

Jiwan Mal Kochar

Vs

Union of India and Others

Writ Petition (Criminal) No. 217 of 1980

(CJI Y. V. chandrachud, A. N. Sen, A. Varadarajan JJ)

09.08.1983

JUDGMENT

VARADARAJAN, J. -

1. This writ petition has been filed by the petitioner Jiwan Mal Kochar under Article 32 of the Constitution, challenging certain remarks made against him by this Court in Criminal Appeals 97 to 101 of 1965 and by a Division Bench of the Madhya Pradesh High Court in Criminal Appeal 428 of 1962, to both of which the petitioner was not a party. The petitioner's case is that those remarks have been obtained against him by respondents 3 to 10 in the writ petition behind his back and that he has filed this writ petition for obtaining complete justice in his Civil Appeal 859 of 1978 and Criminal Review Petition 3 of 1980. The second prayer in the writ petition is for award of adequate damages and compensation to the petitioner against the Union of India and other respondents including the State of Madhya Pradesh for all losses, direct or indirect, and humiliations and indignity suffered by him.

2. In the view we take in regard to the reliefs prayed for in this long writ petition running into more than 102 closely type-written pages, we do not think it necessary to refer to the facts. Civil Appeal 859 of 1978 has been dismissed by us in a separate judgment today. We may state that no part of the judgment of this Court in the aforesaid Criminal Appeals 97 to 101 of 1965 was brought to our notice by either side in the course of the arguments in that appeal. The Criminal Review Petition 3 of 1980 must have been disposed of long ago and was not before us when we heard arguments in Civil Appeal 859 of 1978 or thereafter. The petitioner had filed Special Leave Petition (Criminal) 249 of 1966 for a relief similar to the main relief in the present writ petition. That special leave petition came up before the same learned Judges of this Court who are said to have disposed of Criminal Appeals 97 to 101 of 1965 which had been preferred by Banthia and others. The learned Judges dismissed that special leave petition with the observation that any expression of opinion by the trial court or by the High Court with regard to the petitioner will not be taken into consideration by the courts in the trial of the case for the offences for which the petitioner had been charged or in any other proceeding by way of appeal or revision arising out of that trial. We think that a similar order will meet the ends of justice in this case and satisfy the petitioner as regards the main prayer in this writ petition. The second relief prayed for by the petitioner for damages and compensation cannot be granted in this proceeding under Article 32 of the Constitution. In these circumstances we dismiss the writ petition with the observation that the observation, if any, made in regard to the petitioner Jiwan Mal Kochar in the judgments of this Court in Criminal Appeals 97 to 101 of 1965 and of the Madhya Pradesh High Court in Criminal Appeal No. 428 of 1962 shall not be taken into consideration in any proceeding, civil or criminal, in any trial court or appellate court against the petitioner who was not a party to those appeals. There will be no order as to costs.

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