

The State vs Krishna Madho And Ors. on 24 July, 1951

Equivalent citations: AIR1952ALL86, AIR 1952 ALLAHABAD 86

JUDGMENT

Beg, J.

1. In pursuance of an order made by a single Judge of this Court on 12-3-1951, four persons--Krishna Madho, Balak Ram, Chunni Lal & Manni Ram--appeared, before us to show cause why they should not be punished for having committed contempt of Court. Krishna Madho is the Pradhan & Balak Bam, the Up-Pradhan of the Gram Sabha of village Aurahwa, police station Pachperwa, district Gonda, Chunni Lal is a Prantiya Raksha Dal leader & Manni Ram is a Panch of the Panchayat.

2. The background of this case may be shortly stated. On 24-1-1950, Krishna Madho & Balak Ram applied to the Deputy Commissioner, Gonda alleging that Basdeo, Jageshwar, Ishaq & others were bad characters habitually addicted to the committing of thefts & that preventive action should be taken against them. On the same day they as well as Chunni Lal & Manni Ram applied to the Panchayat Officer making a similar request. No report of any date prior to 24-1-1950, the date of the above application, existed against any of the persons named in the applications. After the two applications a large number of reports, one after the other, were made against the persons named in the applications & they culminated in proceedings under Section 110 Cri. P. C. against Ishaq, Basdeo & Others. The case under Section 110 Cri. P. C. was tried by Sri Ghulam Husain, Sub-Divisional Magistrate Utraula, and Magistrate 1st Class Gonda. It must be noted at this stage that Krishna Madho, Balak Ram, Chunni Lal & Manni Ram appeared as prosecution witnesses in the said case. They are P. Ws. 7, 8, 9 & 10 respectively. During the pendency of the case the aforesaid four persons, namely Krishna Madho, Balak Ram, Chunni Lal & Manni Ram sent a letter to the Sub-Divisional Magistrate, Utraula. This letter which is the basis of the present charge is to the following effect:

"To The S. D. O., Utraula, State v. 1. Ishaq s/o Kallu

2. Pujabe s/o Wirey

3. Kallu s/o Gaya Ram

4. Sakrullah s/o Namdar

5. Basdeo s/o Ramdhani resident of village Aurahwa P. S. Pachhperwa, U/ S 10 I. P. C. Sir, It is submitted that we belong to Gramsabha of Aurahwa. Against the above mentioned accused persons a complaint was made to the district officer Police Superintendent by our Panchayat Officer of Gonda on 24-1-50. The case is now

pending against the said accused in your Hon'ble Court. Prosecution evidence has been finished. The defence evidence is going on. The witnesses produced so far & those that will be produced on 4-10-50 are all relations of the accused, a list whereof is herewith filed. This fact may be given due consideration. These people defraud Court. The list is contained on two pages. It may be brought on the file."

The above letter is signed by Krishna Madho, Pradhan, Gram Sabha Aurahwa, Balak Bam, Up-Pradhan, Chunni Lal Group Leader Aurahwa & Manni Ram, Gram Bakshak. It does not bear any date out the contents of the letter indicate that it was sent after the prosecution case was closed & just before the defence evidence was going to be produced. Appended to this letter is long list of 40 witnesses with comments against the name of each witness giving reasons why he is an interested or partial witness in the case & should, therefore be, disbelieved.

3. The case resulted in an order binding down all the persons against whom the proceedings were taken. Four of the persons bound down appealed before Sri Abdul Qasim Zaidi, Ses. J. Gonda, who dismissed the appeal. A revision against the said order of dismissal was filed in this Court (Criminal Revision No. 227 of 1950). This application was heard by Kidwai J., who delivered judgment in the case on 12-3-1951, allowing the revision & ordering the discharge of the applicants. In the course of his judgment, he observed as follows:

"The statements of Krishna Madho P. W. 7, Balak Bam P. W. 8, Chunni Lal P. W. 9 & Manni Ram P. W. 10 are not entitled to any weight at all in spite of the position which they occupy, because they have shown themselves to be clearly prejudiced witnesses. They laid the foundation for the whole proceedings and it appears from the record that when defence evidence was being produced & the counsel cross-examining the defence witnesses had failed to establish any relationship or connection between the defence witnesses & the accused which might in any way go to shake the credit of the defence witnesses, they had the temerity to address a letter to the Court pointing out what they alleged to be the relationship between the witnesses & the accused. This is not the conduct of mere witnesses, but indicates an endeavour on their part to have orders adverse to the applicants passed whether by legitimate means or by resort to unlawful tactics."

After discussing the prosecution evidence, he went on as follows:

"On the other hand, the defence has been able to produce no less than 35 witnesses, all coming from the same village. The learned Ses. J. has not considered this evidence at all & the consideration of this evidence by the trial Court is very cursory & it is unfortunate that it appeal's that the learned Magistrate has allowed himself to be influenced not by evidence on the record but by allegations made by Krishna Madho, Balak Ram, Chunni Lal & Manni Ram in the letter which they addressed to him stating that the witnesses for the defence were related either to one or the other accused or to each other.

I have been taken through the evidence of each of these witnesses & the learned counsel appearing for the State has been unable to indicate what the evidence on the record is to show the relationship of any of the defence witnesses to the accused, except D. W. 4 Abdul Razzaq & D. W. 29 Drigpal."

4. In view of the remarks made in his judgment, he passed a separate order on the same day directing that a notice should be issued against Krishna Madho, Balak Ram, Chunni Lal, & Manni Ram to show cause why they should not be punished under the Contempt of Courts Act & the present proceedings against the applicants are the result of that notice.

5. On the date of hearing the four persons against whom notices were issued were present in person. They were also represented by their counsel, who presented an application submitting an apology.

6. So far as the question of jurisdiction is concerned, under Section 2, Contempt of Courts Act, the High Courts of judicature established by Letters Patent have the same jurisdiction powers & authority in respect of contempt of Courts subordinate to them as they have in respect of contempts of themselves. The Court in which the proceedings under Section 110 Cri. P. C. took place was a criminal Court. The words "subordinate Court" seem to have been used in a wide sense so as to include any Court which the High Court has appellate jurisdiction, though as a matter of fact an appeal may not lie to the High Court in any particular case. The term "appellate jurisdiction" is not understood in the narrow technical sense in contradiction to revisional jurisdiction. The appellate jurisdiction implies a resort from an Interior tribunal of justice to a superior for the purpose of revising & correcting the judgment of the inferior tribunal. There seems, therefore, to be no doubt that after the passing of Contempt of Courts Act of 1926, the High Court has jurisdiction to punish contempt of Court of a Sub-divisional Magistrate. This view of law is in consonance with the view taken in 'Advocate General v. Maung Chit Maung & another,' (A. I. R. (27) 1940 Rang. 68).

7. So far as the merits of the case are concerned, it is equally clear that contempt of Court of the gravest possible kind has been committed in this case. In Additional Sessions Judge 'Hardoi v. Banwari Lal'. AIR (35) 1948 Oudh 114 it was laid down by a Bench of the late Chief Court of Oudh that "a private communication by a stranger or a witness addressed to a Judge calculated to influence its decision in a pending case constituted the grossest form of contempt". The facts of that case were very similar to that of the present case & the law relating to the contempt of Court laid down in that case applies fully to this case. We have no doubt that the offence is of a very serious nature

8. The persons proceeded against have, however, submitted an application submitting an apology & the question before us is whether we should accept this apology. Under Section 3, Contempt of Courts Act, this Court is not bound to accept the apology. The question whether the Court should or should not accept the apology would depend upon the circumstances of each particular case. Even if the Court accepts an apology, it may still inflict punishment upon an accused person.

9. We have examined the contents of the application submitted on behalf of the accused. Para. 2 of the application states that the applicants "did not intentionally want to cause a prejudice in the

mind." This is obviously a wrong statement of fact & an attempt on the part of the contemnors to justify their conduct. This apology is not a free & frank confession of their guilt indicating a penitent attitude on their part, but an attempt to justify their conduct under the cover of bona fides. A hauling, hesitating & vacillating apology of this nature deserves to be rejected & thrown out, We accordingly refuse to accept this apology & pass on to consider the question of sentence.

10. It may be noted that offences of this kind, committed by unauthorised persons, are becoming more & more rampant. Mere infliction of sentence of fine does not seem to have deterrent effect.

Under the circumstances we think that it is necessary to pass a sentence of imprisonment.

11. On putting question to the counsel appearing for the accused we were informed that this application was drafted by them. They are obviously literate persons. Some of them seem to hold responsible position in the Panchayat of the village. They are expected to know better. The statements made on their behalf by their counsel before us indicated that they thought that they had some sort of right to interfere in cases Under Section 110 Cri. P. C. pending before Magistrates. This is certainly a very "sorry state of affairs & the sooner they are disillusioned the better for them as well as for the administration of justice in the State,

12. It is unfortunate that neither the Magistrate, before whom the trial took place, nor the Ses. J., before whom the appeal went up, took a serious view of the matter. Cases of this kind should immediately be reported to the High Court for speedy & quick action. In the larger interest of the administration of justice they should never be allowed to go unnoticed. The matter came to light only accidentally when the proceedings came up in revision before this Court & we take a very serious view of the circumstances of this case.

13. We feel that in the ends of justice nothing less than a sentence of imprisonment should be awarded to enable the applicants to purge their guilt. We accordingly order that each of the opposite parties should undergo simple imprisonment for a period of one month & in addition pay Rs.

160/- as costs of the State Counsel appearing in the case.