

Waryam Singh and Another

Vs

Sadhu Ram

Criminal Appeal No. 98 of 1969

(A. N. Grover, A. N. Ray, D. G. Palekar JJ)

14.02.1972

JUDGMENT

BEG, J. -

1. Waryam Singh, a Sub-Inspector of Police, and Gurcharan Singh, a Head Constable, have appealed by Special Leave, against the Judgment and Order of a learned Judge of the High Court of Punjab and Haryana holding them guilty of contempt of Court and sentencing each to one month's simple imprisonment and a fine of Rs. 100/-, and, in default of payment of fine, to further simple imprisonment for 15 days.

2. The High Court had been moved under Section 3 of the Contempt of Court Act, 1952 (hereinafter referred to as 'the Act') by Sadhu Ram who alleged as follows : On June 26, 1968, at about 8.30 p.m., the Head Constable Gurcharan Singh, together with two other Police Officers, Uttam Singh and Surjit Singh, trespassed into his house in Aggarwal Street, Bhatinda, when he was out of station. They maltreated his wife, mother, and children, abused and slapped them, and extorted money in currency notes amounting to Rs. 500/-. Upon hearing the hue and cry raised by the inmates of the house, several persons, including Charanji Lal and Duni Chand, were attracted to the scene of occurrence and witnessed what took place there. At 10 p.m., the same night, Charanji Lal sent a telegram to the Superintendent of Police at Bhatinda, with copies to the Deputy Commissioner, Bhatinda, Inspector General of Police, Chandigarh, and the Chief Minister of the State. On June 27, 1968, Charanji Lal followed up this action by letters to all the authorities mentioned above. Sadhu Ram, on returning to Bhatinda, on June 27, 1968, promptly filed a complaint for offences punishable under Sections 452 and 323 and 504 and 384 read with Section 34 I.P.C. before the Chief Judicial Magistrate of Bhatinda against the appellant Gurcharan Singh and Surjit Singh. The complaint was sent to the Court of 1st Class Magistrate of Bhatinda and fixed for hearing on July 5, 1968. On July 4, 1968, however, Sadhu Ram complainant was arrested at about 4 p.m. from his house by Gurcharan Singh, appellant. Charanji Lal, said to be a police informer, who was cited as his witness by the complainant, was also arrested at about 6 p.m. the same evening by the appellant Gurcharan Singh. On July 5, 1968, at about 10 a.m., the witness Duni Chand was arrested from the Court premises where he was present in order to give evidence in the criminal case. It is only when Sadhu Ram and Duni Chand, the complainant and his witness, were produced before the Chief Judicial Magistrate, Bhatinda, for a remand order, that they came to know that their arrest was due to a First Information Report under Section 457/379 I.P.C. made on June 15, 1968, of which a copy was attached. The First Information Report was shown to have been lodged by one Janak Rai at 9.45 a.m. on June 15, 1968, at Thana Kotwali in Bhatinda. It alleged theft of Rs. 750/- cash and a golden Pandle and a ladies wrist watch. But, no name of any suspected person was mentioned there. The First Information Report only said that the thief appears to have come through

the house of a neighbour, a retired Reader of the Deputy Commissioner's office, Ajmer Singh, of Birla Mills Road, Bhatinda. Sadhu Ram and Duni Chand were released on bail on July 9, 1968. No action whatsoever had been taken against them in connection with the supposed First Information Report against them which does not name them. Nothing has been recovered showing the connection of either Sadhu Ram or Duni Chand with any alleged offence. Charanji Lal, the complainant's witness, who had also been arrested on July 4, 1968, was suddenly released at 6 a.m. on July 6, 1968 after having been beaten and abused because he did not agree to withdraw his support from the complaint. Nevertheless, Charanji Lal had been compelled to write on a piece of paper, before he was released, that the telegram mentioned above was sent by him at the instigation of "Sattawalas" unwillingly. All this was done to stifle the the prosecution of the Police Officers by Sadhu Ram. Charanji Lal, mentioned above, had also complained in writing to authorities mentioned above immediately after his release on July 6, 1968.

3. The High Court had rightly observed that the correctness or falsehood of the allegations made by Sadhu Ram in his criminal complaint against the two Police Officers could not affect its decision on the question whether the appellants had actually arrested, maltreated, and attempted to frighten and dissuade Sadhu Ram and his two witnesses from giving evidence in the criminal complaint against the police officers. Although, Sadhu Ram had not mentioned in his complaint the name of the Sub-Inspector Waryam Singh as the person who arrested Sadhu Ram and Duni Chand, yet, the name of Waryam Singh was mentioned as the first opposite party in the application under Section 3 of the Act to the High Court. And, Waryam Singh, in his affidavit in reply to the show-cause notice sent to him, had admitted not only knowledge of the telegram sent by Charanji Lal to superior police officers but also having arrested both Sadhu Ram at 6.50 p.m. on July 4, 1968, and Duni Chand on July 5, 1968, at about 1 p.m. He alleged that these arrests were in connection with the offence revealed by the above mentioned First Information Report, dated June 15, 1968. But, no evidence whatsoever was given that the Police had done anything to investigate the alleged offence. Nor was any good reason to suspect the connection whatsoever of Sadhu Ram or of either of his two witnesses shown with the offences alleged in the First Information Report, dated June 15, 1968.

4. The High Court, after going through the whole evidence, had come to the conclusion that the statements of Sadhu Ram, who was alleged by the police to be a Satta gambler, and of Duni Chand and Charanji Lal, who were alleged to be his supporters, were correct in so far as the object of their arrests and maltreatment was concerned. Charanji Lal, who admitted that he was convicted in a liquor case in 1962 and in two gambling cases in 1966, had stated that Sub-Inspector Waryam Singh had beaten him and threatened to involve him in various cases in case he did not comply with the request of Waryam Singh to desist from appearing as a witness of Sadhu Ram. The High Court had accepted the evidence of Charanji Lal on grounds with which no fault could be found. It had also believed the evidence that Gurcharan Singh had also taken part in the arrest of Sadhu Ram and Charanji Lal and in holding out threats to the arrested persons with the intention of stifling the prosecution after the criminal complaint had been filed by Sadhu Ram. It held that the arrest of Sadhu Ram and his two witnesses could not have taken place as a result of any credible information of their involvement in any offence. It followed that the only object of the arrests was the one given by Sadhu Ram and his witnesses.

5. It is clear from an account of the case against the appellants and the evidence and the findings given against them, which we see no reason whatsoever to discard, that each of the two appellants was guilty of gross contempt of Court. They also made assertions which could not be true in affidavits sworn by them in the course of these proceedings against them. We think that they have been quite leniently dealt with. Police Officers, who are expected to act as guardians of law and

order so as to protect the persons and properties and honour of ordinary citizens, cannot be permitted to take the law in their own hands and go about threatening even untruthful complainants and their witnesses with the object of stifling prosecutions. It is the function of Courts of law to pronounce on the veracity of witnesses before them. Even if the police comes to the conclusion that a complainant and his witnesses are utterly untruthful they have no business to threaten them so that witnesses may not give evidence in Court. It is for Courts to punish perjury which is shown to have been committed. The action of the police officers, with the object they had in view, was quite indefensible.

6. A question of law was also sought to be raised on behalf of the appellant. This was that Section 3, sub-section (2) of the Act, barred proceedings against the appellants. This provision reads as follows :

"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."

7. It was contended on behalf of the appellants that attempts to stifle prosecution by threatening witnesses, so that they may not make statements in judicial proceedings, could be dealt with under the Indian Penal Code. No provision of the I.P.C. could, however, be cited to justify this contention.

8. We find that, in Chapter I, Sections 172 to 190 of the I.P.C. deal with the offences constituting "Contempts of the Lawful authority of public servants". A Magistrate could be covered by the definition of a public servant given by Section 21 of the I.P.C. But, the Sections given in Chapter I of the I.P.C. relate to particular kinds of contempts of the lawful authority of public servants. And, none of these cover the kind of acts which were committed by the appellants with the object of stifling a prosecution. It was held by this Court in *State of Madhya Pradesh v. Ravashankar*, [1959 SCR 1367 : AIR 1959 SC 102 : 1959 Cr LJ 251] that even where the facts of a case disclose an offence which may fall under Section 228 I.P.C., the case may be triable as a Contempt under Section 3 of the Act if the acts complained of could not be confined to what would be covered by Section 228 I.P.C. only. Learned counsel for the appellants could not point out any section of the Penal Code within the provisions of which the kind of clear contempt of Court committed by the two appellants could fall or be confined. We, therefore, find no force in this contention.

9. Consequently, this appeal is dismissed. We make no order as to costs.

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