

Allahabad High Court

State Of U.P. vs D.K. Dass Vidhi on 11 September, 1972

Equivalent citations: 1973 CriLJ 1271

Author: M Shukla

Bench: M Shukla, K Seth

JUDGMENT M.N. Shukla, J.

1. This reference made to this Court relates to a contempt alleged to have been committed by one D.K. Dass Vidhi in the course of a case under Section 411, Indian Penal Code, which was pending in the Court of Sri R. C. Jain, Mun-sif-Magistrate, First Class, Meerut.

2. The short facts of the case are that a criminal complaint was instituted by D. K. Dass Vidhi in the court of the Additional District Magistrate (Judicial), Meerut, on 27-9-1966, who transferred it to the court of the Judicial Officer, Ghaziabad, for disposal according to law. The case had a chequered history and was transferred from one court to another frequently on the applications for transfer made by the contemner himself. Besides these transfers, adjournments were also sought by him evidently with a view to procrastinating the proceedings. Ultimately the case was received in the court of Sri R. C. Jain, Munsif-Magistrate, Meerut, by transfer on 15-9-1970 and it was ordered to be put on the date fixed. On 16-2-1971 the case was repeatedly called out but none responded on behalf of the complainant. The accused along with his counsel was present and the Senior Public Prosecutor was asked to clarify as to whether the case was to proceed as a private complaint case or as a State case, as the title of the case had been differently mentioned at different stages. The Assistant Public Prosecutor vide his report dated 9-3-1971 submitted that the case was a private complaint case and as such he had no locus stand to appear for the complainant. The case was, therefore, adjourned for prosecution evidence, fixing 8-4-1971 for the purpose, In the meantime the Munsif-Magistrate sought a clarification from the Additional District Magistrate (Judicial) by a letter dated 20-4-1971 requesting him to indicate as to whether the case was to be prosecuted by a State counsel. Thereafter the complainant moved an application dated 30-4-1971 before the Additional District Magistrate {Judicial) praying for the transfer of the case from the court of the Munsiff-Ma-gistrate. The learned Additional District Magistrate rejected the transfer application by his order dated 5-6-1971 and specifically ordered that the case would not be conducted by the Assistant Public Prosecutor inasmuch as it was not a State case, which description wrongly occurred at some places. The file was received back in the Court of the Mun-siff-Magistrate on 9-6-1971 and 3-8-1971 was fixed for the prosecution evidence and the complainant was directed to take steps for summoning the prosecution witnesses. Thereupon he again moved a transfer application, which had not been disposed of at the time when the present reference for contempt was made to this Court.

3. While the above proceedings were pending in the Court of the Munsiff-Magis-trate, a new item appeared in a local news paper of Meerut, namely, "Shoorvir" of which D, K. Dass Vidhi was admittedly the Editor. The article rendered into English runs as follows:

Shree R, C. Jain under the influence of a woman. Secretary City Congress Committee, Meerut.

MEERUT.

It has come to light that a case State Versus Om Prakash Garg under Section 411 f P.S. Ghaziabad is pending in the Court of Sri R. C. Jain, Munsif Magistrate, Meerut. In this case Sri Jain did not demand any fee for the service of summonses on prosecution witnesses in connection with the pairvi done by the State Pairokar. This shows that Sri Jain was discharging his duties honestly. From the side of accused Om Prakash, a lady went to the house of Sri Jain and met him secretly. She stayed there for the whole night. On the very next day, Sri Jain, as soon as he took his seat, acted against the law and demanded the fee. Instead of the Case State Versus Om Prakash, he entered another case D. K. Dass Vidhi Versus Om Prakash Garg in his diary, which amounted to the 'ontempt of Court. The higher authorities should make thorough enquiry in the matter and start a case under Section 228 against Sri R. C. Jain and that action may be taken against him after the enquiry. Prosecution Witnesses in the case State Versus Om Prakash under Section 411, P.S. Ghaziabad, in the Court of Musif Magistrate, Shri R. C. Jain Presiding Officer, S. D. M. (J) Meerut:

D. K. Das Vidhi, Proprietor, Shankar Press, 221 Subhas Dwar, Ghaziabad". Formerly Sri Om Prakash, accused, had sent ladies to the place of the Magistrate. This case has been pending since 1965.

4. From a perusal of the above passage it is manifest that the Editor made an allegation against the Munsif-Magistrate for spoiling cases at the instance of women. The tail end of the news item contained the serious imputation that in the past also Sri Om' Prakash Garg had sent ladies to the place of the Magistrate. Thus, there is not the least doubt that the allegation was most flagrant, offensive and highly derogatory to the dignity of the Court.

5. We have perused the counter-affidavit filed by the contemner. He was also present before us in Court. We cannot refrain from remarking that his conduct in Court also betrayed the highest degree _ of audacity and there was not the slightest sign of remorse. He emphatically asserted before us over and over again that what he had stated in the news item was true. He persisted in his allegations and did not feel sorry for his conduct. His counter-affidavit also does not smack of the faintest feeling of regret. Surely it does not contain any apology. We would like to refer to certain I passages in his counter-affidavit which themselves reflect the attitude of his mind and which .contain allegations amounting to gross contempt. Thus, for instance, paragraph 4 of the counter-affidavit runs as follows:

4. That in respect of the contents of paragraph No. 4 of the application, it is submitted that the news was not published with a view to malice Sri R. C. Jain and his judicial Office. By his own undesirable activities as published in the said newspaper 'Shoorvir', Sri R. C. Jain has himself degraded the dignity of the court and it is he who deserves strict punishment for indulging in such undesirable activities. The deponent never sold personally any copy of the said newspaper 'Shoorvir' dated 18-8-1971 in the compound of the court. He did not arrange to sell and distribute the copies of the said paper in the compound of the court." Another paragraph which deserves notice is paragraph No. 6 of the counter-affidavit:

6. That after Sri R, C. Jain was won over by Om Prakash through the supply of a woman to him, he acted mala fide to see that the case was not conducted by the State and it might be dismissed in

default. The deponent is ready to prove the correctness of the said news. One Jewan Kumar, a servant of one Gopi Nath conveyed to Shanti and Kishan Lai c/o. Zewar Singh Jain, Bhojanalaya, Ghantaghar, Meerut that a woman was sent by his master to Shri R. C. Jain, through him and he took her to the residence of Shri R. C. Jain, who kept her in his house for the whole night. Sri Shanti and Kishan Lai narrated this matter to the deponent. After being satisfied and observing the conduct of Sri R. C. Jain in the case, the deponent published the news with a view that such persons like Sri R. C. Jain who are lowering the prestige of the judiciary might be taken to task. The publication of the correct news with bona fide intention may create mental agony to Sri R. C. Jain's mind and may degrade his name, but the said publication of the correct news does not make the deponent liable for the contempt of the court. The evidence of the above noted persons, who may be summoned by this Hon'ble Court for this purpose will establish the correctness of the said news.

6. The above mentioned paragraphs indicate that the contemner acted in a most reckless manner and his action was apparently mala fide. He did not rely on any personal knowledge before he rushed to publish the news item. He did not even care to verify the alleged information from one fewan Kumar, who is said to be the author of that information. The allegations made in the crucial paragraphs of the counter affidavit are made in the vaguest language without disclosing the particulars or antecedents or any details of the informant. It is amazing that the contemner chose to found serious allegations on such dubious information. The mere circumstance that the servant of somebody told some other persons that his master had sent a woman to the Munsif-Magistrate, in whose court the case was pending, is on the face of it too frivolous to which a person with any sense of responsibility can give credence. The contemner did not show any circumspection. On the contrary, he acted in haste and in a most impulsive manner. His allegations as they were flashed in the press and reiterated in the counter affidavit filed before us transcend the limits of decency and propriety. Needless to add that they are indicative of an attitude of grossest disrespect to the court in which the proceedings were pending. The tenacity and vehemence with which the contemner repeated his allegations before us show that he is a very cantankerous person. Although he is old and his hair are silver, age has not made him mellow or tempered his fury. He is as recalcitrant and defiant as ever. He talks like a fanatic, and he seems to be suffering from certain obsessions which he cannot get over.

7. The news item published by him had unmistakably the effect of undermining the prestige of the court and bringing the Munsif-Magistrate into disrepute. His allegations were not founded on such data on which a reasonable or prudent person could place reliance or be guided in choosing his course of conduct. He has not supported his allegations by filing the affidavit of any of the persons mentioned in paragraph 6 of the counter-affidavit. Judicial administration would topple down if impassioned litigants were allowed to arraign the character of the presiding officers of the courts on the basis of street gossip or yarns spun out in the market place and retailed as cheap fare for public' consumption. The news item is a typical product of the Yellow Press, and the author of such news deserves severe punishment for his reckless and irresponsible conduct. We are convinced that the news item published by the contemner tended substantially to interfere with the due course of justice.

8. Before parting with the case, we may also mention that the contemner has had no compunction in making false averments in his counter-affidavit which warrant, in fact, a separate action against him for perjury. Thus, for instance, he has asserted wrongly in his counter-affidavit that he did not file any complaint case against Om Pra-kash Garg. It cannot be gainsaid even for a moment that the complaint was instituted by him on 27-9-1966 against one Om Pra-kash Garg which he pursued with great tenacity,

9. Thus, we have come to the conclusion that the contemner committed gross contempt of the court of Sri R. C. Jain, Munsif-Magistrate, Meerut by publishing the news item dated 18-8-1971 in the local newspaper "Shoorvir" of which he was admittedly the Editor at the relevant time. A deterrent sentence is called for in this case because by his conduct in court the contemner has made his offence, already serious, graver. He has done nothing to mitigate his offence and has rather invited upon himself a deterrent punishment. We, therefore, convict him and sentence him to undergo six months' simple imprisonment. The contemner is present in court. He shall be taken into custody forthwith to serve out the sentence, awarded to him. Order accordingly.