

IN THE HIGH COURT OF ORISSA AT CUTTACK

SUO MOTU CONTC No.6604 of 2022

***Registrar (Judicial),
Orissa High Court***

.....

Petitioner

Mr. Ashok Kumar Parija
Advocate General
Mr. Jyoti Prakash Patnaik,
Government Advocate

-Versus-

***Nakul Kumar Nayak,
President, Lawyers Bars Association, Tangi.....***

***Opp. Party/
Contemnor***

Mr. Milan Kanungo, Senior Advocate
Mr. Jyotirmaya Sahoo, Advocate

CORAM:

सम्प्रति न्याये

JUSTICE S. TALAPATRA

DR. JUSTICE S.K. PANIGRAHI

ORDER

22.12.2022

Order No.

05.

1. This matter is taken up through Hybrid Mode.
2. Mr. Ashok Kumar Parija, learned Advocate General and Mr. J.P. Patnaik, learned Government Advocate are present in the proceeding.
3. Mr. Milan Kanungo, learned Senior Counsel along with Mr. Jyotirmaya Sahoo, learned counsel is present for the contemnor.

4. The contemnor is present in the Court. On the last occasion, the contemnor filed an affidavit completely admitting the charge that was framed against him. For the purpose of reference, the charge that was framed against the contemnor is reproduced below:

“CHARGE

We, Justice Subhasis Talapatra and Dr. Justice Sanjib Kumar Panigrahi hereby charge you, Sri Nakul Kumar Nayak, President, Lawyers Bar Association, Tangi as follows:

On 21.10.2022, at about 4.45 P.M., while Smt. Siona Siddhant Moharana, Nyayadhikari, Gram Nyayalaya-cum-J.M.F.C., Tangi was taking up the forwarding matters, at that time, she heard someone was abusing her from outside her Chamber at Tangi.

From the voice, she could recognize you to be Sri Nakul Kumar Nayak, President, Lawyers Bar Association, Tangi. CASI Constable Tuni Palei came and told her that Advocate Nakul Kumar Nayak was abusing her from outside her Chamber at Tangi for rejecting one bail application, which was conducted by him.

At the same day, i.e. 21.10.2022, between 5.20 to 5.25 P.M., while Smt. Siona Siddhant Moharana,

Nyayadhikari, Gram Nyayalaya-cum-J.M.F.C., Tangi was proceeding towards her Car to return home, you Sri Nakul Kumar Nayak, President, Lawyers Bar Association, Tangi along with over 15 to 20 Advocates came near her Car and obstructed her.

You made attempts to compel her to talk to you on some matters right there.

You, Sri Nakul Kumar Nayak, President, Lawyers Bar Association, Tangi had asked Smt. Siona Siddhant Moharana, Nyayadhikari, Gram Nyayalaya-cum-J.M.F.C., Tangi how she could reject the bail application for the offence under Section 506 of the IPC to which she replied that she had mentioned the facts in detail in the order and if, you were aggrieved, you could approach the higher forum. In a threatening voice, you uttered during that time, you would ventilate your grievance to the Registrar, Civil Court, Khurda at Bhubaneswar.

*You had also threatened her by saying that, if she had not changed her order rejecting the bail application under Section 506 of the IPC, **“we will boycott your court from tomorrow onwards”**.*

About two months back, from 21.10.2022, during the cease-work, at about 11.45 P.M., Sri Susanta Kumar Sethi, a Court staff informed Smt. Siona Siddhant Moharana, Nyayadhikari, Gram Nyayalaya-cum-J.M.F.C., Tangi over phone that you, being drunk, were beating the gate of the court building at about 12.05 A.M. [night]. Sri Susanta Kumar Sethi called her and informed that you were abusing him in slang language and you had also abused her in the drunken state.

You have made it a practice to abuse Smt. Siona Siddhant Moharana, Nyayadhikari, Gram Nyayalaya-cum-J.M.F.C., Tangi inside the Court premises whenever any order is not in your favour. You had spoken to her (the Magistrate) in a threatening voice in her Chamber at Tangi.

Thus, you have committed the offence within the meaning of Section-2(c) of the Contempt of Courts Act, 1971 punishable under Section-12 of the Contempt of Courts Act, 1971 and within our cognizance.

We hereby direct that you be tried by this Court on the said charge.

Read over the charge to the accused of the criminal contempt.”

5. We reproduce below the relevant passages from the affidavit that was filed on 06.12.2022 by the contemnor clearly and fully admitting the charge:

“2. That the charges have been read over to me by this Hon’ble Court and I have understood the contents thereof.

3. That I admit the charges and pray for leniency and mercy from this Hon’ble Court.

4. That, I further undertake that such act shall never be repeated by me in future.”

6. It may further be mentioned that the contemnor, at the first instance, by filing an affidavit on 03.11.2022, tendered unconditional apology for his conduct and expressed his remorse.

7. When the charge is admitted, it falls in the hands of this Court to determine the sentence in terms of Section-12 of the Contempt of Courts Act, 1971.

8. Section-12 (1) of the Contempt of Courts Act provides that the contemnor may be punished either with imprisonment to the extent of six months or with fine to the extent of two thousand rupees, or with both. But the proviso to Section-12(1) of the Contempt of

Courts Act prescribes that the contemnor may be discharged, if the apology be made to the core satisfaction of the Court.

9. Both of us have read the affidavit containing admission of the charge with the unconditional apology tendered at the first instance.

10. A lawyer is an Officer of the Court and his solemn duty is to maintain the majesty of the Court and its proceeding. That duty is no less than that of the Judge. But sometimes, when untoward happening takes place, that lowers the court's authority in the estimation of the public. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all costs. Otherwise, the very cornerstone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society.

11. We hope that the contemnor has realized that his conduct has caused damage to this institution. Having placed trust on the contemnor's undertaking, as noted above, we accept his unconditional apology and discharge him from the indictment.

12. Before parting with the records, we would hasten to observe, in terms of the undertaking, the contemnor shall never indulge to undermine the authority of the court in the estimation of public at

large nor shall he obstruct the process of the judicial administration in any manner.

13. In terms of the above, this proceeding stands disposed of.

14. We place our deep appreciation for Mr. Ashok Kumar Parija, learned Advocate General, who has throughout the proceeding assisted us.

(S. Talapatra)
Judge

(Dr. S.K. Panigrahi)
Judge



Subhasis



