

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL CONTEMPT PETITION NO.01 OF 2017

V.S.Deshpande,
District Judge & Additional
Sessions Judge, Jalna,
Now District Judge-3 and
A.S.J., Washim

Petitioner

Versus

01 B.P.Panchal,
Registrar,
District & Sessions Court,
Jalna.

02 The State of Maharashtra

Respondents

Through Post.

Mr.V.M.Kagane, A.P.P. for Respondents.

CORAM : R.M.BORDE AND

A.M.DHAVALA, JJ.

RESERVED ON : 06th July, 2017.

PRONOUNCED ON : 14th July, 2017.

ORAL JUDGMENT (Per R.M.Borde, J.) :

1 Learned District Judge & Additional Sessions Judge, Mangrulpeer, District Washim, has made a Reference under Section 15(2) of the Contempt of Courts Act, 1971, requesting this Court to take action against Shri Balaji Pralhadrao Panchal, Registrar, District & Sessions Court, Jalna, for committing criminal contempt, as defined under Section 12 of the Contempt of Courts Act, 1971 and it is urged to punish him under section 12 of the said Act.

2 It is reported by the learned District Judge II & Additional Sessions Judge, while at Jalna, that on 04.05.2017, in the morning session, the Registrar, District Court, has called for record and proceedings in Sessions Case No.49/2016 through the Junior Clerk Mr.Milind Narwade, who was deputed in the Court of District Judge. On noticing removal of the record and proceedings by Mr.Narwade and upon inquiring with him, it was informed that the Registrar, District & Sessions Court, has called for the record and proceedings. According to the learned District Judge II, the Registrar has no concern with the record and proceedings of the Sessions Case and was not authorised under law, rules or regulations, to call for the record and proceedings. According to the learned District Judge II, the act of Registrar is illegal and serious one. A notice was issued by the District Judge II to the Registrar on 04.05.2017 calling upon him to explain as to why record and proceedings was called by him.

3 In reply to the notice, the Registrar informed the District Judge II that on 13.07.2016, an order was passed in Sessions Case No.49 of 2016, calling upon production of *muddemal*. The order passed by the Court was not complied with. It is further informed that the accused involved in the Sessions Case are under-trial prisoners and since the matter remained unattended, accused were confined to jail. Notices were also issued to the two clerks functioning in the Court of Sessions, namely Mr.D.A.Muley and Mr.D.K.Jondhale, calling upon them to explain as to why the order was not complied with. It is informed by the Registrar that he is in-charge of overall administration of the office of District Court and in his capacity as Registrar, he has

requested production of record and proceedings and also issued notices to the concerned clerks.

4 According to the learned Judicial Officer i.e. District Judge II, the act of the Registrar amounts to interference in the course of administration of justice. The learned District Judge II further proceeds to record that even the Principal District & Sessions Judge has no powers to authorise the Registrar to take action against the clerical staff of the Court presided over by the District Judge II. The District Judge II & Additional Sessions Judge, as such, has tendered this Reference. (Presently posted as District Judge & Additional Sessions Judge, Mangrulpeer, District Washim).

5 The notions entertained by the Judicial Officer appear to be erroneous. Learned Principal District & Sessions Judge is very much concerned with the administration of District Judiciary. The Registrar of the District Court has administrative control over the office administration of the District Court. If, at all, the Judicial Officer wields an opinion that the concerned Registrar has overstepped his authority, it is always open for him to make a complaint in that regard to the Principal District & Sessions Judge.

6 Section 2(c) of the Contempt of Courts Act, 1971, defines criminal contempt as:

“(2)(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which--

{i} scandalises or tends to scandalise, or lowers or tends to lower the authority of, any Court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

7 The alleged act of the Registrar, which, according to the learned Judicial Officer amounts to criminal contempt, does not satisfy the requirements laid down under Section 2(c) of the Contempt of Courts Act, 1971. The act alleged cannot be said to be interference in the course of judicial proceedings or can be treated as an obstruction in the course of administration of justice, in any manner. The Judicial Officer appears to have certain elevated notions as regards his authority and has illusory notions about the powers of the Registrar of the District Court and the Principal District & Sessions Judge. Criminal contempt is an act of willful interference/obstruction in administration of justice. The Registrar was trying to secure the *muddemal* which, in spite of order, was not brought for one year, when the accused were under trials. By no stretch, the act of the Registrar, even if allegations are admitted at face value, would amount to contempt.

8 In paragraph 14 of the Reference, the Judicial Officer has recorded, thus:

“14..... In my humble opinion, this conduct on the part of the Principal District Judge, Jalna, is not proper. She had nothing to do with the said notice.

..... I have already informed to the Registrar

General of the Hon'ble Bombay High Court that the Registrar or the District Court, Jalna has taken over entire administration of the District Court, Jalna and further that the Registrar and Principal District Judge, Jalna are in collusion and they are harassing me. It is pertinent to note that when Principal District Judge, Jalna had sent me back the notice by post, why she sent the E-mail. It was sent only to protect the contemnor and to delay the contempt proceedings.”

9 In paragraphs no.17 and 18 of the Reference, it is recorded thus:

“17 The important aspect is that the reply to contempt notice is again contemptuous. He replied that as per the duty list prepared by the office of Principal District and Sessions Judge, Jalna, he can do any work assigned to him by the Principal District and Sessions Judge. This statement is false as well as illegal. Firstly, no P.D.J. can authorise him to interfere into judicial work of any other subordinate Judge. The duty list prepared by the P.D.J. Cannot authorise him to interfere into judicial work of subordinate Judges. Even if authorised by such duty list, such a list is neither law made by legislature nor it will take the law of precedent. The basic principle of administrative law is that if a direction given by a superior officer is illegal, then the subordinate employee shall not obey such direction. On the contrary, it is his duty to bring to the notice of the superior the illegality in such direction.

18 Contemnor's say is clearly showing that he is stick up to his earlier view. He stated that calling R. & P. from my court and issuing notices to Clerks serving under me was not at all illegal. In fact both these things were illegal. He further stated that he issued those notices as per direction given by Principal District and Sessions Judge, Jalna. But the work of issuing notice cannot be delegated to Registrar. By this say he tried to teach me that the Principal District and Sessions Judge has control over all the Criminal Courts in the District. But even the Principal District and Sessions Judge

cannot interfere in my judicial work in such a manner. Moreover, it was none of the duty of the contemnor to remind me the powers of Principal District and Sessions Judge. In my opinion, this statement on the part of the contemnor is also contemptuous.”

10 The aforesaid narration persuades us to draw an inference that the Judicial Officer i.e. District & Sessions Judge, Mangrulpeer, District Washim, does not have due respect for the Principal District & Sessions Judge, who is the administrative head of the District Judiciary. The learned Judicial Officer, it appears, instead of concentrating upon judicial work and ensuring that the Sessions Cases/trials, wherein accused are lodged in jail as under-trial prisoners, shall be taken up early, is indulging in other activities like issuing worthless notices to the subordinate officials of the District Court.

11 In our considered opinion, copy of the Reference Application together with annexures and order passed by this Court needs to be forwarded to the Hon'ble the Chief Justice for taking note of conduct of the concerned Judicial Officer and to take appropriate action, if deemed necessary.

12 For the reasons recorded above, the Criminal Contempt Reference is rejected. Copy of this order together with copies of the Reference and annexures be placed before the Hon'ble the Chief Justice for necessary action.

A.M.DHAVALÉ
JUDGE

R.M.BORDE
JUDGE