

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REFERENCE. 5 OF 2024

Mr. S. B. Patil,
7th Joint Civil Judge Senior Division And
Additional Chief Judicial Magistrate,
Thane. .. Petitioner

Versus

Mr. Manubhai Hargovandas Patel,
Age : 67 Years, Occu.: Business/Contractor,
R/at : 2201, Kingston Palace, Chincholi
Bunder Road, Malad (W), Mumbai 400064. .. Respondent

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Ms. M. M. Deshmukh, 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. The present Reference is made by the 7th Joint Civil Judge Senior Division And Additional Chief Judicial Magistrate, Thane, under Section 15(2) of the Contempt of Courts Act, 1971.

2. While making the said Reference, the referral

Judge has stated in his proposal that, one Manubhai Hargovandas Patel i.e. the Respondent herein, who was the sole plaintiff in Summary Civil Suit No. 366 of 2021, pending before the said Judicial Officer, while conducting the proceedings in-person, for recovery of money as per Order 37 of the Civil Procedure Code, had filed pursis at Exh-40 and written notes of arguments at Exh-41 and prayed for issuance of ex-parte Decree. However, the matter was adjourned to the next date for further argument. In the meanwhile, the matter was transferred to the Court of 4th Civil Judge Senior Division, Thane, as per the Order of the learned District Judge. Thereafter, there was a change in the assignment on 04.01.2024 and again the said matter was returned to the earlier Court.

On 04.01.2024, while hearing of a time bound matter was going on, the party in-person i.e. Manubhai Hargovandas Patel appeared and requested for hearing of his matter, which was not possible. Accordingly, he was informed and the matter was adjourned to the next date. Since already hearing of a time bound matter was in progress, yet considering the age of the litigant and to avoid inconvenience, the litigant/plaintiff was called upon and was informed about

the next date in the matter. Upon which, the plaintiff has made oral allegations in the open Court that ‘‘तुम्हाला किती लाच द्यायची’’ Considering the contemptuous statement made by the litigant/plaintiff, a show cause notice was issued to him by passing an Order below Exh-1, to which he has immediately filed reply at Exh-43.

3. According to the referral Judge, the plaintiff has filed one more Application at Exh.42 making scandalous remarks and wild allegations against the referral Judge about the demand of illegal gratification.

The plaintiff has again filed an application at Exh-45, under Section 479 of the Code of Criminal Procedure (‘‘Cr.P.C.’’), contending that the Court has lost the jurisdiction, hence not to proceed in the matter. Therefore, the matter was adjourned to 19.01.2024.

4. Considering his contemptuous remarks and the application filed by him, a show cause notice was issued to the plaintiff at Exh.47 on 19.01.2024, calling upon him as to why Reference under the Contempt of Courts Act should not be forwarded to the Hon’ble High Court against him. The plaintiff has submitted his reply to the show cause notice dated

19.01.2024, wherein he did not tender any apology for his scandalous and derogatory remarks but again made some more contemptuous statements.

5. The concerned Judge has gone through the record and according to him, the plaintiff is in habit of making allegations and complaint against presiding officers/Judges. Even his predecessor on 20.11.2021 has passed an order against the litigant and the matter was kept for order on the point of jurisdiction, the plaintiff has moved an application making allegations against the Court, so that the Court may not pass any order in the said matter.

According to him, record reveals that the plaintiff was prejudicing the trial by pressurizing the officers for passing the order without going into the merits of the matter. If the Court refuses to pass the order on his mere asking, he is in a habit of making scandalous and wild allegations against the presiding officer. The plaintiff is in habit of making allegations of ill-intention to get favorable order by pressurizing the Court.

Despite giving the show cause notice, the respondent has neither tendered any apology nor he has any repentance

over it. Due to his derogatory statements he has undermined the dignity of the Court and he has no respect for the Court of law.

Hence, considering the behaviour of the plaintiff, he has lowered the image of the Court in the minds of Advocates, staff members and the litigants, therefore the referral Judge has requested to take cognizance of the conduct of the plaintiff.

This being a prima-facie case of contempt as defined under Section 2(1) of the Contempt of Courts Act, the referral Judge has requested to take cognizance of the contempt under Section 15(3) of the Contempt of the Courts Act, against the contempnor.

6. With the able assistance of the learned A.P.P., we have gone through the documents alongwith the proposal. It appears that on 19.01.2024, the referral Judge has issued show cause notice to the plaintiff. In response to which, he has replied the notice referring to the British Judge Lord Denning, which is as under :

“2.1] British Judge Lord Denning had observed in the matter of Metropolitan Police Commissioner in 1969 that even though the

Court has the jurisdiction for contempt, they shall never use it. The reason being that the judges, in contempt cases, do have a certain amount of personal interest. This is against the legal principal that one cannot be a judge in their own case. We do not fear criticism, nor do we resent it.

2.2] “The contempt jurisdiction is not intended to uphold the personal dignity of the Judges. Secondly, the Court will also have to consider the degree of harm caused as affecting administration of justice.”

7. The plaintiff in his reply has again repeated that though he had requested the referral Judge to hear his matter, however the matter was adjourned from time to time and therefore he has reached a conclusion that the concerned Judge is expecting illegal gratification.

Citing various dates on which the matter was adjourned and also citing various judicial pronouncements, the plaintiff has placed on record his response to the show cause notice. The said reply was not affirmed since the Superintendent of the said Court declined to affirm the verification on account of the allegations made against the referral Judge.

8. We have given a thoughtful consideration to the Reference made by the concerned Judge.

We have also perused the show cause notice and the reply given by the plaintiff to the show cause notice.

9. According to us, the plaintiff has made personal allegations against the judicial officer due to the time consumed in the litigation and we find that though the judicial officer might be justified in adjourning the matter, however it seems that the litigant got disturbed due to the delay and the time consumed in the litigation, and hence he made personal allegations against the referral Judge, of seeking illegal gratification for hearing the matter.

10. Considering that these are the personal remarks made against the concerned Judge and it do not amount to 'causing interference', in the administration of justice or lowering the authority of the Court and it does not attract Section 15(2) of the Contempt of the Courts Act. We find no case being made out for Reference.

Hence, the Reference is declined.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)