

In Re: Kamal Narain Singh

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Court : Allahabad

Decided On : Nov-02-1999

Reported in : (2000)1UPLBEC59

Judge : N.K. Mitra, C.J. and ;S.R. Singh, J.

Acts : [Contempt of Courts Act, 1971](#)

Appeal No. : Criminal Contempt Case Nos. 17, 35 and 590 of 1998

Appellant : In Re: Kamal Narain Singh

Advocate for Pet/Ap. : Mr. Katiyar

Judgement :

N.K. Mitra, C.J. and S.R. Singh, J.

1. The proceeding before us is the appartion of the three contempt cases in Re Kamal Narain Singh, referred above. Having emerged from the gravevard in which the composite corpus of the three cases were burned with contemner's comeuppance in each of the three cases disposed of by a common judgment dated 28-5-1999, the ghost is chasing two Advocates namely Sri V.C. Mishra, Senior Advocate and his Advocate son Sri Vivek Mishra, besides some officials of the Copying Section of this Court and the contemner Kamal Narain Singh himself by using the vehicle of contempt of Court jurisdiction of this Court. The proceeding, it appears, has been initiated as a suo motu review by the Bench which had

disposed of the contempt cases as aforesaid. It is neither necessary nor desirable to speak of the circumstances under which the proceeding was withdrawn from the concerned Bench and placed before this Bench for disposal.

2. It so happened that one Kamal Narain Singh filed a writ petition being Criminal Misc. Writ Petition 91 of 1998 for quashing of the first information report in Case Crime No. 376 of 1997 registered against him under Section 3 (1) of the U.P. Gangsters and Anti Social Activities Act, 1986, P.S. Mohammadabad, District Farrukhabad on 30-12-1997. The said writ petition was grounded on the allegations that the petitioner thereat happened to be a political worker belonging to Samajwadi Party and the case crime aforesaid was registered against him at the instance of members belonging to the BJP ruling party. In support of his contention that he belonged to Samajwadi Party the petitioner Kamal Narain Singh placed reliance on certain documents which purported to have been issued under the signature of Shri Mulayam Singh Yadav, the National President of Samajwadi Party. The Court found the documents to be forged and fictitious and accordingly dismissed the writ petition vide judgment and order dated 11-2-1998. Criminal Contempt case No. 59 of 1998 came to be registered against Kamal Narain Singh for his produced the 'forged and fictitious document for the purpose of the Rule'. Relevant portion of the order date 11-2-1998 is quoted.

'Since the petitioner has produced before us a forged and fictitious document to his knowledge for the purpose of obtaining a Rule, we are of the view that he has committed not only contempt of this Court but also offence punishable under the provisions of the Indian Penal Code. Issue notice to him as to why appropriate order in that regard be not passed against him. Since Mr. Katiyar learned Counsel for the petitioner states that he has instructions only to appear in the case which has been dismissed, let office issue a notice to the petitioner on the address given in the writ petition and the supplementary affidavit making the Rule returnable on 25th March, 1998. The notice to be registered as a separate criminal contempt case. Sd/- Sd/-B.K, Roy, J. P.K.Jain,J.'

3. The contemner Kamal Narain Singh did not appear in pursuant to Court's order dated 11-2-1998. However, on 15-4-1998 Sri V.C. Mishra, Senior Advocate and

Sri Vivek Mishra, Advocate, put in appearance for the contemner Kamal Narain Singh and submitted that since the contemner had not been served with the notice, he could not know if he had to appear personally before the Court. The case was adjourned to 28-1-1998 awaiting the appearance of the contemner and for the reasons recorded in the order dated 15-4-1998, the Court directed that another Criminal Contempt Case be registered against the contemner. Relevant part of the order reads as under :

'We had not exempted his personal appearance from his criminal contempt proceedings and under the Rules of the Court he was expected to appear personally today the date fixed from before. We, accordingly farther charge him as to why he should not be punished for not personally presenting himself today and for that purpose we issue another notice to him fixing 10 A.M. of Tuesday dated 28th April, 1998. Since Mr. Misra, learned Counsel states that he has no instructions to receive notice of this second criminal contempt proceedings we direct the office to dispatch another notice to the contemner at the address mentioned by him in his writ petition as well as supplementary affidavit including the Vakalatnama which has been filed today. We reserve our further comments in this regard awaiting his appearance on 28th April, 1998 alongwith his show cause in the first criminal contempt proceedings as well as the second criminal contempt proceedings which we have initiated which has to be registered separately by the office and put up together on the adjourned date.'

4. On the basis of the order aforesaid Criminal Case No. 35 of 1998 cause to be registered against the contemner Kamal Narain Singh. It appears that during the pendency of the aforesaid two contempt proceedings it was brought to the notice of the Court that even though Criminal Misc. Writ Petition No. 91 of 1998 filed by the contemner had been dismissed vide order dated 11-2-1998, the contemner filed yet another Criminal Misc, Writ Petition No. 1236 of 1998 grounded on the same cause of action and obtained interim order of stay of his arrest dated 9-1-1998 in crime case No. 376 of 1998, P.S. Mohammadabad, District Farrukhabad under Section 3 (1) of the U.P. Gangster and Anti Social Activities (Prevention) Act, 1986. The fact that the earlier petition had been dismissed was not disclosed in the subsequent writ petition and in the affidavit it was stated that the writ petition

namely the second one was the first writ petition with regard to the criminal proceedings sought to be quashed therein. When this fact was brought to the notice of the Court, the third criminal case was ordered to be registered against the contemner Kamal Narain Singh vide order dated 10-7-1998 on the basis whereof Criminal Contempt Case No. 59 of 1998 In Re Kamal Narain Singh came to be registered. Since the contemner was not present in Court, directions were issued to the police authorities to apprehend and produce him before the Court. The case was adjourned to 24-7-1998 awaiting production of the contemner. It appears that the police submitted a report that the contemner was absconding and concealing himself whereupon the Bench by its order dated 24-7-1998 directed attachment of immovable properties of the contemner. Ultimately the contemner could be apprehended on 19-5-1999 and an application dated 21-5-1999 was moved by the learned Additional Government Advocate praying therein that appropriate orders be passed in respect to detention of the contemner as well as his production before the Court, On 22-5-1999 the Court directed that the said Criminal Misc. Application be placed after registering its number alongwith records of Criminal Case No. 17 of 1998 on 24-5-1999 at 1.45 P.M. in Chambers of one of the Hon'ble Judges constituting the Bench. Pursuant to the said order the contemner was produced in Chambers on 21-5-1999 on which date the contemner is said to have given a statement that on 11-2-1998 he was personally present in Court when the writ petition was dismissed but Sri V.C. Mishra, Senior Advocate advised him to leave the Court room and so him in his chambers. The contemner, it appears, made further statement to the effect that his signature was obtained by Shri V.C. Mishra on a Vakalatnama for moving the Supreme Court against the orders dismissing the writ petition and further that he has handed over Rs. 20,000/- in cash to Sri V.C. Mishra for the purpose of filing the case in the Supreme Court. The Bench seized of the matter felt that the facts stated by the contemner, prima facie, made out a case of criminal contempt as against Sri V.C. Mishra and Sri Vivek Mishra but before saying anything in this regard it considered imperative on its part to give an opportunity to the aforementioned Advocates to have their say in the matter and accordingly adjourned the three criminal contempt proceedings to 26-5-1999. The order dated 24-5-1999 contained the following directions to the Copying Section of the Court:

'The Copying Section of the Department of the Court is directed to furnish particulars of the application/applications for whom they have been filed and to whom they were handed-over for supplying certified copy of the orders passed in the writ petition as also in the contempt proceedings.'

5. A copy of the order dated 24-5-1999 was served on Sri V.C. Mishra, Senior Advocate and Sri Vivek Mishra, Advocate on 25-9-1999 alongwith a complete copy of the order sheet and relevant papers. Sri V.C. Mishra and Sri Vivek Mishra appeared in person on the date fixed. They submitted that the statement made by the contemner was wholly false, frivolous and motivated for the purpose of damaging their integrity and reputation at the instance of their enemies. They accordingly prayed for permission to withdraw their appearance from the first Contempt Case No. 17 of 1998 in which alone they had entered appearance earlier. After hearing learned Additional Government Advocate appearing for the contemner and Sri V.C. Misra, Sri Vivek Mishra, their Counsel, Shri J.N. Tiwari and Sri Jagdish Tiwari, Government Advocate, the Bench reserved its order and deferred its delivery to 28-5-1999, The contemner was directed to be produced in Chambers on 28-5-1999 and in the meantime he was ordered to be kept with Civil Lines Police Station, Allahabad.

6. Judgment was delivered on 28-5-1999 whereby the contemner Kamal Narain Singh was held guilty of committing contempt of Court and sentenced in each case to undergo imprisonments and to pay fines as indicated in the order. For the purpose of this case it is no necessary to go into details of the punishment inflicted on the contemner Kamal Narain Singh. The main judgment was delivered by P.K. Jain, J., So far as Sri V.C. Mishra and Sri Vivek Mishra, Advocates are concerned it was held that the statement of the contemner against them had been, 'in all probabilities given by the contemner in order to save his skin from punishment that may be awarded to him in the contempt proceedings'. It was accordingly held that :

'In out view the statement of contemner which is not supported by any corroborative material and possibility of which being false in the circumstances stated above cannot be ruled-out, cannot be accepted.

In the circumstances dated above be also permit Sri V.C. Mishra and Sri Vivek Mishra to withdraw their appearance from Criminal Contempt Case No. 17 of 1998 in which alone they had entered appearance on behalf of the contemner.'

7. B.K. Roy J., while agreeing with the opinion of P.K. Jain J., passed an additional order with reference to the conduct of Sri V.C, Misra but the conclusion arrived at by P.K, Jain, J. that the contemner had made false statement against Sri V.C. Misra and Sri Vivek Misra in order to save his skin from punishment remained undiluted.

8. We have heard Sri J.N. Tiwari appearing for Sri V.C. Misra and Sri Vivek Mishra and Miss Nwaid Moonis, Additional Government Advocate and perused the entire record including the 'Minutes' dated September 24, 1999. Judicial discipline forbids us from making any comment with respect to the 'Minutes' dated September 24, 1999 recorded in the Criminal Contempt Case No. 59 of 1999 and as stated earlier in this judgment it is neither necessary nor desirable to go in to the circumstances in which the so called 'part heard cases' stated to be 'at the hearing stage of review' were directed to be placed before this Bench. On a conspectus of judgment and order dated 28-5-1999 we veer around the view that the notices issued to Sri V.C. Mishra and Sri Vivek Misra to explain their conduct in the backdrop of the statement made by the contemner which in the opinion of the Bench made out a 'prima facie' case of criminal contempt as against Sri V.C. Misra and Sri Vivek Misra stood discharged on Sri V.C. Misra and Sri Vivek Misra being given a clean chit vide order dated 28-5-1999, Thereafter there appears no justification for initiating a suo motu review proceedings and giving notice of the same to Sri V.C. Misra and Sri Vivek Misra. We are also of the view that the contemner Kamal Narain Singh having been convicted and sentenced in the criminal contempt cases, referred to above, there is no justification to review the matter.

9. So far as the proceeding against the officials of the Copying Section of this Court is concerned, it appears, that officials of the Copying Section failed to furnish, 'particularly of the application/applications for whom they have been filed and to whom they were handed over, for supplying certified copy of the orders

passed in the writ petition as also in the contempt proceedings' as per order of the Court dated 24-5-1999. However, by order dated 12-7-1999 the Registrar of the Court has been directed to institute an enquiry into 'unfortunate lapse of the Copying Section of the Court' and take 'suitable action against erring person/persons' and in such view of the matter we find no justification to simultaneously proceed on judicial side in exercise of contempt of Court jurisdiction which is a special jurisdiction to be 'used cautiously and exercised sparingly' to uphold the dignity of the Court and the majesty of law. The idea behind conferral of such jurisdiction in superior Court of record is that cautious exercise of the special jurisdiction to punish for contempt would help establish the 'reign' of law, 'Reign of law', it may be observed, is the mind and will of God and administration of justice', in true sense on the term, is the pursuit of goodness and beauty 'Satyam Shivam Sundaram', and from that reckoning, it is a divine task. In its pursuit of truth, goodness and beauty, the Court ought to bear in mind, with Sir Edward Coke, that 'if a river swell beyond its banks, it loseth its own channel'. It need hardly be said that the power of contempt is meant to be used and exercised, for preserve the authority of the Court and not to wreak personal vengeance against any individual nor the exercise of this special jurisdiction should be suggestive of any witch-hunting otherwise, we are sure, 'it will instantly lose all its authority' and the power of the Court will not long survive the authority. In the fact situation of the present case we are of the considered view that further continuance of the proceeding would be tantamount to witch-hunting and lead the Court to lose its channel of administration of justice. We are of the considered view that it would be in furtherance of justice that the chapter is closed sooner the better.

10. In the result the proceeding originating from the order dated 12-7-1999, copy of which was ordered to be served to Sri V.C, Misra, Senior Advocate and Sri Vivek Misra, Advocate, i.e. the so called review proceedings are dropped. Let the record be consigned to record room.