

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REFERENCE. 4 OF 2024

Ms. Hema A. Patil
Joint Civil Judge Senior Division,
Bhusaval, Taluka Bhusaval, District
Jalgaon. .. Petitioner

Versus

Mr. Bhushan Bhaskar Patil,
R/at : C/o Bhaskar Sitaram Patil, 3/2,
Raviraj Co-Op. HSG, Gupte Road, Jayhind
Coloney, Vishnunagar, Dombivali West,
District Thane. .. Respondent

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Ms. S. S. Kaushik, A.P.P., for the State/Petitioner.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 3rd SEPTEMBER, 2024

JUDGMENT (PER MANJUSHA DESHPANDE, J.) :-

1. This is a Reference made by the Joint Civil Judge Senior Division, Bhusaval, District Jalgaon, under Section 15(2) of the Contempt of Courts Act, 1971. The Reference has been made by the referral Judge through the Principal District and Sessions Judge, Jalgaon.

2. While making the said Reference, it is the submission of the Joint Civil Judge Senior Division, Bhusaval that, while she was dealing with a HMP No. 257 of 2016 alongwith connected Application, on 12.08.2022 a proposal was moved by the counsel appearing for litigant Ms. Rupali Patil that, she is willing to enter into compromise with her husband Mr. Bhushan Patil i.e. the Respondent herein, for a divorce. Upon which the concerned Judge inquired whether the matter could be listed in the Lok Adalat for compromise. Mr. Bhushan Patil has vehemently opposed the said settlement informing the Court that, he had already adduced 90% evidence, therefore he was not inclined to compromise at that stage. He was confident that the decision was bound to be in his favour. On receiving such response, parties were directed to proceed with the matter to be decided on merits.

3. After the said incident, Mr. Bhushan Patil i.e. the Respondent herein, has filed a complaint via e-mail alleging that the Joint Civil Judge Senior Division Ms. Hema Patil is forcing the litigant to compromise the case failing which, she would give a decision against him. He has given threats of committing suicide and making complaint against her in the High Court as well as the Hon'ble Supreme Court.

4. The concerned Joint Civil Judge Senior Division, has addressed a communication to the Principal District and Sessions Judge, Jalgaon, apprising him about the actual incident which had occurred in the open Court, requesting to take stern action against Mr. Bhushan Patil for maintaining, protecting and preserving the dignity of the Court, which was tried to be maligned by him. At the same time, the Respondent has also filed an Application on 05.11.2022 addressed to the Superintendent, District Court, Jalgaon to transfer his Applications pending before the concerned Judge Ms. Hema Patil to some other Court, alleging bias against her and failing which he threatened to commit suicide by self-immolation in the Court premises.

The Principal District and Sessions Judge has in turn forwarded the said communication directing the concerned Judge Ms. Hema Patil to take appropriate steps. In response to the said communication, she has conveyed to the Principal District Judge that she does not have any objection, if all the Applications are transferred from her Court, further requesting to take appropriate action against the said litigant.

5. The Respondent has allegedly continued to send

disruptive and daring emails to the referral Judge Ms. Hema Patil. The Principal District Judge has advised her to disregard the threats and discharge her duties.

Thereafter, the litigant Mr. Bhushan Patil has tarnished her reputation by making baseless allegations against her, casting aspersions on her character. He has alleged that the concerned Judge is engaged in an inappropriate relationship with the Advocate of the Opponent. The e-mail containing such allegations has been forwarded to the various authorities in the State of Maharashtra, including Home Department, Commissioner of Police and various Judicial Officers.

6. After such baseless allegations, casting aspersions on her character and defaming her, the Joint Civil Judge Senior Division has issued a show cause notice to the litigant Mr. Bhushan Patil, as to why action under the provisions of Contempt of Court Act, 1971, should not be initiated against him. According to the concerned Judge, on receiving a show cause notice, the Respondent has never appeared before her Court but sent contemptuous e-mail to her. Even in his explanation to the show cause notice, allegations are per-se

scandalous and bring the administration of justice into disrepute. The said allegations lower down the dignity of authority of the Court and tend to interfere with the administration of justice. The entire conduct of litigant Mr. Bhushan Patil was clearly vexatious, his intention being to insult the Court and send wrong message to the Society. He has even attempted to make contemptuous remarks against the High Court therefore, she has made Reference under Section 15(2) of the Contempt of Court Act, 1971, requesting to take cognizance of the criminal contempt against Mr. Bhushan Patil.

7. We have perused the various documents alongwith proposal/communication of the referral Judge Ms. Hema Patil. On going through the said documents, it is apparent that the litigant Mr. Bhushan Patil has indulged in sending defamatory e-mails to the concerned Judge and also to various other authorities. However, there is e-mail sent by the litigant Mr. Bhushan Patil addressed to the concerned Judge, referring to the show cause notice issued to him, in which he has apologized to the referral Judge, justifying his behaviour by stating that, he loves his wife who is about to divorce him,

since she was not responding to him appropriately, he got angry at her behaviour and as a result of which, he has was not in his senses. He has requested not to take any action against him. The said e-mail was addressed to the referral Judge on 28.03.2024, which was placed before her on 28.03.2024 on which there is an endorsement that it is put up before the Judge, it is seen and filed.

A similar explanation via e-mail has also been forwarded to the Registrar General, Bombay High Court, alongwith copies to the District and Sessions Court, Jalgaon and others, reiterating the contents which were addressed to the concerned Judge, in his e-mail, which is also sent on the same day. The said e-mail was also placed before the referral Judge on 30.03.2024. He has also sent e-mail to all those authorities to whom he had sent his earlier e-mails defaming the referral Judge, tendering his apology to all the authorities. Though he has sent various e-mails to the various authorities apologizing, however it seems again he has sent an e-mail on 01.04.2024 stating that he has tendered his apology because he was under pressure. According to him, while the proceedings were going on before the concerned Judge, though he tried to point out that the case of his wife is false and claims

are frivolous but no heed was taken of his contentions before the Court. He has not tried to interfere in the administration of the justice. Again he has made certain wild allegations against his wife, Advocate of his wife and many other persons. Thereafter, there are one or two e-mails addressed to the Police Authorities as well as copies to the various authorities in the State, alleging the ill-treatment at the hands of the police authorities.

8. On the background of above facts and circumstances, the concerned Civil Judge Senior Division, Bhusaval, has made present Reference seeking the action under Section 15 of the Contempt of Courts Act.

9. We have gone through the proposal of Reference made by the referral Judge. Undisputedly, there are certain allegations made against the concerned Judge, which casts aspersions on her character and has defamed her. From the contents of the various e-mails sent by the litigant Mr. Bhushan Patil, he does not seem to be in his senses. Initially he has made allegations against the concerned Judge, and thereafter has made wild allegations against various authorities by addressing e-mail to the Police Authorities as

well as copies to the other state authorities throughout the State.

The learned Judge has made a Reference under Section 15(2) of the Contempt of Courts Act, we have perused the Section 15 of the Contempt of Courts act, 1971, which reads thus :

“15. Cognizance of criminal contempt in other cases.—(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by—

(a) the Advocate-General, or

(b) any other person, with the consent in writing of the Advocate-General, ¹[or]

¹[(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.]

(2) In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.”

It is apparent that, the learned Judge is praying to this Court to take action for criminal contempt of the Subordinate Court. The definition of criminal contempt, which reads thus :

“ 2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “contempt of court” means civil contempt or criminal contempt;

(b) “civil contempt” means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;”

10. We have gone through the documents alongwith the proposal of the referral Judge, after going through it, we do

not find that, the material placed on record scandalises or lowers the authority of the Court or prejudices or interferes in the due course of judicial proceedings, or in any manner has obstructed in the administration of justice. The allegations made by the litigant are purely personal.

11. While dealing with the jurisdiction of the High Court under the Contempt of Courts Act, the ingredients of the criminal contempt are required to be satisfied while invoking the contempt jurisdiction. An Act which is not a criminal contempt but is merely publication of defamatory material against the judicial officer would not amount to scandalizing the authority of any Court.

The Hon'ble Supreme Court in case of **Bramhprakash Sharma V/s. State of U.P.**, has observed that when attacks or comments are made on a judge or judges, disparaging in character and derogatory to their dignity, care should be taken to distinguish between what is a libel on the judge and what amounts really, to contempt of court. If defamatory attack is on a Judge, it may be a libel so far as a Judge is concerned and it would be open for him to proceed against the libeler in proper action if he so chooses.

12. In case of **SK Sundaram : IN RE, in Suo Motu Contempt Petition (Crl.) No. 5 of 2000, decided 15, 2000**, the Hon'ble Apex Court has been pleased to observe in paragraph No.15, which reads as under :

“15. The position is that a defamatory attack on a Judge may be a libel so far as the Judge is concerned and it would be open to him to proceed against the libeler in a proper action if he so chooses. The Constitution Bench laid down the ratio thus:

If, however, the publication of the disparaging statement is calculated to interfere with the due course of justice or proper administration of law by such court, it can be punished summarily as contempt. One is a wrong done to the Judge personally while the other is a wrong done to the public. It will be an injury to the public if it tends to create an apprehension in the minds of the people regarding the integrity, ability or fairness of the Judge or to deter actual and prospective litigants from placing complete reliance upon the court's administration of justice, or if it is likely to cause embarrassment in the mind of the Judge himself in the discharge of his judicial duties. It is well established that it is not necessary to prove affirmatively that there has been an actual interference with the administration of

justice by reason of such defamatory statement; it is enough if it is likely, or tends in any way, to interfere with the proper administration of law.”

13. Similarly, in one of the Judgments of the Hon'ble Apex Court in case of **Ish Kumar Valecha V/s. Surjeet Banerjee And Ors., reported in 2003 SCC OnLine All 1828**, the Hon'ble Apex Court has been pleased to observe that, the contempt jurisdiction should be very sparingly exercised. Judges should be cool and unperturbed, even if there are unjustified allegations against them. Only in extreme case where the contemnor is habitually committing contempt or he is not allowing the Court to function etc., the Court would be justified in taking action of contempt of Court, but in that too it should be attempt of the Court to avoid precipitous action. Hence, according to the Hon'ble Apex Court unless there is an interference with the administration of justice by the litigant, the Court should restrain themselves from invoking their contempt jurisdiction.

As far as personal allegations are concerned, the judicial officers can take appropriate action against the person making such allegations resorting appropriate remedies and

not under the Contempt.

14. Hence, considering the scope of the present Reference made by the Joint Civil Judge Senior Division, Bhusaval, according to us, though the litigant Mr. Bhushan Patil has made personal allegations against the concerned Judge, it does not attract Section 15(2) of the Contempt of the Courts Act. Hence, we find no case being made out for Reference.

The Reference is hence declined.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)