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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 30.10.2018

CONT.CAS.(CRL) 16/2018

COURT ON ITS OWN MOTION

..... Petitioner

versus

INSPECTOR MANOJ KUMAR

..... Respondent

Advocates who appeared in this case:

For the Petitioner :

For the Respondent : Mr. Dayan Krishnan, Senior Advocate with Mr. Jayant K. Mehta, Ms. Aakash Lodha, Mr. Sajeevi Seshadri, Mr. Aaditya Vijakumar, Mr. Hemant Kumar, Mr. Pulkit Kaushik and Ms. Drishti Harpalani, Advocates
Mr. Rahul Mehra, Standing Counsel with Mr. Chaitanya Gosain and Mr. Tushar Sannu, Advocates for State
SI Vijay Kumar, PS Mayur Vihar

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present criminal contempt petition has been initiated on a reference received from a learned Single Judge of this Court.
2. The backdrop, in which it arises, can be briefly encapsulated as follows:
3. The petitioner, Ms. Mala *alias* Riya instituted a writ petition bearing W.P.(Crl) 2480/2018, seeking directions to the State to cause the removal of derogatory remarks made against her and her community by a post on Facebook, the popular social networking site.
4. On notice being issued by this Court, a status report dated 27.08.2018, which forms the fulcrum of the present criminal contempt, was filed. The same was authored by Inspector Manoj Kumar Sharma, SHO, Police Station Mayur Vihar (hereinafter referred to as 'concerned SHO'), the alleged contemnor.
5. The learned Single Judge, and we may say rightly so, proceeded on the basis of an assertion made in the said status report, insofar as, it stated as follows:

“a letter has been sent to facebook.com through Cyber Cell East Delhi to remove the contents/photographs uploaded on the site in connection with the petitioner.”

6. As is an admitted position, at the time the said status report was filed by the concerned SHO, no communication, in fact, had been addressed to Facebook by the competent authority,

requiring the latter to remove the alleged objectionable material posted on its website.

7. It is, in this view that, the learned Single Judge vide reference dated 25.09.2018, sought initiation of appropriate action for criminal contempt against the concerned SHO, *inter alia*, for the reasons, expressed in paragraph 6, 7, 8 and 9 of the said reference dated 25.09.2018, which are as follows:

“6. Along with the affidavit letter dated 25th August, 2018 written by SI Vinod Kumar and duly forwarded by SHO, PS Mayur Vihar has also been enclosed. On further query put by this Court during the course of arguments as to when this letter was received by Cyber Cell, East District, learned Additional Standing Counsel for the State verbally on instructions from SHO, Inspector Manoj Kumar Sharma states that though this letter was taken to the Cyber Cell on 25th August, 2018, however due to technical reasons as the URL number was not noted therein the request was not accepted and a fresh request was sent on 10th September, 2018 with the correct URL number.

7. It is thus apparent that not only the two status reports filed by Inspector Manoj Kumar Sharma concealed material facts but even in the affidavit filed pursuant to the directions dated 18th September, 2018 he stated incorrect facts and concealed material information.

8. Filing of false affidavit before the Court amounts to criminal contempt as held in the decisions reported as (1990) 2 SCC 149 Hiralal Chawla Vs. State of U.P., (1995) 3 SCC 757 Dhananjay Sharma Vs. State of Haryana & Ors., (2000) 2 SCC 367 Murray & Co. Vs. Ashok Kumar Newatia and (2007) 15 SCC 515 U.P. Resident

Employees Coop. Housing Building Society Vs. NOIDA. Therefore, list before the Division Bench subject to order of Hon'ble the Chief Justice for initiating appropriate action for criminal contempt against Inspector Manoj Kumar Sharma on 9th October, 2018.

9. As regards prayer in the writ petition is concerned, learned counsel for the petitioner states that since the post has now been removed, no further action is required in the matter.”

8. Mr. Dayan Krishnan, learned Senior Counsel appearing on behalf of the concerned SHO, at the outset, states that, it was not his intention to misdirect or mislead this Court, and he tenders an unconditional apology and deeply regrets the inadvertent albeit *bonafide* error in the statement above extracted, made in the said status report dated 27.08.2018.
9. By way of explanation, it has been stated on behalf of the concerned SHO that, in fact, vide communication dated 25.08.2018, addressed to the ACP of the Cyber Cell, East District, the complaint of the petitioner, in relation to the alleged objectionable post, had been forwarded to the latter, for rendering the requisite technical assistance and causing removal of the said objectionable post from Facebook. An annexure to the concerned SHO's communication dated 25.08.2018, which is on the record, is canvassed in this behalf.
10. By reference to the affidavit dated 20.09.2018, filed by the concerned SHO, in terms of the directions issued by the learned Single Judge on 18.09.2018, it is emphasised that the expression

“a letter was sent to facebook.com through Cyber Cell East Delhi” was a bonafide language error, inasmuch as, what was intended to be stated was that, a communication had already been addressed to the Cyber Cell, East District, for taking necessary steps for removal of the said objectionable post.

11. Predicated on the above, it is urged on behalf of the concerned SHO that, there was no attempt to interfere with or obstruct the administration of justice in any manner. Even otherwise, he had tendered an unconditional apology and expressed his regret at the first opportunity, prior to the initiation of present criminal reference.
12. Be that as it may, officials of the Delhi Police are required to be held to the high standards by which they profess their conduct to be judged.
13. In view of the foregoing, it is incumbent upon this Court to direct the concerned SHO, as well as, other officials of the Delhi Police to exercise caution, care and diligence while responding to proceedings pending adjudication before the Court.
14. However, in our considered view, although the expression employed by the concerned SHO in the subject status report could be said to misdirect the proceedings, the same in our view does not constitute a deliberate and wilful attempt to mislead the Court or interfere in the administration of justice.

Furthermore, the concerned SHO has, at the first opportunity, expressed unconditional regret and apology for the language error that occurred on his behalf, and it is our view that, he has expressed appropriate remorse for having misdirected this Court in any manner, whatsoever.

15. In view of the foregoing, the notice of criminal contempt issued to the concerned SHO is hereby discharged, whilst directing him to exercise due caution, henceforth. The officers of the Delhi Police are directed to eschew from filing status reports in a casual and cavalier manner.

16. The reference is disposed of accordingly.

SIDDHARTH MRIDUL
(JUDGE)

SANGITA DHINGRA SEHGAL
(JUDGE)

OCTOBER 30, 2018
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