SUPREME COURT OF INDIA

Deepak Kumar Prahladka

Vs.

Prabha Shanker Mishra

Crl.A.No.845 with 846 of 1998

(Y. K. Sabharwal and Arun Kumar JJ.)

28.04.2004

JUDGEMENT

Y. K. Sabharwal, J.

1. These appeals have been filed against the imugned judgment and order of the Division Bench of the Calcutta High Court dated 5th May, 1998 holding the appellant guilty of contempt of Court for having made contemptuous and reckless averments scandalizing the Court in two Contempt Petitions which he had filed in the High Court and sentencing him to six months' imprisonment and fine of Rs. 2,000/-. The proceedings in the said two Contempt Petitions No. 333 of 1997 and CPAN No. 902 of 1998 were also disposed of in terms of the impugned judgment and order. This Court granted to the appellant an order of stay of sentence of imprisonment only. Before release, the appellant had already undergone an imprisonment for 36 days.

2. CC No. 333 of 1997 and CPAN No. 902 of 1998 were filed by the appellant before the High Court for initiating contempt of Court proceedings against the respondents who at that point of time were the sitting judges of the High Court. CC No. 333/97 was filed on 4th December, 1997 against the two judges who were members of the Division Bench which made an order dated 16th September, 1997 directing issue of suo motu contempt notice to the appellant noticing in their order that the newspaper reports based on the statement of the appellant were prima facie contemptuous. By the said order the appellant was also directed to file a supplementary affidavit giving details of his educational qualifications in justification of his claim of being a law researcher, to furnish details of the contempt application which he has allegedly made and which was pending before the High Court and reasons and justification for the statements made in the newspaper with the materials on which he may claim to have relied. Prima facie, the Court found that the newspaper reports tend to interfere with the administration of justice. In terms of the orders dated 13th August and 16th September, 1997, suo motu contempt notice dated 26th September, 1997 was issued to the appellant.

3. The second contempt petition (CPAN No. 902/98) was filed by the appellant on 24th April, 1998 against two other Hon'ble Judges who were members of another Division Bench which passed an order dated 12th January, 1998 dismissing an application which the appellant had filed under Section 340, Cr.P.C. In the judgment dated 12th January, 1998, the Division Bench made observations to the following effect:-

> "Pretending to be a researcher on law and judiciary and claiming he has successfully researched several judgments of the Supreme Court and the High Court in regard to interpretation of law and power exercised by the Courts, the petitioner Deepak Kumar Prahladka has only exhibited ignorance of law by filing the instant petition."

4. According to the appellant, the charge that he pretended to be a researcher of law and judiciary was false and had been made without reference to any evidence and in this view the appellant prayed that the contempt of Court proceedings be initiated against the judges who were members of the Division Bench.

5. For decision of these appeals, we would assume as correct the claim which the appellant had made at the relevant time that he is a researcher on law and judiciary, having researched several judgments of Supreme Court and the High Courts in regard to the interpretation of law and power exercised by the Courts. On this assumption, the course adopted by the appellant in filing two contempt petitions was rather more shocking since the assumption would also show that the appellant is not a layman but a person well-versed with law. It is fully understandable that when an order is passed directing issue of suo motu contempt notice to the appellant, he contests it on such grounds as may be available in law but the appellant adopted a strange and wholly uncalled for course of filing contempt petition against the judges who made the order directing issue of such contempt notice. Likewise, it is understandable that if the appellant is aggrieved by the order dated 12th January, 1998, he challenges correctness thereof in appropriate proceedings or if any incorrect factual statement is made in that order, he seeks an order for expunging that statement but, instead of so doing, he files a contempt case (CPAN No. 902/98) against the judges who passed the order dismissing his application under Section 340, Cr.P.C.

6. When the aforesaid two contempt petitions came up for consideration before a Division Bench, which comprised of two Hon'ble Judges who had passed the order dated 12th January, 1998, the appellant for having made in those petitions sweeping contemptuous remarks against the judges and having gone beyond all norms of a civilized society and having scandalized the court in the manner he filed the contempt petitions and made allegations therein, was convicted of contempt of Court and sentenced as earlier noticed. Both contempt petitions were dismissed.

7. The appellant has appeared in person. The dismissal of the two contempt petitions by the High Court is not under challenge. The appellant submits that he does not wish to challenge the impugned judgment and order to the extent it dismisses those contempt petitions. The challenge of the appellant is to his conviction and sentence by the impugned judgment and order. The main ground urged by the appellant in support of his challenge is that it was one

thing to dismiss the contempt petitions filed by him but it is altogether different to hold him guilty of contempt for filing the said contempt petitions and making averments therein which the appellant contends, is not permissible in law without issue of notice to him and affording him a reasonable opportunity to respond. The second contention of the appellant is that CPAN No. 902/96 could not have been heard and disposed of by the Hon'ble Judges who passed the impugned judgment and order as the judges themselves were respondents in the said petition. There is merit in both the contentions. Udoubtedly, the course adopted by the appellant was very shocking and prima facie the filing of the two contempt petitions and nature of insinuations against the judges therein were contemptuous but howsoever glaring the facts of the case may be, the appellant was entitled to a notice and an opportunity before holding him guilty of contempt and passing an order of imprisonment against him. From the record it seems evident that neither any notice was issued nor a reasonable opportunity was afforded to the appellant before passing the impugned judgment and order. Further, the second contempt petition could not have been heard and disposed of by the learned Judges since they were respondents in the said petition. The prayer in that case though totally misconceived was to initiate contempt proceedings against the judges who heard and disposed it of. The justice should not only be done but should also appear to have been done. It may further be noticed that the present is not a case of contempt in the face of the Court. It is a case where the averments made in the two contempt petitions are prima facie contemptuous and tend to scandalize the Court.

8. On the aforesaid facts, ordinarily setting aside the impugned judgment and order, we would have remitted the matter to the High Court for issue of notice and grant of opportunity to the appellant before deciding whether he is guilty of contempt. But, having regard to the peculiar facts of the case, we are of the view that it is not necessary to remand the case. The appellant has already undergone a sentence for a period of 36 days. Both the contempt petitions (CC No. 333/97 and CPAN No. 902) have been dismissed and the appellant does not wish to challenge the dismissal thereof. Moreover, the appellant seems to have learnt the lesson in the last six years. Instead of the negative approach as demonstrated by filing of the two contempt petitions, he claims to have started constructive work of promoting the rights of the prisoners and has joined as a legal correspondent in one of the reputed newspapers in support whereof he has filed the newspaper reports. Those reports show that the appellant is working as a legal correspondent. It is claimed by the appellant that reports are widely appreciated by legal fraternity and judges of the High Court. The appellant also does not want to lay challenge or hold anyone responsible for the period of 36 days spent by him in jail. Having regard to the aforesaid peculiar facts, while maintaining dismissal of the two contempt petitions we set aside the impugned judgment and order convicting the appellant for contempt of Court and sentencing him as aforesaid. The fine, if deposited, shall be refunded to the appellant. The appeals are disposed of accordingly.

Order accordingly.