

**State Vs. Bhavani Singh**

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**Court :** Delhi

**Decided On :** Aug-16-1967

**Reported in :** AIR1968Delhi208a; ILR1968Delhi1

**Judge :** I.D. Dua,; S.K. Kapur and; Hardayal Hardy, JJ.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 57; [Indian Penal Code \(IPC\), 1860](#) - Sections 189, 290 and 504

**Appeal No. :** Criminal Appeal No. 2 of 1967

**Appellant :** State

**Respondent :** Bhavani Singh

**Advocate for Pet/Ap. :** K.C. Pandit,; Chabildas and; Sushil Malhtora, Advs

**Judgement :**

**I.D. Dua, J.**

(1) On 6/5/1967, an application was

(2) What happened on presentation of this application, had better be reproduced as stated in the orders of the learned Magistrate himself : -

'IMMEDIATELY on receipt of the application at my residence a written order was issued to the said S.H.O. to produce the accused Along with necessary papers i.e.

F.T.R. and Zimnis etc. and gto the same served on him as per my peon. But the the S.H.O. who was in the Police Station appeared before me at 9.30 p.m. and that also without the accused and any papers regarding arrest and the offence committed, if any, stating that the accused was in the Police Station and that no F.I.R. or toher papers were ready. Thus, the arrest naturally being illegal and uncalled for the release of the accused was ordered on bail subject to his entering into a bond of Rs. 100.00 with a surety in the like amount and I asked the S.H.O. both verbally and in writing to produce the accused for the execution of the requisite bond. But he did nto produce the accused, although I continued waiting thereforee inside my residence and the surety and the petitioners outside. At 12 at night i.e. three and a half hours after the first order and two and a half hours after the order of release (the police station being hardly a furlong from my residence) the said S.H.O. handed over a report to my peon outside hurriedly and ran away in spite of being 'repeatedly asked to stop and report personally. The accused was also made to appear there dramatically at 12 P.M. On perusal of the report it was found stated therein by the S.H.O. that the accused who was a school boy had apologised and was nto under any arrest. To conclude the proceedings I recorded the statement of the boy Shri Dorje Angrup who revealed that he was arrested by the said S.H.O., taken to the police station, given beating there, trampled down under the feet and then forced to apologise, which he had to do to save his life. There being no further necessity left to secure execution of the said bail bond, the boy was told that he was free to go to home.'

(3) The learned Magistrate felt that the Station House Officer, Shri Bhawani Singh, A.S.I., was guilty of contempt of court in nto obeying the Court orders promptly and in flouting them. He, however, considered himself helpless because in case he initiated proceedings for contempt of Court, there would be no agency at Keylong to execute his orders which would tend further to lower the dignity of the Court in the eyes of the people. A copy of this order was accordingly forwarded to the learned Sessions Judge, Mandi who has in turn forwarded it to this Court for perusal. Copies were also apparently forwarded to the Inspector General of Police, Himachal Pradesh, and to the District Magistrate, Lahaul & Spiti District at Key-long.

(4) On going through this order, this Court directed a case for contempt of Court to be registered in the registry and fixed 23/6/1967 for its hearing before a Full Bench of three Judges. Notice was duly sent to the contemner, Shri Bhawani Singh. On 23/6/1967, a written statement was presented in this Court by the contemner through Shri Chhabil Das, Advocate. Though in the opening paragraphs of this written statement, the contemner purported to place himself at the mercy of this Court, respectfully tendering his unqualified apology and sincerely assuring this Court that he would not commit such an action in future, he, nevertheless, in his version covering about five pages, attempted to explain his conduct in which he tried to justify what he had done. After giving, what he calls an Explanation, he has again concluded the written statement praying that the unqualified apology tendered by him may be accepted and the rule issued against him discharged. In his Explanation from what we can gather, he has tried to point out that Dorje Angrup had actually thrown dirty water which fell on the contemner's uniform and that since the accused and his companions did not disclose his identity, the contemner had to take the accused to the police station for ascertaining his particulars under section 57, Criminal Procedure Code. A non-cognizable offence under sections 290/189/504, Indian Penal Code, having been committed, and the accused having refused to disclose his identity, the contemner, according to his Explanation, was authorised to take him to the police station. After ascertaining his identity, the contemner released the accused on a personal bond of Rs. 500.00 without surety. This version shows that the arrest of the accused Dorje Angrup has been admitted by the contemner. It is further admitted that the contemner found at the police station a summons issued by the learned Magistrate and after completing the entries in the daily diary, the contemner immediately went to the learned Magistrate to disclose to him that this case had been compromised and the accused had already been released. This compromise and the release has been stated by the contemner to have taken place at about 8-20 P.M. when he received an original application made to the learned Deputy Commissioner exercising the powers of District Magistrate. That application had been made by nine students, on which there was an endorsement by the Deputy Commissioner requiring the contemner to see the former in this connection. The contemner went there and found the Deputy Commissioner along with a few other boys present. All

those boys are stated to have apologised for Dorje Angrup's conduct and Dorje Angrup is also stated to have given a written apology to the contemner. The learned Deputy Commissioner thereafter asked the contemner nto to press his case against Dorje Angrup because he was a just school boy and had apologised. After this episode, the contemner returned to the police station where he found the summons from the learned District Magistrate's Court waiting for him. It is nto denied by the contemner that when he went to see the learned Magistrate pursuant to the summons, the learned Magistrate asked for the accused and for the first information report as also for the Zimnis, but the contemner replied that the accused had already been released, though he was still at the police station, and that the case had already been compromised. It is futher admitted that the learned Magistrate still gave an order in writing to produce the accused along with relevant papers. Soon thereafter, the contemner returned to the police station for the purpose of producing the accused before the learned Magistrate but the latter had by that time left and in spite of search conducted by the contemner, the accused could nto be found till about 12 midnight. In these circumstances, the contemner merely delivered the report to the peon of the learned Magistrate, stating that the case had already been compromised and the accused realeased. Regret is expressed by the contemner for nto personally going to explain the position to the learned Magistrate which would have proved the contemner's bonafides. This default on his part, according to the written statement, created a misunderstanding in the mind of the Magistrate, for which the contemner has expressed his apology. This written statement was supported by an affidavit sworn by the contemner. A separate application dated 23/6/1967 was also produced, according to which contemner placed himself at the mercy of this Court and respectfully tendering his unqualified apology, sincerely assured that he would never commit such an action in future. Considering that in contempt matters, there cannto be buth a justification and an apology, we expressed a desire to hold an enquiry into the allegations made by the contemner making it clear that if the result of the enquiry went against him, then there would be no question of any apology being taken into account. Realizing the futility of such an apology, the learned counsel for the contemner requested for some time in order to put in unqualified apology without attempting to offer any justification or Explanationn for what has

happened according to the order of the learned Magistrate. By means of a short order, we adjourned the case to 26/6/1967. On that day an application supported by an affidavit was put in by the contemner tendering an unqualified apology, seeking to withdraw his Explanationn tendered on 23/6/1967 and also apologising for having attempted to justify and explain his conduct.

(5) The offence of contempt of court is co-eval with the administration of law by the State and its paramount idea is that no tribunal can function properly unless it is allowed to keep up its dignity and unless it has B power to enforce its orders. The orders of the Courts of law and justice in this Republic are enforced through the police agency, and indeed it is the duty of this agency to carry out and enforce such orders and also to see that there is no obstruction caused to their enforcement. Disobedience on the part of such agency of orders of Courts of law and justice is, therefore, an offence which can be ignored only at the risk of rendering the Courts impotent, which would in turn bring into ridicule the judicial process. This would result in utter confusion in the realm and the administration of justice and the Rule of law would be reduced to mockery. It may also be clarified here that an apology by a contemner does nto entitle him to an order of discharge and it merely mitigates the offence in certain circumstances, and indeed the Court has to consider the matter only from the point of view of the administration of justice. In order to be a mitigating factor, the apology must be tendered at the earliest opportunity and it must be outpouring of a penitent heart moved by a genuine feeling of remorse and overcome by a sense of one's guilt. It should nto be merely an apology for an apology or a convenient device to escape punishment. Belated apology as an after-thought thus serves no purpose. It must be indicative of repentent regret and contrition tendered at the earliest opportunity, exhibiting realisation of wrong having been done by the contemner and it must be free and frank expressions of his feelings.

(6) In the present case, it is submitted at the Bar that the contemner is an inexperienced officer and that he did nto realise the serious implication of what he was doing. We are, however, informed that he has been in service for nearly 20 years. This long period, in our opinion, does nto indicate that he is a raw officer who has recently joined police service. From our experience in this Court, it

appears to us that in the remote areas of the Union territory of Himachal Pradesh, the police officers, in all probability, do not seem to realise that, in the Indian Republic, Rule of Law dominates and governs their conduct in their dealings with the people and that they are under a solemn obligation to respect the fundamental right of personal liberty guaranteed by the Constitution to all inhabitants. In taking this charitable view, we have given the benefit of doubt to the contemner.

(7) We do not consider it proper to express any opinion of the averments in the written statement dated 23/6/1967, as the Explanation contained therein has been expressly withdrawn. Even otherwise, that Explanation does not touch the charge of disobedience of the order of the Magistrate which is the real gravamen of the offence of contempt of Court in this case. We may, however, point out that the personal bond for Rs. 500.00 referred by the contemner in his written statement has been seen by us and we have hardly been impressed by this document. The offence and the date of appearance are, curiously enough, not mentioned therein. We need say nothing more on this point.

(8) After considering all the circumstances of this case, we feel that the ends of justice would be served by giving a warning to the contemner and requiring him to bear the costs of the State to the extent of the Counsel's fee which we fix at Rs. 50.00. This amount should be paid within six weeks from to-day. It is however, earnestly hoped that proper steps would be taken by the authorities concerned to impress upon all the police officers in the Union territory of Himachal Pradesh that their highest and first duty is to promptly obey the orders of the Court, particularly when those orders require production of persons detained by them along with the relevant papers on which such detention is supposed to be based, and any lapse in this respect would be taken serious notice of. We would also like to point out that since the legal position has now been clarified by us, in future, such conduct would call for a far more serious action at the hands of this Court and no leniency would be shown for disobedience of the Court's orders.

(9) We also consider it proper to suggest to the authorities concerned that the contemner Shri Bhawani Singh, A. S. I., be transferred from Keylong to a place far away from there.

