

Pushpaben & Anr v. Narandas v
Badiani & Anr
1979 AIR 1536

Fazalali, Syed Murtaza J

Facts:

- This is an appeal under Section 19 of the Contempt of Courts against an order of the High Court of Bombay convicting the appellants for a Civil Contempt and sentencing them to one month's simple imprisonment
- The Respondent No. 1 had given a loan of Rs. 50,000/- to the appellants on certain conditions which was not paid by the appellants, as a consequence to which respondent No. 1 filed a complaint under S. 420, I.P.C. against the appellants
- While the complaint was pending before the Court of the Magistrate, the parties entered into a compromise and the appellants undertook to pay the loan of Rs. 50,000/- with simple interest at the rate of 12% per annum

Contd..

- An application was filed before the Court for allowing the parties to compound the case and acquit the accused. The Court after hearing the parties, passed the following order:
- “The accused has given an undertaking to Court that he shall repay the sum of Rs. 50,000/- to the complainant on or before 21.7.1972 with interest as mentioned on the reverse. In view of the undertaking, I permit the compromise and acquit the accused.”
- This undertaking was violated, and the amount of loan was not paid. On moving to the High court –the High court Held that appellants had committed wilful disobedience of the undertaking given in the court and were therefore guilty of civil contempt (Section 2(b))

Key aspects of this case

- Scope of Section 12 (3)
- Whether the legislature intended-the sentence of imprisonment as an exception while sentence of fine as the rule
- Under what circumstances where an offender is guilty of civil contempt should sentence (simple imprisonment) be given to an offender

Section 12(3)

“A close and careful interpretation of the extracted section leaves no room for doubt that the Legislature intended that a sentence of fine alone should be imposed in normal circumstances.

The statute, however, confers special power on the Court to pass a sentence of imprisonment if it think that ends of justice so require.

Thus before a Court passes the extreme sentence of imprisonment, it must give special reasons after a proper application of its mind that a sentence of imprisonment alone is called for in a particular situation Thus, the sentence of imprisonment is an exception while sentence of fine is the rule”

Held

- The High Court was, right in holding that the appellants were guilty of civil contempt under s. 2(b) of the Contempt of Courts Act.
- Having regard to the circumstances of the case the present case falls within the first part of s. 12(3) of the Act and a sentence of fine alone should have been awarded by the High Court.
- In the present case there are no special reasons why the appellants should be sent to jail