

IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION

PRESENT:

Mr. Justice Obaidul Hassan, Chief Justice
Mr. Justice M. Enayetur Rahim
Mr. Justice Md. Ashfaqu Islam
Mr. Justice Abu Zafor Siddique
Mr. Justice Jahangir Hossain

CRIMINAL APPEAL NO. 92 OF 2023

(From the Judgment and order dated 12.10.2023 Passed by
High Court Division in Contempt Rule No. 53467 of 2023)

Mr. Sohel RanaAppellant

-Versus-

The state and othersRespondents

For the Appellants : Mr. Probir Neogi, Senior Advocate
with Mr. Shah Monjurul Hoque,
Senior Advocate instructed by Ms.
Shahanara Begum, Advocate-on-
record

For Respondent No. 1 : Mr. Mohammad Saiful Alam, AAG
(appearing with the leave of the
Court)

For Respondent Nos. : Not represented
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Date of Hearing : 05.12.2023 and 06.12.2023

Date of Judgment : 06.02.2024

J U D G M E N T

Md. Ashfaqu Islam, J: This criminal appeal is preferred
against the judgment and order dated 12.10.2023
passed by the High Court Division in Contempt Rule
No. 53467 of 2023 making the Rule absolute,
convicting the appellant for Contempt of Court and
thereby sentencing him to suffer simple imprisonment
for 30 (thirty) days and to pay a fine of taka

5,000/- (five thousand) in default, to suffer simple imprisonment for 30(thirty) days more.

Facts, in short, are that upon an application under Section 561A of the Code of Criminal Procedure the proceeding of Kotwali Police Station Case No. 87 dated 27.03.2017 corresponding to G.R No. 320 of 2017 (Kotwali), pending in the Court of Chief Judicial Magistrate, Cumilla was challenged before the High Court Division. Upon hearing the High Court Division issued Rule and at the same time stayed all further proceedings of the aforesaid criminal case for a period of 06 (six) months. Subsequently, the order of stay was extended till disposal of the Rule.

The Chief Judicial Magistrate, Cumilla, appellant herein defying the order of stay passed by the High Court Division proceeded with the said case and framed charge against the accused petitioners.

After noting the aforementioned facts and finding the appellant's explanation unsatisfactory, the High Court Division proceeded to issue a contempt rule against him.

The High Court Division found contemnor, Mr. Sohel Rana guilty of gross contempt of Court and made the Rule absolute by convicting and sentencing him as aforesaid.

It is noted that knowing fully about the order of stay of the High Court Division the appellant proceeded with the aforesaid case pending before him, fixed dates, one after another, for charge hearing, took hajira (appearance) of the accused and gave undue pressure upon the accused to bring the result of the Rule pending before the High Court Division and lastly, framed charge against the accused petitioner and at the same time declared another accused fugitive and then fixed the case for recording evidence. All those seemingly overzealous orders were undoubtedly prejudicial to the accused of the case and were passed in clear violation of order of stay of the High Court Division.

The appellant, having served as Chief Judicial Magistrate for several years following a promotion to Additional District Judge, has accumulated extensive

experience in judicial matters over the years. Therefore, he cannot be regarded as a junior officer lacking in experience. However, his actions in the pending criminal case, as evidenced by his written explanation, statement, and affidavit seeking apology, indicate a deficiency in judicial temperament. Despite his experience, he has repeatedly committed acts of contempt against the High Court Division and has persisted in justifying his behavior.

Form above facts, we find with pain not pleasure that the appellant has shown wanton disregard, disrespect, defiance and disobedience in the implementation of the order of the High Court Division. Such conduct of the appellant is short of anything but contumacious. By his conduct he tried to bring down the authority and majesty of the Supreme Court in the estimation of the people particularly those who are coming to this court for redress, so to say justice. His disregard, defiance and disobedience to the command and his intention to flout the order

of the High Court Division is so deliberate and contumacious that he does not deserve any mercy or leniency. His conduct is devoid of any compunction.

Bewildered with severe grief and resentment we encountered one of the most unprecedented and unusual instance of criminal act of contempt that was perpetrated violating the order of stay of the High Court Division. It came as shock when we found that in a most abrupt, rather I would put that in an unexpected manner, the contemnor before us has made obnoxious order defying the order of the High Court Division which the said contemnor was constitutionally bound to comply with.

It is not the case of the appellant that he misunderstood the order of the High Court Division or there is ambiguity therein. Because, he did not say a single word that the court's order was unclear and ambiguous.

The trivia and tradition of the Supreme Court are well identified and preserved. One should not forget that the hands of the Courts are long enough to catch

hold of wrong doers wherever they hide. This is an unfettered and inherent right attached to the Court.

In addressing the gravity of the situation where a judge of the subordinate judiciary has intentionally disobeyed the order of the Apex Court, the Appellate Division of the Supreme Court of Bangladesh must exercise its authority with unwavering diligence. The sanctity of judicial orders and the integrity of the legal system demand nothing less than a resolute response to such defiance.

The contemnor before us has rendered unconditional and unqualified apology. In accepting the apology offered by the convicted contemnor, the Appellate Division must emphasize the paramount importance of respecting and implementing judicial directives without reservation or hesitation.

Therefore, while extending clemency to the convicted contemnor, this Division delivers a stern admonishment to serve as both a reminder and a warning. This admonishment serves not only to remind the individual judge of their solemn duty but also to

reaffirm the collective obligation of the entire subordinate judiciary to honor and implement the directives of the Apex Court without reservation or equivocation.

Hence, we hereby absolve and exonerate the contemnor, Mr. Sohail Rana. Nevertheless, it is crucial to issue a strong admonition, underscoring the significance of adhering strictly to directives from the highest court in the country. It is our expectation that this incident serves as a lesson for all judicial officers, reaffirming the principle that the authority of the judiciary must be respected and upheld at all times.

Since this is the First Offence of the appellant and he has solemnly promised never to do any act of omission in defiance of or in disobedience to any order of the Supreme Court we have taken a view and seriously censor and warn him for his conduct and if he repeat such kind of act in future he will be severely dealt with.

In the light of the above observations, this appeal is disposed of. The impugned judgment and order passed by the High Court Division is hereby set aside.

CJ.

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J.