

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE No.3434 of 2018

ORDER :

This Criminal Revision Case is arising out of the docket order dated 10.10.2018 in S.C.No.16 of 2016 passed by the Special Judge for trial of offences under SC/ST (POA) Act-cum-V Additional District Judge, Medak at Sangareddy.

The revision petitioner is one Mr. Venkat Rao Patil, a Practicing Advocate. He filed the present revision challenging the impugned docket order dated 10.10.2018 passed by the trial Court, which reads as under:

“Accused present. PWs.1 to 3 present. CrI.MP.No.171/2018 is allowed conditionally by this Court, but the accused nor the counsel complied the conditional order of this court nor paid the costs to the witness. When this Court has asked the accused/his counsel to pay costs and cross examination the witness by complying the conditional order, the counsel for the accused Sri Venkatrao Patil is addressing this Court has Singular form as ‘You’ saying that the witness is an employee. When this court has asked the counsel as to why he is addressing the court as ‘You’ in singular form, he is deliberately saying the same and if not I will address as ‘Your Honour’ or ‘Your Lordship’ and what difference it makes, by insulting the judicial officer sitting in judicial proceedings and interrupting the judicial proceedings which attracts the offence U/Sec.228 IPC r/w. 345 Cr.P.C. Therefore this court is compelled to initiate the proceedings U/Sec. 228 IPC r/w. 345 Cr.P.C. The

witness are recalled for 3rd time for cross examination. Cross of PWs.1 to 3 is recorded as nil and closed as the conditional order is not complied. Show cause notice issued. When show cause notice is tendered by Crl.B.C. of this court he refused to receive the same. Therefore it is deemed that there is no explanation and he is directed to pay an amount of Rs.200/- towards fine for the offence U/Sec. 228 r/w. Sec. 345 Cr.P.C. failing which he shall undergo simple imprisonment for one month call at 4.30 P.M.

12.00 P.M.

It is stated by Dist. Court B.C. that the counsel Sri Venkatrao Patil, represented before the Prl. Dist. Court that show cause notice is not served on him. When the same was served in the open court through court BC of this Court Smt. Sunitha. Therefore as per the oral directions of the Prl. Dist. Court the show cause notice is served again.

Upon which Sri Venkatrao Patil sought (15) days time. Which this court is not inclined to grant but time is given till 4.30 P.M. today and till then he is remanded to Judicial custody call at 4.30 P.M.

12.10 P.M.

Sri P. Veera Reddy, Adv. Filed memo of appearance for Sri Venkatrao Patil for recall of warrant. Fine amount of Rs.200/- paid. No explanation is offered by Sri Venkatrao Patil on the show cause notice but the fine amount is paid. Hence the further proceedings against Sri Venkatrao Patil on the show cause notice issued to him U/Sec. 228 r/w. 345 Cr.P.C. are hereby dropped. For cross examination of PWs.4 to 6 call on 12.11.2018.”

The purport of the docket order dated 10.10.2018 passed by the trial Court reveals that the petitioner had addressed the Court in a singular form as 'You'. The understanding of the learned Sessions Judge that addressing the Court as 'You' is a disrespect to the Court. The learned Sessions Judge expected the petitioner to address the Court as 'Your Honour', instead of addressing as 'You'.

Therefore, the learned Sessions Judge has initiated proceedings U/Sec. 228 r/w. 345 Cr.P.C. against the petitioner, who is conducting the case of the accused – Smt. S. Vijaya Laxmi in SC/ST/SC.No.16 of 2016. The learned Sessions Judge has issued a show cause notice seeking explanation of the petitioner and also imposing fine of Rs.200/- under Section 228 r/w. Section 345 Cr.P.C., failing which directed the petitioner to undergo SI for one month.

In fact, the impugned docket order dated 10.10.2018 was passed at 12.00 Noon and the petitioner was given a show cause notice. It is mentioned in the said docket order that when the show cause notice was tendered through the Criminal Bench Clerk, he refused to receive the same and, therefore, the Court deemed that the petitioner has no explanation to offer and directed him to pay fine of Rs.200/-, failing which he shall undergo SI for one month. At 12.00 p.m., when the show cause notice was served on the petitioner in the open Court through the Bench Clerk, the

petitioner sought for 15 days time for giving explanation, but the Court was not inclined to grant time for giving explanation, however, extended the time only till 4.30 p.m. and till then the petitioner was remanded to the Judicial custody. Thereafter, at 12.10 p.m., one Mr. P. Veera Reddy, Advocate, filed Memo of appearance on behalf of the petitioner for recall of warrant by paying the fine amount of Rs.200/-. However, the learned Sessions Judge came to the conclusion that as there was no explanation offered by the petitioner to the show cause notice and fine amount was paid, all further proceedings were dropped against him on the show cause notice issued U/Sec. 228 r/w. 345 Cr.P.C., and posted the matter for cross-examination of PWs.4 to 6 on 12.11.2018.

From a perusal of the impugned docket order dated 10.10.2018 reveals that the learned Sessions Judge felt it disrespect as the petitioner had addressed the Court as 'You'. On the other hand, the petitioner submits that he was addressing the Additional Public Prosecutor as 'You' and not the Court, however, the learned Sessions Judge without giving any opportunity to the petitioner for showing cause for the alleged incident, has proceeded in a quick succession and passed one order at 12.00 Noon, and another order at 12.10 p.m. on the same day. The learned Sessions Judge passed the impugned docket order by assuming several factors without giving any opportunity to the petitioner to submit his explanation for the show cause notice.

The petitioner has placed reliance on a judgment in CAPT. GURBAKHSI SINGH v. THE STATE¹, wherein it was held in para-3 as under:

“..... Court must never allow his personal feelings to have any weight or importance because those powers have been conferred on him exclusively for the purpose of supporting the dignity of his important office and not for upholding his own vanity.”

While referring the above judgment, the petitioner/party-in-person submits that the learned Sessions Judge having felt hurt and misunderstood his addressing, while he was addressing the Additional Public Prosecutor as ‘You’, has passed the impugned docket order dated 10.10.2018, without giving any opportunity to him to offer his explanation.

On the other hand, the learned Public Prosecutor appearing for the respondent-State submits that mainly the proceedings are between the petitioner and the Court and from the impugned docket order dated 10.10.2018, it appears that the petitioner was not given any opportunity to offer his explanation for the show cause notice issued by the Court.

The provisions of Section 345 Cr.P.C., reads as under:

“345. Procedure in certain cases of contempt -

[\(1\)](#) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of

¹ 1960 CRILJ. 511

the Indian Penal Code (45 of 1860), is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender to be detained in custody and may, at any time before the rising of the Court on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal Code (45 of 1860), the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.”

Evidently, though the impugned docket order dated 10.10.2018 refers that the learned Sessions Judge has invoked the provision under Section 345 Cr.P.C., the docket order reveals that a reasonable opportunity of showing cause, as to why he should not be punished under the said section, was not given to the petitioner. Therefore, the impugned docket order is not in compliance with the provision under Section 345 Cr.P.C.

The petitioner has also placed reliance on certain basis rules of conduct which have to be followed by the Presiding Officers while performing their duties in Courts.

“To start with, it is necessary to impress upon the Presiding Officers the need of observance of a judicial code of conduct.

It is the duty of every Presiding Officer to create and maintain confidence in the administration of justice. That is possible not only if he decides the cases fairly, impartially and with great objectivity but also preserves outward appearances which inspire in the minds of the parties a confidence that nothing but justice would be done to them. He should maintain equanimity of temper and observe restraint in his utterances. Getting excited on trivial grounds and using harsh words towards the parties or their witnesses under examination is a practice which must always be condemned. The Presiding Officer should develop an impartial and impersonal attitude to whatever he sets his hand. Wherever he has a personal interest or private knowledge of any case, it is always essential that he should not try that case. The proper course in that event would be to have the case transferred to some other Court.

The necessity of maintaining cordial relations and mutual confidence between the Bench and the Bar is vital in the interests of the smooth and efficient administration of justice. With patience and courtesy, a Presiding Officer is bound to rise high in the estimation of the public and the Bar. A cool temper and politeness towards all is a great safeguard against any breeze or scenes in the Court which undermine the dignity and render the maintenance of decorum of the Court impossible. The Presiding Officer representing, as he does, impersonal authority of law, should not permit himself to get personally embroiled with the persons.”

The impugned docket order clearly reveals that the learned Sessions Judge might have misunderstood the submissions made by the petitioner while addressing the Court. The docket order does not disclose that there was any insult made to the Judicial Office of the Court. On the other hand, the petitioner submits that he was addressing the Additional Public Prosecutor at that point of time.

It is also pertinent to note that no opportunity was given to the petitioner to offer his explanation for the show cause notice issued to him and, on the other hand, the Court on the same day came to the conclusion that there was no explanation to be offered by the petitioner on the show cause notice and accordingly passed the impugned docket order dated 10.10.2018.

All the Judicial Officers must follow the observations made in CAPT. GURBAKHSI SINGH's case (supra) and also the Circular Orders issued by this Court while conducting the Bench. The parties and the Advocates are also equally responsible to maintain the decorum of the Court and they are not expected to defy the orders of the Court. In the instant case, the Court was endeavouring to dispose of the Sessions Case as per the schedule. It does not appear that the Presiding Officer has any grievance or personal bias against the party or her counsel on record. However, since all the proceedings were dropped on the same day, it is not

necessary to go into the details much with regard to the impugned docket order passed by the trial Court. The Bench and the Bar should respect each other and work together. The Advocate is an Officer of the Court and he should be treated as such. The Bench also should strive hard to bring harmony between the Bench and the Bar in the interest of justice. Making allegations against each other is not a healthy trend. The learned Sessions Judge has since dropped all further proceedings initiated against the petitioner pursuant to the show cause notice issued under Section 228 r/w. Section 345 Cr.P.C. and posted the matter for cross-examination of witnesses, there is nothing left to be quashed by this Court in this revision, except ordering for refund of the fine amount of Rs.200/- paid on behalf of the petitioner. Accordingly, the fine amount of Rs.200/- shall be refunded to the petitioner.

With the above observations, this Criminal Revision Case is disposed of. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

17.12.2018.
Msr

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

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17.12.2018
Msr