

Tarun Bharat Sangh, Alwar

Vs

Union of India

(M. N. Venkatachaliah, B. P. Jeevan Reddy JJ)

I.A.No. 6 in Writ Petn. No. 509 of 1991

23.01.1992

ORDER

1. The contemner is present in Court. We have heard Shri V.R.Reddy, Additional Solicitor General for the prosecution and Shri B.R.L.Iyengar, learned Senior Counsel for the accused-contemner. The charge against the contemner is, indeed, serious.
2. In the writ petition, Tarun Bharat Sangh, an organisation of environmental activists moved this Court complaining that there was a large scale devastation of the environment in "Sariska Tiger National Park" where large scale mining operations were illegally permitted by the State Government within the protected area. In the writ petition, we directed a Committee headed by a retired Judge of a High Court to go into some of the disputed questions and make a report to this Court. We also directed the petitioner organisation to assist the committee.
3. On 26-11-1991, the committee proposed to inspect the mining areas and Rajinder Singh, Secretary of the petitioner-organisation was required to accompany the committee. What happened at the spot had better be narrated in the words of Rajinder Singh himself:

".....The Secretary reached the site along with his co-activists Aman Singh, Laxman Singh and others along with Prof. S. S. Dhabaria of Birla Science Research Institute. He saw hundreds of cars and jeeps parked near the site. He contacted the Chairman of the Committee and seeing that the situation was tense requested him for permission to return to his place since the atmosphere was not congenial for any discussion or inspection of mines, but Hon'ble Justice Jain and District Collector insisted that the applicant remained present and the Collector asked the applicant to travel in one of his official vehicles. On expressing fear to the Collector, the Collector assured them not to worry. That when the vehicle started moving towards the mining site, the mine owners, who were crowding around, starting using abusive language and raised vulgar slogans at the applicant and his colleagues. On reaching Daulikan another mob of mine owners stopped the vehicle and started checking the occupants when they stopped the applicant in Maruti Gypsy van and attacked the van and damaged it. Some of the people physically beat up the applicant and kicked him and tore his clothes while others were trying to pull him out of the van. In this process the gypsy van was damaged badly when the Collectors gunman asked the applicant to get out of the van. Thereafter a mine owner, who had been arrested on the spot was put before me and I was asked to identify him. I identified him as the

person who had attacked me first and later came to know that his name is Ashok Agarwal and he is a mine owner of Alwar. This fact was also confirmed by the gunman of the Collector and Jamadar. The Collector ordered the arrest of this person and sent him to Alwar Jail"

Indeed, Rajinder Singh's averments are in a substantial measure corroborated by the report of a Collector and the Chairman of the Committee. We, therefore, took cognisance of this matter and initiated proceedings for criminal contempt against the contemner.

4. In response to the notice, the contemner initially filed an affidavit dated 20th January 1992 in which while admitting his presence at the spot and also admitting the action taken in respect of his conduct at the spot at the instance of the Collector, Alwar, however, tried to place a gloss over the incidents and his own role therein. But today the contemner has filed a fresh affidavit in which he has withdrawn his earlier stand and has pleaded guilty to the charge. The relevant part of his affidavit reads:

"I plead guilty to the charge and I throw myself at the mercy of this Hon'ble Court. I sincerely regret and submit my unconditional and unqualified apology to this Hon'ble court for my conduct."

5. The allegations of fact made against and now admitted by the contemner do constitute acts which were intended to and did constitute gross interference with the course of justice and the proceedings of this court as the acts were of intimidation and reprisal against a person for initiating and prosecuting a public interest action before this court. The conduct of the petitioner in the happenings and events of 26-11-1991 constitutes a serious and aggravated form of criminal contempt. Indeed, on the very day when these events were happening at the spot, the writ petition was being heard in this Court. In the course of the hearing, learned counsel for the petitioner-organisation indicated the possibility that the resourceful mine-owners whose economic interests were threatened by the proceedings might resort to criminal high handedness to intimidate the activists of the petitioner-organization. In the course of the order that we made in the writ petition on 26-11-1991, we had occasion to observe:

"It was complained to us by the petitioner that their environmental activists in the area are being threatened with physical Violence by some of the interested parties. Shri Arun Jaitley, learned senior counsel appearing for the Zila Khaniz Udyog Sangh hastened to assure us that his-clients have not taken this litigation in -the spirit of an adversarial litigation but have adopted a constructive attitude in the larger interests of promotion of the ecological and environmental values. Shri Jaitley assures us that his client will not indulge in such unlawful acts. We must here observe that from the very inception of this matter, the attitude of the Zilla Khaniz Udyog Sangh has been constructive. We place on record that the Sangh have evinced a constructive and helpful attitude and has come forward to co-operate with the work of the Committee.

But recognising the risk in putting any such possibility out of consideration and of the need for precaution we added:

"But business and commercial interests and the relentless means of achieving them, being what they are, it is not safe to rule out any possible intimidatory tactics against environmentalists. They are, perhaps, the most thankless and unprotected lot. We

should, therefore, direct the District Administration of Alwar to afford protection to the petitioner's members and workers. We look upon the authorities of the State Government, in particular to the Police administration of the District to ensure that none of the activists and workers of the petitioner are subjected to any intimidation and hindrance in their activity."

It is poignant that even at the time when the said order was being passed, the incident calculated to intimidate the petitioner occurred at the spot. The Secretary of the petitioner-organisation was manhandled and kicked and his clothes were torn. His vehicle was damaged. Owing entirely to the intervention of the Collector the worst did not happen. It is also easy for the contemner now to come forward with an apology. We are afraid the propensities of the conduct of the contemner which reflects an increasing trend ought to be viewed seriously. Those who benefit from illegal transactions by exploitation and usurpation of public property find it hard to give up the easy sources of their opulence and are prepared to bend every energy and employ every means at their command to resist the law. They are not unduly concerned with the basic decency of civilised living. Contemner is a mine owner and has a vested interest in perpetuating the alleged illegal mining. The atmosphere of show of force said to have been displayed by the mine-owners at the spot at the time of the visit of the committee, if true, is really disturbing. We should make this case one which will unmistakably tell those like minded with the contemner that this kind of crime against the course of justice and processes of law does not pay and interference with the justice is playing with fire and that those who play with fire cannot complain of burnt fingers.

6. We accept the plea of guilt of the contemner for the offence of criminal contempt of court and convict him accordingly. So far as the sentence is concerned, we must note that his acts were absolutely unprovoked and unjustifiable. But, there are certain human aspects to the case. It is submitted before us by Sri B.R.L. Iyengar that the contemner is a sinned bird of misfortune as he had lost all his possessions in this mining misadventure. Shri Iyengar further submitted that the contemner had lost his father recently due to cancer; and that contemner himself is seriously afflicted by tuberculosis. Shri Iyengar showed us certain medical documents which bear this out. Shri Iyengar said that the out-burst of the contemner at the spot must have been due to some exasperation and his own personal frustrations and desperation at his misfortunes in life.

7. We have taken all these circumstances into consideration; but we are of the view that some amount of deterrent treatment is necessary so that those like-minded with him may take heed. We would normally have imposed a full term of six months' imprisonment and fine. But, having regard to the physical condition and the unfortunate personal circumstances of the contemner we take a sympathetic view and sentence him to simple imprisonment for seven days and a fine of Rs. 500/-. At the request of Shri B.R.L. Iyengar, we permit the sentence of imprisonment to run from 27th January, 1992, on which date the contemner undertakes to surrender before the S.D.M., Alwar, at 10.30 a.m. and the Sub-Divisional Magistrate, Alwar, will issue the necessary warrant for the contemner's detention at the Alwar Jail. We direct that if the condition of contemner's health is such that he needs treatment, medical treatment shall be afforded to him according to the medical assessment of his condition. Ordered accordingly.

Order accordingly.

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