

Indian Penal Code, is punishable with transportation for life, whereas the offence under section 420, Indian Penal Code, is punishable with imprisonment for a maximum period of seven years only. Schedule II of the Criminal Procedure Code, however, makes it quite clear that the charge under section 409, Indian Penal Code, is triable by a magistrate of the first class, and, therefore, the offence of which the appellant has now been convicted could have been enquired into by the same Court which convicted him of the offence under section 420, Indian Penal Code. Subsection (4) therefore too does not apply.

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The learned counsel for the appellant also drew my attention to Article 20 of the Constitution and contended that subsection (3) of section 403, Criminal Procedure Code, was *ultra vires* the Constitution. It is, however, not necessary to go into this matter, and it is clear to me that under the ordinary law and according to the provisions of the Criminal Procedure Code the appellant could not have been convicted of criminal misappropriation because he was convicted in respect of the same offence previously.

This appeal must therefore succeed and allowing if I set aside the convictions and sentences of the appellant and acquit him.

CRIMINAL ORIGINAL

Before Kapur, J.

THE STATE,—Appellant

versus

BHAGAT RAM SEHGAL,—Respondent

Criminal Original No. 14 of 1953

1954

Contempt of Courts Act (XXXII of 1952)—Section 3—Party seeking private interview with the Magistrate before whom a case against him is pending and asking for adjournment of the case—Magistrate resenting it—Party writing a letter of protest to the Magistrate containing threats—Whether guilty of contempt of Court—Duty of the High Court towards subordinate Courts stated.

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B. R. had a case pending against him in the Court of a Magistrate. On the date of hearing before the case was called B. R. sought a private interview with the Magistrate, and requested him to adjourn the case. The Magistrate kept quiet. When the case was called, the Magistrate told the counsel for B. R. that his client should not do such a thing again. B. R. interrupted and remarked that he had done nothing improper. The Magistrate then rebuked him for this and told him that he would be arrested for contempt of Court. B. R. then kept quiet and went away and a little later sent a post card to the Magistrate on the same day in the following words:—

Your attitude of date was viewed with extreme indignation. Your advice after the court proceeding was absolutely uncalled for and childish. Would you mind if I release this incident to the press and relay it to the Minister for Law and Order and the D.M.?

The District Magistrate made a report to the High Court for taking contempt of Court proceedings against B.R.

Held, that B.R. was guilty of gross contempt and a very severe view should be taken of his action. The litigants must realize that all judicial proceedings are subject to the review of the High Court and it is to the High Court that they must turn if they have got any grievance in regard to any matter which takes place while judicial proceedings are going on in a Court, whether Civil or Criminal, and to threaten a Magistrate that the matter would be taken to the Minister for Law and Order is by itself contempt and in this case the opposite party is further guilty of gross contempt by saying that the attitude of the Magistrate was childish. It is the duty of the High Court to protect the subordinate Courts and to see that there is no interference by persons howsoever highly placed against the working of the Courts and no threats should be held out to them and the subordinate Courts should be allowed to do their work without any fear or favour and threats held out to Court is the grossest kind of contempt that there can be and particularly from a person who claims that he is a social worker and that he is a person who is connected with Newspaper Association and is a World Tourist.

Case reported by Shri R. N. Chopra, District Magistrate, Amritsar, with his letter No. 414-S, dated the 13th November, 1953, recommending that necessary action be taken in the case by issuing a notice to Dr. Bhaqat Ram Sehgal, for contempt of court of Shri Sumat Parshad Jain, Section 30 Magistrate, Amritsar.

RAJINDER SACHAR, for Appellant.

ROOP CHAND, for Respondent.

JUDGMENT

KAPUR, J. A notice for contempt was issued to the opposite party Bhagat Ram Sehgal at the instance of the District Magistrate of Amritsar. He made a report to this Court that the opposite party had a case pending in the Court of Mr. Sumat Parshad Jain, a Magistrate at Amritsar, and that on the 31st October, 1953, at 11 a.m. the opposite party went to the court room of the Magistrate and after handing over his visiting card sought a private interview. As the visiting card gave rather an honorific title to the opposite party the Magistrate asked him to come and sit on a chair on the dais, and the opposite party told the Magistrate that he had a case brought against him by the Registrar, Joint Stock Companies, which was pending in the Court of the said Magistrate and requested that the case should be adjourned that day as he was trying to get the case withdrawn. The Magistrate being new to the district did not say anything to Bhagat Ram Sehgal but he did not like his approaching him (the Magistrate).

After the case was called and an adjournment given the Magistrate told the counsel for Bhagat Ram Sehgal that his client should not do such a thing again, and according to the report Bhagat Ram Sehgal "butted in and remarked that he had done nothing improper". The Magistrate then rebuked him for this and told him that he would be arrested for contempt of Court. Bhagat Ram Sehgal then kept quiet and went away.

Then the opposite party sent the following post card to the Magistrate—

From

Dr. Bhagat Ram Sehgal,
World Tourist, President,
Amritsar Newspaper As-
sociation, Chah Kaurian,
Amritsar, 31-10-53.

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Shri S. P. Jain.

Your attitude of date was viewed with extreme indignation. Your advice after the court proceeding was absolutely uncalled for and childish. Would you mind if I release this incident to the press and relay it to the Minister for Law and Order and the D. M.

Personal and private after Shri S. P. Jain, Magistrate 1st Class, District Court, Amritsar.

Yours,

Sd. B. Ram Sehgal,
(Dr. Bhagat Ram Sehgal),
President, Amritsar Newspaper
Association.

31-10-53.

The matter was placed before Khosla, J., who issued notice to the opposite party. On the 10th of July 1954, this matter was placed before me and I found that the notice issued by this Court which was sent to the opposite party came back unserved with the remark that the addressee had gone out of Amritsar. I was not satisfied that that was the state of affairs and I, therefore, issued aailable warrant for the 27th of August 1954.

On that date a telegram, dated the 26th of August purporting to be from the opposite party was received in this Court and as I was of the opinion that it was a deliberate attempt to disobey the orders of this Court I issued non-ailable warrants with the direction to the District Magistrate that he could, if he thought it necessary, release the opposite party on bail in a sum of Rs. 2,000. When the process was sent to the District Magistrate for being served and action being taken in

accordance with the orders of this Court he by a letter, dated the 7th September 1954, wrote as follows—

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“Reference your letter No. 10477, dated the 30th of August 1954.

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2. Efforts have been made to serveailable warrant upon Dr. Bhagat Ram in pursuance of your order, but could not be served as he seems to be purposely avoiding. The warrant issued from this office with the report of police is enclosed.”

Thereupon I ordered the issuing of a non-bailable warrant with the proviso that if apprehended the opposite party could be released on bail. I also directed the District Magistrate to take action against the opposite party under sections 87 and 88 of the Criminal Procedure Code and I fixed the case to be heard on the 20th of September, 1954. On that date no report had come from the District Magistrate and I fixed the hearing on the following day on which date the opposite party appeared with counsel and I gave him two days' time in which to file an affidavit.

By his affidavit the opposite party has tendered an unconditional apology and has submitted that he had no intention to commit contempt of Court.

I examined the opposite party yesterday and he has admitted that he did go to the Magistrate at 11 a.m. on the 31st October 1953, but he denied that he asked the Magistrate for an adjournment. He has not explained why then he went to the Magistrate. In his statement with regard to what happened in Court on that date he has admitted that the Magistrate did admonish the opposite

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party for his improper behaviour but it was not through counsel but it was to him directly. He also said that he was a worker for freedom of country and he could not dream of anything which may be an insult to the Courts set up by the President.

The post card which the District Magistrate complains about has been admitted by the opposite party to have been sent by him. I would quote that part of the proceedings in this Court in which he gives his explanation in regard to this post card—

C. Q. Can you explain why you wrote this post card to the Magistrate?

A. I was so much upset that I could not realise the import of what I was writing and I marked it personal and private.

C. Q. Do you think post cards are private?

A. My Lord, this is my ignorance.

C. Q. And if you were so upset as not to realise the import of your post card why did you write 'personal and private'?

A. Because I did not know the Court address and had to send the letter to the Court, I had to write 'personal and private'.

C. Q. Therefore, your being upset had nothing to do with this matter?

A. I was so much hot at that time that I could not realise what I was doing.

C. Q. Was that because of anger?

A. No, my Lord, because I could not realise what I was doing. When his counsel asked him what his attitude was he said 'I humbly submit unconditional apology'."

The opposite party is a social worker and evidently he is being maintained by his two sons, one of whom is a Captain in the Army, and when I asked him what kind of a social work he was doing he said, he was a Vedic Missionary.

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Perhaps I would not have taken so serious a view of his conduct if he had not written the post card to the Magistrate. In this post card he has told the Magistrate that he (the Magistrate) is childish and has threatened the Magistrate that he would like to release the whole thing to the press and "relay it to the Minister for Law and Order and the District Magistrate".

The litigants must realise that all judicial proceedings are subject to the review of this Court and it is to this Court that they must turn if they have got any grievance in regard to any matter which takes place while judicial proceedings are going on in a Court, whether Civil or Criminal, and to threaten a Magistrate that the matter would be taken to the Minister for Law and Order is by itself contempt and in this case the opposite party is further guilty of gross contempt by saying that the attitude of the Magistrate was childish. It is the duty of the High Court to protect the subordinate Courts and to see that there is no interference by persons, howsoever highly placed they may be, against the working of the Courts and no threats should be held out to them and the subordinate Courts should be allowed to do their work without any fear or favour and threats held out to Courts is the grossest kind of contempt that there can be and particularly from a person who claims that he is a social worker and that he is a person who is connected with Newspaper Association and is a World Tourist as his post card shows. I hold in this case that the opposite party is guilty of gross contempt and very severe view should be taken of his action.

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As to the sentence this is the first time that a thing like this has happened in the Punjab as it is at present constituted. The ordinary sentence for convictions of this kind should have been imprisonment and fine, but as it is the first case of its kind I think a sentence of Rs. 500 would meet the ends of justice and if this money is not paid within a month the opposite party will undergo simple imprisonment for one month. The costs of the Government Advocate will also be paid by the opposite party. Counsel's fee Rs. 50.

REVISIONAL CIVIL

Before Falshaw J.

MAHARAJ JAGAT BAHADUR SINGH,—*Plaintiff-Petitioner*

v.

SHRI BADRI PARSHAD SETH,—*Respondent.*

Civil Revision No. 200 of 1954

1954

Sept. 27th

East Punjab Urban Rent Restriction Act (III of 1949) Section 13—'Requires', interpretation of—Constitution of India, Article 227—Power of High Court to interfere on questions of fact—Whether power analogous to the power, of the High Court under section 115 Civil Procedure Code. Landlord and Tenant—Tenant whether can contract himself out of the East Punjab Rent Restriction Act.

Held, that word "requires" means something less than "needs" or "reasonably requires" and all that the landlord has to show is that he bona fide intends to occupy the premises and carry on the business there for which he claims possession. The landlord is not debarred from claiming possession of the premises in order to carry some other business than that in which he has hitherto been engaged and clauses (a) and (c) in subsection (3)(a)(ii) of section 13 would only come into operation if the landlord is or has been carrying on the same business for which he claims possession of the premises in suit on the same terms.

Held, that the power of High Court under article 227 is to all intents and purposes similar to its power under section 115 of the Code of Civil Procedure. The number of cases in which the court can use its power under section 115 Civil Procedure Code, to correct errors of fact is infinitesimally small. It is possible that cases may arise where the lower court's treatment of facts is so utterly perverse as to amount virtually to failure to exercise jurisdiction. If this is not so High Court will not interfere with the finding of fact under Article 227 of the Constitution.