

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

R.V.W. No. 238 of 2024

IA NO: CAN 1 of 2024

Arunangshu Chakraborty

Vs.

**Court In Its Own Motion By The High Court Of
Judicature At Calcutta**

With

C.R.L.C.P. 23 of 2024

The Court In Its Own Motion

Vs.

Arunangshu Chakraborty

For the Petitioner : Mr. Tarun Kr. Das, Adv.

For the University : Mr. Soumya Majumder, Adv.
Mr. Pratik Majumder, Adv.
Mr. Kinnor Ghosh, Adv.

Alleged Contemnor : Mr. Arunangshu Chakraborty, Adv.
(In Person)

Hearing Concluded on : August 16, 2024
Judgement on : August 21, 2024

DEBANGSU BASAK, J.:-

1. Alleged contemnor as the review applicant has applied for review of specific portion of the order dated July 18, 2024.

2. Review applicant has appeared in person. He has contended that, review of an order is permissible when, there is an error apparent on the face of the record. According to him applying wrong law is an error on face of the record and can be corrected on review. In support of such contention he has relied upon **2024 INSC 424 (Karnail Singh vs. State of Haryana & Ors.)**.

3. Review applicant has drawn the attention of the Court to the order under review dated July 18, 2014. He has contended that, a Contempt Rule had been issued by the learned Single Judge on its own motion as against him. In response to such Contempt Rule, he had appeared before the Division Bench on July 18, 2024 when the order under review was passed. He has contended that, he is seeking review of paragraphs 9, 10 and 11 of the order under review. He has contended that, although the order under review permitted him to use an affidavit in response to the Rule, such order also directed him to make over a copy of such affidavit to the other parties to the proceedings in which the Contempt Rule was issued. He has contended that, no other parties excepting the Court and the alleged contemnor is relevant as the matter

is between the Court and the contemnor. Consequently, the direction for making over copies of the affidavit to other parties to the proceedings from which the Contempt Rule emanated was an error on the face of the record and requires review. Review applicant has relied upon **1975 Volume 3 Supreme Court Cases 535 (Baradakanta Mishra vs. Mr. Justice Gatikrushna Mishra, Chief Justice of the Orissa High Court)**, **1998 Volume 4 Supreme Court Cases 409 (Supreme Court Bar Association vs Union of India and Another)**, **2010 Volume 8 Supreme Court Cases 673 (Biman Basu vs. Kallol Guha Thakurta and Another)**, **2017 Volume 2 Supreme Court Cases 757 (2) (Suo Motu Contempt Petition (C) No. 1 of 2017)**, **2017 Volume 7 Supreme Court Cases 1 (In Re Hon'ble Justice C. S. Karnan)**, order dated August 20, 2020 passed in **SMC (Crl) Nos. 1/2020 (In Re Prashant Bhusan & Anr.)** and **2023 INSC 805 (Balwantbhai Somabhai Bhandari vs. Hiralal Somabhai Contractor (Deceased) Rep. by LRS. & Ors.)** in support of his contentions.

4. Learned advocate appearing for the University, which is one of the parties from which, the Contempt Rule

emanated, has drawn the attention of the Court to Rule 29 of the Contempt Rules framed by this Hon'ble Court. He has submitted that, his client is not an outsider to the proceedings. The Contempt Rule had emanated from a proceeding in which his client was a party. Presence of his client in the Contempt Rule is required so that, every aspect of the matter can be brought to the notice of Court. He has contended that, his client would be in a position to assist the Court with regard to the matters complained of.

5. Learned advocate appearing for the University has relied upon **1988 Volume 3 Supreme Court Cases 26 (D.N. Taneja vs. Bhajan Lal)** in support of the contention that, his client can be heard by the Court in this contempt proceedings.

6. Learned advocate for the writ petitioner adopted the submissions advanced on behalf of the University.

7. Review applicant has referred to Rule 2 (2) of the Contempt of Court Rules, 1975 framed by this Hon'ble Court as also Rule 31 and 34 thereof. He has contended that, none of the other parties to the proceedings from which the Contempt Rule emanated has any right of audience before this Court.

8. A writ petition had been filed by the writ petitioner against the University seeking various reliefs. During the pendency of such writ petition, the alleged contemnor herein made certain posts on the social platform alleged to be derogatory to the Court. It is also alleged as against the review applicant that there are adverse observations against him made by different Courts. Review applicant had allegedly posted derogatory materials on the social platform during hearing of a Contempt Rule.

9. The Division Bench had issued a Rule against the review applicant on May 10, 2024 noticing and after taking into account the order of the learned Single Judge issuing the Contempt Rule.

10. Review applicant had appeared in such contempt proceedings and by the order under review, was permitted to file an affidavit in answer to such Rule.

11. Review applicant has invited the Court to decide on the issue of the maintainability of the memorandum of review.

12. In ***Karnail Singh (supra)*** Supreme Court has held that, if the order under review ignored a law laid down by the Constitution Bench and took a view contrary to the same it

would amount to material error, manifest on the face of the order and as such, review of such order can be had.

13. In order to answer the question of maintainability of the memorandum of review, we have to adjudicate on the validity of the direction issued by us on July 18, 2024 requiring the review applicant to make over a copy of his affidavit in response to the Contempt Rule to the other parties to the proceedings from which the Contempt Rule emanated.

14. As has been noted above the roots or at least a portion of the present saga can be traced to a writ petition. Issue therefore is, whether the parties in the writ petition have any right of audience before the Division Bench on the Criminal Contempt Rule being issued suo motu by the learned Single Judge in a contempt proceeding arising out of an order passed in such writ petition.

15. ***Baradakanta Mishra (supra)*** has held that, in contempt jurisdiction, the only actors are the Court and the alleged contemnor. It has observed that any outside party comes in only by way of drawing the attention of the Court to the contempt which has been committed. Such party does not

become a party of the proceeding of contempt which may be initiated by Court.

16. *D.N. Taneja (supra)* has considered ***Baradakanta Mishra (supra)*** and held that, Criminal Contempt Proceeding is only between the Court and the contemnor. A third party can only bring the information to the Court notice. It has gone on to hold that, after furnishing such information he may still assist the Court.

17. *Supreme Court Bar Association (supra)* has held that, a case of contempt of Court is not *stricto sensu* a cause or a matter between the parties *inter se*. It is a matter between the Court and the contemnor. It is not strictly speaking tried as an adversarial litigation. The party, which brings the contemptuous conduct of the contemnor to the notice of the Court, is only an informant and does not have the status of a litigant.

18. *Biman Basu (supra)* has held that, the Court may in appropriate cases in its discretion require the private party or litigant moving the Court to render assistance during the course of the proceedings. In this regard it has quoted from ***D.N. Taneja (supra)***.

19. Applications for interventions in Suo Motu Contempt Petition (C) No. 1 of 2017 had been dismissed by the Supreme Court by an order dated February 13, 2017 reported at **2017 Volume 2 Supreme Court Cases 757 (2) (Suo Motu Contempt Petition (C) No. 1 of 2017)** Such portion of the order had been quoted in ***In re Hon'ble Justice C.S Karnan (supra)***.

20. Similarly, application for impleadment in contempt proceedings being ***In Re Prashant Bhushan and Another (supra)*** had been dismissed by the Registry of the Supreme Court and the appeal filed against such order of rejection was dismissed on August 20, 2020 by the Supreme Court.

21. ***Balwantbhai Somabhai Bhandari (supra)*** has noted ***D.N Taneja (supra)***. In the facts of that case, it has held that, it was not necessary for the High Court to implead the purchasers in the contempt proceedings since, such purchasers were quietly watching the proceedings.

22. ***D. N. Taneja (supra)*** which has been followed subsequently by the Supreme Court and quoted with approval, allows a Court in seisin a contempt proceeding to take assistance of the informant. ***Biman Basu (supra)*** has

also noted that a Court in appropriate case in its discretion may require the private party or litigant moving the Court to render assistance during the course of the proceedings.

23. Calcutta High Court has framed the Contempt of Court Rules, 1975 exercising powers conferred by Section 23 of the Contempt of Court Act, 1971 and Article 215 of the Constitution of India. Rule 2 has dealt with both civil contempt as well as criminal contempt. Rule 2 (2) has dealt with criminal contempt. Rule 29 has allowed the contemnor to file an affidavit showing cause to the Contempt Rule. It has also allowed the petitioner, that is the informant, to file a reply thereto. Rule 29 has recognised the power of the Court to take such evidence as may be considered necessary, in a contempt proceeding. Rule 31 has laid down the requirement of service of the affidavit in response to the Rule to the other side, in cases where the Rule was not issued by the Court in its own motion. It cannot be construed to have foreclose the exercise of discretion by a Court to scale assistance of a party. Rule 34 recognises the discretionary power of the Court to call upon the Advocate General to appear to conduct any contempt proceeding on behalf of the Court.

24. By our order under review, we had required the review applicant to serve a copy of his affidavit upon the parties to the proceedings in which the Contempt Rule was issued. We had kept the issue as to whether parties other than the review applicant, in the Contempt Rule was required to be heard or not.

25. Contempt proceedings are between the Court and the contemnor. The informant who has drawn the attention of the Court to the contemptuous materials is not a litigant in the contempt proceedings in the strict sense. A Court, in the factual matrix of a given case, may refuse to hear the informant or for that matter any other person seeking to intervene therein. However, in a given case, a Court hearing a contempt proceeding, in its discretion may take assistance of the informant or such party that it deems appropriate. Taking such assistance in the contempt proceedings does not render the contempt proceedings either as an adversarial proceeding or the party from which assistance is sought by the Court as a litigant in such contempt proceedings. Such party does not have audience as a matter of right in the contempt proceeding.

26. In our view, the test which should be applied by a Court, faced with the dilemma of taking assistance of any party other than the contemnor in a contempt proceeding would be whether, the assistance offered is required, whether the assistance offered is relevant and whether such assistance would prejudice the contempt proceedings itself or not. Since, neither the informant on the basis of whose statement Contempt Rule was issued, nor any other party has an absolute right of audience in a Contempt Rule, it is at the discretion of the Court hearing the Contempt Rule to allow it to be assisted by the informant or any other party.

27. The authoritative pronouncements of the Supreme Court as noted above, have allowed the Court in seisin of the contempt proceedings to exercise its discretion at the hearing stage to take assistance of the parties as it deems necessary, for the purpose of disposal of the Contempt Rule.

28. The relevant rules of the Contempt of Court Rules, 1975, which have been discussed at the hearing of the memorandum of review, have not prohibited the Court from taking assistance of such party as it deems appropriate, in deciding on a Contempt Rule issued sou moto. Apart from

taking assistance from a party, the Court in its discretion has the power to request the Advocate General to conduct the contempt proceeding on behalf of the Court.

29. In the facts of the present case, there are serious allegations as against the review applicant. It has been alleged that the review applicant is a repeat offender and that, his actions in Court, as also the material placed by way of pleadings before the Court and his social platform posts are downright contemptuous, lowers the dignity of the Court and its authority and should be appropriately dealt with.

30. In response to the Rule of Contempt, the review applicant may or may not bring forth the entirety of the materials that the other parties to the proceedings from which, the Contempt Rule emanated seek to assist the Court with. The Advocate General may not have sufficient machinery to discover every relevant material necessary to be placed before the Court in deciding the Contempt Rule. A party to the proceeding from which the Contempt Rule emanated may have in its possession such materials which are relevant for consideration of the disposal of the Contempt Rule. Allegations of contemptuous acts are not limited to the

pleadings filed but also materials posted in the social media. With the deepest respect, Advocate General may not be aware of the entire gamut sans the assistance of the parties. Review applicant would not be prejudiced in the event, parties to the proceedings from which, the Contempt Rule had emanated were asked to render their assistance in the proceedings.

31. We remind ourselves that, parties to the proceedings from which the Contempt Rule emanated are not litigants so far as the Contempt Rule is concerned and that they have a limited role to play. Nonetheless, their assistance may be necessary to ensure that the majesty and dignity of the Court is upheld appropriately.

32. We have therefore not found any error in our order under review in directing the review applicant to serve a copy of his affidavit filed in response to the Contempt Rule upon the other parties to the proceeding from which the Contempt Rule emanated. We had however kept the issue of hearing the other parties to the proceeding from which the Contempt Rule emanated, open, in our order under review.

33. Since, we have decided, in our discretion, to take assistance of the parties to the proceedings from which the

Contempt Rule emanated, the issue kept open in the order under review stands decided as against the review applicant. We clarify that, none of such parties are parties in the strict sense in the Contempt Rule and that their role is limited to rendering assistance to the Court.

34. In such circumstances, we dispose of the request for review by directing the review applicant to serve copy of his affidavit in answer to the Contempt Rule on the other parties to the proceedings from which the Contempt Rule had emanated, forthwith. We therefore, extend the time to file affidavit by such parties within a fortnight from date.

35. Contempt Rule will appear in the list three weeks hence.

36. R.V.W No. 238 of 2024 and connected applications are disposed of without any order as to costs.

[DEBANGSU BASAK, J.]

37. I agree.

[MD. SHABBAR RASHIDI, J.]