

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1822 OF 2023

[Arising out of SLP(Civil) No. 1056 of 2023]

GUNJAN SINHA ALIAS KANISHK SINHA

Appellant(s)

VERSUS

THE STATE OF WEST BENGAL & ANR.

Respondent(s)

O R D E R

Leave Granted.

2. The appellant is a practicing advocate in the Calcutta High Court. When a Division Bench of the High Court was hearing FMA No.623 of 2022 along with connected applications, the appellant filed an application being CAN No.3 of 2022 against one Sayantan Basu, Advocate, who was representing the appellants in the above-mentioned case. In the said application, the appellant alleged that the above-named Advocate was asking the parties to give him briefs and money in the name of one of the Hon'ble Judges of the Bench. Somewhat similar kinds of allegations are said to have been made by the appellant in an electronic mail also, which was sent to the Commissioner of Police, Calcutta. The Division Bench of the High Court took *suo motu* Contempt of Court proceedings against the appellant. Against one of the interlocutory orders passed in the contempt proceedings, the appellant approached this Court in SLP(C)No.18622/2022, which was disposed of on 14.11.2022 on the

basis of assurance and an undertaking given by the appellant that he will tender an unconditional apology before the High Court and shall withdraw CAN No.3/2022 in FMA No.623/2022, referred to above. He also undertook to assist the Bench so that the pending matter could be decided on merits, besides an undertaking that he shall not file any such application or conduct himself in the future to invite contempt proceedings.

3. The impugned judgment passed by the High Court reveals that the appellant made repeated attempts to wriggle out of the statement made by him before this Court on November 14, 2022 and he kept on filing one conditional letter after another before the High Court. It was in this backdrop that the High Court, vide impugned judgment dated 15.12.2022 has held that the contents of letter dated December 05, 2022, submitted by the appellant, are in clear violation of the undertaking given by him before this Court and that, rather, he had made a fresh attempt to reiterate the allegations against members of the Bar.

4. The Division Bench of the High Court eventually held the appellant guilty of contempt of court, but nevertheless, the High Court deemed it appropriate to give an opportunity to the appellant to conduct himself respectfully and ensure that he does not invite contempt proceedings in the future. The High Court, thus, disposed of the contempt proceedings in the following manner:

"30. The contemnor sought to justify his action by filing an undertaking before this Court on November 18, 2022, which was later clarified on December 6, 2022 pursuant to the order dated December 1, 2022. The clarificatory affidavit was not a voluntary action on the part of the contemnor. It is a well-settled

proposition of law that there cannot be both justification and an apology, the two being incompatible in law. An apology is not a weapon to absolve the contemnor from his guilt. The contemnor by his purported undertaking/apology dated November 18, 2022 and subsequent letters dated December 5, 2022 had sought not only to provide justification but also sought to make fresh allegations against the Court in the garb of an apology. The conduct/action of the contemnor has interfered with the administration of justice and has lowered the majesty and dignity of the Hon'ble Court. No remorse/contriteness has been expressed by the contemnor.

38. In the light of the discussion above, this Court directs the Contemnor to deposit a sum of Rs.2 lakhs within a week from this date with the Learned Registrar General, Appellate Side, High Court at Calcutta, which will be invested in a long term fixed deposit for 3 years of any nationalized bank. In the event, the contemnor conducts himself respectfully and in a way so as not to invite contempt proceedings in future, the said sum will be refunded to him along with interest accrued thereon, on expiry of the stipulated period.

39. In the event, he conducts himself in a manner that further contempt proceedings are invited, the said sum will be forfeited immediately and paid to the State Legal Services Authority by the Learned Registrar General.

40. In default of payment of the aforesaid sum as within the period as directed above, the Commissioner of Police, Kolkata shall forthwith cause to be issued a warrant of arrest against the contemnor and take him into custody to undergo simple imprisonment for a period of two months.

42. CRC 20 of 2022 and CAN 3 of 2022 stand accordingly disposed of."

5. Since the appellant failed to deposit the sum of Rs.2 lakhs within a week, as directed by the High Court, he was arrested by the police in terms of the direction contained in para 40 of the impugned judgment passed by the High Court.

6. The instant case came up for hearing before this Court on

13.01.2023 and the appellant's wife, who is also an advocate, assisted this Court. The following interim direction was issued on 13.01.2023:

"3. The petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees one lakh) as a part of fine imposed on him by the High Court, within three working days, with the Registrar General, Appellate Side, High Court at Calcutta, without prejudice to the legal rights of the parties.

4. As an interim measure, the petitioner is directed to be released forthwith from judicial custody without insisting for bail bonds."

7. In deference to the above reproduced order, the appellant has deposited a sum of Rs.1 lakh with the Registrar General, Appellate Side, High Court at Calcutta, and he was consequently released from judicial custody.

8. We have heard Ms. Lipika Das Sinha, the wife of the appellant, who has appeared in-person through Video Conferencing, learned Counsel representing the High Court, as well as Mr. Huzefa Ahmadi, learned Senior Counsel appearing on behalf of the respondent - caveator.

9. We may point out at the outset that despite numerous suggestions and persuasions made by this Court, it is informed by learned counsel for the High Court that the appellant did not tender any unconditional apology in the manner as was suggested by this Court. The wife of the appellant, however, disputes this allegation, as according to her, the appellant tendered an unconditional apology on 21.02.2023. The fact remains that much before such apology the High Court had already heard the matter and reserved its judgment in FMA No.623 of 2022.

10. Be that as it may, we are still inclined to take a lenient view with the hope and trust that the appellant will conduct himself in the future as a disciplined member of the legal fraternity and shall cause no embarrassment to anyone. We are confident that the appellant shall abide by the unconditional apology tendered by him on 21.02.2023 and shall continue to purge the contempt. Consequently, the instant civil appeal is disposed of in the following manner:

- (i) Para 38 of the impugned judgment dated 15.12.2022 passed by the High Court is modified to the extent that the amount of Rs.2 lakhs, which the appellant was required to deposit, is reduced to Rs.1 lakh. The appellant has already deposited the said amount with the Registrar General, Appellate Side, High Court at Calcutta.
- (ii) In the event that the appellant conducts himself in an appropriate manner and does not give cause to initiate contempt proceedings in the future, the amount of Rs.1 lakh deposited by him shall be returned to him after two years. However, if the conduct of the appellant is found wanting in any manner during this period, the said amount shall stand forfeited and be paid to the State Legal Services Authority, as directed by the High Court in para 39 of the impugned judgment.

11. We have been informed that FMA No.623 of 2022 has been decided

by the High Court on merits on 02.03.2023.

12. In the result, the appeal is disposed of accordingly.

13. As a sequel to the above, pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(J.K. MAHESHWARI)

New Delhi;
March 17, 2023.

ITEM NO.41

COURT NO.9

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).1056/2023

(Arising out of impugned final judgment and order dated 15-12-2022 in CRC No.20/2022 passed by the High Court at Calcutta)

GUNJAN SINHA ALIAS KANISHK SINHA

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL & ANR.

Respondent(s)

IA No.8436/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No.8438/2023 - EXEMPTION FROM FILING O.T.

IA No.8446/2023 - PERMISSION TO APPEAR AND ARGUE IN PERSON

IA No.23343/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No.8746/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 17-03-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Ms. Lipika Das Sinha, Adv.
Mr. Vinay Kumar Sah, Adv.
Dr. Amardeep Gaur, Adv.
For M/S. V. Maheshwari & Co., AOR

For Respondent(s) Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Shubail Farook, Adv.
Mr. Kshitij Kumar, Adv.
Mr. Ranjay Kumar Dubey, AOR

Ms. Astha Sharma, AOR
Mr. Srisatya Mohanty, Adv.
Mr. Sanjeev Kaushik, Adv.
Ms. Mantika Haryani, Adv.
Mr. Shreyas Awasthi, Adv.
Mr. Himanshu Chakravarty, Adv.
Ms. Ripul Swati Kumari, Adv.
Mr. Bhanu Mishra, Adv.
Ms. Muskan Surana, Adv.

Mr. Kunal Chatterji, AOR

Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.
Ms. Kshitij Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

As a sequel to the above, pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)