

□.

CrI.A.No. 897-898 OF 1999
ITEM No.101 Court No. 6

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CrI.A. Nos.897-898/1999

A.K. BajpaiAppellant.

VERSUS

State of U.P.

Respondent.

With

CrI.A.Nos.899-900/1999

Date : 02/11/2004 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s) Mr. Gopal Subramaniam, Sr. Adv.
Mr. Amit Sharma, Adv.
Mr. S. Muralidhar, Adv.

For Respondent (s) Mr. Pramod Swarup, Adv.
Ms. Pareena Swarup, Adv.
Mr. Praveen Swarup, Adv.

Mr. C.D. Singh, Adv.
Dr. Indra Prasad Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties for an hour.
The appeals are disposed of in terms of the signed
order.

(R.K. DHAWAN)(VEERA VERMA)
COURT MASTER COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.897-898 OF 1999

A.K. Bajpai Appellant.

Versus

State of U.P..... Respondent.

WITH

CRL.A.NOS.899-900/1999

O R D E R

These appeals have been preferred by two lawyers practicing in the High Court of Allahabad at Lucknow. On 15th July, 1994, when two judges of the Allahabad High Court were holding court proceedings at Lucknow, it is alleged that a group of lawyers came to the Court raising slogans and directed the Court to stop functioning. Out of them, five lawyers allegedly, including the present appellants, entered the dias and one of them tried to manhandle the judges sitting on the dias, they also uttered certain words which were per se contempt. The judges of the Allahabad High Court took contempt proceedings against the five lawyers including the present appellants. All the five lawyers

...2/-

-2-

were convicted under the Contempt of Courts Act and were sentenced to undergo imprisonment for a period of one month and a fine of rupees one thousand, in default to further undergo sentence for a period of two weeks. The present appellants filed separate Habeas Corpus petitions alleging that they had not in fact involved in the incident and one of the appellants contended that he had not gone to the court that day as the strike of lawyers were going on and the other appellant contended that he was ill on that day and he had also not gone to the court premises on that day and their conviction for contempt was on a mistaken identity. Habeas Corpus petitions filed by these two appellants were placed before the same judges who dealt with the contempt matter and the Habeas Corpus petitions were treated as a review petitions as the two contemnors were not arrested by the police by that time and they were not in the custody. The court held that there was no mistaken identity and the petitions were dismissed. The final order passed in the contempt proceedings was challenged before this Court and by the Judgment of this Court reported in Dr.L.P.Misra vs. State of U.P. 1998(7) SCC 379 remanded the case to the Allahabad High Court as the procedure prescribed under Chapter XXXV-E of the Allahabad High Court Rules 1952 for the purpose of dealing with contempt of court proceeding was not followed and the order passed by the High Court in the

..3/-

-3-

contempt proceedings was set aside and the matter was remanded to the Principal Seat of Allahabad High Court at Allahabad to hear and dispose of the contempt proceedings. Subsequent to the remand order passed by this Court the matter was dealt with by a Division Bench of the Allahabad High Court. After the remand the Division Bench of the High Court took the view that the provision of Section 20 of the Contempt of Courts Act 1971 read with Rule 5 of Chapter XXXV-E of the Allahabad High Court Rules would apply and the court shall not issue notice if more than a year has elapsed from the alleged act of contempt of court and the contemnors did not have the opportunity to avail Section 14 of the Act. We may state that our present order need not be taken as affirmation of the view taken by the High Court as regards Section 20 of the Contempt of Courts Act as nobody has challenged the view taken by the High Court. We are not expressing any view on the matter.

The counsel for the present appellants contended that from the very initial stage these two appellants had disputed the identity and had contended that they had not been present in the court when the unruly incident happened in the court and it is prayed that the Bar Council may be permitted to consider this question independently of the views expressed by the division bench in the impugned order. We heard the matter in detail and as the court has now

..4/-

-4-

directed the Bar Council to consider the question and to take appropriate action in the matter, the Bar Council may deal with the matter in accordance with the direction contained in the impugned judgment. However, we make it clear that the present appellants would be at liberty to raise the question of mistaken identity before the Bar Council and that question shall be considered independently of the views expressed by the Division Bench in the impugned judgment.

With the above observations, we dispose of all the appeals.

.....J
(K.G. BALAKRISHNAN)

.....J
(H.K. SEMA)

NEW DELHI ;
NOVEMBER 2, 2004.