



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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CASE COMMENTARY – NIRMALJIT KAUR VS STATE OF PUNJAB

(AIR 2006 (9) SCC 363)

~Sargunjot Kaur

INTRODUCTION

The Indian judiciary is considered the backbone of the Indian constitution as it has always worked as per the constitution of India and to save the basic structure of India. The judiciary ensures that people's rights are not trampled upon by the state or any other authority or agency. Now the question is, what if the judiciary faces unnecessary criticism or any kind of disturbance or interference is caused in the working of the judiciary causing a delay in meeting the ends of justice? Even the judicial officials need a safeguard so that nobody can intentionally obstruct the administration of justice.

For that, an act named The Contempt of Court Act, 1971¹ was enacted consisting of provisions that constitute rules against contempt of court. Contempt of court means a crime of being disobedient to or disrespectful toward a court of law and its officers in the form of behavior that opposes or defies the court's authority, justice, and dignity. A contempt can be civil or criminal and both type of contempt is defined under The Contempt of Court Act. However, tampering with pieces of evidence or presenting fake affidavits also constitutes contempt. It can be better understood through analysis of a case named Nirmaljit Kaur vs State Of Punjab².

FACTS OF THE CASE

The petitioner Nirmaljit kaur got married to Surinder Singh Batra as per sikh rites and out of wedlock a female baby named Simran was born on 16.02.1992. respondent no. 2 i.e. Gurbachan

¹ Contempt of Court Act, 1971

² AIR 2006 (9) SCC 363

Singh is the brother of Surinder Singh Batra. Respondent No. 4 i.e. Harbans Kaur is his wife. Respondent No. 5 is Ranjita Kaur wife of Respondent No. 3 Amrinderjit Singh.

According to the petitioner, Surinder SINGH Batra died intestate leaving behind the petitioner and baby Simran as his only legal heir. On 23.02.1997, the sisters of deceased took away baby Simran from the petitioner and she was turned out of the matrimonial house.

It is alleged that a will was formed dated 19.10.1996 purported to have been executed by her husband. The two witnesses were Joginder Singh and J.S. Batra. They were got registered in 1997 after the death of the deceased in which respondent no. 5 was declared as legal guardian of baby Simran by the deceased without any notice to petitioner. The alleged will named Amrinderjit Singh as guardian of the child Simran on the ground that testators wife failed to take of the minor (Simran).

The petitioner filed an application against respondents under Indian Succession Act, 1925 along with Section 9 of the Hindu Minority and Guardianship Act³ for the custody of the minor being her natural guardian in the district court of Amritsar.

The District Court while deciding the application under Sec 25 of Indian Wards and Guardianship Act⁴, allowed interim custody to Petitioner and directed child to be produced on 27.07.1998, and child was not produced. The High Court directed the district court to dispose the matter finally as being delayed by respondents resorting to dilatory tactics.

Later on, during the trial of the case the respondents took the child to USA without disclosing it before the court in clandestine manner and respondent no. 2 threatened petitioner to forget about child and property.

Here, the petitioner claimed that respondent has concealed the child herself do not want to meet the petitioner. The petitioner filed writ petition of Habeous Corpus under article 32 of the constitution of India for the production of baby Simran, daughter of the petitioner in this court.

On 7.01.2005, the court ordered the respondents to produce the child in court on 28.01.2005, along with original passport and her renewed passport on 28.01.2005, the respondent lied to court that passport of baby Simran is lost.

³ Hindu Minority And Guardianship Act, 1956

⁴ Indian Guardianship And Wards Act, 1890

On 18.03.2005, notice under the contempt of court act was also issued to respondent no. 5 and Mr. Manoj Swarup, counsel, accepted the notice on behalf of respondent no. 5 and undertook to file a reply⁵. A further direction was issued on the date the respondent/ contemnors no.2 to 5 to surrender their passport to the registrar of this court and remain present in present on next date of hearing and minor also.

On 15.07.2005, having regard to the nature of dispute, this court decided to resolve the dispute as far as scientifically accurate, by having the DNA of petitioner and the child claimed to be his daughter

The DNA profile showed that the petitioner is not the natural mother of the child produced in court also the date of the birth of child mentioned in passport was 16.01.1992 whereas real Simran was born on 1.01.1992 it was clearly found that the respondent produced the child before court was not real Simran and was forcibly taken by them after the death of deceased person and have come to court with unclean hands with the view to grab the property of late husband of petitioner.

On 9.2.2005, the respondent no.4 filed affidavit stating that grave mistake have been committed while getting passport to Simran Batra and the wrong information has been given to obtain the passport and regret his mistake. However, the court was not satisfied by the explanation offered in the affidavit, the respondents tried to create false evidence of loss of passports and deliberately made a false statement to the court.

ARGUMENTS RAISED BY THE PETITIONER

1. The first argument made by the petitioner was that the will was void according to the Section 63 of Indian Succession Act⁶ and was registered without any notice to the petitioner and after the death of deceased, baby Simran was forcibly taken away from petitioner with ill design and was thrown out of matrimonial house.
2. The second argument was that the respondents 2 and 4 took away baby Simran to USA without any notice even after the interim custody was given to the petitioner by the District Court, Amritsar and was threatened by the respondents to forget about the property and the child

⁵ <https://indiankanoon.org/doc/1488483/>

⁶ Indian Succession Act, 1925

3. The third argument raised by the petitioner that the child produced before the court was not real Simran as stated by the petitioner, also agreed that the passport submitted shows birth date 1.01.1992 but actually the birth date was 16.01.1992.

ARGUMENTS RAISED BY THE RESPONDENT

1. The third respondent filed an application under section 192 of Indian succession Act⁷ before the District Judge on the Basis of said will and also submitted by baby Simran is staying with them since her birth and petitioner has never taken care of the minor child.
2. The respondent submitted that they have taken Simran for trip to USA alongwith she is residing in India only and studying in school of Amritsar only. The respondent went USA for their own child medical issues.
3. They further submitted that they did not seek permission of court as it was not required.
4. The submitted that child produced before the court is a real Simran only and her passport is lost in their counter affidavit and after the DNA test, they changed their instance, submitting that for the making of passport, signature of father and mother is required and father was already died and mother will never signature the document, So that is why they have made attempt to make false evidence and accepted their grave mistake in affidavit.

COURT'S VIEWPOINT

The hon'ble Supreme court of India held that several deliberate attempts made by the respondent were falsified by their own conduct in filing affidavits and also the production of the passports in their court. Therefore, there is no hesitation to hold that respondent no 2-5 are guilty of contempt of the court and they are liable for punishment for their proved misconduct.

JUDGMENT

The respondents have committed the contempt knowingly and that it is attributable to the neglect on their part. Respondents 3 and 5 have not so far appeared before the court under one pretext or the other. In courts view, respondent no. 2-5 is liable to punishment and the court

⁷ Indian Succession Act,1925

imposed a fine of Rs. 2000⁸ each to be deposited within 3 days in the registry failing which the respondent shall be liable for imprisonment of period of one month⁹.

ANALYSIS

It can be seen that filing of counter affidavit with disguised facts and tampering of passports and producing someone else on the place of baby Simran shows the malicious intentions of the respondents and this dismissive behaviour led to cause delay in working of courts to meet the ends of justice which clear cut contempt of court. But the punishment awarded is not sufficient enough as it is very minor as compared to contempt made.

CONCLUSION

It can be concluded that contempt of court Act plays an important role in safeguarding the interest of justice. However, still it needs some kind of alteration in terms of punishment as punishment is to be given according to the intensity of the contempt committed by the person. As amount of Rs. 2000 is very minor amount as a fine in nowadays time.

⁸ Section 12 of contempt of court Act, 1971

⁹ <https://indiankanoon.org/doc/1488483/>