

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3765 OF 2006

DHIREN DAVE

APPELLANT

VERSUS

M/S. SURAT DYES & ORS.

RESPONDENTS

J U D G M E N T

KURIAN, J.

1. The appellant is aggrieved by the order passed by the Company Judge directing prosecution of the appellant for the offence punishable under Section 195 of the Code of Criminal Procedure, 1973, initiating proceedings for contempt under the Contempt of Courts Act, 1971 and also directing initiation of appropriate action under Section 21 of the Company Secretaries Act, 1980, if required.

2. During the course of hearing before this Court on 06.01.2016, the appellant sought permission to file an affidavit tendering unconditional apology for the unwitting conduct of filing the affidavit in the Review Petition before the Company Court, copy of which is marked as Annexure P-3.

3. In the affidavit dated 08.1.2016 filed by the appellant it is stated as under:

" 2. That the deponent hereby deeply regrets and most humbly tenders unconditional and unqualified apology to this Hon'ble Court for filing affidavit dated 01.07.2004 in O.J. Appeal NO.30 of 2004 before the Hon'ble High Court of Gujarat at Ahmedabad.

3. That it is submitted with greatest humility that I have always had the deepest and highest regard for this Hon'ble Court and the Hon'ble High Court of Gujarat at Ahmedabad and have made a mistake in filing the said affidavit for which the deponent once again regrets and humbly tenders unqualified apology for the same.

4. That the deponent holds this Hon'ble Court in great respect and esteem and prays to this Hon'ble Court to graciously be pleased to accept the humble apology and exonerate the deponent from the purview of the contempt proceedings, for the offence punishable under Section-195 of the Code of Criminal Procedure, 1973 for committing an offence relating to submission of the false documents and from the directions of the Hon'ble High Court of Gujarat at Ahmedabad to the Council of the Institute of Company Secretaries of India, constituted under the Company Secretaries Act, 1980, to initiate appropriate action under Section 21 of the Company Secretaries Act.

5. It is respectfully submitted that the Deponent is a Company Secretary registered with the Council of the Institute of Company Secretaries of India. Petitioner is in the profession since 1996 and all along had an unblemished career. That the deponent never had intention to show any disrespect or dishonour to this Hon'ble Court of the Hon'ble High Court of Gujarat at Ahmedabad. The wrong averments in the said affidavit was unintentional, and under the foregoing circumstances the deponent humbly begs to be pardoned for the same."

4. Having gone through the affidavit and having seen the apology thus tendered therein , we are of the view that the proceedings under the Contempt of Courts Act are only to be

dropped. If that is so, it would be unjust to permit other proceedings under Section 195 of the Criminal Procedure Code or under Section 21 of the Company Secretaries Act, 1980 to continue in view of the affidavit we permitted him to file before this Court.

5. Therefore, all the three proposed actions against the appellant are set aside, accepting the unconditional apology tendered by him.

6. The appellant shall not indulge in any such adventures in future.

7. The appeal is allowed as above with no order as to costs.

.....J.
[KURIAN JOSEPH]

JUDGMENTJ.
[ROHINTON FALI NARIMAN]

NEW DELHI;
JANUARY 21 2016