

High Court Vs. Sant Ram

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Court : Delhi

Decided On : May-08-1975

Reported in : 1975RLR349

Judge : Jagjit Singh and; M.S. Joshi, JJ.

Acts : [Contempt of Courts Act, 1971](#) - Sections 2, 10 and 15(2); [Indian Penal Code \(IPC\), 1860](#) - Sections 219; [Code of Civil Procedure \(CPC\), 1908](#) - Sections 10

Appeal No. : Criminal Order Appeal No. 83 of 1974

Appellant : High Court

Respondent : Sant Ram

Advocate for Pet/Ap. : Charanjit Talwar, Adv

Judgement :

M.S. Joshi, J.

(1) These proceedings have arisen from a letter designated as a complaint and addressed by Sant Ram' to Hon'ble Chief Justice of High Court of Delhi in August, 1974.

(2) A copy of this letter was sent by the Registry for his comments to Shri Sagar Chand Jain, Judge Small Cause Court, Delhi because of its containing certain serious allegations against him and he made a reference, while submitting his reply, under Section 15(2) of the [Contempt of Courts Act, 1971](#) (mentioned hereinafter as 'the Act') suggesting action being taken against Sant Ram. The said reference and the impugned communication were placed before a Division Bench of this Court and the Bench ordered on 11th November, 1974, on its own motion, issue of notice to Sant Ram to show cause why he should not be punished for contempt.

(3) The Registry issued the notice to Sant Ram in pursuance of this order and he filed a reply thereto. At the hearing the respondent urged before us that the notice received by him was confined to the reference made by Shri Sagar Chand Jain and he was not answerable, for that reason, in respect of the alleged contempt of the High Court of Delhi and of Shri B. B. Gupta, previously Judge of the Small Cause Court and at present an Additional District and Sessions Judge. The order of the Division Bench dated 11th November, 1974 did in no manner restrict itself to that portion of the letter as made objectionable imputations to Shri Sagar Chand Jain, it embraced the whole contumacious content of the communication and the notice issued by the Registry too did not bear out the respondent's contention. Still, so as to remove even a remote chance of misapprehension we ordered issue of a fresh notice on 13th March, 1975. A second notice was issued accordingly and it informed the respondent that his statements concerning Shri Sagar Chand Jain and Shri B. B. Gupta as well as the Judges of this Court prima facie appear to constitute criminal contempt as defined by sub-clauses (i), (ii) and (iii) of clause (c) of Section 2 of the Act.

(4) Sant Ram urged in his reply dated 21st March, 1975 that his complaint under Section 219 of the Indian Penal Code was bona fide and it carried true statements of facts calling for enquiry and action ; that the revocation or amendment of the earlier notice amounted to his discharge and the Court had no jurisdiction to proceed with the same matter again, that the contemplated action could not be taken in view of Section 6 and the proviso to Section 10 of the Act, that he had exposed the fraud committed by a bogus money-lender named Ram Prakash, who had obtained fraudulent decree to the tune of 5 lac rupees, but no action was taken, that he did not mean to be disrespectful to the Hon'ble Judge of this Court otherwise he would have made a similar complaint under Section 219 Indian Penal Code . against them also and that quite honestly and bona fide and with no other intention he had given vent to his suppressed feelings in a passing way just to draw the attention of the Hon'ble Chief Justice to be more vigilant and careful in keeping the temple of justice as much clean as possible ; that having no intent to insult or make uncalled for remarks he begged apology if his letter had hurt or was taken as contempt of this Hon'ble Court ; that still, if an enquiry was held in Camera on the complaint in question and the respondent was not threatened with action he might divulge more serious things which he could not do openly in his own interest and that of the public and the court ; that he had been making such bona fide complaints since 1969 and he had been further supported in his bona fide belief when he read the article. 'Cancerious growth of corruption in Judiciary' in Journal part of A.I.R. 1969 ; that the articles published in 'Crusader' left an impression that all was not well in the judiciary that the words contained his complaint meant to be dealt with administratively were not that had and the special interest shown in this matter created doubt as to the bona fide of the action contemplated and was discrimination of its own kind. It was urged by the respondent further that his earlier complaint of corruption against Shri B. B. Gupta stood fully proved when this Court set aside his judgment and decree in Civil-Revision No. 487 of 1972 as being contrary to law and that the judgment of Shri Sagar Chand Jain had been challenged in Civil Revision No. 459 of 1974 which was still pending in this Court. He desired that the said files be sent for and perused.

(5) It will be useful to give here briefly the history of the litigation, gleaned from the two files referred to by Sant Ram, which led to the writing of the letter under consideration.

(6) Satya Wati, wife of the Sant Ram, is in occupation of certain premises in Delhi and those premises are owned by Ram Narain and others. The landlords applied to the Controller for the eviction of the tenant and the matter ended in an order of ejection made executable two years after its date by virtue of the compromise arrived at by the parties. This happened in 1967. On 16th Jan. 1969, Satya Wati filed a suit for a declaration that the aforesaid compromise was illegal, void and ineffective because of its having been obtained by fraud and criminal intimidation and the defendants Ram Narain and others were not entitled to seek implementation of the said compromise or to claim any rent for the promise from her from 2nd July, 1967 onwards. On the other hand the landlords filed a suit to recover Rs. 368.00 as arrears of damages for use and occupation of the premises for the period 16th May, 1969 to 15th September, 1970 at the rate of Rs. 23 p.m. and it was decreed by Shri B.B. Gupta, Judge Small Cause Court, on 30th September, 1972. Satya Wati approached the High Court with a revision petition and Sant Ram argued here, as her general attorney, that the suit of Ram Narain and other was barred by Section 10 of the Civil Procedure- Code and lower court should have given a finding on this issue. Rangarajan, J., who disposed of that revision petition, found nothing wrong with the reasoning concerning the two issues dealt with by the Judge, Small Cause Court, and held that the contention of the petitioner with regard thereto did not merit any consideration at all, but he remanded the case to the subordinate court for a finding only on the point of bar of Section 10 of the Code of Civil procedure,

(7) By the time the case came up before the- Judge, Small Cause Court for arguments again Shri Sagar Chand Jain had taken the place of Shri B. B. Gupta as Presiding Officer of the Court. Shri Jain found that for want of evidence it could not be held that the matter in-issue in the suit before him was substantially in issue in some previous suit between. the same parties ; he consequently decided that point against the defendant and the same being the only point remitted by the High Court for adjudication passed a decree for Rs. 368.00 with

costs in favor of the plaintiff's on 3rd August, 1974. On 2nd September, 1974 a revision petition, was instituted by Sant Ram on- behalf of his wife for the setting aside of that decree.

(8) The impugned communication does not bear any date. It was received in the Registry by post on 16th August, 1974. Its contents are as follows :

'TOThe Hon'ble Chief Justice Delhi High Court, Delhi High Court v. Sant Ram (D.B.) Sub :-Complaint U/s 219 Indian Penal Code . and Section 5 of Act II of 1947 against Sri Sagar Chand Jain, Judge Small Causes Delhi. Sir, Respectfully I have to complain against the above named judicial officer for his criminal misconduct and offences U/s 219 Indian Penal Code . On 3-8-74 the above named Sri Sagar Chand Jain Judge Small Causes passed a judgment and decree quite contrary to Law (Section 219 IPC) and conducting himself in a manner in which even a man of ordinary intellect or prudence cannot even imagine or think. Suit No. 1062/ 74 Ram Narain and others v. Satya Wati was remanded back by Hon'ble Sri S. Rangarajan to be decided on the point of Section 10 CPC. The same was fixed for arguments on 31.7.74 before the said Judge. The accused Judge intentionally and deliberately suppressed all the material facts and evidence on record tendered for the purpose of Section 10 CPC. Because there was ample evidence and material on record to decide the point as noticed by the Hon'ble Judge Sri Rangarajan and that is why it was remanded back. Had there been nothing on record this Hon'ble Court would have dismissed the contention and the revision itself. But as there was sufficient ground even for this court to stay the suit but in order to get a decision of the lower court which was intentionally and dishonestly omitted by the predecessor Shri B. B. Gupta. This court maliciously and corruptly ignored those points on record and gave a perverse judgment to mislead the Higher authorities in a very deceptive and criminal way. So much so to kill two birds with one stone i.e. etc. take revenge and support Shri B. B. Gupta and in addition to have the hands greased, this accused judge even contemptuously ignored the High Court order restoring the dismissed suit to file in C.M. (M) 15/170 Ex. Dw I/A Satya Wati v. Jaspal Singh and Ram Narain etc. The said order Ex. Dw I/A by Hon'ble Sri Tatachari J, was itself sufficient proof to prove that the said suit No. 145/69 is to the effect of seeking declaration that the opposition party Sri Ram Narain etc. are not entitled to recover any rent after 2-7-68 and onwards. Needless to say that even in Preliminary objections specifically taken in the W.S. and making a statement on oath had no effect on the criminal prejudicial corrupt and dishonest mind specially when all this evidence was not rebutted or denied in any manner by the landlord plff. In fact, it is never needed 5 before a corrupt mind to take all such steps on record to justify him to give a corrupt judgment contrary to law. Only he is to be bribed. Bribe plus prejudice to take revenge and help another Brother Judge are sufficient grounds for the- said accused to go ahead with illegal and contrary to law orders. This will be borne out also by the fact that the judicial officer in Delhi feels- very much brave and emboldened when no action against them is taken by any officer of Vigilance or the Chief Justice or the Governor of Delhi. After such emboldment vulture pounced upon their feed furiously and keep all the- material over the shelf (Sab kuchh balai taaq rakh dia). This evil has been crept even into your own High Court. Also and some Senior Judges of your Hon'ble Court are not above- Board and are very much corrupt and malici. ous mind and mostly guilty of criminal mis-conduct (Section 5 of Act II 1947). Though there- are most foolish and duffer judges also in the lower court even but when this quality contaminates the High Court it shocks the common man. If an enquiry is made then the applicant assure to bring such material to the notice your Honour as to shake the conscience of your Lordship. After all some one is to come for. ward with courage to eradicate the evil as Sr. Jai Prakash Narain is rightly on the path and has caused the present Govt. to rise from slumber and the present raid are evidence of the effect of his campaign launched in Bihar. The lengthy judgment is a big fraud and is- nothing but a hoax and the criminal Judge: deserves to be punished. It is thereforee respectfully prayed that the case be taken up before the vigilance committee in which Sri Rangarajan should also be present and then it should be thoroughly gone into and action taken U/s 219 Indian Penal Code . read with Section 5 of Act II of 1947. One such action, will) make others at least on their guard not to behave in Kingly manner as 'Empire unto them- selves' to maintain the Majesty of Law and; dignity of court of justice. I may also be given a hearing in this matter - if taken up by the Vigilance Committee. Yours faithfully,. (Sant Ram)

(9) According to Sant Ram, as will appear from the underlined portions of the letter, Shri B.B. Gupta 'intentionally and dishonestly' omitted to decide the issue regarding applicability of Section 10 of the Civil Procedure Code and Shri Sagar Chand Jain intentionally and deliberately suppressed all the material facts and the evidence tendered for the purpose of section 10 CPC. Sim Jain's Court, he says, maliciously and corruptly ignored the points on record and gave a perverse judgment to -mislead the higher authorities in a very deceptive and criminal way. It is insinuated that Shri Jain made his judgment to take revenge and support Shri B. B. Gupta and in addition to have the hands greased' and he committed contempt by ignoring the High Court's order and restoring the dismissed suit. Shri Jain is said to have harboured 'criminal prejudice' and to have a 'corrupt and dishonest mind'. It is further remarked that Shri Gupta is capable of passing orders which are illegal and contrary to law if he is bribed and has a mind to take revenge and to help a brother Judge. Further more there is an allegation that the judicial officers in Delhi have been emboldened due to no action having been taken against them by any officer of the Vigilance Department or the Chief Justice or the Governor of Delhi and they have been compared with vultures. The evil (noticed in connection with the judicial officers) is said to have crept into the High Court itself and some of the Senior Judges of this Court' are said to be 'not above Board and 'to be very much corrupt' and having 'malicious -minds' and 'mostly guilty of criminal misconduct' punishable under Section 5 of the .Prevention of Corruption Act. It is stated -that though there are foolish and duffer judges ;in the lower courts also but the common man is shocked when he finds this quality contaminating in the High Court even.

(10) These scurrilous imputations scandalise ..and lower the authority of the High Court and the courts subordinate to it. They tend to interfere with the administration of justice and they'tend to interfere with the due course of judicial proceedings. There can be no doubt, therefore, as to their constituting 'Criminal contempt' within the meaning of clause (c) of Section 2 of the Act.

(11) Sant Ram has urged before us that he made a complaint to the High Court in good faith and no action for contempt can be taken against him in view of the provision in Section 6 of the Act. This section postulates that a person shall not be guilty of contempt of court in respect of any statement made by him in good faith, concerning the presiding officer of any subordinate court, to the High Court, to which it is subordinate. The caption given by Sant Ram to his letter is 'Complaint U/S 219 I. P. C. and section 5 of Act II of 1947 against Sri Sagar Chand Jain, Judge Small Cause of Delhi. The act inviting punishment under the two aforementioned provisions of law is shown by the letter to have been committed by Shri Jain as a Judge. Vide Section 197(1) of the Code of Criminal Procedure, 1973 :

'WHEN any person who is or was a Judge or Magistrate or a Public Servant not removable from his office save by with the sanction of the Governor is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction. (a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, or the Central Government. (b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State of the State Government.'

(12) It goes without saying that the Chief Justice of the High Court of Delhi did not have the authority to accord sanction for the prosecution of Shri Jain under Section 197 referred to above and there was no question of any court entertaining a complaint for the trial of Shri Jain on the charge leveled against him without such sanction. Sant Ram did not provide, as a matter of fact, tangible details of any offence to which Section 219 of the Indian Penal Code or Section 5 of the Prevention of Corruption Act could be attracted. It was not stated that bribe was paid to Shri Jain or who paid it and what was the date or time of the payment. It was not disclosed again why Shri Jain was motivated to wreak vengeance on Satya Wati and what Delhi High Court v. Sant Ram (D.B.) favor he intended to confer on Shri B. B. Gupta by passing a decree for Rs. 368.00 to the advantage of Ram Narain and more than half a dozen other persons. There is nothing unusual about a higher court remanding a case to the lower court for the decision of an issue which has remained undisposed of and

the judgment of the High Court did not attribute any misconduct in its order of remand to Shri B. B. Gupta. The imputations embodied in the so called complaint are patently scandalous and malicious and it is impossible to find even a trace of good faith in them.

(13) Moreover, if the letter was meant to be a complaint against Shri Sagar Chand Jain where was the necessity for incorporating in it contumacious averments against Shri B. B. Gupta and even the High Court who was guilty of misconduct deserving penal action under Section 5 of the Prevention of Corruption Act and the Chief Justice did not have the competence to proceed against a Judge as a disciplinary authority. It is obvious Sant Ram maligned Shri Gupta and Shri Jain because their judgments were not to his liking and he brought the Judges of the High Court in for calumny so that they should have a foretaste of the fate they would meet if the decree of the lower court was allowed to stand. Section 6 of the Act could never have been meant to afford shelter to persons indulging in this variety of contumacious statements.

(14) Another plea taken by Sant Ram is that on the date he wrote the letter the suit of Ram Narain and others had ceased to be pending and the publication of the said letter cannot, therefore, be deemed to constitute contempt of court vide sub-section (2) of section 3 of the Act. It is true that at the time Sant Ram sent his letter to the Hon'ble Chief Justice Ram Narain's suit against Satya Wati was not on the file of the Judge, Small Cause Court. It had already been disposed of by passing a decree in favor of the plaintiffs and the revision petition now pending in the High Court had yet to be instituted. But as per Explanation found in Section 3 for the purposes of this Section a judicial proceeding shall be deemed to continue to be pending until it is heard and finally decided, that is to say, in a case where an appeal or a revision is competent until the appeal or revision is heard and finally decided or, where no appeal or revision is preferred, until the period of limitation prescribed for such appeal or re revision has expired. The period of limitation for the institution of a revision petition against the judgment of Shri Jain had not run out when Sant Ram dispatched this letter by post - to the Hon'ble Chief Justice and the suit proceedings to which this communication related shall, therefore, be deemed to have been pending at the time of its publication. The provision relied upon by the respondent thus provides him no escape.

(15) Sant Ram has relied upon R.S. Singh Vs . Shiv Kumar, : AIR1971All170 turn advance the argument that the discretionary power to proceed for contempt is tot available as a cloak for judicial officer to cover up their inefficiency and corruption or to stifle criticism made in good faith against such officers. But it is to be seen that in that case the officer who initiated proceedings for the contempt of his own court as Magistrate had retired as Tehsildar, the petition for contempt was moved after the Vigilance Department had served on him a charge-sheet under Section 5(2) of the Prevention of Corruption Act and the enquiry into the charge laid was still pending and the cases to which the charge pertained had long since been disposed of. The Division Bench of the Allahabad High Court held in these circumstances that : There can be no doubt that while hostile comments on judicial proceedings which are pending may have an adverse influence on the proceedings themselves as well as on the litigants and Courts involved therein, the same cannot be said with regard to comments or reflections on the judicial proceedings, after they have been finally disposed of and the presiding officer had also retired.'

'THE purpose of an action in contempt is a practical purpose. In the instant case no practical purpose would be served by taking proceedings in contempt against the opposite parties as the impugned litigations have long been decided finally and the Tehsildar Magistrate himself retired more than three years ago. So there- can be no question of causing any apprehension in the mind of the litigant public now that they would not get fair and even handed justice from the applicant Tehsildar Magistrate. The applicant also can have no embarrassment in deciding cases in future on account of the allegations- made against him, inasmuch as he has already retired from service and is not deciding cases any longer. In view of the want of practice purpose' touching the matter, it is not a case in which this Court should launch contempt proceedings against the opposite parties or even some of them.

The respondent can derive no benefit from this case.

(16) It has been admitted that the letter was intended to be read by the Hon'ble Chief Justice alone and its contents were supposed to get no publication otherwise. But Sant Ram did not send the letter to the Chief Justice by name and he did not admittedly mark it as 'confidential'. According to the routine followed by the Registry of this Court the papers received by post are put by the Receipt Clerk in a pad and are placed before the Registrar. After the Registrar has seen them they go back to the Receipt Section through P. A. to the Registrar, Deputy Registrar (Admn.) and Assistant Registrar (Admn). The Receipt Clerk then distributes the 'dak' amongst different branches and a letter like the one in question is dealt with by an Assistant, the Assistant Registrar and the Deputy Registrar of the Gazette Branch and then by the Registrar. Contumacious information percolating to so many officials is no body's secret and at is sure, in due course of time, to be shared by all sorts of people. Sant Ram's letter too received the usual circulation before reaching the Chief Justice and its unavoidable perusal by numerous persons was publication enough for the purposes of the Act. In *Mulh Raj V. State of Punjab*, : 1972CriLJ754 dispatch of a letter to the Chief Justice, of India Was held by the Supreme Court to constitute a clear case of contempt because of the offensive language used therein.

(17) Sant Ram has argued further that the representations made by him in respect of Shri B.B. Gupta and Shri Sagar Chand Jain were correct and if he had been given an opportunity he would have proved them to be so. In the first instance, as has already been observed, there are no specific allegations which could be substantiated by proof, oral or documentary, and, secondly, justification of contempt is not permissible. Their Lordships observed in *Perspective of Publications V. State of Maharashtra*, : 1971CriLJ268 that it may be that truthfulness or factual correctness is a good defense in an action for libel, but in the law of contempt there are hardly any English or Indian cases in which such defense has been recognised. In *C.K. Daphtry V. O.P. Gupta*, : 1971CriLJ844 the Supreme Court held :

'If a Judgment is criticised as obtaining errors, and coupled with such criticism, dishonesty is alleged, the court hearing the contempt petition would first have to act as an appellate court and decide whether there are errors or not. This is not and cannot be the function of a Court trying a petition for contempt If evidence was to be allowed to justify allegations amounting to contempt of Court it would tend to encourage disappointed litigants and one party or the other to avenge their defeat by abusing the Judge'.

In view of those considerations their Lordships declined the request of the respondent to lead any evidence to justify the contempt in the said case.

(18) The fresh notice issued to Sant Ram refers to sub-section (1) and sub section (2) of Section 15 of the Act. The stand now adopted by him is that the matter of contempt of the High Court may be covered by sub-section (1) and that of contempt of Shri Jain's Court by Sub-Section (2) but there is no reference from Shri B.B. Gupta and, therefore, no action for the allegations made against the last mentioned officer can be taken in those proceedings. Section 10 of the Act provides that :-

'EVERY High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempt of itself',

As per sub-section (1) of Section 15 :-

'In the case of a criminal contempt, other than a contempt referred to in Section 14, the High Court may take action on its own motion'.

The last mentioned provision excludes from its ambit cases of contempt falling within the purview of Section 14, i.e. cases where contempt is in the face of the Supreme Court or a High Court, and none else and its necessary consequence would be that the High Court can deal with the contempt of a court subordinate to it also, suo motu.

(19) SUB-SECTION (2) of Section 15 deals *Delhi High Court v. Sant Ram* with cases of criminal contempt of

courts sub-ordinate to the High Court and provides that action in such cases may be taken by the High Court on a reference made by the subordinate court concerned or on a motion made by the Advocate-General or, in relation to a Union territory, by such law officer as the Central Government may, by notification in the Official Gazette, specify in this behalf. This subsection does not speak of the High Court acting on its own motion and it is so because that matter has already been dealt with by subsection (1) of the same section. The issue came up before a Full Bench of this Court in re : D.B. Vohra etc. (Criminal Original No. 88 of 1973) decided on 12th November, 1973 and it was held that a notice for contempt of a sub-ordinate court can be issued suo motu by the High Court under sub-section (1) of Section 15 of the Act because this section covers all cases relating to the cognisance of criminal contempt which are not covered by section 14.

(20) Sant Ram submits next that whatever he said with regard to Shri B.B. Gupta and Shri Sagar Chand Jain amounted, at the most to defamation of the said officers and they should be at liberty to prosecute him for that offence but the contempt proceedings for personal grievance of those officers are unjustified. Now the question whether a particular statement constitutes libel or contempt of the court depends on the contents of that statement and if it scandalises the court or tends to impair its authority or to interfere with administration of justice it will clearly invoke punishment under the Contempt of Courts Act. For a detailed exposition of the law on the subject a reference may be made on *Brahma Prakash V. State of U.P.*, : 1954CriLJ238 where it was observed :

'THERE are two primary considerations which should weight with the court when it is called upon to exercise the summary powers in cases of contempt committed by 'scandalising' the court itself. In the first place, the reflection on the conduct or character of a judge in reference to the discharge of the judicial duties, would not be contempt if such reflection is made in the exercise of the right of fair and reasonable criticism which every citizen possesses in respect of public acts done in the seat of justice. It is not by stifling criticism that confidence in courts can be created.' "In the second place, when attacks or comments are made on a Judge or Judges, disparaging in character and derogatory to their dignity, care should be taken to distinguish between what is a libel on the Judge and what amounts really to contempt of court. The fact that a statement is defamatory so far as the Judge is concerned does not necessarily make it a contempt.'

'THE position therefore is that a defamatory attack on a Judge may be a libel so far as the Judge is concerned and it would be open to him to proceed against the libeller in a proper action if he so chooses. If, however, the publication of the disparaging statement is calculated to interfere with the due course of justice or proper administration of law by such court, it can be punished summarily as contempt. One is a wrong done to the Judge personally while the other is a wrong done to the public. It will be an injury to the public if it tends to create an apprehension in the minds of the people regarding the integrity, ability or fairness of the Judge or to deter actual and prospective litigants from placing complete reliance upon the court's administration of justice, or if it is likely to cause embarrassment in the mind of the Judge himself in the discharge of his judicial duties. It is well-established that it is not necessary to prove affirmatively that there has been an actual interference with the administration of justice by reason of such defamatory statement, it is enough if it is likely, or tends in any way, to interfere with the proper administration of law'.

The foregoing principles have been approved and affirmed in a number of subsequent authorities and to serve as instances we may mention. *State of Madhya Pradesh v. Reva-shankar.* : 1959CriLJ251 , *Perspective Publication v. State of Maharashtra*, : 1971CriLJ268 and *Baradakanta v. Registrar, Orissa High Court*, : 1974CriLJ631 .

(21) In the perspective of the law so laid down we find that the allegations made by Sant Ram against Judges functioning as such cannot be characterised as airing of a genuine grievance nor are the same of the nature of a fair comment. It would not be right to say that they hurt only the particular Judges individually, they tend in fact to impair the faith which the people have been reposing in the integrity and fairness of the judicial courts and to bring the judiciary at both lower and higher levels in disrepute. The malicious imputations in Sant Ram's letter seem to be calculated to malign and intimidate the Judges concerned with the litigation to

which his wife was a party and they constitute flagrant criminal contempt because of their tending, apart from scandalising the courts, to interfere with a judicial proceeding and the administration of justice.

(22) Sant Ram has relied on the proviso to Section 10 which is to the effect that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code. The contemner's banking upon this proviso is misconceived because his act, which is the subject matter of these proceedings, is not punishable as contempt under any provision of the Indian Penal Code. The question of law raised by the respondent has been conclusively determined by the Full Bench decision of this Court in re : D. B. Vohra (supra).

(23) The respondent has quoted before us re : Naraparoddi Sesharoddi, 39 Cri. L.J. 875, Hari Singh V. Balmokand, A.I.R. 1950 EP 367 and Peary Lal V. Emperor, 18 Cri L.J. 527 but the decisions in those cases proceed on their own facts and have no bearing on the present case.

(24) Sant Ram has not offered any apology in respect of the contempt of the courts of B.B. Gupta and Shri Sagar Chand Jain. As regards the contempt of the High Court he submits that he had no intent to insult or make uncalled for remarks and 'begs apology if his remarks have hurt or are taken as eon- tempt of this Hon'ble Court.' In his letter there is an allegation as to some Senior Judges of this Court not being above Board and being guilty of criminal misconduct. In the reply he says that in making these remarks he had one particular Judge in view. This plea cannot be genuine because the insinuation pertained to 'some Senior Judges' and not to a Judge named by him and he could not have actually alluded to that Judge because he had retired long before the aforesaid letter was written. There is then a rider to the apology i.e. still if the enquiry is held in Camera on the complaint in question and the respondent is not threatened with such action he may divulge more serious things which he cannot openly do so in his own interest and that of the public and the courts. In another paragraph of the reply he says :

'I would apology so far as the passing remarks in the complaint are concerned without going into their properties or how far they have affected the courts as required by Section 13 of the Act as there is nothing on record to show this Though there may be sufficient material with me to prove my bonafides, yet I do not want to disclose them in open which may otherwise prejudice the responent further in his life. However, if a secret enquiry in confidence is promised, I am ready to make my views open- which I believe are definite and positive.'

In the penultimate paragraph of his reply he terms the issue of the notice in this case as 'special interest shown in this matter' and goes- on to say that it'creates doubt as to the bonafide of the action contemplated and constitute discrimination of its own kind.' He has filed by way of annexures to his reply copies of several documents and on his reading out of the same we learn that which-ever judicial officer gave a judgment unpalatable to him be came a target of .his wrath and opprobrious allegations were made against him irrespective of his status. His victims include a Judge of the High Court and a District and Session Judge who has since retired as a Judge of an other High Court. He has tried to convinceus that his campaign of vilification of judicial' officers has been on for the last 15 years and he thinks no action can now be taken against him because he has acquired a right to such vilification through some sort of prescription. It was observed by Mahajan. C.J. M.Y. Sharaaf V. High Court of Nagpur, : 1955CriLJ133 that:

'THEproposition is well settled and self evident that there cannot be both justification and an apology. The two things are incompatible. Again an apology is not a weapon of defense to purge the guilty of their offence; nor is it intended to operate as a universal panacea, but it is intended to be evidence of' real contriteness.'

(26) In Mulk Rai V. State of Punjab (supra) Ray, J., (as hid Lordship then was) remarked that apology is an act of contrition and unless it is offered at the earliest opportunity and in good grace it is shorn of penitence. As Chamber of Colour & Chemicals V. Forward Markets Commission we have said Sant Ram has not offered apology is respect of the contempt of the courts of Shri B.B. Gupta and Shri Sagar Chand Jain and his apology for the contempt of High Court Judges too is intrinsically insincere and, therefore, unworthy of acceptance.

(27) Section 12 of the Act provides that the accused may be discharged on apology being made to the satisfaction of the court and carries an Explanation that an apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide. Sant Ram has exhibited no repentance in respect of a considerable part of his contumacious conduct and his apology with regard to the rest will serve no purpose because of its being devoid of good faith.

(28) The contemner's argument that he has been discharged of the contempt once and he cannot be hauled up on the same charge again has just to be stated to be rejected. The second notice issued to him was aimed merely at making the earlier notice a little more clear so that the respondent should labour under no misunderstanding to plead that the said notice was confined to the contempt of Shri Sagar Chand Jain's court alone. He is definitely not being proceeded against for the same offence more than once,

(29) The accused desired us to send for all the files on which his previous communications requesting for action against various judicial officers have been placed. We did not feel the necessity of doing so because the said communications had no connection with the contempt to which the present proceedings pertain. According to his prayer it would rather have worsened the matters for him instead of being of any assistance to the respondent. His authorship of the inculpatory letter was admitted by Sant Ram and there was no such issue involved as should have needed evidence from either side for its determination.

(30) In view of the foregoing reasons we are satisfied that the respondent is guilty of criminal contempt as defined by clause (c) of Section 2 of the Act and this contempt is of such a nature that it tends substantially to interfere with the due course of justice. He is, therefore, convicted under Section 12 of the [Contempt of Courts Act, 1971](#) and sentenced to simple imprisonment for six months and fine of Rs. 200.00. In case of non-payment of the fine he shall suffer one month's simple imprisonment more. He shall be taken into custody forthwith to undergo the sentence awarded to him.

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