

Supreme Court of India

Shamsher Singh Bedi vs High Court Of Punjab And Haryana on 8 December, 1994

Equivalent citations: AIR 1995 SC 1974, 1995 CriLJ 3627, (1996) 7 SCC 99

Author: M Punchhi

Bench: M Punchhi, K J Reddy

JUDGMENT M.M. Punchhi, J.

1. The contemnor, Shri Shamsher Singh Bedi, Advocate, Anandpur Sahib District Ropar, Punjab, is the appellant in this appeal filed under Section 19 of the Contempt of Courts Act, 1971 against the judgment and order of a Division Bench of the Punjab and Haryana High Court convicting him under Section 2(c)(i) of the said Act and sentencing him to pay a fine of Rs. 1,000/- (Rupees one thousand only), in default to undergo simple imprisonment for a period of 15 days.

2. The facts of the case as we find in the judgment of the High Court and which are not in dispute are as follows:

One Gurdial Singh was arrested on the basis of an F.I. R. dated 24th April, 1983 by the police of Anandpur Sahib, District Ropar, for offences under Sections 307/353/392/394 etc. of the Indian Penal Code. He was then produced before Shri N. C. Prashar, Judicial Sub-Divisional Magistrate, Anandpur Sahib, for remand and he was remanded to judicial custody. A bail application was filed and the learned Magistrate refused bail though it was not a case under Section 307, I.P.C. Aggrieved by this order, Gurdial Singh served notice on the Magistrate which was drafted by the appellant and which was served on the Magistrate by Shri Shamesher Singh, Advocate Kharar. In the said notice, certain remarks have been made against the learned Magistrate. Since they were found to be somewhat scandalous, proceedings under Contempt of Courts Act were initiated and the matter was placed before the High Court. A Division Bench after considering the remarks made against the Judge reached the conclusion that they are scandalous and that they tend to pervert the course of justice and likely to interfere with the proper administration of justice. It may be mentioned here that notice of contempt was also issued to Shri Gurdial Singh as well as Shri Shamsher Singh and all the three contemnors including the appellant for being heard. The other two contemnors were also convicted and sentenced, but they are not before us.

3. The defence taken by the appellant is that he did not despatch the notice nor took any responsibility with respect to the statement therein and that he never advised Shri Shamsher Singh to serve the notice and that he had simply drafted the said notice which was his professional duty and in such a situation, the Judicial Officer is not protected for malicious and mala fide acts. However, it was also pleaded that in case the Court came to the conclusion that the appellant has committed contempt, he intends to tender an unconditional apology. The High Court in its judgment has fully extracted the entire notice and has referred to the objectional remarks which warranted institution of the contempt proceedings and after an elaborate discussion satisfied itself that the appellant as well as the other two contemnors have committed contempt and accordingly convicted them.

4. Learned Counsel for the appellant submits that the remarks made in the notice were against the individual Presiding Officer and not against the Court as such and therefore a clear cut case of contempt is not made out. In support of his submission, he relied upon the judgment of a Constitution Bench of this Court in *Brahma Prakash Sharma v. State of Uttar Pradesh* .

5. We have gone through the entire judgment and particularly the contents of the notice. Admittedly the appellant drafted the notice and he cannot escape the responsibility of having drafted the same in his professional capacity, which incriminates him. In the notice it is mentioned that the Magistrate had no power to refuse bail to Gurdial Singh and by refusing the same, he acted with mala fide intention and with a view not to displease the local police. It is also stated in paragraph 12 of the notice which reads as follows:

That instead of showing your judicial independence and passing a bail order in conformity with the mandatory provisions of law you tried to help the local police in their nefarious designs and activities to keep Sarpanch Gurdial Singh in custody as long as possible in order to humiliate him and to put pressure upon him that no complaint should be filed against him.

6. These remarks against the Magistrate who refused to grant bail are definitely scandalous and are definitely with reference to the discharge of his judicial function. We are unable to agree with Mr. Sodhi that the objectionable remarks made in the notice do not in any way interfered with the administration of justice by that Court.

In *Brahma Prakash's* case AIR 1954 SC 10 at p.14 it is also observed:

It is not necessary to prove affirmatively that there has been an actual interference with the administration of justice by reason of such defamatory statement; it is enough if it is likely, or tends in any way, to interfere with the proper administration of law.

7. Having given our earnest consideration, we are, not able to agree with the submission of the learned Counsel, Mr. Sodhi that the defamatory Statements mentioned above were only aimed at the individual and were not likely to interfere with the administration of justice by that Court. We see no merit in this appeal, it is accordingly dismissed.