

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23-04-2018

Pronounced on : 27.04.2018

CORAM :

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

Contempt Appeal No. 1 of 2018

Dr. K. Rajendran
Chairman
Krishnasamy Memorial Polytechnic College
Cuddalore District - 607 109 .. Appellant/Respondent

Versus

K. Dhanalakshmi
51, Subramanya Gurukkal Nagar
Vannarapalayam
Cuddalore - 607 001
Cuddalore District .. Respondent/Petitioner

Appeal filed under Section 19 (1) of The Contempt of Courts Act, 1971 against the order dated 19.12.2017 passed by the Advocate General of Tamil Nadu in Contempt Petition No. 3 of 2017.

For Appellant : Mr. N. Karthikeyan

For Respondent : Ms. R. Gobika
for Mr. S. Sathia Chandran

JUDGMENT

R. SUBBIAH, J

This contempt appeal is filed by the appellant against the order dated 19.12.2017 passed by the learned Advocate General of Tamil Nadu in Contempt Petition No. 3 of 2017.

2. The respondent herein joined the services of Krishnasamy Memorial Polytechnic College, Cuddalore as an Instructor in Computer Technology and later, she was upgraded as Lecturer. During the course of her service, she was made as a Member of the Counselling Committee for girls. It is the contention of the respondent that four girl students in the

second year Course in Computer Technology, submitted a joint representation dated 22.08.2016 to the Head of the Department of Computer Technology complaining about the aberrant behaviour of one Mr. K. Balaji, Head of the Department of Electrical and Electronics Engineering in the Laboratory attached to the said college. Subsequently, two other girl students have also made representation about the indecent and offensive comments made by the said K. Balaji in the classroom about the respondent. In this context, the respondent made a detailed representation dated 22.08.2016 to the Principal of the College bringing to his notice the aforesaid behaviour of the said K. Balaji. However, instead of taking action against the said K. Balaji, the respondent herein was summoned by the appellant herein in his capacity as Chairman of the Staff Enquiry Committee and accordingly, the respondent appeared before the appellant on 26.08.2016 for an enquiry. Thereafter, on 21.09.2016, the respondent was issued a charge memo. According to the respondent, after issuing the charge memo, without conducting any enquiry, a show cause notice dated 04.10.2016 was issued to the respondent proposing to impose penalty on her for which she submitted her explanation on 09.10.2016. However, without considering her objections in the proper perspective, a final order dated 26.10.2016 was passed imposing penalty on the respondent. Assailing the order dated 26.10.2016, the respondent filed WP No. 40151 of 2016 before this Court in which notice was ordered on 30.11.2016. When the matter is subjudice, she has received a letter dated 22.11.2016 in which the appellant had stated that since she has filed the writ petition against the management of the College, she was directed to go on leave from 22.12.2016 till the disposal of the writ petition. The respondent also stated that she was personally intimidated and pressurised to withdraw the writ petition filed before this Court. In the aforesaid circumstances, she has filed an application as contemplated under Section 15 of The Contempt of Courts Act seeking the consent of the learned Advocate General of the State for initiating criminal contempt against the appellant. This is how the Contempt Petition No. 3 of 2017 came to be entertained by the learned Advocate General in which the order dated 19.12.2017 came to be passed by him opining that the letter written by the appellant would amount to interfering with or intending to interfere with the due course of judicial proceeding pending before this Court namely the writ petition filed by the respondent besides that the appellant, by virtue of his writing the letter dated 22.11.2016, interfered with the administration of justice and thus granted consent.

3. We have heard the learned counsel for both sides and perused the order dated 19.12.2017 passed by the learned Advocate General of the State. At the outset, we notice that the order dated 19.12.2017 was passed by the learned Advocate

General, in exercise of the powers conferred on him, under Section 15 of The Contempt of Courts Act. In the said order dated 19.12.2017, the learned Advocate General has opined that the letter dated 22.11.2016 written by the appellant herein had, in effect, tends to interfere with the administration of justice by this Court. At the same time, we find that Section 19 (1) of The Contempt of Courts Act confers on the High Court power to entertain a Contempt Appeal to punish for contempt of the Court Proceedings. Such an appellate power is vested to deal with an appeal which would arise as against any order or direction issued by this Court in exercise of the judicial powers conferred on it. It is well settled that an appeal under Section 19 of The Contempt of Courts Act would lie only as against an order passed by this Court punishing a person who had violated any order or direction issued by this Court. In the present case, the order that is questioned is the 'consent' given by the learned Advocate General to file a Contempt Petition in pursuant of the requirement under sub-clause (b) of clause (i) of Section 15 of The Contempt of Courts Act, 1971, for taking cognisance of criminal contempt. Such an order passed by the learned Advocate General, in our opinion, will not fall within the purview of Section 19 of The Contempt of Courts Act and therefore, this Contempt Appeal is not maintainable. In other words, a contempt appeal can lie only against an order passed by this Court under Section 12 of the Contempt of Courts Act punishing a contemnor therein for violation or disobedience of any order or direction issued by this Court. The order passed by the learned Advocate General of the State cannot be construed to be an order or direction issued by this Court in exercise of the powers conferred under Section 12 of The Contempt of Courts Act. Accordingly, we dismiss the contempt appeal as not maintainable. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rsh

TO

THIRU. VIJAY NARAYAN,
THE ADVOCATE GENERAL OF TAMIL NADU,
HIGH COURT, MADRAS.

+1cc to Mr.N.KARTHIKEYAN, Advocate, S.R.No. 31890

Judgment in Cont. Appeal No. 1 of 2018

SVI (CO)

TR(16/05/2018)