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C.A.No. 5972-5973 OF 1998

ITEM No.102 P.H.

Court No. 6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal Nos. 5972-5973 of 1998

M.S. Balagangadhara and Ors.Appellant (s)

Versus

Narayanappa and Ors.Respondent (s)

Date : 18-08-2004 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s)Mr. U.U. Lalit, Sr.Adv.

Mr. G.V. Chandrashekhar, Adv.

for Mr. P.P. Singh, Adv.

For Respondent (s)

Nos. 1 and 2Mr. Naveen Chawla, Adv.

for Mr. Bharat Sangal, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeals are allowed in-part and while upholding conviction of the appellants, the direction to detain them in civil prison for a period of three months is set aside and in lieu thereof, a fine of Rs.2,000/- is imposed against each of the appellants and in default, each one of them shall be detained in civil prison for a period of three months. The fine be deposited before the High Court within a period of four weeks from today and the same, if deposited, shall be paid to respondents.

[Alka Dudeja] [Om Prakash]

Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5972-5973 OF 1998

M.S. Balagangadhara and Ors....Appellant (s)

Versus

Narayanappa and Ors....Respondent(s)

O R D E R

Heard learned counsel for the parties.

Mr. U.U. Lalit, learned senior counsel, appearing on behalf of the appellants stated that he shall press these appeals only on the question of sentence. It has been submitted that the present cases are the cases of civil contempt and sub-section (3) of Section 12 of the Contempt of Courts Act, 1971, lays down that where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary, shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit. From a bare perusal of the aforesaid provision it would be clear that in a civil contempt, ordinarily fine should be awarded and imprisonment could be awarded only in those cases where court comes to the conclusion that fine will not meet the ends of justice and sentence of imprisonment is necessary. In our view in the facts of the present case, sentence of imprisonment is not necessary and fine will meet the ends of justice. In this view of the ...2/-

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matter, we are of the opinion that the High Court was not justified in directing the appellants to be detained in prison for a period of three months. Accordingly, the appeals are allowed in-part and while upholding conviction of the appellants, the direction to detain them in civil prison for a period of three months is set aside and in lieu thereof, a fine of Rs.2,000/- is imposed against each of the appellants and in default, each one of them shall be detained in civil prison for a period of three months. The fine be deposited before the High Court within a period of four weeks from today and the same, if deposited, shall be paid to respondents.

.....J.
(B.N. Agrawal)

.....J.
(H.K. Sema)

New Delhi,
August 18, 2004.