

---

(18) What is the position herein ? On behalf of the respondents, two sealed packets were produced to show that they were similar. But the name of Belco was distinctively inscribed on the appellants packet, while on that of respondents, Gopi before Heat Pillar could be noticed distinctively. It could not deceive a person as to whether he is purchasing the Heat Pillar of Gopi or Belco make.

(19) The expression "HEAT PILLAR" must be taken to be a generic work. All those room heaters which are so designed like a pillar are using the word Heat Pillar. It cannot be confined to the respondents. They cannot have the exclusive right to use the word Heat Pillar. It is the other words of the company concerned which are the tilting factors. In the case of appellants, they are using the word "Belco". Between the word "Belco" and 'Gopi' there is a clear phonetic distinction.

(20) The attention of the Court even had been drawn to the advertisement of the Himachal Government wherein it is also using the word Heat Pillar. The same is not being confined to only the respondents. It shows that the Himachal Government even wanted Heat Pillar from different companies having different names, may be that they will use the name Heat Pillar. Different logos have been used and slight similarity in packets by itself cannot be a factor to prompt the Court to hold that an ordinary person would be deceived. Therefore, the order passed by the learned trial Court cannot be sustained.

(21) For these reasons, the appeal is allowed and the impugned order is set aside, besides the application seeking *ad interim* injunction is dismissed.

---

*J.S.T.*

*Before M. L. Singhal, J*

COURT ON ITS OWN MOTION,—*Petitioner*

*versus*

AMRINDER SINGH,—*Respondent*

*C.O.C.P. No.17 of 1998*

4th June, 1999

*Contempt of Court Act, 1971—S. 2—C—Sikh Gurdwaras Act, 1925—Sikh Gurdwara Judicial Commission set up under Sikh*

---

*Gurdwara Act has all activities of Court, as it performs judicial functions—Object & purpose of contempt proceedings is to uphold majesty & dignity of Courts.*

*Held that*, the Sikh Gurdwara Judicial Commission has all the attributes of a “Court” as it performs judicial functions. The contempt of Courts Act, 1971 is the statute which defines and limits the powers of the Court in punishing contempts of Courts. By reason of section 13 of this Act, Courts will not initiate contempt proceedings unless the contemner substantially interferes or tends to interfere with due the course of justice. The object and purpose of contempt proceedings is to uphold the majesty and dignity of law Courts and their majesty in the minds of public and that this is in no way whittled down. In essence, the law of contempt is the protector of the seal of justice more than a person of the judge sitting in that seat. The law of contempt is not the law for the protection of judges or to place them in a position of immunity from criticism. It is law for the protection of the freedom of individuals.

(Para 10)

*Contempt of Courts Act, 1971—S. 15 (2)—Statement made to the effect that how can justice be done by a person when the one who backed his appointment is involved, which was heard as reference under section 15(2) of the contempt of Courts Act, 1971—Such statement did not question the integrity of any member of the commission in delivering a particular judgment—No contempt made out—Rule discharged.*

*Held that*, this would amount to criminal contempt if one says how can a particular judge do justice when the one who backed his appointment is involved. In this case, moreover, the intention of Capt. Amrinder Singh was not to scandalize the Sikh Gurdwara Judicial Commission or to obstruct its functioning but his intention was only to criticise Jathedar Gurcharan Singh Tohra the then President, SGPC, and highlight his ire before the Press against him. Capt. Amrinder Singh did not question the integrity of any of the members of the Commission in delivering a particular judgment, though till then, they must have decided number of cases. In my opinion, no criminal contempt is disclosed against Capt. Amrinder Singh as defined in S. 2(c) of the Contempt of Courts Act, 1971. The rule is discharged accordingly.

(Paras 12 & 13)

H.S. Mattewal, AG Punjab with I.P.S. Sidhu, AAG Punjab for assisting the Court *for the Petitioner.*

P.S. Thiara, Advocate *for the Respondent-contemner.*

---

**JUDGMENT**

*M.L. Singhal, J.*

(1) At page No. 6 of the issue of "Daily Jagbani Punjabi Daily" Jalandhar of date 3rd October, 1997 appeared statement in its column Nos. 4 and 5 which Capt. Amrinder Singh is alleged to have issued on 2nd October, 1997 at Bathinda in the Press. English rendering of the relevant portion of that statement reads as under :—

"Jathedar Gurcharan Singh Tohra has appointed three persons, his close associates i.e. who are from his inner core, named Kashmir Singh Patti, Dara Singh and Raghbir Singh as members Raghbir Singh as members of the Gurdwara Judicial Commission and how they could decide any case against Jathedar Gurcharan Singh Tohra"

(2) After reading the said newspaper report, S. Kashmir Singh Patti, President Sikh Gurdwara Judicial Commission, Amritsar served notice Annexure-'C' upon Capt. Amrinder Singh, dated 9th October, 1997 calling upon him to appear before the commission and show cause why action be not initiated against him for having committed criminal contempt under the Contempt of Courts Act, 1971 as the President and the Members of the Sikh Gurdwara Judicial Commission are appointed by the President of India in the exercise of the powers conferred by Section 78 of the Sikh Gurdwaras Act, 1925 and that Sikh Gurdwara Judicial Commission was a "Court" and that statement scandalised and tended to lower the authority of the Commission (Court). Capt. Amrinder Singh gave reply to the said show cause notice "Annexure 'D'". According to the Commission not only did he affirm his statement but also made many accusations against the President which scandalised, lowered and tended to lower the authority of the Commission, President, Sikh Gurdwara Judicial Commission, Amritsar requested this Court through the Registry of this Court,—*vide* letter No. 441-C.J. C/87, dated 17th November, 1997 for initiating proceedings under Section 2(c) of the Contempt of Courts Act, 1971, which defines "criminal contempt of Court" against Capt. Amrinder Singh.

(3) Matter was examined by the office on the administrative side and it was of the opinion that as Capt. Amrinder Singh has vociferously given vent to the malice permeating his mind against the Sikh Gurdwara Judicial Commission and has not hesitated to scandalise publicly the Sikh Gurdwara Judicial Commission, which has all the attributes of a "Court", he has made himself liable under the Contempt of Courts Act, 1971 to penal action.

---

(4) This news item was treated as reference under Section 15 (2) of the Contempt of Courts Act, 1971. Notice was issued to the contemner to show cause why proceedings under the Contempt of Courts Act be not initiated against him by this Court.

(5) Cap. Amrinder Singh appeared through Shri P.S. Thiara, Advocate and put in reply to the allegations which were held to be contemptuous of the authority of the Sikh Gurdwara Judicial Commission and the Members comprising it. It was submitted that the Sikh Gurdwara Judicial Commission is not covered by expression "Court" as the expression Court is understood in the Contempt of Courts Act, 1971. The Sikh Gurdwara Judicial Commission decides only disputes relating to various Gurdwaras. It was further alleged that he never thought of showing any disrespect in any manner to any Court. He has the highest regard for this Court and all other Courts and tribunals subordinate to this Court. His ire was aimed only at S. Gurcharan Singh, President Shiromani Gurdwara Prabandhak Committee, when he made that statement in the press. It was further submitted that reference to Sikh Gurdwara Judicial Commission or its Members was made in different context and not as reported in the newspaper Jagbani dated 3rd October, 1997. In the news item as reported in the press neither there was any imputation of impropriety or lack of integrity nor can it be said that the news item contained any scandalous allegations against the members of the Judicial Commission.

(6) I have heard Shri H.S. Mattewal, Advocate General, Punjab assisted by Shri IPS Sidhu AAG Punjab in support of the reference and Shri P.S. Thiara, Advocate, counsel for Capt. Amrinder Singh against the reference and have gone through the record.

(7) On 2nd October, 1997, Capt. Amrinder Singh addressed a Press Conference at Bathinda. While addressing the Press Conference, he was highly critical of the present Government in Punjab headed by S. Parkash Singh Badal; and asked for the immediate resignation. He pointed out to the press that during 7 months tenure of the Government headed by S. Parkash Singh Badal, law and order situation was out of control and that there had been increase in the atrocities on women during this period and S. Parkash Singh Badal should resign owing the failure of law and order in the State as his moral responsibility. S. Badal was the main plank of Capt. Amrinder Singh's criticism. His other plank of criticism was Jathedar Gurcharan Singh Tohra, the then President of Shiromani Gurdwara Prabandhak Committee.

(8) Learned counsel for the respondent—contemner submitted that Capt. Amrinder Singh was disposed principally towards the Government

---

headed by S. Parkash Singh Badal or S. Parkash Singh Badal himself and then Jathedar Gurcharan Singh Tohra whom he was accusing of mis-using the funds of SGPC running into crores of rupees to promote his own selfish political ambitions. It was submitted that it was only in passing that he criticised the appointment of the Members of the Sikh Gurdwara Judicial Commission. While doing so, he meant only to convey that Jathedar Gurcharan Singh Tohra had treated SGPC as his own personal property and that was why, he had inducted his own men on the Commission as its Members and how they would decide against Jathedar Tohra/SGPC. Learned counsel for the respondent-contemner submitted that the intention of the contemner has to be seen i.e. whether he intended to scandalise or lower the dignity of the Sikh Gurdwara Judicial Commission or he intended only to express his ire against Jathedar Gurcharan Singh Tohra whom he was labelling as the one treating SGPC as his own personal property, mis-using its funds for promoting his own political ambitions.

(9) The Sikh Gurdwaras Act, 1925 was created with a view to providing for the better administration of certain Sikh Gurdwaras and the inquiries into matters connected therewith. This is what the preamble of this Act is. The Sikh Gurdwara Judicial Commission is constituted under Section 70 of the Sikh Gurdwaras Act, 1925. Section 70 says that the Judicial Commission shall consist of three members who shall be Sikhs appointed from time to time as may be necessary by the State Government. Section 79 of the Act says that the State Government may remove any member of the Commission—

- (i)—if he refused to act or becomes in the opinion of the State Government incapable of acting or unfit to act as a member ;  
or
- (ii)—if he has absented himself from more than three consecutive meetings of the commission ; or
- (iii)—if it is satisfied after such enquiry as it may deem necessary that he has flagrantly abused his position as member ; or
- (iv)—if he has served as a member for more than two years.

(10) The Sikh Gurdwaras Act, 1925 provides a scheme of purely Sikh management. It was submitted by the learned counsel for the respondent—contemner that the Sikh Gurdwara Judicial Commission cannot be said to be a Court as it is vested with a very limited jurisdiction and it cannot be viewed as a Court simply because it will have the same powers as are vested in the Court by the Code of Civil Procedure, 1908 while deciding any matter falling within its jurisdiction and it

cannot be viewed as a Court simply because a decree or order passed by it is executable as if it were the decree or order passed by a Civil Court and executable in the District Court in the jurisdiction of which Gurdwara in connection with which decree or order was passed is situated. It was submitted how can a member of the Commission be treated as constituting a "Court" when he does not have any security of tenure and when all of them require to be professing sikh religion.

(11) The Sikh Gurdwara Judicial Commission has all the attributes of a "Court" as it performs judicial functions. The Contempt of Courts Act, 1971 is the statute which defines and limits the powers of the Court in punishing contempts of Courts. By reason of Section 13 of this Act, Courts will not initiate contempt proceedings unless the contemner substantially interferes or tends to interfere with due the course of justice. The object and purpose of contempt proceedings is to uphold the majesty and dignity of law Courts and their majesty in the minds of public and that this is in no way whittled down. In essence the law of contempt is the protector of the seal of justice more than a person of the judge sitting in that seat. The law of contempt is not the law for the protection of judges or to place them in a position of immunity from criticism. It is law for the protection of the freedom of individuals.

(12) "Criminal contempt" has been defined in Section 2(c) as under :

"Criminal Contempt"—means the publication whether by words, spoken or written, or by signs, or by visible representations, or otherwise of any matter or the doing of any other act whatsoever which—

- (i)—scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any Court ; or
- (ii)—prejudices, or interferes or tends to interfere with, the due course or any judicial proceeding ; or
- (iii)—interferes or tends to interfere with, obstructs or tends to obstruct, the administration of justice in any other manner".

(13) This would not amount to criminal contempt if one says how can a particular judge do justice when the one who backed his appointment is involved. In this case, moreover, the intention of Capt. Amrinder Singh was not to scandalize the Sikh Gurdwara Judicial Commission or to obstruct its functioning but his intention was only to criticise Jathedar Gurcharan Singh Tohra the then President, SGPC and highlight his ire before the Press against him. Capt. Amrinder

---

Singh did not question the integrity of any of the members of the Commission in delivering a particular judgment, though till then, they must have decided number of cases.

(14) In my opinion, no criminal contempt is disclosed against Capt. Amrinder Singh as defined in Section 2(c) of the Contempt of Courts Act, 1971. The rule is discharged accordingly.

---

*J.S.T.*

*Before N. K. Sodhi & N. K. Sud, JJ.*

M/S AGGARWAL STEEL TRADERS,—*Appellant*

*versus*

COMMISSIONER OF INCOME TAX, PATIALA & ANOTHER,—  
*Respondents*

*Income Tax Appeal No. 1 of 1998*

16th November, 1999

*Income Tax Act, 1961—S. 40—A(3)—Income Tax Rules, 1962—Rl. 6-DD(J)—Central Board of Direct Taxes Circular dated 31st May, 1977—Payments made by the assessee to 3rd parties in contravention of S. 40-A(3) which provision makes allowance for true & genuine transactions—Non-genuine sales are liable to be rejected especially in view of the C.B.D.T. circular dated 31st May, 1977 which requires a confirmatory letter from the assessee showing that ingredients of Rule 6-DD (J) are met qua each transaction between the assessee and the seller under the Sales Tax Act—The addition made is sustainable—Assessee's disclosure of income under the Amnesty Scheme after completion of assessment—Assessing officer is within right to issue notice under section 148 to regularise the said return and bring the entire income to tax as part of total income—Thus, both questions posed answered in favour of the revenue and against the assessee.*

*Held, that, the only defence of the assessee before the authorities below has been that the transactions fell within the exceptions provided in the Board's circular dated 31st May, 1977. No doubt the explanation rendered by the assessee in respect of the payments of Rs. 24,000 and Rs. 40,000 would be covered by the exceptional circumstances as provided in Board's circular, yet that by itself will not entitle the assessee to claim the relief. There is a further requirement provided in the Board's circular itself for furnishing of a confirmatory letter from the concerned parties. Admittedly no such letter had been furnished by the assessee. In this view of the matter, this question has to be decided against the*