

Gurbakhsh Singh Vs. the State

Gurbakhsh Singh Vs. the State

SooperKanoon Citation : sooperkanoon.com/615851

Court : Punjab and Haryana

Decided On : Sep-16-1959

Reported in : AIR1960P& H211; 1960CriLJ511

Judge : I.D. Dua, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 107, 151 and 481;
[Indian Penal Code \(IPC\), 1860](#) - Sections 228

Appeal No. : Criminal Revn. No. 689 of 1959

Appellant : Gurbakhsh Singh

Respondent : The State

Judgement :

ORDER

(1) The record of this case has been submitted to this Court by the learned Sessions Judge, Kapurthala, with the recommendation that the order passed by Shri Dev Raj Gupta, Magistrate, 1st Class, Kapurthala, Campt Phagwara, dated 25th of January, 1957 be set aside and Capt. Gurbakhsh Singh be acquitted of the charge levelled against him. It appears that Dev Raj Gupta, Magistrate, 1st Class, (Executive), Kapurthala, while holding his Court in the Rest House at Phagwara on 25th of January 1957 convicted Capt. Gurbakhsh Singh, Block Development Officer, for contempt of Court.

(2) The fact as they appear from the order of the learned Sessions Judge dated 30th of April 1959 are that a jeep supplied by the Government to the office of the Block Development Officer, Phagwara, was requisitioned by the District Magistrate for election purposes from 17th of January 1957 up to the afternoon of 25th of January 1957. The said jeep was placed under the charge of Shri Dev Raj Gupta but as the jeep was urgently required by Capt Gurbakhas Singh on the evening of 25th of January 1957 he was anxious to get it back from Shri Dev Raj Gupta.

Correspondence on this subject was going on between the two officers, when, on 25th of January 1957, while Shri Dev Raj Gupta was holding his Court at Phagwara Rest House and the case 'State v. Nama' under Section 107/151, Criminal Procedure Code, was being heard and the statement of a witness was being recorded, Capt. Gurbakhsh Singh approached Shri Dev Raj Gupta, the presiding officer. According to the version of Shri Dev Raj Gupta, Capt. Gurbakhsh Singh had some talk with him and then the Magistrate was asked as to why he had insulted his, i.e., the Captain's subordinate.

The Magistrate was thereupon told that he should go on tour in the jeep because the use of jeep was unbecoming for such officers as the Magistrate. Shri Dev Raj Gupta kept quiet but the petitioner again said that such officers like Shri Dev Raj Gupta should be taught a lesson and then they would come to their senses. Unparliamentary language was also used on that occasion. Shri Dev Raj Gupta thereupon asked his Reader to draw a Robkar, Exhibit I. B., and the Magistrate then required Capt. Gurbakhsh Singh by means of a notice to show cause as to why contempt of Court proceedings under Section 228, Indian Penal Code, be not started against him.

Capt. Gurbakhsh Singh felt a little confused and the Magistrate gave him half an hour's time to consider the matter. Shri Dev Raj Gupta then passed a final order that Capt. Gurbakhsh Singh had been given an opportunity but with tears in his eyes he expressed his willingness even to pay a fine of Rs. 10/-; this was considered by the Magistrate to amount to an expression of apology, with the result that it was ordered that the fine of Rs. 10/- need not be recovered.

Capt. Gurbakhsh Singh was then pardoned. As against this version, Capt. Gurbakhsh Singh stated in his revision petition against the impugned order, that Shri Dev Raj Gupta was at that time not sitting as a judicial officer. He was on the other hand talking with Tehsildar, Naib-Tehsildar and the Executive Officer with his back towards the table. The Magistrate ordered the Prosecuting Sub-Inspector to arrest Capt. Gurbakhsh Singh but he hesitated to do so.

There upon the Magistrate warned Capt. Gurbakhsh Singh that he was under arrest and was made to sit there up to 4-52 P.M. The Magistrate thereupon told Capt. Gurbakhsh Singh that he was allowed to go and that he had been fined Rs. 10/- which he had failed to pay. According to Capt. Gurbakhsh Singh, no such order was pronounced. He also alleged that the original record of the proceedings had been destroyed and a different one had been reconstructed; and this had been done with the object of injuring Capt. Gurbakhsh Singh.

I may at this stage mention that against the order of Shri Dev Raj Gupta, Capt. Gurbakhsh Singh filed a revision in the court of the Sessions Judge but the same was dismissed on 5th of April, 1957 with the observation that after the discharge of the notice by the Magistrate there remained no proceedings in the lower Court which could be quashed by the learned Judge. The learned Sessions Judge, however, presumed the official Act of the Magistrate, as a judicial officer, to have been performed in accordance with law.

Against the order of the learned Sessions Judge, Capt. Gurbakhsh Singh filed a Criminal Revn. No. 660 of 1957, in this Court which was allowed by Tek Chand J. on 30th of January 1958 and the learned Sessions Judge was directed to hold a sifting enquiry into the allegations and to dispose of the petition for revision in accordance with law. The learned Single Judge observed that the discharge of Capt. Gurbakhsh Singh on his tendering an apology did not mean that no proceedings for contempt of Court had been taken against him; Capt. Gurbakhsh Singh remained an offender notwithstanding the order of discharge.

According to the learned Single Judge, the revision petition ought not to have been rejected by the learned Sessions Judge on the ground that the order need not have been set aside even if the allegations of the petitioner were well-founded.

The allegations of the petitioner were considered by Tek Chand J. to be very serious and grave which called for a sifting enquiry. It was in pursuance of this order that the learned Sessions Judge held an enquiry and examined the evidence in the case.

The learned Sessions Judge has observed in his order that it is an admitted fact that some unpleasantness took place when Ajaib Singh, Prosecuting Sub-Inspector, was examining the prosecution witnesses. Indeed, the learned Judge felt convinced that the occurrence in question took place when Shri Dev Raj Gupta was sitting as a Court and that it made no difference if the presiding officer was at the precise moment talking either with the Block Development Officer or with someone else.

The learned Judge also felt that in the instant case an attempt was made to hush up the matter but Capt. Gurbakhsh Singh was not prepared to do so. The learned Sessions Judge did not accept the version of Capt. Gurbakhsh Singh that the original record had been destroyed and fresh one reconstructed. The version that Shri Gupta had got a Robkar drawn up and sent to the police appeared to the learned sessions Judge to be natural and plausible.

It has, however, be considered by the learned Sessions Judge that the Magistrate did not comply with the provisions of Section 481 of the Code of Criminal Procedure which lays down that in very such case of contempt, as is referred to in Section 480, 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, and if the offence is under Section 228 of the Indian Penal Code, the record shall show the nature and the stage of the judicial proceedings in which the Court interrupted or insulted, was sitting, and the nature of the interruption or insult.

In the instant case, according to the learned Sessions Judge, all the proceedings were recorded by the Reader and Shri Dev Raj Gupta merely put his signatures and the nature and stage of the judicial proceedings when the alleged obstruction took place was not mentioned; nor was the statement of the accused recorded at any stage of the proceedings. On these findings the learned Sessions Judge considered that the order passed by Shri Dev Raj Gupta was liable to be quashed

since the formalities contained in Section 481, Criminal Procedure Code, had not been complied with, and Capt. Gurbakhsh Singh was entitled to acquittal.

(3) Mr. Dara Singh has appeared in support of the recommendation of the learned Sessions Judge and Mr. Kartar Singh Kwatra has appeared for the State. While the case was being argued Mr. Dara Singh offered an unqualified apology on behalf of his client, and indeed, his client has also placed on this record a written apology stating that he is sorry for the incident and he tenders an unqualified apology. In view of this apology, I think no more action is necessary to be taken in this matter.

I must, however, clearly state that I did not find it possible to accept the recommendation of the learned Sessions Judge in its entirety and to pass a final order of acquittal. Had the apology not been offered, I would have felt inclined to order a fresh trial according to law. In this connection it has to be borne in mind that to insult a public servant while he is sitting in any stage of a judicial proceeding or to cause an interruption to such public servant is a very serious matter and the Legislature has conferred a power on the Court, itself in such a contingency to cause the offender to be detained in custody and, if through fit, to take cognizance of the offence and sentence the offender.

The gravity of the offence is clear from the fact that the Court in such cases has been given the extraordinary power of being the complainant, the prosecutor and the Judge. The Legislature has thus manifested its anxiety to maintain and uphold the dignity and prestige of courts of justice. Indeed, even this Court has been given the power to deal with contempt of the Courts subordinate to it, in certain circumstances. It is, therefore, essential that a judicial officer while exercising the extraordinary powers of committing a person for contempt of Court must never allow his personal feeling to have any weight or importance because those powers have been conferred on him exclusively for the purpose of supporting the dignity of his important office and not for upholding his own vanity. A judicial office being a sacred trust, the presiding officer is expected never to be influenced or swayed in making his decisions in this connection by feelings of his personal retaliation. It is only by sustaining and keeping in view those high standard that public confidence

in the integrity of the Courts, which is so vital to our form of Government, can be maintained. These considerations also lead me to think that the provisions of Section 481, Criminal Procedure Code, must be construed to be mandatory, calling for strict compliance. It has sometimes been said and, in my opinion rightly, that the safety of a truly democratic Government is dependent to a large extent on the confidence and respect which the people have for its courts; it is, therefore, the sacred duty of every Court in our Republic to strive to merit, inspire, and to preserve such confidence and respect.

It is for this reason that the courts are enjoined to behave in a manner in keeping with the dignity and the prestige which the Legislature has undertaken jealously to uphold, and any laxity on the part of the judicial officers in this respect, while performing judicial functions, must receive disapproval from this Court. If what Capt. Gurbakhsh Singh has alleged is true, it is a very serious matter and indeed it was so observed by Tek Chand J.

The learned Sessions Judge has, however, not chosen to believe the version given by Capt. Gurbakhsh Singh and this being a revision, perhaps it was not open to him as of right to reopen this matter in these proceedings. At the same time the conduct alleged against Capt. Gurbakhsh Singh is no less serious. To willfully impede, hinder, embarrass, interrupt or obstruct the judicial proceedings, or to insult the Court, in its presence, in the course of adjudication of some cause, amounts to undue interference with the administration of justice and therefore to contempt, and as such it can never be tolerated or countenanced by this Court.

It must also be clearly understood that contempt may be shown either by language or by manner; and language which may otherwise be unobjectionable, if uttered in a temperate manner, may become highly improper constituting punishable contempt if uttered in a different and disrespectful manner. A presiding officer of a Court of justice in this country representing, as he does, the Indian Republic is entitled to respect and any disrespectful or undue hindrance or interruption in the course of judicial proceedings constituting, as it does, a challenge to the Court's authority, deserves to be severely dealt with.

The status or the official position of the person who choose to so interrupt is wholly irrelevant. Indeed, the higher the status of a person, the more responsible conduct and behavior is expected from him. It is thus incumbent on all judicial officers in this state to behave in a manner which would fully justify the anxiety shown by the Legislature in protecting their dignity and prestige in the discharge of their judicial functions; similarly persons, who may feel aggrieved by something, which the presiding officer of a Court of justice may have done, are expected to exercise sufficient self-restraint not to permit themselves to be swayed or led away, by impulse, so as to commit contempt of Court.

(4) With these observations holding the order of the Magistrate to be technically defective, I quash the same and also direct that, in view of the unqualified apology tendered by Capt. Gurbakhsh Singh, no further action is necessary to be taken in this case.

(5) Order quashed.