

MISC. CRIMINAL APPLICATION NO.4783 OF 1995.

Coram: S.M. Soni & R.R.Jain,JJ.

December 22, 1995.

Mr. P.S. Champaneri, A.P.P. for petitioner.

Mr. K.J. Shethna, advocate for respondents.

Oral order (Per Soni, J.)

On Reference being made by the Designated Judge, Ahmedabad Rural at Mirzapur, on 17.10.1995, under Section 15 (2) of the Contempt of Courts Act, this Court numbered it as Misc. Criminal Application No.4783 of 1995 and on being placed on board for admission, following order came to be passed on 28.11.1995:

" Notice returnable on 12.12.1995."

On 12.12.1995, further order was passed and the matter is fixed today for hearing.

Heard learned advocate Mr. Shethna for respondents.

Mr.Shethna, in the course of his arguments, has taken us through the record of the case and statements of respondents as well as medical certificates of injured and the application of the injured which are produced therein, are brought to our notice. According to the injured, they have been unnecessarily and illegally beaten up by the jail authorities and on inquiry, the learned Designated Judge has made reference to this Court.

It is clear from the statements of the respondents that they belong to Search Squad in the office of Inspector General of Prisons. They had gone to search the prison alongwith certain other constables. It appears from their statements that when they had gone to inner circle for search, the situation became tense and respondent No.3 and other members of Search Squad were facing some tense and serious situation. Other respondents were called because some indecent behaviour with Mr. Dabhi, respondent No.3, was reported. On their reaching there,

it was found that not only the situation was tense but certain jailors and prisoners were in agitated mood. To handle the situation, respondent No.2 and other two jailors had gone to the barracks and jailors were brought out and all the prisoners were sent to the barracks. What is complained by these prisoners appears to have happened during this state of affair. In our opinion, from the statement of respondent No.2, it is clear that situation became so tense and other force was required to rush there and the prisoners were asked to return to their barracks. However, it is clear that the prisoners were found agitated and had behaved improperly with Mr. Dabhi. In view of these facts, it is improper at this stage for us to say whether they were injured by police force or because of their internal agitation which, in our opinion, is a matter to be decided by the court to whom the learned Designated Judge assigns this matter for necessary inquiry or proceeding. In our opinion, it is clear that the incident for which the complaint is lodged against the respondents and the respondents' statements show and suggest that they may or may not have done anything in contravention of the provisions of law. Even assuming that they have used some force, it was just to control the situation. In these circumstances, we are of the opinion that when lawful act is done it does not amount to disobeying order or defying order or interfering with administration of justice. It also does not amount to scandalizing or tends to scandalize or undermining the authority of law. Injured were in judicial custody and in the course of discharge of duty by respondents who were members of Search Squad and when Mr. Dabhi was handled in improper manner, if any act is committed, it would not undermine the authority of law or it would not amount to act to call it "criminal contempt" as contemplated under Section 2 (c) of the Contempt of Courts Act.

This apart, learned counsel Mr. Shethna has unconditionally and unequivocally stated that the respondents have high esteem and respect for authority of law and have very high regard and had no intention to undermine or detriment the dignity and decorum of the authority. We would like to further say that the question arisen in this petition is a disputed question of fact and we would not like to consider the act to be an act of contempt as alleged in the present proceedings. However, it will be open for the learned Designated Judge to make reference after proper inquiry and deciding the complaint that may be filed, if deemed fit and if he feels any act of contempt is made out, he may take

necessary action in the matter as he deems fit.

Notice discharged.

22.12.1995. (S.M. Soni, J.)

(R.R. Jain, J.)