

SUPREME COURT OF INDIA

Lakshman Prasad Agarwal

Vs.

Syed Mohd. Karim

(D Mohapatra and P.V.Reddi JJ.)

17.01.2002

ORDER

1. Heard Mr. K.V. Viswanathan, learned counsel appearing for the appellant. None appeared for the respondents despite service of notice.
2. In this appeal filed under Section 19 of the Contempt of Courts Act, 1971 the contemnor has assailed the judgment/order of the Allahabad High Court holding him guilty of contempt and sentencing him to pay Rs. 1,000/- as fine.
3. The factual backdrop of the case, necessary for appreciating the contentions raised, may be stated thus:

“The appellant, who was the chairman of the Municipal Board of Moradabad during the relevant period, received the notice issued by the district magistrate for convening a meeting of the municipal board on 4.6.1990 to discuss the no-confidence motion against the appellant. He filed writ petition No. 15963 of 1990 seeking quashing of the said notice. Therein, he prayed for a direction to the respondents not to hold the meeting on the scheduled date. The matter relating to the prayer for interim order was heard on 1st June, 1990 and order was reserved. The meeting of the board was held on 4.6.1990 as schedule and the no-confidence motion was carried by majority and a resolution was passed removing the appellant from the office of the chairmanship of the board. Thereafter, he filed another case, civil miscellaneous writ petition No. 15962/90, challenging no-confidence motion passed in the meeting held on 4.6.1990. By an interim order passed on 6.6.1990 in that case, the resolution in which the no-confidence motion was passed was ordered to be suspended. Thereafter, on 8.6.1990 an interim order was passed in the writ petition No. 15963/90 filed earlier, which reads as follows:

"After having considered the arguments raised by the learned counsel for the parties, I am of the opinion that until further orders of the court, in case the motion of no-confidence has been passed against the petitioner, the same shall not be given effect to. However, it is ordered that the petitioner may continue to function as chairman, in

case the motion of no-confidence has been passed but he shall not sanction or pass orders regarding financial matters exceeding Rs. 1,000/-."

It was clearly provided in the order that the appellant may continue to function as chairman in case the motion of no-confidence has been passed but he shall not sanction or pass order regarding financial matters exceeding Rs. 1,000/-. This order remained operative till 18.7.1990 when on the application filed by the appellant stating that the stay order has been rendered infructuous and the same may be vacated, the court passed the order dismissing the stay petition as infructuous and vacated the stay order. Between 9.6.1990 and 17.7.1990 when the aforementioned order directing the appellant not to sanction or pass orders regarding financial matters exceeding Rs. 1,000/- remained operative, the appellant signed/counter-signed several cheques each for a sum of more than rupees one thousand; the total amount of such cheques was about thirty four lacs of rupees. Stating the facts as above, an application was filed in the High Court for initiating a proceeding for civil contempt against the appellant alleging that he had wilfully and deliberately violated the order passed by the court on 8.6.1990 in C.M.W.P No. 15963/ 90.

4. The appellant in his reply took the stand, inter alia, that he was misguided by the legal advice given to him that in view of the unconditional order of stay passed in another case, writ petition No. 15962/90, it was open to him not only to function as the chairman of the municipal board but also to sign cheques without any restriction regarding amount. It was the plea of the appellant that being guided by such legal advice, he had signed/counter-signed cheques for sums in excess of Rs. 1,000/-. He also raised the contention that since the first writ petition in which the conditional order of stay was passed had become infructuous in view of the fresh cause of action, which arose after the no-confidence motion was passed in the meeting, he could not be held guilty of contempt for alleged non-compliance of the order.

5. The High Court, on a discussion of the facts and circumstances placed on record and the contentions raised on behalf of the appellant, held that the plea taken by the appellant that under a bona fide impression that the interim order dated 6.6.1990 had become infructuous, he had signed the cheques, was not acceptable, for the reason that even after coming to know of the order he had not taken steps for withdrawal of the writ petition or even for vacating the interim order till 18th July, 1990. The High Court further observed that the plea of bona fide impression on the part of the contemnor was not even stated in his reply to the show cause notice.

“The High Court also dealt with the further contention raised on behalf of the appellant that by signing/counter-signing the cheques, he had not sanctioned the amount stated therein but had only approved the sanction order passed by the executive officer of the board. The High Court rejected and in our view, rightly, the said contention. It is relevant to state here that while considering the question of disobedience or otherwise of an order passed in a pending case not only the letter of the order but also the spirit, is to be understood and the plea of bona fide / genuine belief taken by the contemnor is to be considered on that basis. The High Court after

rejecting the contentions raised on behalf of the contemnor did not feel persuaded to accept the unconditional apology tendered by him.”

6. On consideration of the facts and circumstances of the case and the submissions made by learned counsel appearing for the appellant, we are not satisfied that on the fact situation of the case, the judgment/order passed by the High Court calls for interference by this Court. We have no hesitation to hold that the High Court was right in recording the finding that the appellant was guilty of wilful and deliberate disobedience of the order passed on 8.6.1990.

7. Accordingly, the appeal is dismissed. No costs.