
Before K.S. Garéwal, J.

OM PARKASH & OTHERS,—*Appellants*

versus

STATE OF HARYANA,—*Respondent*

Crl. A. NO. 17/SB OF 1993

23rd February, 2004

Indian Penal Code, 1860—S. 436—Allegation of setting some judicial files on fire against process servers—Suspension of work on the day of occurrence—No reason for presence of process servers on the Court premises even after duty hours under the influence of liquor—Evidence of responsible Judges and Court officials clearly establishes that the fire to the judicial files lit by the appellants—Appeal dismissed, trial Court order convicting and sentencing the appellants affirmed while issuing guidelines/directions to the Judicial Officers/Staff of the Courts to control such like incidents in future.

Held, that from the evidence of the responsible Judges and Court officials, it can be safely said that the fire to the judicial files had been lit by the appellants. All three of them were present on the Court premises even after duty hours although work had been suspended on that day and there was no reason for the Process Servers to remain on the premises. All three of them had been seen by Madan Mohan and Pushkar after the fire had been detected but had slipped away. The three of them had been drinking which again indicates their attitude towards their work place, their careless and indisciplined behaviour.

(Para 17)

Further held, that every official of the judicial Department must treat the Court premises as a sacrosanct place where the common man come to seek redress and relief. The subordinate Courts are Courts of the first instance where citizens come into contact with the judicial process for the first time. Subordinate Courts bear a heavy burden of administration of justice. Every official of the Court is, therefore, expected to act in a responsible way and to perform his duty with utmost seriousness and despatch. The picture which emerges

from this case is that on the date of the occurrence work was suspended but the Court rooms were not closed. The officials lingered on engaged in completing their left-over work but some took the opportunity to stay on even after the Court hours to indulge in drinking on Court premises. Of course, there was no evidence of the appellants being under the influence of drink but Ram Chander's statement cannot be lightly brushed aside. Drinking on court premises and slandering Judges is a grave misdemeanour. Coupled with this the appellants had fire to court record.

(Para 19)

Further held, that one of the ways in which control can be imposed is to require all Class IV employees to attend duty in uniform with proper name tags. Judges should also insist that officials working under them remain present on duty and do not loiter about or remain on premises after court hours; unless there is urgent work to be completed. Some Court officials are chronic trouble makers. These individuals should be identified and transferred from the Sessions Division. Suitable provisions should be introduced in the service rules regarding transfer out of the Sessions Division. Ban on smoking should be strictly imposed to prevent fire incidents from occurring. Effective fire fighting equipment should be provided in the Court rooms. Ahlamad's rooms, record rooms and etc. wheresoever judicial files/record is kept. Fire alarm system should also be provided wherever necessary.

(Para 21)

Further held, that all employees should undergo compulsory professional training in order to inculcate in them a sense of professionalism and zeal to work hard. Lastly, all Courts should switch over to information technology and should be wired to work in a paperless way. A time bound programme to convert all Courts to e-Courts should be laid down and a policy in this regard at High Court level should be finalised.

(Para 22)

K.K. Aggarwal, Sr. Advocate with Kapil Aggarwal, Advocate
for the appellants.

Sandeep, AAG, Haryana, *for the respondent.*

JUDGMENT**K.S. GAREWAL, J.**

(1) Om Parkash, Subhash and Ram Singh, Process Servers under Senior Subordinate Judge at Rewari, were tried for setting fire to some judicial record. All three were convicted by the learned Additional Sessions Judge, Rewari on 7th January, 1993 for offence under Section 436 I.P.C. and sentenced to undergo rigorous imprisonment for three years, pay a fine of Rs. 500 each and in default of payment of fine to further undergo rigorous imprisonment for three months. Feeling aggrieved the accused appellants have come up in appeal.

(2) On 22nd May, 1991 at about 2.30 P.M. Ram Chander (PW 5) Chowkidar on duty on the Court premises at Rewari saw the three appellants on the premises proceeding towards a tea stall. Later at 7 P.M. when Ram Chander returned to the Court premises he saw all three appellants sitting on lawyers' benches and abusing the Judges of Rewari. Ram Singh appellant uttered that he had set fire to the files in the middle Court (Court of Shri R.N. Bharti (PW 9), Subordinate Judge, Rewari). Ram Chander did not take it seriously in the first instance but after a few moments thought reconsidered the utterance seriously and rushed towards the Court. In the Court he saw a bundle of files burning on the table. Ram Chander extinguished the fire, locked the Court room and reported the matter to Sh. B.P. Jindal, the then Additional District Judge, Rewari. Sh. Jindal asked Ram Chander to inform the Chief Judicial Magistrate but when Ram Chander went to the residence of the C.J.M., the Judge was not found available at his residence. Thereafter, Ram Chander and the C.J.M's. Peon Pushkar (PW 10) came to the Court building where they met two Stenographers of the Court, namely, Bharat Bhushan and Madan Mohan (PW 6), Ram Chander left the appellants under the supervision of these two persons and reported the matter to Shri P.L. Ahuja (PW 7), Senior Subordinate Judge at Rewari and also to Shri R.N. Bharti (PW 9). Thereafter, he returned to the Court. Sarvshri B.P. Jindal, P.L. Ahuja and R.N. Bharti also reached the Court. Ram Chander drafted a complaint and handed it over to the Senior Subordinate Judge and he was asked by the learned Judge to take the complaint to the police. It was thus that Ram Chander's complaint was lodged with S.I. Ishwar Singh (PW 12) of P.S. Rewari. On its basis F.I.R. was registered and investigation was taken up.

(3) At the spot the investigating officer met Reader Sat Narain, Stenographer Madan Mohan (PW 6), Shri R.N. Bharti and Shri P.L. Ahuja. In their presence site plan of the place of occurrence was prepared. The investigating officer recorded the statement of the witnesses. The spot was also photographed and ash of the burnt files was taken into possession.

(4) On the following day the investigating officer recorded the statement of the Reader of the Court and arrested the three appellants. After completion of the investigation the appellants were sent up for trial. At the trial charge was framed against them under Sections 436, 427 and 510 I.P.C. to which they pleaded not guilty and claimed to be tried. The main witnesses examined by the prosecution were Satish Chauhan (PW 3), Nazir Vijay Kumar (PW 4), Ram Chander (PW 5), Stenographer Madan Mohan (PW 6), Shri P.L. Ahuja (PW 7), Copyist Mordhawaj (PW 8), Shri R.N. Bharti (PW 9), Peon Pushkar (PW 11) and S.I. Ishwar Singh (PW 12).

(5) When the appellants were examined without oath under Section 313 Cr. P.C. they pleaded that the case was a false one. On the date of the alleged occurrence the Courts were closed on account of death of Rajiv Gandhi and no official was present. They also pleaded that Ram Chander was inimical towards them because two months before the fire incident they had seen him in a compromising position with a sweeperess. When called upon to enter defence, the appellants examined Drafts Nand Lal (DW 1) and closed the case.

(6) The learned Additional Sessions Judge came to the conclusion that the appellants were guilty under Section 436 I.P.C. but there was no evidence to support the charge under Section 510 I.P.C. Since the appellant had been convicted under the above section, no separate conviction was recorded under Section 427 I.P.C.

(7) Learned counsel for the appellants has argued that there was no eye witness to the occurrence and the entire case depended upon circumstantial evidence. The presence of the appellants in the Court premises was very unlikely because the Courts were closed on account of death of Prime Minister Rajiv Gandhi. Ram Chander was duty bound to be present on the Court premises and he had locked the court-rooms. It was impossible and improbable that the appellants would remain sitting in the Court right from 3 P.M. to 7 P.M. knowing

fully well that their presence at that time may be taken against them. Ram Chander's version was unconvincing and highly belated. There were material contradictions in the statements. It was lastly argued that it appeared that Ram Chander Chowkidar who was in the habit of smoking biries had caused the fire.

(8) The main witness in this case is Ram Chander (PW 5). It was this witness who had seen the appellants on the premises at 2.30 P.M. and had seen them coming out of the building with Partap, a tea vender. Ram Chander had gone to the residence of the learned Additional District Judge. He returned at 6.30 P.M. and saw the three appellants sitting on a lawyer's bench. They were under the influence of drinks and were abusing judicial officers. Ram Chander sat down near them. Ram Singh uttered that they had set the judicial files on fire in the middle Court. Ram Chander could not believe this but Ram Singh repeated the words. Ram Chander rushed the Court and saw the files burning. Thereafter, he informed the senior officers and the matter was reported to the police. Ram Chander was categorical that when he returned from the residence of the C.J.M. he was joined by the Magistrate's Peon Pushkar and in the Court premises they met Bharat Bhushan and Madan Mohan (PW 6). He left the appellants under the supervision of these persons and went to Shri P.L. Ahuja and to Shri R.N. Bharti, whose Court was the scene of the fire. Ram Chander was subjected to lengthy cross-examination. It would be useful to go through the cross-examination in order to determine if the witness was telling the truth. As regards the meeting between Ram Chander and the appellants, it appears that Ram Chander had not stated in the F.I.R. that he had also taken a seat near them or that Ram Singh had again repeated that he had set the files on fire. He further stated that when he returned from the residence of Sh. P.L. Ahuja after about 15 minutes the appellants were missing from the Courts. He was informed by Bharat Bhushan, Madan Mohan and Pushkar that the appellants had run away. On further cross-examination he stated that he had not seen the appellants in the concerned Court at any time on that day. The bench on which the appellant were sitting was in front of the gate of the concerned Court. No smoke was coming out of the gate or the windows. The witness admitted that he smoked biries and that he had reached the premises at 1.30 P.M. He denied the suggestion that he took rest in the Court at 1.30 P.M. or that he had thrown a burning biri which had been the cause of the fire.

(9) The veracity Ram Chander's statement deserves to be tested on the basis of what the other witnesses had stated. The Court Reader, Satish Chauhan (PW 3), testified that he prepared the cause list for the following day and placed all the files on the dias and left at 1.30 P.M. When he returned on 23rd May he found some of the files on the *dias* were burnt. File pertaining to Fateh *versus* Chiranji was completely burnt. Remand papers of case State *versus* Dharampal and State *versus* Diwana were also completely burnt. 23 files were found half burnt.

(10) According to Nazir Vijay Kumar (PW 4), Ram Chander was on duty on 22nd May and his duty began after Court hours. He was required to remain on duty until the reopening of the Court. Stenographer Madan Mohan (PW 6) testified that on the day of the occurrence he was standing outside the Court of Learned Additional District Judge after finishing his work when Bharat Bhushan met him. They saw Ram Chander coming from the side of the building. Ram Chander informed them that some judicial files in the Court of Sh. R.N. Bharti had been set on fire and Ram Chander named the appellants as the persons who had set the files on fire. Ram Chander ran towards the residence of the C.J.M. and returned with Peon Pushkar. All of them went to the Court building and saw the three accused sitting at some distance of the Court building. When they entered the court they found some files burnt. Ram Chander informed the Senior Subordinate Judge and Sh. R.N. Bharti who arrived at the spot. However, the witness could not say if the accused remained sitting there or not. In cross-examination the witness testified that when he came to the Court of Sh. R.N. Bharti he saw the appellants at some distance near the bench of Advocate Rishal Singh which was about 25 paces from the court room. Ram Chander had left them saying that they should keep an eye (*khial rakhna*) but he did not specifically ask them to keep a watch on the appellants.

(11) The statements of the Senior Subordinate Judge and the Judge in whose court the incident had occurred are important because they are responsible judicial officers who are expected to tell the truth. According to Shri P.L. Ahuja (PW 7) he was informed at about 7.30 P.M. by Ram Chander that the appellants had set some judicial files

on fire. He came out of the residence and met Sh. R.N. Bharti (PW 9). They then informed Sh. B.P. Jindal, A.D.J. Rewari and all of them came to the Court concerned where they found some burnt files. At the instance of Sh. Ahuja, Ram Chander drafted the complaint and on its basis case was registered.

(12) Similar was the statement of Shri R.N. Bharti who testified that he was informed by Ram Chander that the files pertaining to his Court had been burnt by the appellant.

(13) Furthermore, the evidence of Mordhwaj (PW 8), Criminal Ahlmad of the Court testified that he left the Court at 1 P.M. and returned at 2 P.M. after taking his meal. He worked there till 4 P.M. and then left the Court. The Court staff was busy with their work on that day. In cross-examination the witness admitted that when he returned at 2 P.M. the Court room was not locked and Ram Chander was present there. The evidence of Pushkar (PW 11) is also important. According to this witness he was present at the residence of the C.J.M. at 7.30 P.M. when Ram Chander met him there and told him that the three appellants had put some judicial files on fire. The witness accompanied Ram Chander to the concerned Court and found some half burnt files on the floor and some half burnt files on the dias. He also stated that when he returned to the Court he saw the three appellants sitting on the benches under a tree and all of them slipped away. In cross-examination he reiterated that he had seen the accused sitting on a "takhat" under a tree but could not say to whom the takhat belonged. He also stated that the appellants had slipped away towards the tea stall.

(14) During the summer months Courts in Haryana sit from 7 A.M. to 1.30 P.M. On 22nd May work of the Courts had been suspended to mourn the death of former Prime Minister Rajiv Gandhi. Therefore, the officials of the Court ought to have finished the day's work atleast by 10 A.M. or at the very latest by 1.30 P.M. The courts should have been locked by the Chowkidar after work had been suspended or after a few hours thereof. There is no explanation why this was not done. It appears that on 22nd May the Courts remained open as usual although no judicial business was transacted and the Judges did not sit.

(15) Be that as it may, there was no reason for the three appellants, who were Process Servers, to be present on the premises even after 1.30 P.M. Ram Chander met them in the Court premises at 2.30 P.M. and again at 6.30 P.M. by which time they had come under the influence of liquor. They indulged in slandering Judges and Ram Chander also heard Ram Singh appellant declare that they had set files on fire in the middle Court. Ram Chander did not believe what he heard, whereupon Ram Singh repeated what he said. When Ram Chander rushed to the court he saw the files burning. Ram Chander extinguished the fire. Ram Chander then locked the court room and reported the matter.

(16) It is inexplicable why the Court was open till 6.30 P.M. when work had been suspended and no judicial business was transacted on that day. Ram Chander has no explanation as to why he did not lock the court rooms as was his duty. However, Ram Chander did inform the judicial officer about what he had heard and seen. The information conveyed by Ram Chander to Madan Mohan (PW. 6), Sh. P.L. Ahuja (PW 7), Sh. R.N. Bharti (PW 9) and Pushkar (PW 10) that the fire had been set by the appellants was fully corroborated by these witnesses. Indeed Pushkar (PW 11) had testified that when he returned to the Court with Ram Chander he saw the three appellants sitting on the benches under the tree. This was confirmed by Madan Mohan (PW 6) in the cross-examination.

(17) From the above discussion of the evidence of the responsible Judges and Court officials, it can be safely said that the fire to the judicial files had been lit by the appellants. Ram Singh appellant had repeated this twice to Ram Chander. The other appellants had not said anything to Ram Chander about their involvement. All three of them were present on the court premises even after duty hours although work had been suspended on that day and there was no reason for the Process Servers to remain on the premises. All three of them had been seen by Madan Mohan and Pushkar after the fire had been detected but had slipped away. The three of them had been drinking which again indicates their attitude towards their work place, their careless and indisciplined behaviour.

(18) This was not an ordinary fire but fire lit with intent to destroy judicial record. If the fire had not been extinguished in time it may have consumed much more record and may be even the Court building. Such arsonists do not deserve any leniency in sentence.

(19) At the conclusion of this judgment one cannot help observing that every official of the judicial Department must treat the Court premises as a sacrosanct place where the common man come to seek redress and relief. The Subordinate Courts are Courts of the first instance where citizens come into contact with the judicial process for the first time. Subordinate Courts bear a heavy burden of administration of justice. Every official of the Court is, therefore, expected to act in a responsible way and to perform his duty with utmost seriousness and despatch. The picture which emerges from this case is that on the date of the occurrence work was suspended but the court rooms were not closed. The officials lingered on engaged in completing their left-over work but some took the opportunity to stay on even after the Court hours to indulge in drinking on Court premises. Of course, there was no evidence of the appellants being under the influence of drink but Ram Chander's statement cannot be lightly brushed aside. Drinking on court premises and slandering Judges is a grave misdemeanour. Coupled with this the appellants had fire to court record.

(20) Ram Chander Chowkidar is also not free from blame because he had no business to leave the premises at 2.30 P.M., unattended and unlocked. Even though on ordinary days the Courts rose at 1.30 P.M. May 22 was an unusual day as work had been suspended. It has been observed that there is an unhealthy nexus between court officials like Readers, Judgment Writers, Stenographers, Ahlmads, Copyists and Process Servers on the one hand and unscrupulous elements on the other. This nexus comes into full flow after Court hours when Court precincts get converted into gambling and drinking dens. Judges come and go but the Court staff and lawyers continue to thrive at the same station. Unless a sense of discipline and responsibility is instilled in the officials and staff, the nexus cannot be broken. Lawyers and their Clerks are autonomous and outside any real control of the judiciary but it is the officials and staff who succumb to monetary temptation and who cause maximum damage to the administration of justice under the patronage of

unscrupulous elements. It is not as if judges are unaware of the unwholesome practices which are going on but unless some effective steps are taken to isolate the Court officials and staff from the unscrupulous elements, this unholy nexus will continue and administration of justice shall suffer greatly.

(21) One of the ways in which control can be imposed is to require all Class-IV employees to attend duty in uniform with proper name tags. Judges should also insist that officials working under them remain present on duty and do not loiter about or remain on premises after court hours; unless there is urgent work to be completed. Some Court officials are chronic trouble makers. These individuals should be identified and transferred from the Sessions Division. Suitable provisions should be introduced in the service rules regarding transfer out of the Sessions Division. Ban on smoking should be strictly imposed to prevent fire incidents from occurring. Effective fire fighting equipment should be provided in the Court rooms. Ahlmad's rooms, record rooms and etc. wheresoever judicial files/record is kept. Fire alarm system should also be provided wherever necessary.

(22) All employees should undergo compulsory professional training in order to inculcate in them a sense of professionalism and zeal to work hard. Lastly, all Courts should switch over to information technology and should be wired to work in a paperless way. A time bound programme to convert all Courts to e-Courts should be laid down and a policy in this regard at High Court level should be finalised.

(23) If the above steps are taken we may be able to experience a wholesome change in administration of justice at the Subordinate Court level. This shall bring cheer to the thousands of citizens who flock to the trial Court seeking justice but who have to return disappointed and empty handed; harassed by law's delays and much more.

(24) As a result of the above, this appeal is devoid of merit and is dismissed. The appellants shall be taken into custody forthwith to undergo the remaining portion of their sentence.