

M. Kalyanasundaram and Another

Vs

M. Karunanidhi

Criminal Appeal No. 326 of 1974

(D. Chinnappa Reddy, A.P. Sen, Baharul Islam JJ)

30.04.1981

JUDGMENT

CHINNAPPA REDDY, J. –

1. Shri Kalyanasundaram, Editor of Janashakthi (a Tamil journal) and Secretary of the Communist Party of Tamil Nadu, who was 'severely warned' by the High Court of Madras for alleged 'indirect civil contempt' is the appellant in this appeal under Section 19(1)(b) of the Contempt of Courts Act, 1971. The respondents who, at that time, was the Chief Minister of Tamil Nadu filed a suit, C.S. No. 17 of 1973, in the High Court of Madras claiming a sum of Rs. ten lakhs as damages for certain alleged defamatory publications made by the appellants in Tamil journal 'Kumudham'. The suit was instituted on January 5, 1973. The institution of the suit was given out as a news item on January 5, 1973 and January 6, 1973 in almost all newspapers at Madras. On January 14, 1973 the appellant published in Janashakthi of which he was the Editor the same news item about the institution of the suit along with a cartoon. There were exclamation marks wherever the figure Rs. ten lakhs occurred both in the news item and the cartoon. The respondent filed Contempt Application No. 2 of 1973 in the High Court of Madras in regard to the publication in the Janashakthi dated January 14, 1973. The High Court held that there was 'indirect civil contempt'. The conclusions of the High Court may be stated in the words of the learned Judges themselves as follows :

We have to agree with him (learned counsel for the respondent) that in giving this information to the public there is undoubtedly an attempt on the part of the respondent to create uncalled for excitement in their minds, however, strong minded person may be. The applicant is not exception to this group of persons. The contention of the applicant that the publication conveys a ridicule and in the ultimate analysis is intended to bring pressure on him and on his cause to properly tackle the case which is now pending is not a baseless apprehension.... As pointed out by the learned Author Oswald in his book on Contempt of Court, Third Edition, page 91 "anything which tends to excite prejudice against the parties or their litigation while it is pending is contempt".... The manner in which it has been done and the pattern adopted gives sufficient material for us to reasonably think that the article is not a mere innocent, as is sought to be made out, but is a designed, tendentious publication which has a motive behind it and which has a purpose to serve. Delving dispassionately into such a motive and design we are of the view that the offending publication is likely to interfere with the course of litigation by influencing the mind of the applicant as a party to the suit.

2. We are afraid that we are wholly unable to agree with the High Court. In the first place the contempt if any is not a civil contempt at all. Civil contempt is defined in the Contempt of Courts Act as meaning "wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court". There is neither disobedience of any

order of a court nor breach of an undertaking given to a court. There is no civil contempt whatsoever. Criminal contempt however is defined as follows :

'Criminal contempt' means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which -

- (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
- (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

The contempt if any must fall under (ii) or (iii). The question, therefore, is whether the offending publication prejudices or interferes or tends to interfere with, the due course of any judicial proceeding, or interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner. It is impossible to hold that the publication does any of these things. The worst that can be said against the publication is that it exposes the respondent to mild ridicule. To say that a publication which exposes a suitor to such mild ridicule in connection with the suit prejudices or interferes or tends to interfere with, the due course of any judicial proceeding or interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner is to take a highly sensitive view of 'the contempt Jurisdiction'. We do not mean to say that pouring ridicule on a suitor can never interfere or obstruct the administration of justice but we find it impossible to say so in the present case where the ridicule is not so violent and the parties are well known public figures well able to bear with equanimity any ridicule poured on them. The appeal is allowed and the appellant is absolved of the charge of contempt of court.

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