

U. N. R. Rao

Vs

M. Shanmugavel

Criminal Appeal No. 412 of 1976

(P.N. Bhagwati, A.C. Gupta JJ)

07.12.1976

JUDGMENT

BHAGWATI, J. –

This appeal under Section 19(1)(b) of the Contempt of Courts Act, 1971 is directed against an order passed by the High Court of Madras rejecting an application for taking action for contempt of court against the respondent. The application was moved by the appellant after obtaining the consent of the Advocate-General under clause (b) of sub-section (1) of Section 15 of the Act and it was, therefore, clearly maintainable. But the High Court being presumably unaware of the fact that the consent of the Advocate-General had been obtained under clause (b) of sub-section (1) of Section 15 of the Act, reject the application on the ground that the High Court would not be inclined to take notice of a contempt application filed by a private party and the appellant might if so advised, approach the Advocate-General who might, if he thinks fit, file a petition for contempt of court. This was patently an erroneous order since under Section 15, sub-section (1) it is competent to the High Court to take action for contempt of court not only on a motion being made by the Advocate-General but also on a motion made by any other person with the consent in writing of the Advocate-General. Here, the appellant had obtained the consent in writing of the Advocate-General before filing the application for contempt and the application was, therefore, competent and maintainable. The High Court was in error in refusing to take notice of the application for contempt preferred by the appellant on the ground that the appellant was a private party and the Advocate-General alone could maintain such an application. We accordingly allow the appeal and set aside the order made by the High Court rejecting the application for contempt. The matter will go back to the High Court so that the High Court can dispose of the application according to law. In view of the peculiar circumstances of the case there will be no order as to costs.

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