

Mohammad Idris And Anr vs Rustam Jahangir Babuji And Others on 27 August, 1984

Equivalent citations: 1984 AIR 1826, 1985 SCR (1) 598

Author: O. Chinnappa Reddy

Bench: O. Chinnappa Reddy, Misra Rangnath

PETITIONER:
MOHAMMAD IDRIS AND ANR.

Vs.

RESPONDENT:
RUSTAM JAHANGIR BABUJI AND OTHERS.

DATE OF JUDGMENT 27/08/1984

BENCH:
REDDY, O. CHINNAPPA (J)
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REDDY, O. CHINNAPPA (J)
MISRA RANGNATH

CITATION:
1984 AIR 1826 1985 SCR (1) 598
1984 SCC (4) 216 1984 SCALE (2) 213

ACT:
Contempt of Courts Act 1971, Section 19~1).
High Court-Single Judge-ordering committal for contempt
of court Appealed before Division Bench-Dismissed-Whether
statutory right of appeal lies to supreme Court.

HEADNOTE:
The two petitioners in the Special Leave Petition were committed to the civil jail for a period of one month by Single Judge of the High Court under the Contempt of Courts Act 1971, as they had acted in breach of an undertaking given by them in a suit pending in the High Court. The appeal preferred by the petitioners under Section 19(1) of the Act to a Division Bench was dismissed.
In the Special Leave Petition it was contended on behalf of the petitioners that : though the petition had been filed under Article 136 the petitioners have, in law, an appeal as of right under Section 19(1), and (2) the

Single Judge was not justified in giving directions in addition to punishing the petitioners for contempt of court.

Dismissing the Special Leave Petition,

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HELD:1. If the order of committal for contempt of court is made by a Single Judge of the High Court, there is one statutory right of appeal to a Division Bench of not less than two Judges. If the order of committal of contempt of court is made by a Bench, an appeal lies as of right to the Supreme Court. Where an appeal is filed against the order of the Single Judge to a Division Bench, the statutory right of appeal gets exhausted and there is no further right of appeal to the Supreme Court.[600B.C]

2. As there was a clear breach of the undertaking given by the petitioners, the Single Judge was quite right in giving appropriate directions to close the breach. [600E]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Special Leave Petition (Civil) No. 9395 of 1984.

From the Judgment and order dated the 10th August, 1984 of the Bombay High Court in Appeal No. 721 of 1984.

R. N. Keshwani for the Petitioners.

R. Karenjawala for the Respondent.

The Judgment of the Court was delivered by CHINNAPPA REDDY, J. On an allegation that the petitioners had acted in breach of an undertaking given by them in Suit No. 2308 of 1983 in the High Court of Bombay, a notice was issued to them to show cause why they should not be committed for contempt of court. Cause was sought to be shown. A learned Single Judge of the High Court recorded the following finding:

"In my judgment the action of defendants Nos 4 and 6 clearly shows utter contempt for the orders of the court and under taking given by them. I have no hesitation in holding that these defendants have committed gross contempt of Court...in my judgment, there is no circumstance whatsoever to take any lenient view of the gross contempt committed by defendants 4 and 6 and both of them are liable to be punished under the provisions of Contempt of Courts Act."

On those findings the learned Single Judge committed each of the two petitioners to the civil jail for the period of one month. Against the order of the learned Single Judge, the petitioners preferred an appeal to the Division Bench of the High Court under s 19(1) of the Contempt of Courts Act, 1971. The appeal was dismissed by the Division Bench and the present Special Leave Petition has been filed against the judgment of the Division Bench. Shri Ramesh N. Keswani. learned counsel for the

petitioners submits that though the Petition for Special Leave to Appeal has been filed under Article 136 of the Constitution, the petitioners have, in law, an appeal as of right under s. 19(1) of the Contempt of Courts Act. The submission has only to be stated to be rejected as totally lacking in substance. Section 19(1) of the Contempt of Courts Act is as follows:

"An appeal shall lie as of right from any order or decision of High Court in exercise of its jurisdiction to punish for contempt-

(a) where the order or decision is that of a single Judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court;

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union Territory, such appeal shall lie to the Supreme Court." If the order of committal for contempt or Court is made by a Single Judge of the High Court, there is one statutory right of appeal to a Division Bench of not less than two Judges of the Court. If the order of committal for contempt of court is made by a Bench, an appeal lies as of right to the Supreme Court. Where an appeal is filed against the order of the learned Single Judge to a Division Bench, the statutory right of appeal gets exhausted and there is no further right of appeal to the Supreme Court. *Shri Keshwani cited to us Purushottam Das Goel v. Hon. Justice B.S Dhillon.*(1) The decision is entirely irrelevant.

On merits, the learned counsel submitted that the undertaking given was not in respect of the property concerned and that in any case the learned Single Judge was not justified in giving certain directions in addition to punishing the petitioners for contempt of court. We find no substance in the submissions made by the learned counsel. There was a clear breach of the undertaking given by the petitioners and we are of the opinion that the Single Judge was quite right in giving appropriate directions to close the breach. The Special Leave Petition is, therefore, dismissed. N.V.K. Petition dismissed.