

MISCELLANEOUS CRIMINAL

*Before Mr. Justice G. H. Thomas, Chief Judge and
Mr. Justice Radha Krishna Srivastava*

1939
November,
21

THE DISTRICT MAGISTRATE, KHERI (COMPLAINANT-
APPLICANT) v. M. HAMID ALI GARDISH (OPPOSITE-PARTY)*

Contempt of Court—Press, how far accountable to law—Newspaper article likely to prejudice course of justice in a pending case amounts to contempt of court.

The special privilege of the press is a time-worn fallacy, and the sooner the misconception that the press is not accountable to the law is removed the better it will be. No editor has a right to assume the role of investigator or try to prejudice the court against any person. Writing and publishing an article in a newspaper likely to prejudice the course of justice relating to a pending case amounts to a contempt of court.

Messrs. *H. S. Gupta* and *H. K. Ghose*, for the Crown.

Mr. Akhtar Husain, for the opposite-party.

THOMAS, C.J. and RADHA KRISHNA, J.:—One Brij Lal, thekadar, on the 28th January, 1939, filed a complaint under section 426, Indian Penal Code, for mischief against nine persons in the Court of the Sub-Divisional Officer, Nighasan. It was transferred to the Court of the Tahsildar Magistrate of Nighasan. The learned Magistrate convicted all the nine accused on the 27th May, 1939.

On the 23rd April, 1939, Hamid Ali Gardish, who is the proprietor, printer and publisher of the newspaper *Dost* printed the following article in his newspaper:

“RUIN OF TENANTS”

“Our correspondent from Nighasan informs us that Brij Lal, resident of mauza Nakaiha, a hamlet of Jatpurwa, was a thekadar of Raqam Sewai from the Khairigarh estate. He wanted to realise new kind of items from the tenants of Lakhnia village. When they refused to pay them then false cases have been started against the tenants. Hence the tenants are involved in four separate cases. Mr.

*Criminal Miscellaneous Application No. 109 of 1939, for taking action under Contempt of Courts' Act, dated the 20th September, 1939.

Khushwaqt Rai has already written about all this to the District Magistrate."

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"FALSE REPORTS MADE AT THE POLICE STATION DHAURAURA."

"The abovementioned Brij Lal on account of enmity makes false reports against the tenants of Lakhania and he also gets his servants to make false reports. It is hoped that the police officer of Dhauraura police station will be careful of this man."

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The accused on the 9th May, 1939, filed a copy of the article quoted above in their defence. The learned Tahsildar brought this fact to the notice of the District Magistrate who reported the matter to this Court for necessary action.

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and
Radha
Krishna J.

A notice was issued from this Court against Hamid Ali Gardish to show cause why he should not be convicted for contempt of court. He has appeared before us with a counsel and filed the following application :

"The accused in the aforementioned case begs to tender an unqualified apology for the article under action and throws himself at the mercy of this Hon'ble Court. I undertake never to commit such an act again and pray to the Hon'ble Court to be pleased to forgive me."

We are of opinion that the article grossly offends against the law of Contempt of Court. It was clearly an attempt to prejudice the mind of the learned Magistrate in regard to the trial of the case pending in his court under section 426, Indian Penal Code. The newspaper men do not often realise at the time of writing that they are doing something improper or blameworthy. A journalist has no right to write in the tone the accused has used in the article on matters happening in law courts. The special privilege of the press is a time-worn fallacy, and the sooner the misconception that the press is not accountable to the law is removed the better it will be. No editor has a right to assume the role of investigator or try to prejudice the court against any person. Writing and publishing an article in a newspaper likely to prejudice the course of justice relating to a pending case amounts to a contempt of court.

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The question for consideration is whether we should act under the first proviso to section 3 of the Contempt of Courts Act which provides that "the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court" or whether we should compel Hamid Ali Gardish to purge his contempt by payment of a fine or the undergoing of a sentence of imprisonment.

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 and
 Radha
 Krishna J.

We put a large number of questions to the accused, and he struck us to be a simple man. We are of opinion that he was foolish in writing the said article. He stated before us that he did not realise the seriousness of the offence. The circulation of the newspaper is very small and we are told the income is about Rs.30 a month.

We accordingly, while convicting Hamid Ali Gardish of contempt of court with respect to the Court of the Tahsildar Magistrate at Nighasan, discharge him on his apology.

APPELLATE CIVIL

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 Mr. Justice Radha Krishna Srivastava

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GOMTI AND OTHERS (JUDGMENT-DEBTORS-APPELLANTS) v.
 JUGUL KISHORE (DECREE-HOLDER-RESPONDENT)*

United Provinces Encumbered Estates Act (XXV of 1934), section 7(1)(a)—Decree of United Provinces court transferred for execution to court outside the United Provinces—Subsequent application by judgment-debtor under section 4, Encumbered Estates Act granted—Execution proceedings in court outside the United Provinces, whether can be stayed under section 7(1)(a).

Where a decree-holder got his decree, passed by a United Provinces court, transferred to a court in a different province, for execution, as some of the property was situate in that province and thereafter the judgment-debtor applied under

*Execution of Decree Appeal No. 48 of 1937, against the order of Mr. Bhagwati Prasad, Civil Judge of Unao, dated the 3rd of September, 1937.