

Mulk Raj

Vs

State Of Punjab

Criminal Appeal No. 90 of 1969

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

24.02.1972

JUDGMENT

RAY, J. -

1. This is an appeal by special leave from the judgment, dated March 12, 1969, of the High Court of Punjab and Haryana convicting the appellant under Section 3 of the Contempt of Courts Act, 1952 and sentencing him to simple imprisonment for three months.
2. Proceedings under Section 3 of the Contempt of Courts Act, 1952 were initiated at the instance of the District Judge, Amritsar arising out of an application dated July 24, 1968, made by the appellant and addressed to the Chief Justice of India. Copies of the application were sent by the appellant to the Chief Justice of Punjab and Haryana High Court, Additional District Judge, Amritsar and the Subordinate Judge, Amritsar. The District Judge wrote to the Registrar of the Punjab and Haryana High Court that the Subordinate Judge and moved the District Judge for transfer of the proceedings from his court to some other court and also for commencing proceedings against the appellant for contempt of court for 'contemptuous allegations against the Judicial Officers'. The High Court thereupon started proceedings against the appellant.
3. The appellant filed a suit against Jhabbar Mall and others. The appellant obtained a decree on January 14, 1964. The decree was passed by the Subordinate Judge, Amritsar. The defendants filed an appeal. Shri J. P. Gupta, Additional District Judge modified the decree. The appellant filed a second appeal. The appeal was dismissed by Harbans Singh, J., at a preliminary hearing on April 1, 1965. The appellant thereafter moved for leave to appeal under Clause 10 of the Letters Patent. That application was dismissed.
4. The decretal amount and the costs were recovered by the appellant. The defendants filed an application on June 20, 1969, under Section 144 of the Code of Civil Procedure for recovery of the sum of Rs. 998.20 recovered by the appellant in excess of the decretal dues.
5. It is during the pendency of the application for recovery of excess payment that the appellant forwarded the application to the Chief Justice of India. In that application the appellant made the allegations against Shri J. P. Gupta, Additional District judge and Mr. Justice Harbans Singh.
6. The appellant in that application made the following allegations :

"That against this decision of Shri J. P. Gupta, (Officio) District Additional Judge, the plaintiff applicant had filed an appeal in the Punjab High Court, Chandigarh on March 30,

1965, through Shri Sri Chand Goyal, Advocate which appeal was dismissed unjustifiably by the Hon'ble Justice Harbans Singh simply to suppress my case on April 1, 1965. The case relates to Mulkh Raj v. Jhabbar Mal, etc. and its number is R.S.A. 480/1965. The plaintiff (applicant) filed a letter patent appeal (applications with grounds of appeal) against the verdict of Hon'ble Justice Harbans Singh through Shamer Chand, Advocate, Bar-at-Law on May 25, 1965 but the said Hon'ble Justice Harbans Singh on May 28, 1965, used his nadar shahi system without going to any discussion into the case thereby dismissing my application of letter patent appeal unjustifiably and forcibly and just to suppress my case and did not allow to file a letter patent appeal. This resulted in my full destruction and disaster. The defendant party is too rich and has many approaches."

7. The High Court held that the appellant "maliciously endeavoured to impair the image of judicial integrity of the High Court and wilfully attempted to damage the dignity and high esteem which the office of a Judge of a High Court carries with it". The High Court added that "the appellant has the audacity to add that the judgment-debtors were rich enough and had many approaches thereby insinuating some kind of approach on their part to the Hon'ble Judge. He has further stated that as a result of orders passed by Harbans Singh, J., justice has been murdered and cruelty committed to him because of corruption".

8. Counsel on behalf of the appellant submitted that the application was at the most representation of a person against a subordinate court and the High Court to the highest court of the land and if the appellant made a libellous remark against a Judge the appellant might be punished under the Indian Penal Code. It was also said on behalf of the appellant that the High Court should have accepted the apology.

9. Apology is an act of contrition. Unless apology is offered at the earliest opportunity and in good grace apology is a born of penitence. If apology is offered at a time when the contemnor finds that the court is going to impose punishment it ceases to be an apology and it becomes an act of a cringing coward. The High Court was right in not taking any notice of the appellant's expression of apology "without any further word". The High Court correctly said that acceptance of apology in the case would amount to allow the offender to go away with impunity after having committed gross contempt.

10. The submission of the appellant that the application was representation is unmeritorious. It will be most improper for litigants to send applications to the Chief Justice of India concerning pending matters and making allegations against Judges. The dismissal of the appellant's application by the High Court was characterised by the appellant in offensive language casting aspersions on the Judges and lowering the dignity and esteem of the judiciary.

11. The submission of the appellant that the application in the present case was a libellous remark punishable under the Indian Penal Code and did not amount to a contempt is unsound and unacceptable. The appellant's application constituted a clear case of contempt.

12. For these reasons, the appeal is dismissed. The appellant will serve out the sentence.

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