Supreme Court of India
Ram Niranjan Roy vs State Of Bihar & Ors on 31 March, 1947
Author: .....J.
Bench: Ranjana Prakash Desai, Madan B. Lokur

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1240 OF 2004

Ram Niranjan Roy …Appellant

Versus

State of Bihar and Ors. …Respondents

J U D G M E N T

(SMT.) RANJANA PRAKASH DESAI, J.

1. A petition was filed in public interest in the Patna High Court being C.W.J.C. No. 1311 of 2003 by Bihar Vyavsayik Sangharsh Morcha and another raising several issues relating to law and order problem in the State of Bihar. The State of Bihar, the Director General of Police of Bihar and others were made party respondents. The issues raised inter alia were whether the respondents were duty bound to provide safe and healthy atmosphere for the proper development of the State or not and whether the inaction of the respondents was violative of fundamental rights guaranteed under Articles 19 and 20 of the Constitution of India. The petitioner inter alia sought direction to the respondents to take measures to stop exploitation of shopkeepers, dealers, artisans, labourers and industrial units by officers and police personnel.

2. The High Court issued notices to the respondents pursuant to which they filed affidavits. On 14/08/2003 the High Court directed the Director General of Police to make a list of officers from the Station House Officers upto the Additional Director General of Police, of those who have remained in their station for more than four years. Relevant paragraphs from the High Court's order could be quoted:

> "The court suggests the following measures as an ad interim exercise:
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> a) Let the Director General Police make out a list of officers from the Station House Officer upto the Additional Director General of Police, of those who have remained in their station for more than four years. This dossier is to be supported with information from service record as to which officer throughout their career has

> remained at which station and for how long. Officers who have remained at one station for over four years must see a posting out within six weeks from today. These would be officers below the rank of Inspector General of Police. Staff below the SHOs who have remained at a particular station beyond three years will be identified by the District heads of police concerned and their movement will be undertaken by the Director General of Police.
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> It must be mentioned that the period of four years is set because in the normal course of government service, transfers and postings are made for officers if they have been at a particular station for more than three years. This order obviously does not preclude the Director General of Police from making any transfers should an officer have been at a posting for a lesser period, which is within normal administrative powers."

3. In December, 2003, the appellant, who was holding the post of Deputy Superintendent of Police, Crime Investigation Department (CID), Bihar, filed an intervention application being I.A.No.5588 of 2003. The appellant claimed in the application that he was the President of Bihar Police Seva Sangh, a service association of members of Bihar Police Service. He stated in the application that the transfers and postings of the officers of Bihar Police Service were done arbitrarily in violation of guiding principles framed by the Home Department of Government of Bihar. The appellant referred to a Writ Application filed by him being C.W.J.C. No.12225 of 1999 against the State of Bihar for an order directing the respondents to implement the said guiding principles. He stated that the said writ application has been pending in the High Court for last four years during which the government has tried to victimize him mala fide. He further stated that his application should be heard along with the C.W.J.C. No.1311 of 2003. He, therefore, prayed that he may be impleaded in C.W.J.C. No.1311 of 2003.

4. Admittedly, the appellant is posted at Patna for several years. It is clear from several orders that the High Court has passed in this matter that while dealing with the question of law and order situation in Bihar, the High Court was looking into the State Government's policy of postings and transfer of police officers, obviously because that has a direct bearing on efficiency and rectitude of the police officers. The High Court even recorded the statement of the Advocate General that certain transfers of police officers are being effected. The appellant was unhappy and disturbed about the task undertaken by the High Court. This is evident from the first paragraph of his intervention application where he has referred to the order passed by the High Court directing the respondents to submit a list of officers who have not been removed from their station for more than four years. It is this that made him intervene in C.W.J.C. No.1311 of 2003.

5. The appellant wanted his writ application pending in the Patna High Court to be heard with C.W.J.C. No. 1311 of 2003. We have, therefore, carefully gone through that petition. The appellant wants to create an impression that he is fighting for the cause of police officers of Bihar, but a careful reading of his application makes it clear that he is espousing his own cause. He has stated that he is continuously posted for seven years in Cabinet Vigilance Department. He has stated that his posting in Criminal Investigation Department is wrong and he should be posted as Sub Divisional Police

Officer anywhere in Patna or in any other proper office such as traffic or transport department in Patna, so that he may do government duties and take over the responsibility as the President of Bihar Police Seva Sangh. We shall advert to this Seva Sangh a little later, but, suffice it to say at this stage that the appellant's pending writ application concentrates on his posting and he figures in the prayer clause also.

6. From the impugned order it appears that on 27/01/2004, the appellant appeared in-person before the High Court. He shouted and told the court that he was intervener and that the High Court has not focused its attention on the wrong policies of transfers within the police department. He raised his voice with impertinence and declared that the High Court is not taking up his case wherein he has challenged his transfer and posting made in the police department. Learned Judges, then, asked him whether he had been granted leave by the Director General of Police to present his case. He again shouted at the court and stated that he had applied for leave but whether leave is granted to him or not is not the concern of the court. The High Court has observed that he could not show to the court that leave had been granted to him by the Police Headquarters to argue his case in-person and challenge transfer policy of the police department. The High Court has further observed that the appellant baited the court. He wanted his writ application to be considered out-of-turn on the ground that it was concerning transfers and postings of police officers. The High Court, therefore, called for the record, perused the appellant's application and found out that it mainly related to his own transfer. The appellant, then, claimed to be an office bearer of Bihar Police Seva Sangh and stated that the Police Manual has declared him a member of the protected staff and he has immunity from transfers and he cannot be touched. He produced a letter addressed by a Cabinet Minister to the Chief Minister of Bihar questioning why he was transferred from one establishment to another, though, within the city. The said letter is quoted in the impugned order. It appears from the impugned order that the appellant did not show the slightest remorse nor regret and instead continued to bait the court and repeat that even the Minister had given him protection and had granted stay of his transfer. In view of this contumacious behaviour, the High Court directed that the appellant may be taken into custody by the Court Officer and the Sergeant and sent to jail as punishment for a day i.e. for twenty four hours. His intervention application came to be rejected. Aggrieved by this order, the appellant has approached this Court.

7. The appellant appeared in-person. Looking to the importance of the matter, we requested Mr. Siddharth Luthra, learned Additional Solicitor General, to assist us. As usual, Mr. Luthra has rendered remarkable assistance to this Court. We heard the appellant at some length. He submitted that he is not guilty of contempt of court. He submitted that he has highest regard for the court and he never shouted in the court as stated in the impugned order. He submitted that he is the President of the Bihar Police Seva Sangh and is espousing the cause of police officers in general. On a query made by this Court, whether the Bihar Police Seva Sangh is a registered society or whether it has got any recognition, he submitted that the application in that behalf is pending. The Bihar Police Seva Sangh, however, has not received any recognition so far. He submitted that the respondents have not refuted any of his contentions by filing any affidavit in reply. He drew our attention to Section 14 of the Contempt of Courts Act, 1971 and submitted that no opportunity, as contemplated therein, was given to him to make his defence. He submitted that he had filed an application for bail. However, no order was passed thereon. He further submitted that the High Court has unnecessarily

cast aspersions on him. He urged that the impugned order may be set aside.

8. Mr. Luthra, learned Additional Solicitor General, on the other hand, submitted that the appellant is guilty of contempt committed in the face of the High Court and his case is covered by the judgment of this Court in Leila David(6) v. State of Maharashtra and Others[1] where this Court has observed that when a contemnor disrupts the court proceedings by using offensive language, it is permissible to adopt summary proceedings to punish him. Mr. Luthra further submitted that the appellant tried to get his personal application tagged to the Public Interest Litigation petition for his personal gain and he utilized a letter of a Cabinet Minister to overawe the court. Besides, he produced incorrect copy of the impugned order in this Court. He claimed that he had filed bail application when no such application is found in the record. He has committed breach of undertaking given in the affidavit filed in this Court. Mr. Luthra submitted that no leniency should be shown to such a person and the appeal may, therefore, be dismissed.

9. We have extensively referred to the contents of the impugned order of the High Court with a purpose. It reflects the appellant's rude behaviour. The intemperate language used by the appellant while addressing learned Judges of the High Court is most objectionable and contumacious. The appellant is Deputy Superintendent of Police. He claims to be the President of Bihar Police Seva Sangh. A responsible police officer is not expected to behave in such undignified and unruly manner in the Court. He shouted at the Judges. When they asked him whether the police headquarters had granted him any permission to argue his case in-person and challenge transfer policy of the police department, he rudely stated that that was not the concern of the court. He was, however, unable to produce any permission. Thereafter, he told the court that his application should be heard along with Public Interest Litigation as it related to postings and transfers of police officers. On scrutiny, it was found that it mainly related to his transfer. Thus, he made a wrong statement before the Court. He, then, stated that he is a protected staff member and has immunity from transfer and he cannot be touched. He tried to overawe the court by producing a Cabinet Minister's letter addressed to the Chief Minister recommending his case. He did not show any remorse. He did not tender any apology, but, continued his rude behaviour of shouting at the court and baiting the court. By this behaviour he lowered the dignity and authority of the High Court. He challenged the majesty of the High Court by showing utter disrespect to it. Undoubtedly he committed contempt of the High Court in its presence and hearing. He is, therefore, guilty of having committed contempt in the face of the High Court. His case is squarely covered by Section 14 of the Contempt of Courts Act, 1971.

10. In Re: Vinay Chandra Mishra[2], on a question put to him by a Judge of the Allahabad High Court, the contemnor, who was an advocate, started shouting at the Judge and told him that the question could not have been put to him and he would get the Judge transferred or see that impeachment motion is brought against him in Parliament. He made more such derogatory comments. Learned Judge addressed a letter to the Acting Chief Justice narrating the incident. The Acting Chief Justice forwarded the letter to the then Chief Justice of India. This Court, then, issued a notice to the advocate taking a view that there was a prima facie case of the criminal contempt of the court. This Court treated the said contempt as criminal contempt committed in the face of the High Court and sentenced the advocate. Commenting on the contemnor's conduct, this Court observed as under:

> "To resent the questions asked by a Judge, to be disrespectful to him, to question his authority to ask the questions, to shout at him, to threaten him with transfer and impeachment, to use insulting language and abuse him, to dictate the order that he should pass, to create scenes in the court, to address him by losing temper are all acts calculated to interfere with and obstruct the course of justice. Such acts tend to overawe the court and to prevent it from performing its duty to administer justice. Such conduct brings the authority of the court and the administration of justice into disrespect and disrepute and undermines and erodes the very foundation of the judiciary by shaking the confidence of the people in the ability of the court to deliver free and fair justice." The above observations of this Court have a bearing on the present case.

11. In Ranveer Yadav v. State of Bihar[3] the appellant and the other contemnors disrupted the court proceedings by aggressively exchanging heated words and created unpleasant scenes in the Court. The decorum and dignity of the court was so much threatened that the Judge was forced to rise. This Court held that the offending acts of the appellant constitute contempt in the face of the court. The relevant paragraph could be quoted.

"The offending acts of the appellant constitute contempt in the face of court. When contempt takes place in the face of the court, peoples' faith in the administration of justice receives a severe jolt and precious judicial time is wasted. Therefore, the offending acts of the appellant certainly come within the ambit of interference with the due course of judicial proceeding and are a clear case of criminal contempt in the face of the court."

12. The appellant's contention that no opportunity was given to him to make his defence must be rejected. In Pritam Pal v. High Court of Madhya Pradesh, Jabalpur, through Registrar[4], while dealing with the nature and scope of power conferred upon this Court and the High Court, being courts of record under Articles 129 and 215 of the Constitution of India respectively, this Court observed that the said power is an inherent power under which the Supreme Court and the High Court can deal with contempt of itself. The jurisdiction vested is a special one not derived from any other statute but derived only from Articles 129 and 215. This Court further clarified that the constitutionally vested right cannot be either abridged, abrogated or cut down by legislation including the Contempt of Courts Act.

13. In Leila David(6) this Court has discussed what is contempt in the face of the Court. In this case, the petitioners made contumacious allegations in the writ petition and supporting affidavits. Notices were issued to them as to why contempt proceedings should not be issued against them. The hearing commenced. The writ petitioners disrupted the proceedings by using very offensive, intemperate and abusive language at a high pitch. One of the petitioners stated that the Judges should be jailed by initiating proceedings against them and threw footwear at the Judges. The petitioners stood by what they had said and done in the Court. One of the learned Judges felt that there was no need to issue notice to the petitioners and held them guilty of criminal contempt of the court. The other learned Judge observed that the mandate of Section 14 of the Contempt of Courts Act, 1971 must be followed before sending the contemnors to jail. The question was, therefore, whether the petitioners

were entitled to any opportunity of hearing. The matter was thereafter placed before a three Judge Bench. The three Judge Bench resolved the difference of opinion and observed as under:

> "Section 14 of the Contempt of Courts Act no doubt contemplates issuance of notice and an opportunity to the contemnors to answer the charges in the notice to satisfy the principles of natural justice. However, where an incident of the instant nature takes place within the presence and sight of the learned Judges, the same amounts to contempt in the face of the Court and is required to be dealt with at the time of the incident itself. This is necessary for the dignity and majesty of the courts to be maintained. When an object, such as a footwear, is thrown at the Presiding Officer in a court proceeding, the object is not to merely scandalise or humiliate the Judge, but to scandalise the institution itself and thereby lower its dignity in the eyes of the public."

14. Thus, when a contempt is committed in the face of the High Court or the Supreme Court to scandalize or humiliate the Judge, instant action may be necessary. If the courts do not deal with such contempt with strong hand, that may result in scandalizing the institution thereby lowering its dignity in the eyes of the public. The courts exist for the people. The courts cherish the faith reposed in them by people. To prevent erosion of that faith, contempts committed in the face of the court need a strict treatment. The appellant, as observed by the High Court was not remorseful. He did not file any affidavit tendering apology nor did he orally tell the High Court that he was remorseful and he wanted to tender apology. Even in this Court he has not tendered apology. Therefore, since the contempt was gross and it was committed in the face of the High Court, learned Judges had to take immediate action to maintain honour and dignity of the High Court. There was no question of giving the appellant any opportunity to make his defence. This submission of the appellant must, therefore, be rejected.

15. In this Court also the appellant's behaviour is far from satisfactory. He told us that he had filed an application for bail in the High Court, but the High Court did not consider it. The bail application attached at Annexure-A/6 to the petition is unsigned, supported by unsigned affidavit bearing no name of the lawyer. We have gone through the entire record of the High Court and we find that there is no bail application in the record. Still worse is the tampering of the impugned order. The appellant has not filed the true copy of the impugned order. The first sentence of paragraph 4 of the copy of the impugned order filed in this Court reads as under:

> "The intervenor who presents himself in person otherwise a police officer didn't shout at the Court that he is an intervenor in this case...." However, in the original impugned order the said sentence does not have the words 'didn't shout.' It reads as under:
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> "the intervenor who presents himself in person otherwise a police officer shouted at the Court that he is an intervenor in this case....." Thus, the words 'didn't shout' have replaced the word 'shouted.' When we asked for an explanation, the appellant stated that there is no tampering, but it is merely a typing error. We refuse to accept this

> explanation. In this case, by replacing the word 'shouted' by the words 'didn't shout' the appellant has changed the entire meaning of the sentence to suit his case that he did not shout in the court. Thus, he is guilty of tampering with the High Court's order and filing it in this Court. This would, in our opinion, be criminal contempt as defined by Section 2(c) of the Contempt of Court Act, 1971. There is abundance of judgments of this Court on this issue. This Court has taken a strict view of such conduct.
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> We may usefully refer to Chandra Shashi v. Anil Kumar Verma[5] where in a transfer petition the contemnor had filed a forged experience certificate purportedly issued by the Principal of a college from Nagpur. The Principal filed affidavit stating that the said certificate is forged.

This Court observed that an act which interferes or tends to interfere or obstructs or tends to obstruct the administration of justice would be criminal contempt as defined in Section 2(c) of the Contempt of Courts Act, 1971. This Court further observed that if recourse to falsehood is taken with oblique motive, the same would definitely hinder, hamper or impede even flow of justice and would prevent the courts from performing their legal duties as they are supposed to do. The contemnor was, therefore, suitably sentenced.

16. In Re: Bineet Kumar Singh[6] a forged/fabricated order of this court was used for the purpose of conferring some benefits on a group of persons. This Court took a strict view of the matter and observed as under:

> "The law of contempt of court is essentially meant for keeping the administration of justice pure and undefiled. It is difficult to rigidly define contempt. While on the one hand, the dignity of the court has to be maintained at all costs, it must also be borne in mind that the contempt jurisdiction is of a special nature and should be sparingly used. The Supreme Court is the highest court of record and it is charged with the duties and responsibilities of protecting the dignity of the court. To discharge its obligation as the custodian of the administration of justice in the country and as the highest court imbued with supervisory and appellate jurisdiction over all the lower courts and tribunals, it is inherently deemed to have been entrusted with the power to see that the stream of justice in the country remains pure, that its course is not hindered or obstructed in any manner, that justice is delivered without fear or favour. To discharge this obligation, the Supreme Court has to take cognizance of the deviation from the path of justice. The sole object of the court wielding its power to punish for contempt is always for the course of administration of justice. Nothing is more incumbent upon the courts of justice than to preserve their proceedings from being misrepresented, nor is there anything more pernicious when the order of the court is forged and produced to gain undue advantage. Criminal contempt has been defined in Section 2(c) to mean interference with the administration of justice in any manner. A false or misleading or a wrong statement deliberately and wilfully made by a party to the proceedings to obtain a favourable order would undoubtedly

> tantamount to interference with the due course of judicial proceedings. When a person is found to have utilised an order of a court which he or she knows to be incorrect for conferring benefit on persons who are not entitled to the same, the very utilisation of the fabricated order by the person concerned would be sufficient to hold him/her guilty of contempt, irrespective of the fact whether he or she himself or herself is the author of fabrication." We respectfully concur with these observations.

17. We shall now turn to the affidavit filed by the appellant in this Court. He has sworn an affidavit stating that the annexures of the criminal appeal are the true copies of the originals and the facts stated in the criminal appeal are true to his knowledge. As already noted by us, the appellant has tampered with the original impugned order. He stated that he had filed a bail application in the High Court. The copy of the said bail application filed in this Court is unsigned and supported by unsigned affidavit bearing no name of the lawyer. The appellant has not made the Registrar of the Patna High Court party to the appeal. The Registrar could have clarified whether any bail application was, in fact, filed by the appellant. In any case, we have perused the record and we find that there is no such bail application in the record. Thus, in this Court the appellant has filed a false affidavit. This amounts to contempt of this Court.

18. Another very disturbing feature of this case is the manner in which the appellant flourished in the High Court a Cabinet Minister's letter addressed to the Chief Minister recommending his case. We do not want to comment on the propriety of the Cabinet Minister in addressing such a letter to the Chief Minister in this case, though this Court has in Prakash Singh and ors. v. Union of India and ors[7] sought to insulate the police from political interference. In any case, the appellant should not have tried to overawe the High Court by producing the said letter. We deprecate this conduct. We were also taken aback when we were informed that the appellant is the President of the Bihar Police Seva Sangh. We are, however, informed that membership of such association is permitted in the State of Bihar even to the police officers. However, the fact remains that the said association is not registered.

19. The appellant's contention that since the respondents have not filed affidavit, his case is unrebutted is without any merit. A contempt matter is essentially between the contemnor and the court. On the basis of the record and the attendant circumstances the court has to decide whether there is any contempt or not. No doubt, the respondents could have filed an affidavit, but merely because there is no affidavit, the contemnor cannot escape his liability. The facts of the case are gross. The contempt is in the face of the High Court. The fact that the respondents have not filed affidavit in reply does not dilute the contempt committed by the appellant.

20. In the ultimate analysis we are of the view that the High Court cannot be faulted for punishing the appellant for contempt of court. No interference is necessary with the impugned order. We are also concerned with the contempt of this Court committed by the appellant. We direct the appellant to pay a fine of Rs.25,000/-. The fine shall be deposited with the Supreme Court Legal Services Committee within four weeks from today, failing which the appellant shall suffer simple imprisonment for seven days. The amount deposited by the appellant may be utilized for issues concerning juvenile justice.

21. The appeal is disposed of in the afore-stated terms.

.....J.

(Ranjana Prakash Desai) .....J.

(Madan B. Lokur) New Delhi;

March 31, 2014.

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[1] (2009) 10 SCC 337
[2] (1995) 2 SCC 584
[3] (2010) 11 SCC 493
[4] 1993 Supp (1) SCC 529
[5] (1995) 1 SCC 421
[6] (2001) 5 SCC 501
[7] (2006) 8 SCC 1

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