

1968

Present : Alles, J.

IN RE MRS. LILLIAN RAJAPAKSE

IN THE MATTER OF AN OFFENCE OF CONTEMPT OF COURT

S. C. 290/66—M. M. C. Colombo, 36626

*Contempt of Court—Tampering with a juror in the course of a pending case—
Punishability—Courts Ordinance (Cap. 6), s. 47.*

Where, while a trial before the Supreme Court is proceeding, a person attempts to interfere with one of the jurors with the intention of influencing the decision of the juror in the case, he is liable to be punished for the offence of contempt of Court under section 47 of the Courts Ordinance.

RULE under section 47 of the Courts Ordinance.

G. E. Chitty, Q.C., with *Sena Wijewardene, G. E. Chitty (Junior)* and *Sam Silva*, for the respondent.

T. A. de S. Wijesundera, Senior Crown Counsel, as *Amicus Curiae*.

Cur. adv. vult.

July 18, 1968. ALLES, J.—

In this matter the respondent, Mrs. Lillian Rajapakse, was asked by me to show cause why she should not be punished for the offence of contempt in that she did, on 25th June 1968, attempt to interfere with one of the jurors in S.C. 290/66 ; M.M.C. Colombo 36626, then being tried

¹ (1895) *Matura Cases* 19.

by a Judge and a jury before the Supreme Court at Colombo and which interference was likely to influence the decision of the juror in the case.

In S.C. 290/66, four accused were tried before me and a Sinhalese-speaking jury on two counts of an indictment charging them with conspiracy to commit the murder of the Hon. Mr. V. A. Sugathadasa, Minister of Nationalised Services, and with conspiracy to commit the murder of Mr. A. W. A. Abeygunasekera, Chairman of the Port Cargo Corporation. The trial commenced on 11th June 1968 and continued from day to day. On 25th June, the prosecution closed its case and the 4th accused was acquitted by the Jury. On 27th June, it was brought to my notice by learned Crown Counsel for the defence that investigations were being conducted by the Police into an alleged interference of one of the jurors by the respondent, on the evening of 25th June. I was furnished with a statement of the respondent recorded by the Police and I was satisfied that there was a *prima facie* case of interference of the juror by the respondent. I was also satisfied that there was no misconduct on the part of the juror concerned and that there was no breach of the oath of separation by him. No application was made by the Crown or the defence for a discharge of the jury. The trial was concluded on 30th June and the remaining three accused were unanimously found not guilty of the charges by the jury. After the trial was concluded I summoned the respondent and asked her to show cause why she should not be punished for the offence of contempt under section 47 of the Courts Ordinance. I gave her time till 3rd July to retain Counsel and seek legal advice, and the inquiry commenced on 4th July.

Crown Counsel, who appeared as *amicus curiae*, led evidence to establish the *prima facie* case against the respondent. Thereafter Counsel for the respondent stated that he had cause to show, led the evidence of the respondent and addressed Court.

The case against the respondent consisted of the evidence of the juror concerned, Gnanaratna, supported by the testimony of Teebal Gajanayake.

Gnanaratne is a peon employed at George Steuart and Company, living at 200/3, Suvisuddharama Road, Pamankade, with his wife and family. His wife Mercy is the daughter of one Jane Akka, living at the same premises. According to Gnanaratne, after jury service on the evening of the 25th, he wore a sarong and shirt and went, carrying his child, to purchase some eggs from a boutique. When he was at the boutique a person, later identified as Teebal Gajanayake, accosted him and asked him "Are you the person who has married Jane Akka's daughter?" to which question he replied in the affirmative. He returned home, left the child and came back to the boutique when Teebal told him that one Sonny who lived in the respondent's house wanted to

meet him. Teebal accompanied him to the house which was shown to him by Teebal and left him at the entrance. He entered the house, inquired for Sonny and met the respondent who asked him to sit down. Then the respondent asked him whether he was on the jury in connection with the Bomb case. He says he got alarmed when he heard the word "jury" and wanted to leave immediately. The respondent then told him "One of the accused is the father of either four or six children. *It is the jury who have to decide the case. Please give some assistance by acquitting the accused*". Gnanaratne got frightened and did not reply. He wanted to leave but the respondent insisted that he should have a cup of tea which was offered to him and after hurriedly sipping some tea he left the place immediately afterwards. He says he got alarmed because he knew that the respondent became aware that he was serving on the jury and he thought that she was trying to interfere with his final decision in the case. He stoutly denied the suggestion of Counsel for the respondent that he went to the respondent's house on his own, and that he engaged the respondent in a conversation as to whether she knew any of the accused. He said that when he returned home he informed his wife of his visit to the respondent's house and she reminded him that about two years previously they had gone there on a wedding visit. The juror did not pay heed to the conversation and did not mention it to anybody. In fact the Police advisedly did not record his statement since he was still on jury service at the time.

Gnanaratne's evidence of the visit to the respondent's house is corroborated by Teebal who said that it was at the instance of one Sugathadasa that he pointed out the respondent's house to Gnanaratne. Teebal was known to Sugathadasa for some time as a supporter of the Lanka Sama Samaja Party—some of the accused at the trial were members of the same Party. Teebal says that on the 24th, Sugathadasa met him and showed him a piece of paper with the address 200/3, Suvisuddharama Road written on it and asked him to find out the occupants of the house and whether Gnanaratne was living there. He went with Sugathadasa and verified this information. On the 25th Sugathadasa met him about 5.30 p.m. on the road and as they were walking along the road they saw Gnanaratne carrying a child and Sugathadasa told him that he was the person. Then Sugathadasa told Teebal to show Gnanaratne Sonny Caldera's (the respondent's) house. Teebal met Gnanaratne and told him that he was wanted at the respondent's house, showed him the house and left him at the door-step. Although Teebal was a friend of Sugathadasa, he was a supporter of the United National Party and informed the authorities that an attempt was being made to influence the jurors. It was in consequence of his information that the Police conducted inquiries.

Gnanaratne was cross-examined at length by Mr. Chitty and although he appeared to be excitable and somewhat indignant that he was being questioned in regard to a transaction which was not of his own seeking and over which he had no control, he impressed me as being a truthful

witness. There was no reason why he should make a false charge against the respondent, who was virtually a stranger to him and I accept his evidence that he was taken to the respondent's house and an attempt made by the respondent to influence him to give a decision in favour of the accused on trial.

The respondent is a young married woman 33 years of age, a trained teacher from the Polgolla Training School, had been a Sinhalese teacher for 10 years and taught in several schools. At the relevant date she was teaching in the 5th Standard at St. John's Vidyalaya, Dematagoda. Her husband was the Manager of a Theatre at Nuwara Eliya. She had known Padma Sugathadasa, the wife of Sugathadasa, when they were both teachers in the same school at Nugegoda and had visited them. She says that she was not interested in the Bomb case and never even read about it in the newspapers and professed ignorance of a juror's duties and did not even know that in trials before the Supreme Court it was the jury who convicted or acquitted. I am unable to accept her evidence on this point particularly as she admits that the juror did inform her just previously, that they had acquitted the 4th accused. In these days of enlightened education it is difficult to believe that a person in the position of the respondent was ignorant of matters which even school children are conversant with.

She says that on the evening of the 25th, Sugathadasa came to her house and showed her a piece of paper with a name written on it and asked her whether she knew Gnanaratne. When she stated she did not, Sugathadasa inquired whether she knew Jane Akka of Suvisuddharama Road and he said that Gnanaratne was the son-in-law of that Jane Akka. Sugathadasa told her that he wanted to meet Gnanaratne. He then said that a friend of his who was the father of six children was involved in the Bomb case and expressed sympathy for the accused. He then left. About half an hour later, a person dressed in a dirty sarong and shirt (identified as Gnanaratne) came to the house and asked her whether it was Sonny Caldera's house. He then said he was the husband of Mercy, the daughter of Jane Akka. He sat down with his legs crossed and smiling. The respondent questioned him about his family because she recognised the juror as a person who was married to an associate of hers, being married to Jane Akka's daughter who was known to her from childhood. She then inquired whether he was coming from his workplace and he replied in a boastful manner that he was a juror in the Bomb case. She was surprised and said "Do they choose people like you for jury service?". Gnanaratne then informed her that today they had acquitted the 4th accused. Then she says she remembered what Sugathadasa told her earlier and said that a friend of Sugathadasa was involved in the case and that he had six children. She said that Sugathadasa had felt sorry for him. Gnanaratne did not reply, drank some tea and left the place. Sugathadasa again came to her house a couple of hours later and asked her whether anybody had come to her place. She did not tell him that she had conveyed what he had said to

the juror although she mentioned to Sugathadasa that a man in a dirty sarong had come to see her. She further said she did not know his name was Gnanaratne. Having regard to Sugathadasa's first visit and as to what transpired on that occasion, it is hard to believe that Sugathadasa did not tell the respondent to speak to the juror and request her to influence the juror—She denied that she asked for any relief from the juror when Gnanaratne appeared half an hour later after Sugathadasa left. Gnanaratne's visit soon after Sugathadasa's departure strongly suggests a link between the two visits and the only reasonable inference to be drawn from the respondent's evidence is that she was asked to influence the juror and that she did not casually convey Sugathadasa's information to Gnanaratne without intending to influence him. Indeed, that there is a link between the two visits is clear from Teebal's evidence. It is also remarkable that she denied having informed Sugathadasa later that evening that she made no mention of the conversation she had with Gnanaratne. The suggestion of Crown Counsel, which is in accordance with the evidence of Gnanaratne and the reasonable probabilities in the respondent's version is that Sugathadasa had approached the respondent to speak to Gnanaratne, whose family was known to the respondent, to try and influence the juror whose visit to the respondent's house was arranged by Sugathadasa. The juror was spoken to by the respondent on the lines suggested by Sugathadasa and Sugathadasa came later to inquire whether the act had been accomplished. Mr. Chitty conceded that Sugathadasa was responsible for involving the respondent in this transaction and was trying to abort the trial by influencing a juror—a fact that might be brought to the notice of the Court—but his position was that, though the respondent might have acted foolishly in speaking to the juror, she did not have any intention of influencing the juror nor was she aware that her conduct might be so construed.

I am satisfied beyond reasonable doubt that Gnanaratne's evidence of the conversation is true and his evidence is supported by the circumstantial evidence relating to the visits of Sugathadasa as spoken to by the respondent. This evidence clearly establishes that the respondent did attempt to influence the juror and that she is guilty of the offence of contempt of Court.

The question of sentence has caused me considerable anxiety. It was brought to my notice that any punishment of the respondent for the offence of contempt would adversely affect the respondent's career as a Government teacher. I agree with Mr. Chitty that the villain of the piece is Sugathadasa, who, according to Teebal had already told him that he had approached three jurors earlier and who, in view of his wife's association with the respondent had used the respondent as a tool to attempt to influence a fourth juror. In view of my findings and having regard to the respondent's educational qualifications it is impossible to accept the defence evidence that the respondent's act only savoured of folly and indiscretion. She must have known that attempting to influence the decision of a juror was an act of impropriety, even if it was

the result of mistaken sympathy on her part. I would not have hesitated to impose a term of imprisonment on the respondent, had it not been for the fact that I am satisfied that she was a tool in the hands of a more scheming person. The administration of justice must always remain pure and the Court must be ever vigilant against any attempt to pollute the stream of justice. Tampering with jurors in the course of a pending case is a very serious form of contempt. Jurors perform very responsible duties and the Courts must necessarily be gravely concerned at any attempt to tamper with the free exercise of a juror's decision in a pending case.

Section 47 of the Courts Ordinance provides for a term of imprisonment until the contempt is purged or a fine not exceeding Rs. 5,000. The respondent has expressed her regret for what she calls her foolish act of speaking to the juror. But it is essential in the interests of the administration of justice to take a serious view of the respondent's conduct. To impose a nominal fine in a case of this nature is not only farcical but is likely to stultify the Courts of law in the eyes of the public. A substantial fine is essential if only to serve as a deterrent to persons like minded not to interfere with jurors in pending cases. I therefore impose a fine of Rs. 500 on the respondent, in default one month's simple imprisonment. A month's time will be granted for the payment of the fine.

Rule made absolute.
