Section 228, Indian Penal Code, or summarily under S. 480, Indian Criminal

P.C., if it is committed in 'facie curiae'. It appears from a perusal of the record that the court has proceeded under Section 480, I. Cr.P.C. which provides, 'inter alia', that an offence as described in Section 228, I.P.C. is committed in the view of or in the presence of the court, the court may, if it thinks fit, take cognizance of the offence and sentence the offender to a fine not exceeding Rs. 200/- and in default to simple imprisonment for a month. As already stated, the learned Sessions Judge is of the opinion that the conviction of the accused is bad In law.

The facts as stated by the learned Magistrate are:

I was engaged in the trial of other cases when the accused approached me in connection with his 'bhatta' & behaved in a manner which comes within the meaning of contempt of court and, therefore, I proceeded against him after creating a file which should be put up to me to-day.

and in the judgment the same day the learned Magistrate states that

while he was engaged in the trial of other cases, Vijay Rao approached him without permission and addressed him regarding the bhatta; that he told him that whatever bhatta is allowed under the rules will be paid to him and that he should take it and go away but Vijay Rao disregarding court etiquette addressed the court in harsh words repeatedly and insisted upon an increase in the amount of bhatta that not only this he also attacked the present Government stating that now that the popular Government had been formed, the old procedure of paying bhatta cannot be correct and that if only four annas were paid, how can the Government be called a popular Government; that these harsh words and behaviour of Vijay Rao amount to contempt of court. This incident occurred on the same day at 13 p.m. in the open Court when the Court Inspector and other learned Vakils were present whose statements have been recorded, which also bear out the above facts. In spite of this the accused denied it but did not adduce any evidence in defence. By this act of the accused, Court's time which is public time is wasted and the trial of other cases was held up. The parties and the Vakils had to wait unnecessarily. In our opinion, a charge under Section 480, Cr.P.C. and Section 228 I.P.C. has been established.

The learned District & Sessions Judge considers the above finding as bad in law because the trial court did not mention the case in which he was engaged and stage at which he was interrupted. The above order of the Magistrate will show that he was engaged in the trial of criminal cases and a perusal of the record, especially the statement of Vijay Rao, will show that he had finished recording the deposition of a witness and was presumably to proceed with the recording of other depositions when the interruption occurred. In my opinion, this is sufficient. The learned District & Sessions Judge has remarked further that the trial court has not stated the nature of interruption or contempt. The above order of the Magistrate will show that what the learned Magistrate considered contempt, consisted in the revision-petitioner's harsh tones and rude manners when he repeatedly demanded an increased amount of bhatta and persisted in the demand in spite of the decision of the Magistrate that he was entitled to no more. The question is whether this was really enough to constitute the offence of contempt. Three things are essential to constitute an offence under Section 228(a) intention, (b) insult or interruption and (c) public servant insulted or interrupted being then sitting in any stage of judicial proceeding. It should be noted that every protest made, in fact, does interrupt the court but it is its duty to listen to protests how much sever they may delay its proceedings. So long as they are made bona fide, they do not constitute the interruption which the section punishes as contempt. But if they are made with that sole object in view, they cease to be bona fide and they may then supply necessary element to constitute the offence. It should further be noted that a full and complete record, as contemplated by Section 481 is not only a guarantee of the coolness of the judicial temper of, the presiding officer but also offers material for the appellate court to proceed on.

Judged on this principle the question is whether the demand in the harsh tone abruptly and without permission of the court can be regarded as contempt. Before I give a finding on this point . I must first hold whether the learned District & Sessions Judge was right in considering that the appeal filed by the revision-petitioner Vijay Rao was incompetent and that he should have only filed a revision. In my opinion the learned Judge is not correct in holding that the appeal was incompetent. His reasons are that the contempt being 'ex facie curiae' and sentence merely a fine, the same day and before the rising of the court, it comes

under Section 413, Indian Cr.P.C. and no appeal is competent under the express provision of the section. This is so, but in Clause (1) of Section 486 it is provided that 'notwithstanding anything herein before contained any person sentenced under Section 480 may appeal'. A perusal of Section 480, Cr.P.C. will show that it provides punishment for the offence of contempt according to Section 228, I.P.C. when the Court proceeds under this section summarily on the same day. The learned District & Sessions Judge has not considered this Clause (1) of Section 480, but has confined his attention to Clause (2), which makes Chapter 31, Cr.P.C. on appeals applicable to contempt proceedings. It is evident that this does not, in any way, abridge the provision of appeal in Clause (1) and hence I am unable to agree that there is no appeal against the summary punishment of a fine up to Rs. 200/-under Section 228, I.P.C.

Had the Court intended severe punishment, it would have sent the case to another Magistrate with a complaint in writing and in that case, provisions of Section 480 or Section 486 would not have applied, but those of Sections 476 and 195, Criminal P. C. would have applied. Thus I hold that in the case under consideration an appeal was competent, and the learned District & Sessions Judge erred in holding otherwise. Thus evidently he could have heard the appeal and decided it himself under Section 486, I.P.C. It is suggested that I should now remand the case to the learned District & Sessions Judge to dispose it of. It will only entail further delay. As the learned District & Sessions Judge has expressed his opinion on the matter, I may consider it and acting on it either accept or reject his re-commendation. In my opinion, abominable though the conduct of Vijay Rao may be, yet as the learned District & Sessions Judge has held that he is of a different opinion, in a revision I may not go against his opinion. Revision is, therefore, allowed. I may, however, state that Vijay Rao's conduct was reprehensible and he should desist in future from such conduct.