TAPAN KUMAR MUKHERJEE

v.

HEROMONI MONDAL AND ANR.

NOVEMBER 14, 1990

[S. RANGANATHAN AND K. RAMASWAMY, JJ.]

Contempt of Courts Act—Sections 3 and 19—Court's orders—Compliance of utmost vigilance to be exercised by officers of Government.

The appellant, an officer of the State Government, while acting as Junior Land Reforms Officer-cum-Block Development Officer, was enjoined to comply with the Order dated 15.6.1987 passed by the Calcutta High Court, restraining the Respondent-State from interfering with the possession of the writ-petitioners in respect of the disputed lands and from cultivating the said lands. The appellant was duly apprised with the said order and as a result thereof Block Level Co-Ordination Committee met and passed a resolution on 20.7.1987 that "the Officer-in-charge of the Kultuli Police Station should take necessary action according to the order of the Hon. High Court. The appellant was a party to the said resolution. Despite that on 3.8.1987, he issued a memo to the Officer-in-charge of the Kultuli Police Station intimating that the pattaholders mentioned in the memo were entitled to cultivate the lands in dispute and that the police help to the pattaholders be given during the cultivation period. This memo was directly and clearly in violation of the injunction order passed by the High Court. On a contempt petition filed before the High Court, the appellant was found guilty of contempt of court and the High Court rejecting the apology tendered by him, imposed a fine of Rs.1,000. Being aggrieved the appellant moved a petition before this Court, which was originally registered as Petition for Special leave and was dismissed by this Court on 23.10.89. Thereafter, on being pointed out that the petition should have been treated as an appeal petition under section 19 of the Contempt of Courts Act, the Court recalled it earlier order dated 23.10.89 and directed that SLP be re-numbered as a Criminal Appeal and that is now the instant appeal has come up for hearing.

The appellant contended that the memo dated 3.8.87 had been inadvertently signed by him as it was one of the several memos which he had to issue in connection with various disputes regarding cultivation rights during the cultivation season. On the other hand the respondents

A **contended that they had been litigating against the State since 1963 as the State had granted pattas in respect of the disputed lands to others disregarding their right to the land and the appellant had been acting contrary to the interests of the respondents in the said litigation.**

Allowing the appeal, this Court,

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HELD: Having decided, as a member of the B.L.C.C., to give police protection to the respondents, the appellant was not likely to have taken action deliberately to go contrary to the decision of the Committee and flout the order of the Court. The possibility that there was some mistake or inadvertence due to pressure of work cannot be totally ruled out. [59F]

C

Officers of Government should exercise utmost vigilance in compliance of courts' orders, particularly where they deal with vital issues such as cultivation rights of land-holders. [60E]

D **In the present case, the appellant himself withdrew his letter dated 3.8.87 and police protection was provided to the respondents. But such lapses, even during a short interval, can sometimes cause irreparable damage and injury. [60F]**

Where a case of wilful disobedience is made out, the courts will
E **not hesitate and will convict the delinquent officer and no lenience in the court's attitude should be expected from the court as a matter of course merely on the ground that an order of conviction would damage the service career of the concerned officer. [60F-G]**

CRIMINAL APPELLATE JURISDICTION: Contempt Crimi-
F nal Appeal No. 21 of 1990.

From the Judgment and Order dated 1.7.1988 of the Calcutta High Court in Civil Rule No. 529 of 1988 in Appeal from Original Order Tender No. 3597 of 1986.

G G. Ramaswamy, S. Murlidar and Rathin Das for the Appellant.

Ms. Nisha Bagchi and Ms. Indu Malhotra for the Respondents.

The Judgment of the Court was delivered by

H **RANGANATHAN, J.** A Division Bench of the High Court of

Calcutta found the appellant guilty of contempt on court and, rejecting the apology tendered by him, imposed a fine of Rs.1,000. Aggrieved by the above order the appellant has preferred this appeal petition.

The petition was originally numbered as Special Leave Petition (Civil) No. 13144 of 1989 and was dismissed by an order dated 23.10.89. It was, thereafter, pointed out that the petition must have been treated as an appeal petition under section 19 of the Contempt of Courts Act. Accordingly we recalled our order dated 23.10.1989 and directed the SLP to be re-numbered as a Criminal Appeal and listed for hearing. That is how this appeal comes up before us now.

There has been a delay in the filing of Special Leave Petition and, consequently, this appeal. After hearing both parties, we condone the delay in the filing of the petition. We admit the appeal and proceed to dispose it of.

On 15.6.87, the Division Bench of the High Court passed an order to the following effect:

> "There will be an interim order until the disposal of this appeal to the effect that the respondents are restrained from interfering with the possession of the writ petitioners in respect of the disputed lands and/or from cultivating the said lands."

The State Government was the "respondent" and, therefore, the restraint order was directed to the State Government and its concerned officers. The "writ petitioners" referred to in the order were the applicants in the Contempt Application moved before the High Court and the respondents herein. On 21.6.87 counsel for the respondents apprised the appellant, who was the Junior Land Reforms Officer (J.L.R.O.), as well as the Block Development Officer (B.D.O.), of the above order. The Block Level Co-ordination Committee (B.L.C.C.) also met soon thereafter and passed a resolution on 20.7.1987 that "the Officer-in-charge of the Kultuli Police station should take necessary action according to the order of the Honourable High Court". The appellant Tapan Kumar Mukherjee, was a member of the B.L.C.C., was present at this Committee meeting and was a party to the resolution. However, on 3.8.87, a memo was issued to the Officer-in-charge of the Kultuli Police Station. The memo, which was signed by the appellant, read:

A "the following pattaholders are entitled to cultivate the schedule of lands this year. So he is requested to give police help to the pattaholders during the cultivation period."

The names of the pattaholders and the details of the land were then given in the memo and there is no dispute that they were the pat-
B taholders in respect of the lands in dispute which were the subject matter of the stay order who were contesting the right of the respondents to cultivate the lands. Patently, this memorandum was directly and clearly in violation of the injunction order passed by the High Court.

C After considering the facts, the High Court came to the conclusion that the appellant was guilty of wilful disobedience of the order passed by the court on 15.6.87. It did not accept the apology tendered by the appellant nor did it accept the explanation given by the appellant that the memo dated 3.8.87 had been issued due to inadvertance.

D Before us also it is contended that the memo dated 3.8.87 had been inadvertantly signed by the appellant as it was one of the several memos which he had to issue in connection with various disputes regarding cultivation rights that arose during the cultivation season. The Government had issued guidelines that persons actually cultivating the lands should be helped to complete their cultivation without
E hindrance and that the weaker sections of the community should be given full protection. In the light of these guidelines, a number of memos were issued to the police officials directing them to render their assitance to the pattadars to complete their cultivation. A number of such memos were put up for appellant's signature and, by inadvertance, the appellant also signed this memo over-looking that the
F lands in issue hereunder were covered by the interim order of the court. It is submitted that it was not wilful disobedience of the order of the court but a matter of inadvertance. On behalf of the appellant it is once again stated that he has the greatest respect for the courts of the land and that he offers full and unconditional apology for the infringement of the court's order that has been occasioned by his inad-
G vertance.

On the other hand, for the respondents it is submitted that the facts of the case were not so simple. It is stated that the respondents had been litigating against the State of West Bengal since 1963 as the State had granted pattas in respect of the disputed lands to others
H disregarding the respondents' rights to the land. The appellant, along-

with other officials of the State Government, had been acting contrary to the interests of the respondents in the above litigation. The High Court in its order dated 15.6.1987 has expressed the view that the State Government should not have granted the pattas and also observed that the J.L.R.O. had not given a proper report to the court regarding the cultivation of the lands in question. It is alleged that the memo of 3.8.87 was issued deliberately to harm the respondents and that, even though the respondents rushed to the appellant immediately to vary his orders, he refused to do so. It is alleged that it was only on the intervention of the B.D.O. that the respondents were able to cultivate the lands.

It will be seen from the above narration that there is a lot of ill-feeling between the respondents on the one hand and the State on the other on account of the grant of pattas by the State Government in respect of the lands claimed by the respondents. The only controversy in this case is regarding the circumstances in which the memo dated 3.8.87 was issued. On this, the allegations of the parties are at complete variance. The appellant submits that the memo was issued due to inadvertance at a time when there was heavy pressure of work. This submission has been disbelieved by the High Court and, *prima facie*, the resolution of 20/7/87 to which the appellant was a party and the fact that the respondents had to seek the intervention of the B.D.O. to harvest the lands, lend support to the High Court's conclusion. On the other hand, there are certain circumstances which indicate that there may have been only inadvertance rather than deliberate disobedience on the part of the appellant. It seems to us that having decided, as a member of the B.L.C.C., to give police protection to the respondents, the appellant was not likely to have taken action deliberately to go contrary to the decision of the Committee and flout the order of the court. The possibility that there was some mistake or inadvertance due to pressure of work cannot be totally ruled out. The intervention of the B.D.O by sending a radio message also seems to have another explanation. In the contempt petition, the respondents state that on 10.8.87 they had to go the B.D.O. and seek his intervention as the J.L.R.O. was not available in the office on that date. The radio message therefore does not necessarily establish the non-cooperation of the appellant. The respondents had to seek the B.D.O.'s help because of the non-availability of the appellant. The respondents no doubt allege that they had met him earlier (and that he had demanded illegal gratification to come to their rescue) but this allegation is not reflected in a letter they wrote to the respondent on 2.12.1987. This letter refers to the order of the High Court and the orders of the Administration giving the respon-

A dents police protection. It admits that the cultivation work was completed on 12.8.87. It is significant in this context that on 11.8.87 the appellant had issued a memo calling back his earlier memo and directing police protection to be given to the appellant. In other words, the appellant did eventually assist the repondents to harvest their crops. It
B is somewhat significant that the contents of the respondents' letter of 2.12.87 do not contain any allegation that the cultivation by the respondents had been interrupted due to the activities of the patta-holders with the active protection of the police consequent on the memo issued by the appellant. It does not contain even a whisper of a grievance regarding the inimical attitude of the appellant. The con-
C tempt petition containing these allegations was moved considerably later, towards the end of January 1988. Having regard to all these circumstances, we find ourselves unable to conclude beyond all doubt that the appellant had acted wilfully in this regard. We think that we should give the appellant the benefit of doubt in the circumstances of the case. We would, therefore, set aside the order of the High Court
D dated 1.7.88 as well as the fine imposed on the appellant. The amount of fine, which has been deposited since, shall be returned to the appellant.

Before parting with the case, we should like to emphasise that officers of Government should exercise utmost vigilance in compliance
E of courts' orders, particularly where they deal with vital issues such as cultivation rights of land-holders. Luckily, in the present case, the appellant himself withdrew his letter dated 3.8.87 and police protection was provided to the respondents. But such lapses, even during a short interval, can sometimes cause irreparable damage and injury. In the circumstances of this case we have, though with a certain degree of
F reservation, extended to the appellant the benefit of doubt but we should like to put out a warning that where a case of wilful disobedience is made out, the courts will not hesitate and will convict the delinquent officer and that no lenience in the court's attitude should be expected from the court as a matter of course merely on the ground that an order of conviction would damage the service career of the concerned officer.

Y. Lal Appeal allowed.