

UL 30.5.2022
Sc Ct. no.8

CRLCP 3 OF 2022

Susmita Saha Dutta

Vs.

Avishek Bandyopadhyay

Ms. Susmita Saha Dutta

Mr. Niladri Saha

Ms. Pallabi Chatterjee.

... For the Petitioner.

Mr. Koustav Bagchi

Mr. Debayan Ghosh.

... Advocates for Priti Kar

Learned counsel for the applicant submits that one Abhishek Bandyopadhyay, a Member of Parliament in India, commented in an open forum to the effect that a fraction of the judiciary was acting in “*cohorts*” and ordering CBI investigations in every case. It was further commented, it is alleged, that they are even ordering stay of ongoing murder probes.

It is submitted by learned counsel that the undertone was to ridicule the judiciary, thereby scandalising the Court. It is submitted further that by way of the said statements, the person in question, who stands on the footing of a Member of Parliament and has a public audience by virtue of his office, tried to malign the judiciary and undermine its dignity.

Upon going through the allegations made in the affidavits in support of the prayer for issuing a *suo motu* contempt against the said Member of Parliament, we do

not find sufficient reason to adopt the extreme measure of issuing a *suo motu* rule of contempt for the following reasons :

Section 2(c) of the Contempt of Courts Act, 1971 clearly stipulates – “ ‘criminal contempt’ means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which -

- (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
- (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;”

However, on the other hand, Section 13 of the said Act provides as follows :

“13. Contempts not punishable in certain cases, - Notwithstanding anything contained in any law for the time being in force,-

- (a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a

nature that it substantially interferes, or tends substantially to interfere with the due course of justice;

- (b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is *bona fide*.”

In the present case, undoubtedly the comments uttered by the person in question may not be palatable to the general public and/or the members of the Judiciary, however, such nature of the act need not have the effect tantamounting to a contumacious act, justifying issuance of a *suo motu* rule of contempt.

Power is always goes hand-in-hand with responsibility and restraint. Issuance of a *suo motu* rule of contempt is an extreme measure and is only taken when the authority of any court is scandalised or is tended to be scandalised.

However, in the instant case, we do not find that the comments made by the person in question, in any manner, scandalise or tend to scandalize, or lower or tend to lower, the authority of any court.

Moreover, the criteria stipulated in Section 13 of the Contempt of Courts Act, 1971 is not applicable in the instant case, since we are not satisfied that the contempt

is not of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice.

If stray comments by any citizen of India, be him or her a Member of Parliament or not, prompt the courts to issue *suo motu* rules of contempt, it would be impossible for the judiciary to discharge its adjudicatory functions in more important matters. Such an exercise might elevate the mere perception of individuals to the status of obstruction in the process of administration of justice itself.

In such view of the matter, we do not find any reason to issue a *suo motu* rule of contempt in the facts of the present case. Accordingly the prayer of the petitioners is refused.

Although no palpable case of contempt has been made out, we part with the expectation that public office bearers and people in posts/ranks of importance, having an influence on the public opinion of the country, should refrain from making any casual comment which lowers the prestige of the Judiciary.

CRLCP 3 of 2022 is, accordingly, dismissed.

(Sabyasachi Bhattacharyya, J.)

(Ajoy Kumar Mukherjee, J.)