

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH*

LETTERS PATENT APPEAL No.7 of 2016

Between:

Ms. Ashwini Sattaru,
Regional Passport Officer,
Secunderabad.

... Appellant

And

P.Venkat Reddy,
S/o Late Kanakal Reddy

... Respondent

JUDGMENT PRONOUNCED ON 19.01.2017
HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE T.RAJANI

1. Whether Reporters of Local newspapers : No
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : Yes

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.RAJANI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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> Head Note:

! Counsel for the appellant: Mr. K.M.Nataraj

Additional Solicitor General

For Mr. B.Narayana Reddy

Assistant Solicitor General

^ Counsel for the Respondent: Mr. M.Atish Kumar

? Cases Referred:

(2012) 5 SCC 352

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Additional Solicitor General
For Mr. B.Narayana Reddy
Assistant Solicitor General

Counsel for the Respondent: Mr. M.Atish Kumar

The Court made the following:

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Letters Patent Appeal arises out of order, dated 30.11.2016, in Contempt Case No.2136 of 2016, whereby the learned single Judge while holding the appellant not guilty of violation of the order, dated 23.8.2016, in Writ Petition No.14957 of 2016, however, imposed costs of Rs.15,000/- on her.

The facts leading to filing of this appeal are briefly stated hereunder:

At the instance of the respondent, a criminal case was instituted, which was taken on file as C.C.No.1200 of 2015 on the file of the learned XX Metropolitan Magistrate, Cyberabad, Malkajgiri, against two persons by names Bollampally Narsimha Reddy and Bollampally Sulochana. Anticipating that the accused may flee justice by leaving the country, the respondent has made a representation, dated 02.03.2016, to the appellant to prevent the accused from leaving the country by impounding their passports. As no action was taken on the said representation, he has filed Writ Petition No.14957 of 2016 in April, 2016 for a *Mandamus* to declare the inaction of the appellant in disposing of his representation, dated 02.3.2016, made for impounding the passports of the accused pending disposal of C.C.No.1200 of 2015.

The learned single Judge disposed of the said Writ Petition by order, dated 23.8.2016, with the direction to the appellant to consider the representation, dated 02.3.2016, of the respondent and pass appropriate orders in accordance with law within two weeks from the date of receipt of a copy of that order. Alleging that due to non-compliance of the said order by the appellant, the accused have left the country on 10.9.2016, the respondent has filed the afore-mentioned Contempt Case.

Though no separate counter-affidavit was filed, the appellant has filed an affidavit in the context of seeking suspension of the operation of order, dated 30.11.2016, in Contempt Case No.2136 of 2016 to the extent of imposing costs of Rs.15,000/- on her, wherein she has *inter alia* stated that during the pendency of Writ Petition No.14957 of 2016, a show cause notice was issued on 24.6.2016 to the accused proposing impounding of their passports; that meanwhile, the office of the appellant has received order, dated 23.8.2016, of this Court in Writ Petition No.14957 of 2016 on 06.9.2016; that as per the procedure laid down in the Passport Manual, the office of the appellant has again issued show cause notice, dated 15.9.2016, to the accused; that as there was no response from the accused, the appellant's office again issued another show cause notice, dated 03.10.2016, to the accused; and that after considering the

explanation of the accused received on 21.10.2016, the appellant has impounded their passports on 03.11.2016.

The learned single Judge, upon taking into consideration the facts pleaded on behalf of the appellant and also the fact that the accused left the country on 10.9.2016, rendered a specific finding that the appellant cannot be held guilty under the Contempt of Courts Act, 1971 (for short 'the Act'). However, having rendered such a finding, the learned single Judge found fault with the conduct of the appellant in not taking swift action in order to prevent the accused from leaving the country and imposed costs of Rs.15,000/- on her while discharging her from the contempt proceedings.

Mr. Natarajan, learned Additional Solicitor General, appearing for the appellant, submitted that the learned single Judge has committed a serious error in imposing costs on the appellant having held the appellant not guilty under the Act. He has further argued that once the Court holds the alleged contemnor not guilty, it has no jurisdiction to impose costs. In support of his submission, he has placed reliance on the judgment of the Supreme Court in *Jharieswar Prasad Paul Vs. Taral Nath Ganguly*¹.

¹ (2002) 5 SCC 352

Opposing the above submissions, Mr. M.Atish Kumar, the learned counsel for the respondent, submitted that the facts pleaded by the appellant would clearly prove the lethargy and indifference displayed by her and her office facilitating the accused to leave the country and that, no justification was offered by the appellant for not disposing of the representation, dated 02.3.2016, of the respondent within the stipulated time of two weeks from the date of receipt of a copy of the order, dated 23.8.2016, in Writ Petition No.14957 of 2016.

A careful perusal of the facts of the case would no doubt reveal that the appellant has not acted swiftly, though a representation was made by the respondent as far back as 02.3.2016 for impounding of passports of the accused. The appellant has issued repeated show cause notices to the accused even after receiving the order of this Court, dated 23.8.2016, in Writ Petition No.14957 of 2016 on 06.9.2016. To that extent, the grievance of the respondent may be justified because the inaction of the appellant enabled the accused to flee the country on 10.9.2016. However, having considered all these facts, the learned single Judge had unequivocally held the appellant not guilty under the Act. Once the learned single Judge held the appellant not guilty under the Act, in our opinion, he had no jurisdiction to impose costs on her.

Section 12 of the Act prescribes punishment for Contempt of Court. This provision, to the extent it is relevant in the present context, reads as under:

“12. Punishment for Contempt of Court-(1) Save as otherwise expressly provided in this Act or in any other law, a Contempt of Court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

Explanation- An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it *bona fide*.

(2) Notwithstanding anything contained in any other law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.”

It is clear from Section 12 of the Act as reproduced above, that even in a case where a person is found guilty of contempt of Court, he is liable for punishment with simple imprisonment for a term which may extend to six months, or with fine which may

extend to two thousand rupees, or with both. Further, discretion is vested in the Court to direct detention of the convicted person in civil prison instead of sentencing him to simple imprisonment. Neither the Act nor the Rules made thereunder by the Andhra Pradesh High Court prescribe imposition of costs, much less in a case where a person is found not guilty. While even in a case where the contemnor is found guilty and if the Court does not choose to sentence him to imprisonment, the maximum fine that could be imposed on the contemnor is only rupees two thousand. This being so, the Court while finding the alleged contemnor not guilty cannot be conceded with the power to impose any liability on the alleged contemnor in the name of costs. Such exercise of power falls foul of Section-12 of the Act.

There is yet another angle from which the issue needs to be examined.

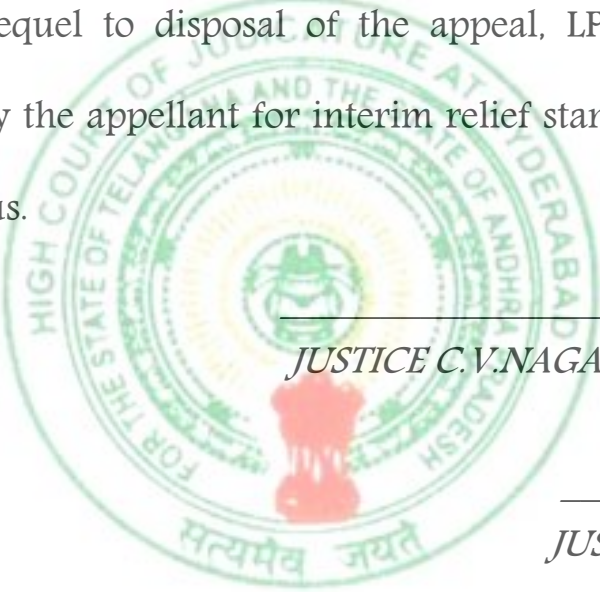
The law is well settled that costs follow the event. Once a finding of not guilty against the alleged contemnor is rendered, the Court loses its jurisdiction to impose costs. Indeed, the respondent has accepted the judgment of the learned single Judge in holding the appellant not guilty of contempt by not filing an appeal.

The judgment in *Jhareswar Prasad Paul* (supra) has no direct bearing on the point. Hence, it is not necessary to discuss the same.

On the premises as above, we find no justification in the learned single Judge imposing costs on the appellant while holding her not guilty under the Act.

For the afore-mentioned reasons, the order under appeal is set aside. The Letters Patent Appeal is, accordingly, allowed.

As a sequel to disposal of the appeal, LPAMP.No.33 of 2016 filed by the appellant for interim relief stands disposed of as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.RAJANI

19th January, 2017

Note:

LR copies to be marked.

B/o

DR