

A MAJOR R. S. MURGAI (RETD.)

v.

MAJOR P. N. KAUSHIK (RETD.) & ORS.

October 12, 1979

B [S. MURTAZA FAZAL ALI AND A. P. SEN, JJ.]

Contempt of Court Act, s. 2(c)—Written submissions filed by one of the parties pursuant to the directions of the court after the Judgment was reserved. If private communication tending to interfere with the due course of justice.

C When one of the parties to a case pursuant to the directions of the court, makes written submissions after the Judgment was reserved, such submissions cannot be called private communication to the Judge. They cannot be said to have prejudiced, interfered with or tended to interfere with the due course of justice within the meaning of s. 2(c)(ii) of the Contempt of Court Act. These submissions formed part of the record. [937 B-D]

D In the instant case in his counter affidavit filed after the Judgment was reserved the respondent stated that he was filing the statements pursuant to the directions of the Company Judge. The High Court was justified in declining to issue a notice for contempt against the respondents. [937 A-E]

E CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 427 of 1978.

From the Judgment and Order dated 17-10-1978 of the Delhi High Court in Criminal Contempt Petition No. 7/78.

Appellant in person.

F *K. N. Bhat* for Respondent No. 1

R. P. Bhatt, R. B. Datar and Girish Chandra for Respondent 2.

P. G. Gokhale, B. R. Aggarwal, Jenendra Lal and M. S. Diwan for Respondent No. 3.

G The Judgment of the Court was delivered by

H FAZAL ALI, J. This is an appeal against an order passed by the Delhi High Court refusing to initiate contempt proceedings against the respondents. It appears that a contempt matter was pending before a Single Judge, Delhi High Court which was heard at length and the judgment was reserved on the 9th December, 1977. The judgment was actually delivered on 28-4-1978 and in between these two dates certain written submissions were made by the respondents to the Court which the appellant describes in his petition as private communications

to the Company Judge. The respondent P. N. Kaushik in para 36 of the counter-affidavit has made a specific allegation, that at the time of reserving the judgment the Company Judge had directed the parties to submit their written submissions regarding the points at issue before the judgment is delivered. The submissions in question were submitted on various dates i.e. 12-12-77 by Major Kaushik, 23-1-78 and 15-2-78 by the Director-General of Resettlement. As these submissions were made in pursuance of the order of the Court, they cannot be held to be private communications to the Company Judge in order to decide the case. As these documents were filed before the Court under the directions of the Court itself, it cannot be said by an stretch of imagination that these documents prejudiced, interfered or tended to interfere with the due course of justice within the meaning of Section 2(c)(ii) and therefore, would not constitute criminal contempt within the meaning of section 2(c) of the Contempt of Court Act. These submissions form part of the record and, therefore, there is no question of their being regarded as private communications from a litigant to a Judge. On the contrary, the Director-General of Resettlement was appointed as the administrator by the Court itself and being an officer of the court, he was at liberty to make submissions to the court in respect of the case in question. The High Court therefore was fully justified in declining to issue any notice for contempt against the respondents on the submissions filed by the appellant. We would refrain from making any comment regarding the merits of the appeal which the appellant has filed before the Division Bench against the order of the Company Judge dated 28th April, 1978, which we understand is pending hearing before the Division Bench. The appeal filed by the appellant in this Court is totally misconceived and is rejected.

In the circumstances of this case, we make no order as to costs.

P.B.R.

Appeal dismissed.