

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 201

CROCP No.10 of 2013
Decided on: June 3rd, 2020

Court on its own Motion

....Appellant

Versus

Harmeet Singh, Nazir, Court of ACJ (SD), Budhlada, Mansa

.....Respondents

CORAM: HON'BLE MR. JUSTICE JAWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH

Present:- Mr. P.S. Hundal, Advocate, Amicus Curiae.

Mr. Rajvinder Singh Bains, Advocate, for the respondent -
contemnor.

Sant Parkash, J

The present contempt proceedings have been initiated by this Court against respondent - Harmeet Singh, pursuant to a reference by the District & Sessions Judge, Ludhiana, wherein it is submitted that the respondent joined the Sessions Division, Ludhiana, on 12.03.2009 as Clerk. Due to administrative convenience, he was posted at Jagraon but he kept on pressurizing the competent authority for transferring him back to Ludhiana. It is stated in the Reference that subsequently, he was transferred to Sessions Division, Mansa, by this Court, which was not to his liking and he felt offended. In the interregnum, the respondent filed an application for his transfer//recruitment and posting as Clerk to the Deputy Commissioner, Pathankot, through the District & Sessions Judge, Ludhiana, being his parent department.

Thereafter, he started filing applications under the Right to Information Act, as also frivolous complaints, for venting his ire against the District & Sessions Judge and other judicial officers of the Sessions Division, Ludhiana. Besides, he opened an account on 'Youtube' titled 'Ugly

face of Judiciary', where he openly criticised the District & Sessions Judge as well as Shri Ranjit Kumar Jain, Additional District Judge, Ludhiana and levelled false and frivolous allegations of manipulating his transfer to Mansa Sessions Division. Not only this, he also levelled such allegations against two sitting Hon'ble Judges of this Court.

It is further stated in the Reference that the respondent undertook this exercise only with the sole motive of seeking his transfer back to Ludhiana by intimidating the District & Sessions Judge as also Hon'ble Judges of this Court. In this backdrop, the instant contempt proceedings were started to the respondent and notice under the Contempt of Courts Act, 1971 was issued against him by a Division Bench of this Court vide order dated 22.03.2013, pursuant to which, respondent put in appearance on 05.09.2013.

A detailed reply has been filed on behalf of the respondent submitting that he received a notice on 20.09.2011 from the Court of Shri Ranjit Kumar Jain, Additional District Judge, Ludhiana (now posted in Chandigarh), for sending the consignment particulars of Civil Suit No.72/9.6.04 (RBT 388/26.3.09), decided on 11.05.2010 titled 'Gurmel Singh vs. Kapoor Singh', in response to which, the respondent reported as follows:-

“Concerned clerk Sh. Dharam Pal is now posted in the court of Sh Amrinder Pal Singh, Civil Judge (JD), Ludhiana. Kindly particulars of record (i.e. consignment details) of said case be asked from him.”

It is stated that Dharampal, Ahlmad, did not consign the file in the record room till 06.08.2012, which was finally consigned against Goshwara No.103/ 15.08.2012, as per information received under the Right to Information Act.

Lateron, due to administrative convenience, the respondent was posted at Jagraon. Upon his repeated requests, he was again posted back to Ludhiana, wherefrom, he sent a request, through proper channel, to the Deputy Commissioner, Pathankot, for his recruitment and posting as Clerk at Pathankot.

It is also stated that he was arrested and taken into custody, and released on bail on furnishing personal bond of ₹ 10,000/-. It is further stated in the reply that Shri Ranjit Kumar Jain, ADJ, threatened that he was the Boss and he would get him removed from service. He made fun of him, and made dirty and cheap remarks about the staff members during the time he was detained in court. He was physically detained in court by Naib Court from 10.15 AM to 2.30 PM. The respondent tried to meet the then District & Sessions Judge, Ludhiana to apprise him of the illegal act and torture being meted out by the aforesaid judicial officer, however, he did not oblige.

It is further stated in the reply that on 28.02.2012, a show cause notice under Section 36 of the Punjab Courts Act was served upon him, to which he submitted his reply. Finally, on 22.03.2012, he received punishment order from Shri Ashish Kumar Bansal, Civil Judge (Junior Division), Jagraon, which allegedly, was typed by Shri Ranjit Kumar Jain, ADJ, on his personal printer and sent to Shri Ashish Kumar for signing in *ex facie* manner of abuse of his own position and power as Additional District Judge and exercise of undue influence over a subordinate officer. Respondent filed an appeal against the punishment order which was dismissed vide order dated 06.08.2012.

On 17.07.2012, the respondent was transferred to Mansa, which was done under the influence of Shri Ranjit Kumar Jain. It is further stated in the reply that respondent made about 100 representations but no answer was received. His efforts to meet the then Hon'ble the Acting Chief Justice

and Hon'ble Judge, Incharge of E-2 (transfers), also failed. He, thereafter, uploaded a video on social media. Disciplinary proceedings were initiated against him and a major penalty of stoppage of four increments with cumulative effect was imposed upon him vide order dated 09.02.2018.

Vide application No. CRM-4947-2020, judgment dated 02.09.2019 passed in CWP No.10771 of 2018; and copy of the show cause notice dated 17.02.2016 alongwith inquiry report dated 22.01.2016 issued to the respondent have been placed on record. A perusal of aforesaid documents reveals that there was no role of the petitioner in consignment of file of CS No.72 dated 09.06.2004, decided on 11.05.2010 titled 'Gurmel Singh versus Kapoor Singh'. Therefore, the petitioner has been unlawfully punished and his explanation has not been considered by the appellate authority, an explanation which had considerable substance.

As the respondent uploaded videos on Internet and Social Media, a regular departmental inquiry was held, the findings of which are as under:-

"As a sequel to entire aforesaid discussions, it is to be concluded that though, it is clear that considerable brain storming and corrective measure ought to be undertaken for improving the working of institution of judiciary, acts and conduct as well as attitude of the delinquent employee as evident from uploading of five videos proved in the course of present inquiry and from his conduct during the course of instant inquiry, cannot be countenanced and as already discussed above in detail in the preceding part of present report, said acts, comprise certain unfounded allegations and content of videos in question, are contemptuous, scandalous, offensive and malicious. The contents of said videos also comprise certain

imaginative and exaggerative version of problems prevailing in the District Judiciary and tend to lower the image of judiciary in an unjustifiable manner and digress much away from truth. Acts of the delinquent employee constitute gross misconduct and violation of Government Employee (Conduct) Rules, 1966 and thus, is un-becoming of a government servant. Hence, articles of charge are clearly established against the delinquent employee."

Pursuant to the aforesaid inquiry report, a show cause notice dated 17.02.2016 was issued to the respondent to show cause within 15 days as to why one of the major penalties as prescribed under Rule 5 (v) to (ix) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 and also mentioned at Sr. No.(v) to (ix) of Rule 12(2) of the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 (Rule 12 Chapter-18-A, High Court Rules and Orders, Volume-I (revised rules) be not imposed upon him, failing which further proceedings shall be initiated against him under the rules.

Aggrieved by the aforesaid show cause notice, the respondent again approached this Court by filing CWP No.14333 of 2016 for quashing the disciplinary proceedings, which was dismissed by this Court vide order dated 04.07.2017 with liberty to the delinquent official to make necessary additional reply to the second show cause notice, if any within a period of six weeks from the date of passing of order. The respondent preferred a review application bearing No.RA-CW-381-2017 in CWP No.14333 of 2016, which was also dismissed vide order dated 31.08.2017 by this Court directing the District & Sessions Judge, Ludhiana, to consider issue of mala fide, if the respondent raised in his reply to show cause notice. After considering the replies filed by the respondent and affording him the

opportunity of personal hearing, punishment of stoppage of four annual grade increments of pay with cumulative effect was imposed upon the delinquent official i.e. the respondent, under Rule 5(v) to (ix) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 and also mentioned at Sr. No.(v) to (ix) of Rule 12(2) of the Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 (Rule 12 Chapter-18-A, High Court Rules and Orders, Volume-I (revised rules).

At the time of framing of formal charge, learned counsel appearing for the contemnor – respondent vehemently argued that no case for framing of charge was made out even if the entire set of allegations is considered to be a gospel truth. Further elaborating his arguments, he tried to persuade the Court that the respondent – contemnor has already been punished on account of the alleged misconduct as four increments had already been stopped, against which, an appeal is pending before the Hon'ble Administrative Judge. In such a scenario, the question of framing of the charge and punishment under the Contempt of Courts Act would amount to double jeopardy, which is not legally permissible. He further submitted that putting material on the 'YouTube' does not amount to "publication" for the public at large because the YouTube account is a personal one and is restricted only to few acquaintances.

Per contra, learned Amicus Curiae canvassed that from the Reference itself, it was manifest that prima facie case for commission of contempt of court is made out, if the contents of the video uploaded on the YouTube are looked into. By way of putting it on the YouTube, the respondent – contemnor has tried to tarnish the image of the judicial system and he cannot escape from the liability of punishment under the Contempt of Courts Act merely on account of the fact that he has already been punished

for the misconduct by the punishing authority under separate disciplinary proceedings.

After having heard learned counsel for the parties and going through the voluminous record on the file, we are of the considered view that on account of the variant stands of both the parties, it would be in the interest of justice, if proper charge is framed against the respondent – contemnor and opportunity is given to substantiate his claim by way of producing evidence, if any. The contentions so raised on behalf of the respondent – contemnor with regard to the double jeopardy, the circulation by way of YouTube not amounting to publication and whether it amounted to scandalizing the judicial system, are the moot questions which can be answered only after the evidence and submissions of both the parties are evaluated. Accordingly, the following charges are hereby framed against the respondent – contemnor:-

1. That you have made a 'YouTube' account titled 'Ugly face of Indian Judiciary, Ludhiana' and uploaded videos lambasting the judicial officers by levelling false allegations and conveyed wrong message to the public and discouraged the public from getting justice from the Court of Law;
2. That, by uploading video clips on social media, you have stressed on the matter of your transfer from Sessions Division, Ludhiana and tried to lower the dignity of this Court as well as scandalize the names of Hon'ble sitting Judges;
3. That uploading such videos which scandalize the whole judicial institution and particularly the names of the Hon'ble Judges of this Court do not come under the purview of liberty of free expression. Such unfounded, unwarranted and irresponsible aspersions against the Judges or Courts,

which sub-serve the public interest in reasonable measure, is certainly an attack on the Judges' integrity and is offensive, intimidatory and malicious;

4. That, you have concocted stories of corruption, bribery and nepotism prevailing in the District Judiciary, which are nothing but a figment of your imagination;

5. That, you have uploaded videos on social media and made statements in the media without previous sanction of the competent authority.

RO & AC

Question:- The contents of the aforesaid charge have been read over and explained to you?

Answer:- Yes

Question:- Whether you plead guilty or claim trial?

Answer:- I do not plead guilty and claim trial.

To come up for further consideration on 24.09.2020.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

June 3rd, 2020

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Whether Speaking : Yes/No

To be reported or not : Yes/No