

Mohd. Zahir Khan

Vs

Vijai Singh and others

Criminal Misc. Petition No.8127 of 1991

(A.M. Ahmadi, K. Ramaswamy JJ)

26.11.1991

ORDER

1. When the above miscellaneous application was called on for hearing today, after hearing the petitioner we were inclined to think that since the earlier order dated 16th August, 1991 was passed by a Division Bench comprising our learned brothers S. Ratnavel Pandian and K. Jayachandra Reddy, JJ. It would be more appropriate that this miscellaneous application also be placed before a Bench of which either of them is a party. Just when we had dictated this part of the order that the petitioner addressed the Court in a loud tones; "either he is an anti-national or the Judges are antinationals". He continued to make similar contemptuous statements scandalising the Court and, therefore, we were constrained to direct notice to issue against him for committing contempt. We, therefore, directed notice to be served on the petitioner forthwith to show cause why action for Contempt of Court should not be taken against him. We directed the Registry to forthwith serve the show cause notice on him and further directed that the matter be called out at 12.45 p. m. We also directed the petitioner not to leave the Court and he was present in Court when the notice was served on him. The learned Attorney General who was in Court was also requested to assist this Court and he did so but since he was required in another parheard matter, Mr.G.L.Sanghi, learned Senior Counsel assisted this Court for which we are grateful to both of them.

2. Exercise of jurisdiction of this nature is in fact a painful duty which this Court is called upon to perform not because any allegation is directed against a Judge or Judges of this Court or to vindicate personal honour but to maintain the dignity and decorum of this Court. That is what this Court observed in a recent judgment in Delhi Judicial Services Association v. State of Gujarat, (1991) 4 SCC 406. It has been observed in that case that the object of punishing a contemner is to protect the administration of public justice and not judges personally.

3. The notice issued to the contemner to show cause sets out the events that took place in Court this morning. The record of the events is as under:

"Let this matter be placed before a Bench of which either Hon'ble Mr. Justice S. Ratnavel Pandian or Hon'ble Mr. Justice K. Jayachanda Reddy is a party. After this order was dictated the petitioner stated that either he is an anti-national or the judges are antinationals. We directed: "Issue notice for contempt of Court against him". The petitioner continues to make statements which are contemptuous, thereby scandalising the court. The notice should be served on the petitioner forthwith. The petitioner is in Court and we direct him not to leave the Court. The Registry will forthwith serve the contempt notice on him and let the matter be called out at 12.45 p.m. We have requested the Attorney-General to assist us"

The contemner was asked if he would like to file a written reply to the show cause notice. After answering in the negative initially he said would like to file a reply provided copies are not insisted upon. We permitted him to file a hand written reply as desired by him. It transpires therefrom that he believes that in the backdrop of the facts of his case he has a fundamental duty under Article 51A(j) to behave as he did to defend his case and nothing is an offence if done in good faith. He seems to think that what he said and did was in private defence and is, therefore, not an offence. In other words he thinks he was entitled to behave as he did and utter the derogatory words that he spoke as he was discharging his fundamental duty and was acting in good faith in his own defence. He has set out in his reply to the Show Cause Notice the history regarding his case and the alleged injustice done to him at various stages in the proceedings. He has a grievance against all those who have handled his case and has alleged that by directing the matter to be placed before a Bench of which either Pandian J. or Jayachandra Reddy, J. is a party, one of us (Ahmadi, J.) had individually with concerted efforts and conspiracy' nullified the direction of listing the matter given by Misra, C.J. He seems to have singled out one of us since the order was dictated by him. We are not concerned with the history or merits of his case but we are concerned with his misbehaviour and utterances which are contemptuous per se i.e. in the face of the Court.

4. On the matter being called on for hearing today, after perusing the averments in the miscellaneous application filed by him and the extract of the earlier order made by a Division Bench (Pandian and K. J. Reddy, JJ.) we thought it would be most appropriate if his miscellaneous application was also dealt with by a Bench of which either of them is a party. Since neither of us had handled the matter earlier, except that the matter was once mentioned when one of us (Ahmadi, J.) was sitting on a Division Bench along with the learned Chief Justice of India and Anand, J. on 18-11-1991, we had no occasion to look into the merits of his case. Even on 18-11-1991 the matter was mentioned for listing and it was ordered to list it on 26-11-1991 before an appropriate Bench and there was no occasion to examine the merits. We, therefore, thought that since the earlier Bench, comprising Pandian and Reddy, JJ. had already examined the merits and had passed an order on 16th August, 1991 extracted by the contemner in his miscellaneous application, it would be proper if the matter is dealt with by a Bench of which either of them is a party. Nothing further had transpired and there was hardly any occasion for the contemner to flare up and utter the words mentioned hereinabove. At this stage the contemner states that his SLP (C) No. 8822/ 89 was rejected on 21-9-1989 by a Division Bench of which one of us (Ahmadi J.) was a party. He further states that at that time in the course of hearing he was orally advised to file a Review with the CAT. This too can hardly justify his unbecoming conduct and use of derogatory language.

5. Before proceeding with the matter we informed the contemner that under Sec. 14(2) of the Contempt of Courts Act, 1971 he had an option to have the charge against him heard by some judge or judges other than the judge or judges in whose presence or hearing he is alleged to have committed contempt. We felt it necessary to do so since his written reply was silent in this behalf. We thought it our duty to inform him of this provision. He stated that we may dispose of the matter ourselves and he did not desire it to be placed before any other judge or judges. We also find from his written reply to the show cause notice that he does not regret his conduct; on the contrary he has added insult and has prayed that he should be sent to jail; that he would not pray for bail nor apply for the same etc. This statement made by him discloses his unrepentant attitude in the matter. He has no regrets for his utterances and was defiant throughout, challenging the Court to send him to jail.

6. In view of the above we come to the conclusion that the contemner is guilty of contempt. He deliberately used insulting language to overawe the Court with a view to securing a favourable order. Of late this type of behaviour by litigants appearing in person is on the increase. Such

litigants carry the wrong notion that by such behaviour favourable order can be extracted. If such an impression is gaining ground it needs to be removed at the earliest. As stated earlier it is a painful duty which we are called upon to perform, more so because the contemner had no valid or good reason for the manner in which he behaved in this Court. Even the order which we were passing was an innocuous one. Such behaviour and utterances cannot be tolerated as it undermines the Court's prestige and dignity and affects the working of the Court as it vitiates the atmosphere in which the Court normally functions. It has a direct impact on the Court's independence, dignity and decorum. To protect the administration of public justice, we are constrained to take action as his conduct and utterances cannot be ignored or pardoned. As stated earlier, he does not regret his action, on the contrary he has filed a written reply which is not only defiant but adds insult to injury and dares the court to send him to jail. However, notwithstanding his conduct and behaviour we do not desire to be harsh with him but at the same time, as stated earlier, we cannot overlook his unbecoming conduct and the use of insulting language.

7. We, therefore, hold him guilty for per se contempt and direct him to suffer simple imprisonment for one month. The Registry will draw up the warrant in the prescribed form and ensure that the contemner is sent to prison for serving the term of imprisonment ordered by us. Henceforth, no matter of his will be placed before either of us. We dispose of the contempt notice accordingly.

Order accordingly.

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