

HARGOVIND DAYAL SRIVASTAVA & ANR.

v.

G. N. VERMA & ORS.

January 12, 1977

[A. N. RAY, C.J., M. H. BEG AND P. S. KAILASAM, JJ.]

Contempt of Courts Act 1971—Criminal contempt—Duty of members of the bar to protect dignity and decorum of judiciary.

The appellant No. 1 is the President of the Oudh Bar and appellant No. 2 is the Chairman of Action Committee of the Oudh Bar Association. They met and passed a Resolution that the Chief Justice of Allahabad High Court was acting in a most partisan manner under the influence of the Allahabad Bar and that it was unbecoming of the office which he holds.

The High Court issued notices for contempt, *inter alia*, to the appellants. The High Court discharged the notices but made certain observations against the appellants.

HELD : 1. If the High Court found that there was any contempt it should have punished the appellants. The High Court confused criminal contempt with contumacious conduct. This Court is unable to find that the High Court found contemners guilty of criminal contempt. [602 D, G, H]

2. There is no gainsaying that the members of the Bar did not act with dignity in regard to the resolution. The language used by them was unfortunate. It is the duty of lawyers to protect the dignity and decorum of the judiciary. If lawyers fail in their duty the faith of the people in the judiciary would be undermined to a large extent. It is said that lawyers are the custodian of civilization. Lawyers have to discharge their duties with dignity, decorum and discipline. [603 C-D]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 315 of 1974.

Appeal from the Judgment and Order dated 22-5-1974 of the Allahabad High Court in Contempt Case No. 43/73.

D. Mukherjea, R. N. Sharma, Umesh Chand, R. N. Trivedi, S. P. Pathak, Hari Nath Tilhari, S. R. Srivastava, M. N. Sharma and O. P. Lal for the Appellants.

Yogeshwar Prasad, (Miss) Rani Arora, S. K. Bagga and (Mrs.) S. Bagga, for Respondent No. 1.

O. P. Rana for Respondents 2 and 3.

The Judgment of the Court was delivered by

RAY, C. J. This appeal is against the judgment and order dated 22 May 1974 of the High Court of Allahabad in Criminal Contempt Case No. 43 of 1973.

The High Court issued notices to five persons on the ground that they committed contempt of Court.

A The two appellants before us are the President of the Avadh Bar Association and the Chairman, Action Committee of the Avadh Bar Association.

B There were three charges against the appellants. It is not necessary to refer in detail to the same. The gist of the charge against the appellants was that they had met and resolved that the Chief Justice was acting in a most partisan manner under the influence of the Allahabad Bar. The text of the resolution was this—"The Action Committee is of the opinion that the Chief Justice is acting in the discharge of administrative power under clause 14 of the U.P. High Court's Amalgamation Order, 1948 in a most partisan manner under the influence of Allahabad Bar quite unbecoming of the office which he holds".

C The High Court discharged the notices. The High Court yet made certain observations; some of which are confusing, some of which are conflicting and some of which are vague.

D If the High Court found that there was any contempt it should have punished the appellants. The High Court however discharged the notices.

E The High Court held that the Chairman of the Action Committee, described as contemner No. 2 was actively associated with the passing of the resolution which contained disparaging remarks about the Chief Justice and since he also issued that resolution for publication in newspapers, he is guilty of 'Criminal Contempt'.

The High Court held that since the resolution was passed under the presidentship of the first appellant described as contemner No. 1, he is as much guilty of having committed contempt as contemner No. 2 was.

F The High Court further held that contemnors Nos. 1 & 2 are guilty of contumacious conduct, and the High Court gave the ground that they were responsible for the passing of the resolution. At another place the High Court used words showing that the conduct of the appellants individually was considered only "indiscreet" by it.

G The High Court confused 'criminal contempt' with 'contumacious conduct'. The matter becomes clear when the High Court said "we do not propose to punish contemnors Nos. 1 & 2 for the contumacious conduct of which we have adjudged them guilty though we express our disapproval of that conduct and hope that the indiscretion will not be repeated".

H We are unable to find that the High Court found the contemnors guilty of criminal contempt. It is true that the High Court referred to the contumacious conduct of the appellants but the High Court did not wish to proceed against the appellants. The High Court said on that aspect as follows :

“It is a matter of regret that the contemnners who are prominent members of the Avadh Bar, should have themselves embarked on the path of vilifying the Chief Justice of this Court and that we do not want to be over-sensitive in the matter, keeping in mind the surrounding circumstances in which the contumacious act was committed by them and also keeping in view the fact that it was a single act of the Chief Justice for which the attack was made, we do not propose to punish contemnners for the contumacious conduct for which we have adjudged them guilty, though we express our strong disapproval of that conduct and hope that the indiscretion will not be repeated”.

A

B

Counsel for the appellants did not justify the language of the resolution. There is no gainsaying that the members of the Bar did not act with dignity in regard to the resolution. The language used by them was unfortunate. Counsel for the appellants rightly said that it was not proper and it should not have been passed in that manner.

C

It is the duty of lawyers to protect the dignity and decorum of the judiciary. If lawyers fail in their duty the faith of the people in the judiciary will be undermined to a large extent. It is said that lawyers are the custodians of civilisation. Lawyers have to discharge their duty with dignity, decorum and discipline.

D

In view of the fact that the notices were discharged, the appeal is disposed of with the foregoing observations.

P.H.P.

Appeal allowed.