

State of U.P. Vs. Resident Editor, Times of India 16, Rana Pratap Marg, Lko and ors

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Court : Allahabad

Decided On : Feb-04-2011

Judge : Rajiv Sharma; Vedpal, JJ.

Acts : [Press and Registration of Books Act, 1867](#)

Appeal No. : Criminal Misc. Case No. 1788 (C) of 2010

Appellant : State of U.P.

Respondent : Resident Editor, Times of India 16, Rana Pratap Marg, Lko and ors

Judgement :

1. These proceedings for contempt of Court have been initiated by this Court suo motu on the basis of the news item, published in the Times of India dated 18.8.2010 with the caption " AYODHYA, MEMORIES OF A DISPUTED LIFETIME" to which the attention of the Court was invited by certain members of the Bar.

2. Brief facts leading to these proceedings for contempt of Court are that Ram Janma Bhoomi Babri Masjid Title Suit, being O. S. No.4 of 1989 was pending before this Court for adjudication wherein one Sri Mohd. Hashim Ansari was plaintiff No.7. Sri Mohd. Hashim Ansari was interviewed by Ms. Manjari Mishra, Reporter of Times News Network and was photographed by Sri Ajay Singh. The said interview was published in Times of India Edition no. 194 Vol. 28 dated

18.8.2010 by Sri Dhanush Vir Singh without editing. The said news item was selected by Sri Saurabh Banerjee Editor, who was responsible for selection of news under [Press and Registration of Books Act, 1867](#) in the said newspaper. The Reporter of the said news-item was Ms. Manjari Mishra, which was based on an interview given by Md. Hashim Ansari. The interview as printed in the Times of India dated 18.8.2010 is as under:-

"AYODHYA, MEMORIES OF A DISPUTED LIFETIME"

3. Manjari Mishra/TNN : Ayodhya : "Last 60 years seem more like a graveyard full of memories." Hashim Ansari, the original plaintiff in the Babri Masjid-Ram Janambhoomi Title Suit and convener of Babri Masjid Reconstruction Committee, when angry, is known to turn poetic.

4. Sitting at his home, badgered by a "band of hare-brained mediators rooting for an out of court amicable settlement.", Hashim seethed with rage: "Aren't we all 60 years late for a compromise, " he asked. "All witnesses are dead, litigants are dead, even lawyers have gone to the other world. Only Hashim Ansari lives to see this tamasha, " he complaints.

5. Babri dispute today has no 'mazhabi' (religious) character. It is a pure and simple political battle, a multi-crore cottage industry of Ayodhya for those who have made a fortune peddling the image of a deity behind bars, he continues in the same tone. Why will they close shop so easily, " he asks.

6. The handkerchief size room has space barely for two wooden takhats, Hashim, facing a framed photograph of Babri Masjid, occupied one. "I want the point, but to pray. Pray for sanity to be restored, for communal amity so that everybody lives in peace. This is not asking for much."

7. Memories of the joint journey to courtroom in company of Ramchandra Paramhans Das (the main defendant, now no more) are still fresh in him mind. " You see there are no Muslim and Hindu issues in Ayodhya, " the old man insists. "Ask me, I know best. A man who has been fighting a court case since 1950....60 long years and till this day no Hindu has every misbehaved with me..... na kisi

Hindu ne gaali di, na patthar mara. What proof can be bigger than this?"

8. The Babri case could well be the reason for his longevity. "How can I go before the case is decided? " Hashim asks. Though ailing, he has been regular about his attendance in the courtroom. The last one logged in on January 11, 2010, he proudly declares. Not bad for a man of 90, he chuckles.

"However, these are stressful times. Dil Bahot dhadakta rahta hia, " he admits.

These eyes have seen so much, what else is to follow, I wonder, Hashim says as he launches into a bitter tirade against politicians. Right from Narsimha Rao, Sonia Gandhi, Mulayam Singh, Azam Khan et al, each one of them has let the Muslims down, " charges he.

"I want a proof that India is a secular country a 'Jamhuriyat' (democracy or people's rule)" he says and challenges. "Let the judges prove it now."

"What if the verdict goes against him?"

9. His eyes flashing. Hashim's voice goes several decibels higher. " What do you mean? Why are you forcing me to state something which everybody knows anyway? That will be a black day in our history signifying mobocracy has replaced democracy in India. There will of course mayhem, bloodbath and much else. " the excitement proves too exhausting and he is quiet to regain his breath.

" I for one don't want to live through all this, though there are several others who would simply love that. Babri dispute could be my passion but to them it is big money, position and power, " he says."

10. During the course of interview, Mohd. Hashim Ansari uttered the following sentence:-

" I want a proof that India is a secular country a 'jamhuriyat' (democracy or people's rule), "he says and challenges. "Let the judges prove it now."

11. Thereafter, Manjari Mishra put a question to Mohd. Hashim Ansari, which reads as under:-

"What if the verdict goes against him?"

12. Reply to the aforesaid question is as under:-

"His eyes flashing. Hashim's voice goes several decibels higher. "What do you mean? Why are you forcing me to state something which everybody knows anyway? That will be a black day in our history signifying mobocracy has replaced democracy in India. There will of course mayhem, bloodbath and much else. " the excitement proves too exhausting and he is quiet to regain his breath."

13. When the Court perused the said news item, the Court was of the opinion that it prima facie gives an unambiguous message to the readers that if the matter is not decided in a particular way, serious unruly consequences would occur and the uttering made by Mohd. Hashim Ansari in his interview was not a sheer wishful thinking of the result of the suit but there was clear indication that if anyhow the result comes otherwise, which is well known to all, the consequences would be very serious and thus it amounts to an implied threat also to the Court to decide the matter in a particular way as pointed out by the interviewer. The Court was further of the opinion that freedom of speech and expression cannot be acceded to publish any article commenting adversely in sub-judice matter and since it has been published in the newspaper without any reservation in violation to all ethical norms, it affects the administration of justice and the Editor, the Reporter, the Photographer and Interviewer all are liable to be proceeded with for the offence of contempt of court. Thus notices were issued to all concerned through Chief

Judicial Magistrate, Lucknow and Faizabad.

14. In pursuance of the notice issued by this Court, Shri Dhanush Vir Singh, Shri Saurabh Banerjee, Shri Ajay Singh and Ms. Manjari Mishra appeared and filed their response seeking unconditional apology and stated that they have highest regard and respect for the judicial system and there was no mala fide intention on their part behind publishing the said news item.

15. Mohd. Hashim Ansari, in his affidavit, stated that he was co-plaintiff in O.S.No. 4 of 1989 and is aged about 90 years, is hard hearing and on account of old age, he is suffering with acute physical pain also and he was even not in a position to understand correctly the question put to him and the answers published. He clarified that there was no intention on his part to interfere with the administration of justice or threat to any judge or to Court or any hindrance in the administration of justice and further submitted that he tenders his unconditional apology and taking into account his old age, his past antecedent that he has always been obedient and respectful to the judiciary and is law abiding citizen, he may be pardoned for the publication in question and his unconditional apology may be accepted.

16. Ms. Manjari Mishra further filed her counter affidavit stating that what was infact stated with full understanding by Mohd. Hashim Ansari in his interview, was published accurately. No further affidavit was filed by Mohd. Hashim Anshari to controvert the averments made in the affidavit filed by Ms. Manjari Mishra.

17. We have heard learned counsel for the alleged contemnors as well as Shri Jaideep Narain Mathur, Additional Advocate General and perused the record of the case.

18. The first question that arises for consideration is as to whether the uttering made by Mohd. Hashim Ansari was accurately published as such in the news item with the caption "AYODHYA MEMORIES OF A DISPUTED LIFETIME" in Times of India dated 18.8.2010.

19. It reveals that interview of Mohd. Hashim Ansari taken by Ms. Manjari Mishra has been published in the Times of India dated 18.8. 2010. The question put to Mohd. Hashim Ansari and the answers given by him has been published in "Inverted Comma" as follows.

"I want a proof that India is a secular country a 'Jamhuriyat' (democracy or people's rule)"

He says and challenges. "Let the judges prove it now."

"What if the verdict goes against him?"

20. His eyes flashing. Hashim's voice goes several decibels higher. "What do you mean? Why are you forcing me to state something which everybody knows anyway? That will be a black day in our history signifying mobocracy has replaced democracy in India. There will of course mayhem, bloodbath and much else." the excitement proves too exhausting and he is quiet to regain his breath.

21. Mohd. Hashim Ansari made a feign attempt to say that due to old age, he was not in a position to understand correctly the question put to him and he is also not able to say that answers given by him has been translated and published accurately in English in the news item.

22. Ms. Manjari Mishra in her affidavit has deposed that in the interview what was stated by Mohd. Hashim Ansari was correctly translated and published in the newspaper and no addition or any change was made by her. The answers given by Mohd. Hashim Ansari during the interview have been placed under "Inverted Comma". No affidavit, denying the truthfulness of the contents of affidavit filed by Ms. Manjari Mishra has been filed on behalf of Mohd. Hashim Ansari. Thus, it stands proved that what was stated by Mohd. Hashim Ansari in his interview to Ms. Manjari Mishra was accurately published in the newspaper and thus this question is decided accordingly.

23. Now the next question that arises for consideration is as to whether the utterings made by Mohd. Hashim Ansari in his interview falls within the ambit of

Contempt of Court. It reveals from the perusal of the answers given by Mohd. Hashim Ansari that if the matter is not decided in a particular way, serious unruly consequences would follow and thus there was clear indication that if anyhow the result comes otherwise, which is well known to all, the consequences would be very serious and thus it amounts to an implied threat to Court to decide the matter in a particular way as pointed out by interviewer. Thus the utterings made by Mohd. Hashim Ansari in the interview in question falls within the ambit of contempt of court. It affects the administration of justice. Thus, this question is accordingly decided in affirmative.

24. Now the last question that arises for consideration is as to whether the interview of Mohd. Hashim Ansari was taken and published in the newspaper by its Reporter, Editor etc. in violation to the ethical norms and it affects the administration of justice and as such the Editors, Reporter and Photographer are also liable for the contempt of Court.

25. In the instant case, four persons proceeded against belong to the press. The freedom of press in a country is the symbol of the great ideologies of greater men. A free press is the soul of a democracy. Therefore, the framers of our constitution gave a lot of importance to "freedom of speech and expression." It was declared to be a Fundamental Right, and has been granted under Article 19 (1) (a) of our Constitution.

"Article 19. Protection of certain rights regarding freedom of speech, etc.

(1)All citizens shall have the right-

(a) To freedom of speech and expression;"

(b).....

(c).....

(d).....

(e).....

(f).....

(g).....

26. But, the Constitution under Article 19 (2) has also laid down restrictions to the use of the Fundamental Right, which speaks as follows:

"19.[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of [the sovereignty and integrity of India], the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offense.]"

27. It was the Report submitted by the Press Commission of India in 1954 which stated:-

"Within the limits of this legal tolerance, the control over the press must be subjective or professional. The ethical sense of the individual, the consciousness that abuse of freedom of expression though not legally punishable must tarnish the fair name of the press, and the censure of the fellow journalists should all operate as powerful factors towards the maintenance of the freedom even without any legal restrictions being placed on the freedom."

28. It is true that the media has freedom under our Constitution but the media should avoid tendencies like sensationalism, misleading headlines, twisting of facts, vilification of an individual, an institution, a court of law, a caste, a community or Government, interfering or tending to interfere with course of justice by adopting the role of an investigator, counsel or witness, by usurping the function of a court of law in matters sub-judice by publishing extra-judicial

information in a pending trial, by attacking the integrity of judges, etc. If the media fails to avoid these dangers, it comes under scrutiny of the law of libel or slander or defamation or contempt of court, as the case may be. Therefore, the media must set its ideals fairly high. True reporting, fair criticism, impartial purveying of news should be its motto. Else, the Printer and Publisher will also be liable. Absence of knowledge of content of the news sheet is no defence, nor can intention be a valid plea.

29. It is a common feature of the newspaper to publish with fanfare the court proceedings in pending matters and particularly sensational criminal proceedings. If the publication does not purport to prejudge any issue in criminal proceedings, it is not a contempt to report the occurrence of a crime or the fact of an arrest or charge. However, it is a contempt of court to publish comments on pending proceedings which prejudices the merits of the case or which imputes guilt to, or asserts the innocence of a particular accused. Similarly, the publication before trial of what, purports to be the defence to be put forward by an accused person may amount to a contempt of court. It is a serious contempt for a newspaper systematically to conduct an independent investigation into a crime for which a man has been arrested and to publish the results of that investigation or to publish the effect of judgment which is yet to be pronounced.

30. Ram Janam Bhoomi Babri Masjid dispute has always been a volatile issue in the Country and this was the reason that certain guidelines were issued by the Press Council of India on January 21, 1993 for guarding against the commission of the following journalistic improprieties and un-ethicalities:-

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comment, on them.

2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.

3.Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievance whether the same be genuine or not.

4.While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievance of any community with a view to having the same redressed by all peaceful legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.

5.Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.

6.Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.

7.Emphasizing matters that are apt to produce communal hatred or ill-will, or fostering feelings of distrust between communities.

8.Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.

9.Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or distinctive types.

10.Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths or their founders.

31. In the instant case the guidelines issued by the Press Council of India as stated above were also not followed in its letter and spirit. The news item as was published was provocative, calculated to embitter relations between two communities and a message to Court that if the pending matter is not decided in a particular way, serious unruly consequences would occur. It also reveals from the

perusal of the news item that an attempt was also made to get the answers of Mohd. Hashim Ansari that in case the pending suit is not decided in his favour serious consequences would occur. In this attempt, a question was put by Ms. Manjari Mishra to Mohd. Hashim Ansari that what will happen if the verdict goes against him, whereupon reply what was given by Mohd. Hashim Ansari as has been narrated in earlier part of judgment. Thus Ms. Manjari Mishra attempted to get such news that may sensationalize matter and may also have an affect communal harmony which affect of yielding pressure on the Court to decide the matter in a particular way.

32. The principles relating to the law of contempt are well settled. The observations made by the Apex Court in *Rajendra Sail vs. M.P.High Court Bar Association and others* AIR 2005 SC 2473 reads as under:-

"The judiciary is the guardian of the rule of law. The confidence, which the people repose in the Courts of justice, cannot be allowed to be tarnished, diminished or wiped out by contemptuous behavior of any person. If the judiciary is to perform its duties and functions effectively and true to the spirit with which they are sacredly entrusted, the dignity and authority of the Courts have to be respected and protected at all costs. The foundation of the judiciary is the trust and the confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend to create disaffection and disrespect for the authority of the Court by creating distrust in its working, the edifice of the judicial system gets eroded. It is for this purpose that the courts are entrusted with extraordinary powers of punishing for contempt of Court, those who indulge in acts, which tend to undermine the authority of law and bring it in disrepute and disrespect by scandalizing it."

33. In *Brahma Prakash Sharma & Ors. The State of U.P.* [AIR 1954 SC 10] Hon'ble Supreme Court held as under:-

"If 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 is a wrong done to the public. It will be 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."

34. In Re. Roshan Lal Ahuja [1993 Supp. (4) SCC 446], Hon'ble Supreme Court also held as under:-

"That no litigant can be permitted to overstep the limits of fair, bona fide and reasonable criticism of a judgment and bring the courts generally in disrepute or attribute motives to the Judges rendering the judgment. Perversity, calculated to undermine the judicial system and the prestige of the court, cannot be permitted for otherwise the very foundation of the judicial system is bound to be undermined and weakened and that would be bad not only for the preservation of rule of law but also for the independence of judiciary. Liberty of free expression is not to be confused with a license to make unfounded, unwarranted and irresponsible aspersions against the Judges or the Courts in relation to judicial matters. No system of justice can tolerate such an unbridled license. Of course " Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men", but the members of the

public have to abstain from imputing improper motives to those taking part in the administration of justice and exercise their right of free criticism without malice or in any way attempting to impair to administration of justice and refrain from making any comment which tends to scandalize the Court in relation to judicial matters."

35. In *Re. Ajay Kumar Pandey* [(1996) 6 SCC 510], it has been held by Hon'ble Supreme Court that in order a Judge may fearlessly and independently act in the discharge of their judicial functions, it is necessary that he should have full liberty to act within the sphere of their activity. If, however, litigants and their counsel start threatening the Judge or launch persecution against him for what he has honestly and bona-fidely done in his Court, the judicial independence would vanish eroding the very edifice on which the institution of justice stands.

36. Reverting to the present case, it is imminently clear that the publication of the news item was not fair and an attempt was made to make the news sensational by its Reporter. The photograph of Mohd. Hashim Ansari was also taken when he was in full zeal while giving his interview.

37. The words as were extracted from Mohd. Hashim Ansari in his interview by Ms. Manjari Mishra were published in the news item as such without proper editing, thus in view of what has been stated above the Editors, Reporters and Photographer have also committed contempt of Court.

38. Mohd. Hashim Ansari-the Interviewee, Shri Dhaush Vir Singh-the Editor, Shri Saurabh Banerjee-the Editor, Ms. Manjari Mishra-the Reporter and Shri Ajay Singh-the Photographer of Times of India have very candidly not made any attempt to justify their action in giving the interview and Mohd. Hashim Ansari interviewee, publishing the news report and only prayed for acceptance of their apology. The fact that all above immediately tendered apology after service of the notice shows that that there was no intention on their part to scandalize the judiciary but it was a case of error of misunderstanding on their part that interview was given and news item was published when the case was pending. for determination.

39. In Re: Harijai Singh & Anr. [(1996) 6 SCC 466] a similar case had come before Hon'ble Supreme Court wherein the Editors, Publisher, and Reporters of newspaper were held guilty of contempt of court but all of them had tendered unconditional apology. The Apex Court had accepted unconditional apology tendered by media personnels. In the present case Mohd. Hashim Ansari, interviewee is an old man and is about 90 years of age and he has also tendered unconditional apology. He should also be treated alike the media personnels. In view of above, the apology tendered by all of them should be accepted with a warning that each of them should be careful in future.

40. The apology tendered by contemnors Mohammad. Hashim Ansari the Interviewee, Shri Dhaush Vir Singh-the Editor, Shri Saurabh Banerjee- the Editor Ms. Manjari Mishra-the Reporter and Shri Ajay Singh-the Photographer is hereby accepted with a warning that each of them shall be careful in future. Consequently, further proceedings are dropped and the notices issued to them are hereby discharged.

41. The contempt petition is accordingly disposed of.

42. Registrar of this Court is directed to send a copy of this order to the Secretary, Ministry of Information and Broadcasting, Government of India, New Delhi as well as to the Chief Secretary, Government of U.P. for onward transmission to the Press Council of India and other agencies of Media.

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