

In Re: Ram Chandra Sharma

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Court : Allahabad

Decided On : Sep-19-2005

Reported in : 2007CriLJ2225

Judge : Sushil Harkauli, ;R.K. Agrawal, ;Rakesh Tiwari, ;D.P. Singh and ;Tarun Agarwala, JJ.

Appellant : In Re: Ram Chandra Sharma

Judgement :

1. We have heard Sri Ram Chandra Sharma son of late Sri Mohan Lal Sharma, who has been charged with having committed ex-facie contempt of High Court on 2-9-2005. We have also heard the learned Government Advocate.

2. The earlier facts are as follows:

On 2-9-2005 a Bench of five Hon'ble Judges passed the following order:

This Bench assembled today at 2.00 p.m. for hearing the Criminal Contempt Case No. 25 of 2004. On the last hearing on 12th August, 2005, we had framed charges against 10 contemner-Advocates and the Court directed the Registry to serve the charges on the said contemnors. Today's date was fixed by us on 12th August, 2005.

Today, when the case started, Shri P.N. Saxena, learned Senior Counsel appearing on behalf of Rajendra Prasad Mishra, one of the contemnors, made an

application supported by affidavit, praying that the charges framed against Rajendra Prasad Mishra be recalled and he may be discharged from the contempt proceedings. Shri Saxena completed his arguments and thereafter we also heard Shri Sudhir Agarwal learned Additional Advocate General assisted by Shri Vijay Mishra, Government Advocate for the respondents. As soon as Shri Sudhir Agarwal completed his arguments, Shri Ram Chandra Sharma, who is one of the contemnors, against whom we had framed charges on 12th August, 2005, stood up and started saying that he also wants to make some submissions. We immediately told him that we will hear him. In between Shri U.N. Sharma and Shri A.B.L. Gaur, learned Senior Advocates who are appearing for other contemnors informed the Court that charges have been served on the contemnors represented by them only on 31 st August, 2005 and they require some time to file their objections or affidavits. On this request, we observed that we will grant time to all such contemnors who want to file their objections to the charges or affidavits. On making this observation, Shri Ram Chandra Sharma, the contemner said that he should immediately be heard. He stated that he is not being heard by the Bench and injustice is being done. Thereafter, he started shouting. The Bench repeatedly asked him to cool down his voice and make his submission in normal voice. The Bench further observed that whatever objection he wants to file, he may give in writing or file the affidavit. The Court further observed that he may also take time to file his objections like other contemnors. On this observation, Shri Sharma said that he does not want any time and started shouting at a very high volume thumping the desk with intention to brow-beat the Court. He further shouted that the Court should speak in Hindi because he only knows Hindi. The Court observed that in case he cannot control his speech and gesture, a counsel may be engaged by him. Shri Sharma flatly refused to engage any counsel and further said that he cannot lower down his voice and the Court is bound to hear him. Again, thumping the table, he said that the Court is bound to hear him even if he does not file any objection in writing, to the charges. When some lawyers tried to pacify him, he rebuked them. We also noticed that Shri Vinod Chandra Dubey, the Ex. President of the District Bar association, Allahabad stood up and wanted to pacify him but he snubbed him and did not accede to his request. Shri Ram Chandra Sharma has prima facie conducted himself in a manner which amounts to criminal contempt,

lowering down the authority and dignity of the Court.

In above view of the matter, we, after being satisfied that prima facie, criminal contempt has been committed by Shri Sharma, frame following charges against him:

That you Ram Chandra Sharma, son of late Shrt Mohan Lal Sharma, during the course of hearing in Criminal Contempt No. 25 of 2004 today at 2.00 p.m., started shouting on a high volume and after thumping the desk, made unruly scene by speaking in a loud voice that you be heard by the Court and the Court should only speak in Hindi as you do not understand the language of the Court (Main Aapki Bhasa Nahin Samajhta, Mujhse Hindi Maein Baat Karein). The Court thereafter made queries in Hindi and asked you to take time for filing the reply/affidavit to the charges which were framed against you on 12th August, 2005 as other contemnors are being allowed time by us today, On this, you started shouting again and said that you do not want any time and the Court should hear you just now. On the Court's repeated request to lower down your voice and speak in normal voice, you refused to abide and further raised your voice and started shouting in the Court, disturbing normal Court's functioning. You tried to overawe the Court by shouting and brow-beating. By your shouting in the Court, the Court could not proceed any further with the case. When other lawyers sitting in the Court wanted to pacify you. you rebuked all of them and refused to mend your ways. Your above conduct amounts ex facie contempt of the Court during the course of hear ing.

We direct that Shri Ram Chandra Sharma be taken into custody forthwith and sent to jail. We further direct the Registrar General to serve the above charge today itself upon Shri Ram Chandra Sharma, the contemnor.

Shri Sharma is allowed a week's time to file reply to the above charge.

List the matter on 9th September, 2005 at 2.00 p.m. for appearance of Shri Ram Chandra Sharma.

On 9-9-2005 the same Full Bench passed the following orders:

Re: ex facie contempt dated 2-9-2005

On 2nd September, 2005, the charge for ex facie contempt was framed against Ram Chandra Sharma. He was served the copy of the same on the same date and was asked to submit the reply. No reply has been filed. He has been produced before us. Instead of submitting the reply today, he said that being in Jail, he could not submit the reply, nbr he could consult the lawyer.

At this stage, he sarcastically challenged the wisdom of the Judges in calling for explanation for committing contempt during the period when he was in Jail. At this, Advocates present in the Court Room laughed loudly. On this he quipped that there was nothing to laugh. One of us (A.K. Yog, J.) pointed out that none of the Judges except Advocates laughed on his statement.

However, he said that he had seen the pathetic conditions prevailing in Jail for which he would file a writ. He also advised that every person worth of his manhood, must go to Jail for some time. When he was asked to maintain the dignity of the Court by some of the lawyers, he (Ram Chandra Sharma) sarcastically pointed out that one of us (Hon'ble Mr. Justice A.K. Yog) was also smiling. This statement was totally false and the conduct of Ram Chandra Sharma was totally irresponsible meant to create a scene in the Court. Under the circumstances, we are of the opinion that it is in the interest of justice that the matter of ex facie contempt of 2-9-2005 should be referred to another Bench to be constituted by Hon'ble the Chief Justice/Senior Judge for hearing the same and further appropriate order may be passed by that Bench. For that purpose, the matter may be listed on 19-9-2005.

Till then, the petitioner is remanded back to Jail.

The Registrar General is directed to register the ex facie contempt against Ram Chandra Sharma in respect of the charge framed against him on 2nd September, 2005, as a separate case.

3. Pursuant to the above order dated 9-9-2005, this Bench was nominated by the order of Hon'ble Senior Judge dated 9-9-2005 to try the ex facie contempt,

4. Shri Ram Chandra Sharma, the contemner was brought before us today from jail, where he is presently serving out sentence of imprisonment awarded to him for another contempt of Court, by a five Judge Bench headed by the Hon'ble the Chief Justice vide order dated 16-9-2005.

5. Shri Sharma has submitted that he has not filed any written reply or counter affidavit in respect of the charge framed against him by the order dated 2-9-2005, and has also submitted that he does not propose to file any written reply because of certain constraints. He has submitted that he is not filing a written reply. According to him he has been out of practice for the past ten months as a result of a restraint order against him passed by a five Judge Bench which has debarred the contemner from entering the Civil Court premises. Further, according to Shri Sharma, he is the sole bread earner of his family and having been in jail he was handicapped in preparing, drafting and filing written reply. However, Shri Sharma has orally expressed regrets for the incident of 2-9-2005 in open Court, and has also stated that his loud voice, which was taken otherwise by Bench of 5 Hon'ble Judges on 2-9-2005, was his normal voice resulting from the fact that he practises only in lower Court where facility of microphone is not available.

6. Even if loud voice is ignored, the fact remains that 5 Hon'ble Judges in their order dated 2-9-2005 have mentioned that

(1) he created an unruly scene by thumping the desk in presence of the Bench;

(2) Despite repeated request of the Court to lower down his voice he further raised his voice and started shouting in the Court disturbing normal functioning of the Court;

(3) He tried to overawe the Court; and

(4) He even rebuked the other lawyers present in the Court who tried to pacify him.

7. When five Hon'ble Judges have said in their order that the contemnor indulged in such activity in their presence it would be very difficult to disbelieve the allegations even if denied. But in absence of any denial, this Court must proceed on the basis that all the above allegations in the charge are correct,

8. Disturbing the proceeding of any Court and not allowing the Court to function normally, on part of any person is a serious matter as it threatens to disturb the orderly functioning of the legal system. The matter becomes more serious when the functioning of a five Judge Bench in the High Court is disturbed. And it becomes all the more serious when such activity is by an Advocate, who is expected to maintain the decorum and help in upholding the dignity of the Court in the eyes of litigants and public at large. When an advocate, being an officer of the Court, indulges in disturbing the Court proceedings, it sends a very wrong message to the general public and tends to shake public confidence in the system. The very existence of law Courts depends upon the public confidence, which they inspire.

9. We, therefore hold Shri Ram Chandra Sharma, Advocate, to be guilty of contempt, as charged above.

10. In view of what has been stated above, normally this kind of ex facie contempt of High Court by a contemnor, who at the time of committing it was already facing a contempt proceeding in which he was ultimately convicted, and when the contemnor is an advocate and commits the ex-facie contempt in the presence of a Bench of five Judges should invite heavy punishment.

11. However, considering the background and circumstances orally mentioned by Shri Sharma in which the ex facie contempt has been committed as also the regret expressed by contemnor in open Court today, we impose the following punishment upon Shri Ram Chandra Sharma:

(1) Shri Ram Chandra Sharma son of late Shri Mohan Lal Sharma is sentenced to three weeks simple imprisonment and a fine of Rs. 1,000/- payable by him or on his behalf to the Registrar General of this Court within three days. In case of default in payment of fine, he shall be taken into custody through the Registrar General of this Court and sent to Jail to serve out the sentence for a further period of one week.

(2) The above sentence of three weeks will remain suspended and will revive if Shri Ram Chandra Sharma commits contempt of any Court again within the next

three years.

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