

IN THE HIGH COURT OF JUDICATURE AT PATNA
Or. Criminal Miscellaneous (DB) No.2 of 2018

Arising Out of PS. Case No.- Year- Thana- District- Buxar

Shiv Prakash Rai, son of Late Nageshwar Rai, R/M Gali No.2, Dhobighat
Charitrawn, Buxar, P.S.+District- Buxar. Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. Upendr Kushwaha, Minister of Human Resource Department, independent Charge, Union of India, New Delhi, S/o Late Muneshwar Singh, resident of Vill. + P.O.- Javaj, P.S.- Mahnar, District- Vaishali at present Residing C-202, Swarn Jayanti Sadan, Dr. B.D. Marg, New Delhi. Respondent/s

Appearance :

For the Petitioner : Mr. Dinu Kumar, Advocate
Mr. Arvind Kumar Sharma, Advocate
Ms. Ritika Rani, Advocate

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-08-2018

1. The present application has been preferred by the petitioner herein to initiate Criminal Contempt proceedings for convicting/punishing the opposite party no.3 herein- one Upendra Kushwaha, alleging lowering down the image of higher judiciary by him in making statement that *“the county’s higher judiciary time and again passed orders which turned out against the interest of weaker sections of the society. Such orders are coming from the higher judiciary only because our people are not there”*.



2. It is the case on behalf of the petitioner that in the wake of recent orders passed by the Hon'ble Supreme Court in the case of ***Dr. Subhash Kashinath Mahajan Versus State of Maharashtra in Criminal Appeal No.416 of 2018 arising out of SLP (Cri.) No.5661/17***, the opposite party no.3 herein, who is a State Minister (Independent Charge), Human Resource Department, Union Government of India, had made a statement which has been published in the daily newspaper- Times of India- in the 15th April, 2018 edition, by which he has made a derogatory and contemptuous statement lowering down the image of the higher judiciary- the Hon'ble Supreme Court and the Hon'ble High Court.

2.1. It is the case on behalf of the petitioner that in his statement which is published in the aforesaid daily newspaper, he has stated that *"the country's higher judiciary time and again passed orders which turned out against the interest of weaker sections of the society. Such orders are coming from higher judiciary only because our people are not there."* Therefore, it is alleged that by the aforesaid statement, the opposite party no.3 has lowered down the image of the higher judiciary which tantamounts to contempt and therefore, it is requested to initiate *suo motu* criminal contempt proceedings.



3. Sri Dinu Kumar, learned counsel appearing on behalf of the applicant has submitted that before approaching this Court by the present petition, the copy of the petition was sent to the learned Advocate General of State of Bihar, who has without assigning any reasons refused to accord the sanction. Therefore, it is requested to exercise *suo motu* powers and to initiate appropriate criminal contempt proceedings against the opposite party no.3.

4. It is required to be noted that initially, learned counsel appearing on behalf of the petitioner submitted that while refusing to accord sanction, the learned Advocate has neither given opportunity to the petitioner nor has passed a reasoned order. However, having fairly conceded that such a submission would not be tenable, he has requested to exercise the *suo motu* powers relying upon the decisions of the Hon'ble Supreme Court in the case of **Bal Thackrey Versus Harish Pimpalkhute and others** reported in **(2005) 1 SCC 254** and in the case of **Amicus Curiae Versus Prashant Bhushan and another** reported in **(2010) 7 SCC 592**.

5. Heard Sri Dinu Kumar, learned counsel appearing on behalf of the petitioner at length.



6. At the outset, it is required to be noted that the petitioner has requested to initiate appropriate criminal contempt proceedings against the opposite party no.3 herein in exercise of *suo motu* powers solely relying upon and on the basis of contents of the Newspaper published in the daily newspaper- Times of India- on 15.04.2018. There is no further material placed on record in support of the alleged statement recorded in the newspaper report-Times of India- dated 15.04.2018.

6.1 When a pointed question was asked to the learned counsel appearing on behalf of the petitioner to *prima facie* satisfy the Court on the authenticity and veracity of the newspaper report and/or source of information of the statement published in the newspaper, learned counsel appearing on behalf of the petitioner fairly conceded that he is not in a position to even *prima facie* satisfy the source of information about the statement recorded in the newspaper report.

6.2 It cannot be disputed that initiation of criminal contempt proceedings is a very serious proceedings and unless a *prima facie* case is made out on the basis of authenticated material on record, no cognizance can be taken and the criminal contempt proceedings may not be initiated. It is also true that nobody can be permitted to lower down the image of the judiciary by any kind or



conduct or the statement. However, before any cognizance is taken and/or criminal contempt proceedings are initiated, the Court must be satisfied about the source of the information or the authenticity of the statement on which criminal contempt is alleged. Solely on the basis of some newspaper report and without even *prima facie* producing any material and authenticity of such statement, the criminal contempt proceedings are not required to be initiated.

7. In view of the above and on the aforesaid ground alone and in the absence of any authenticated material on record and the source of the information of the statement in the press report and solely on the basis of the press report, we refuse to entertain the present petition and initiate the criminal contempt proceedings against the opposite party no.3.

8. Consequently, the present petition deserves to be dismissed and is, accordingly, dismissed on the aforesaid ground.

(Mukesh R. Shah, CJ)

(Dr. Ravi Ranjan, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2018
Transmission Date	

