IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK
&
HON'BLE SHRI JUSTICE HIRDESH

ON THE 16th OF MAY, 2025

CONTEMPT PETITION NO. 1900 of 2025

MANISH VERMA
Vs.
BRIJ MOHAN PATEL & ORS.
&
CONTEMPT PETITION NO. 1926 of 2025
MANISH VERMA
Vs.
ANIL RAGHAV

APPEARANCE:

Shri Anoop P. Chaudhari & Ms. June Chaudhari –Senior Advocates with Shri Abhimanyu Kashyap Verma – Advocate for the petitioner.

Shri Vivek Khedkar & Shri MPS Raghuvanshi – Senior Advocates with Shri Ravindra Singh Kushwah – Advocate for respondent No.1.

ORDER

Per*: *Justice Anand Pathak

1. Regard being had to similitude of the dispute, both the contempt petitions are being heard analogously and decided by this common order. For factual clarity, facts of Contempt Petition No.1900/2025 are taken into consideration.

2. The instant contempt petition is preferred under Article 215 of the Constitution of India read with Section 10 and 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as "the Act of 1971") for initiating contempt proceedings against the contemnors arising out of

orders dated 06-01-2025 and 16-01-2025 passed in Second Appeal No.116 of 2014. Through this contempt proceeding, petitioner sought following reliefs:

> "*The Petitioner prays that this Hon'ble Court may be pleased to:*
>
> *2.1. Initiate criminal contempt proceedings against the Contemnors under Article 215 of the Constitution of India.*
>
> *2.2. Pass any other order or direction as this Hon'ble Court may deem fit and proper in the interest of justice."*

3. Petitioner is appellant in Second Appeal No.116 of 2014 filed against the judgment and decree dated 02-04-2014 passed by the First Appellate Court. Matter was listed before learned Single Judge on 06-01-2025 and being Second Appeal it was admitted on Substantial Questions of Law as contained into the order. In penultimate paragraph, it has been noted down by learned Judge that counsel for respondent/State Shri Brij Mohan Patel (respondent No.1 herein) sought final hearing at the earliest stage. Therefore, matter was placed for final hearing on 15-01-2025. On 15-01-2025 counsel for respondent/State prayed for and granted time to argue the matter. Therefore, matter was placed on 16-01-2025. On 16-01-2025, Government Counsel informed the Court that an application has been moved by him for recalling the earlier order by which his consent was recorded for early hearing. However, same was not available in the record, therefore, Registry was directed to place the application on record and matter was fixed on 21-03-2025.

4. Contents of the application *inter alia* included that at the time of admission of appeal no prayer was made by the Government counsel for early hearing, therefore, order be modified and facts kindly be

replaced that Government counsel sought time for final hearing. Further prayer is made to list the matter for final hearing as per schedule in the interest of justice.

5. Learned Single Judge on 30-01-2025 considered the applications (I.A.No.434/2025 and I.A.No.437/2025) and did not find any error apparent on the face of record, warranting any modification in the earlier order dated 06-01-2025 passed by the Court. *Resultantly*, both the applications were dismissed. However, looking to the controversy regarding early hearing of the matter, learned Single Judge recused from hearing and directed the Registry to list the matter before another Bench for final hearing in due course. Meanwhile, when this matter was under consideration, on 16-01-2025, 17-01-2025, 31-01-2025 and 01-02-2025 Hindi Daily Dainik Bhaskar published news items and referred the fact that when appeals of 1995-96 are pending then why appeal of year 2014 is to be heard out of turn.

6. Being crestfallen by the application moved by the Government Advocate (respondent No.1 herein) in which one affidavit was filed of the said Government Advocate (Brij Mohan Patel) and another affidavit filed was of Anil Raghav (Tahsildar, District Gwalior) in support of application, petitioner moved this contempt petition and they are also made contemnors. Anil Raghav is contemnor in Contempt Petition No.1926 of 2025. Since Hindi Daily News Paper Dainik Bhaskar published some news items which according to petitioner scandalized the Court and lowered its authority, therefore, it amounts to interference with due course of justice. Ergo, this contempt petition is preferred.

7. Learned senior counsel appearing for the petitioner advanced arguments on admission. This Court asked Senior Advocate Shri

Vivek Khedkar (also Additional Advocate General) to assist in the matter. Meanwhile, amendment application was also filed by the petitioner of which reply was preferred by respondent No.1 and contested the case on admission as well as amendment application. Later, Shri MPS Raghuvanshi, Senior Advocate (Former Additional Advocate General) also appeared along with Shri Vivek Khedkar on behalf of respondent No.1 and advanced arguments.

8. Learned senior counsel appearing for the petitioner raised the point that when Government Counsel gave his undertaking on 06-01-2025 about hearing of matter finally at the earliest stage then he had no occasion to file the application for recalling such undertaking. It amounts to casting aspersion over the Court and showing less confidence in the proceedings. When the matter was decided to be heard, moving out of the hearing by moving application amounts to contempt of Court. Counsel for the petitioner referred affidavit filed by the Government Advocate as well as Tahsildar Anil Raghav and tried to point out anomaly contained into it.

9. Learned senior counsel for petitioner also advanced arguments at length on the amendment application. Petitioner also raised the objection over the manner in which respondents No.2 and 3 reported the matter in Hindi Daily News Paper. According to petitioner, it was malicious and amounts to scandalizing the Court proceedings. Therefore, contempt proceeding be initiated.

10. Learned senior counsel for respondent No.1 opposed the prayer and raised the point about maintainability of this contempt petition. According to them, no permission has ever been taken in writing from the office of Advocate General which is required as per Section 15 of the Act of 1971. In absence thereof contempt petition is not

maintainable. They referred judgments of Apex Court in the case of **P.N. Duda Vs. P. Shiv Shanker and others, (1988) 3 SCC 167** and **Bal Thackrey Vs. Harish Pimpalkhute and others, (2005) 1 SCC 254.**

11. It is further submitted that when the matter was listed for final hearing at that time no consent was given for early hearing. Even if it is presumed that consent was given even then that can always be withdrawn by the Government Counsel by making an application. Consideration over the said application is the domain of the Court and therefore, it does not constitute any act attracting any proceeding under the Act of 1971. They prayed for dismissal of this contempt petition.

12. Heard learned counsel for the parties at length and perused the documents appended thereto.

13. This is a case where petitioner is invoking the jurisdiction of this Court under Article 215 of Constitution of India read with Sections 10 and 12 of the Act of 1971 for initiating criminal contempt proceedings against respondents/contemnors.

14. So far as question of maintainability of petition is concerned, this aspect came before the Supreme Court earlier in the case of **P.N. Duda (supra)** and the Apex Court before deciding the question regarding maintainability decided the question whether the speech/act made by the then contemnor of those proceedings amounted to contempt of that Court or not. Said observations are reiterated as under:

> "8. *Before deciding the question whether this application was maintainable without the consent of the Attorney General or the Solicitor General as contended by Dr.*

Chitale on behalf of Shri Shiv Shanker and the question whether the Attorney General and the Solicitor General could be made parties to the contempt application and whether their action or inaction was justiciable at all in any proceeding and if so in what proceedings, it is necessary to decide the basic question whether the speech made by Shri P. Shiv Shankar and published throughout the length and breadth of the country amounted to contempt of this Court, or in other words, whether the speech has the effect of bringing this Court into disrepute."

15. Therefore, taking guidance from such discussion, this Court intends to go into the nature of allegations first on merits.

16. In the present case, petitioner tried to invoke jurisdiction of criminal contempt proceeding against the respondents on the ground that respondent No.1 moved an application for modification of order dated 06-01-2025 passed by learned Single Judge in Second Appeal No.116 of 2014. Perusal of order-sheet indicates that matter was heard on that day on the point of admission. Appeal was admitted on the Substantial Questions of Law (total five in number). In penultimate paragraph, it has been noted that counsel for respondent/State submitted that looking to the old pendency of this appeal, matter should be fixed for final hearing at the earliest stage. Therefore, matter was placed on 15-01-2025. On said day, at the request of Government counsel matter was placed on 16-01-2025.

17. When matter was listed on 16-01-2025 then application was moved for recalling of the order dated 06-01-2025 whereby early hearing was prayed for. It is to be noted that recalling of the order was not in respect of appeal being admitted on Substantial Questions of Law.

Only point for recalling was to withdraw the consent given by Government counsel for early hearing.

18. If Government counsel in any matter moves an application for recalling of any order then he is acting on behalf of his client i.e. State Government and on the basis of instruction application is moved. It cannot be termed as undermining the authority and majesty of the Court in any manner unless contents of the application suggest so. Here, no such pleadings are mentioned in the application which is contemptuous. It appears that Govt. counsel moved this application to dispel motive. Pertinently, learned Single Judge although dismissed the application, but recused from hearing. Learned Judge did not find anything contemptuous.

19. So far as respondents No.2 and 3 are concerned news item dated 16-01-2025 was an information provided regarding hearing of case. News item dated 17-01-2025 also mentions contents of proceedings held in the Court. In the said news item it has been mentioned that on behalf of respondent/State, Additional Advocate General Mr. Vivek Khedkar also appeared and submitted the fact that Government counsel never prayed for early hearing. It was also mentioned in the news item seeking decree of declaration on the basis of bogus decree in the name of judge of District Court who was not posted at the relevant point of time when judgment and decree was passed. So far as news item dated 31-01-2025 is concerned, it also refers the fact that appeals of 1995-96 are pending then why appeal of 2014 is taken out of turn.

20. Perusal of these items indicates that presentation of case in news paper was bit intemperate and being member of the fourth Estate, representation of facts could have been more temperate and in

dignified way but nonetheless it does not constitute contempt of Court. The Apex Court in the case of **P.N. Duda (supra)** discussed in following manner:

> "***9.*** *"Justice is not a cloistered virtue. she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men." - said Lord Atkin in Ambard v. Attorney-General for Trinidad and Tobago. Administration of justice and Judges are open to public criticism and public scrutiny. Judges have their accountability to the society and their accountability must be judged by their conscience and oath of their office, that is, to defend and uphold the Constitution and the laws without fear and favour. This the Judges must do in the light given to them to determine what is right. And again as has been said in the famous speech of Abraham Lincoln in 1965 "With malice towards none, with charity for all, we must strive to do the right, in the light given to us to determine that right." Any criticism about the judicial system or the Judges which hampers the administration of justice or which erodes the faith in the objective approach of Judges and brings administration of justice into ridicule must be prevented. The Contempt of Court proceedings arise out of that attempt. Judgment can be criticised; the motives of the Judges need not be attributed, it brings the administration of justice into deep disrepute. Faith in the administration of justice is one of the pillars through which democratic institution functions and sustains. In the free market place of ideas criticisms about the judicial system*

or Judges should be welcomed, so long as such criticisms do not impair or hamper the administration of justice. This is how Courts should approach the powers vested in them as Judges to punish a person for an alleged contempt, be it by taking notice of the matter suo motu or at the behest of the litigant or a lawyer.

12. *The question of contempt of court by newspaper article criticising the Judges of the Court came up for consideration in the case of Re: S. Mulgaokar. In order to appreciate the controversy in this case it has to be stated that the issue dated 13th December, 1977, of the Indian Express published a news item that the High Courts had reacted very strongly to the suggestion of introducing a code of judicial ethics and propriety and that an adverse has been the criticism that the Supreme Court Judges, some of whom had prepared the draft code, have disowned it. In its issue dated December 21, 1977 an article entitled "behaving like a Judge" was published which inter alia stated that the Supreme Court of India was "packed" by Mrs. Indira Gandhi "with pliant and submissive judges except for a few". It was further stated that the suggestion that a code of ethics should be formulated by Judges themselves was "so utterly inimical to the independence of the judiciary, violative of the Constitutional safeguards in that respect and offensive to the self-respect of the Judges as to make one wonder how it was conceived in the first place". A notice had been issued to the Editor-in-Chief of the Newspaper to showcause why proceedings for contempt*

under Article 129of the Constitution should not be initiated against him in respect of the above two news items.

13. *It was observed by Chief Justice Beg in that decision that national interest required that all criticisms of the judiciary must be strictly rational and sober and proceed from the highest motives without being coloured by any partisan spirit or tactics. This should be apart of national ethics. The comments about Judges of the Supreme Court suggesting that they lack moral courage to the extent of having "disowned" what they had done or in other words, to the extent of uttering what was untrue, at least verge on contempt. None could say that such suggestions would not make Judges of this Court look ridiculous or even unworthy, in the estimation of the public, of the very high office they hold if they could so easily "disown" what they had done after having really done it. It was reiterated that the judiciary can not be immune from criticism. But, when that criticism was based on obvious distortion or gross mis-statement and made in a manner which seems designed to lower respect for the judiciary and destroy public confidence in it, it could not be ignored. A decision on the question whether the discretion to take action for Contempt of Court should be exercised must depend on the totality of facts and circumstances of the case. The Chief Justice agreed with the other two learned Judges in that decision that in those facts the proceedings should be dropped. Krishna Iyer, J. in his judgment observed that the Court should act with seriousness and severity where justice is*

jeopardised by a gross and/or unfounded attack on the Judges, where the attack was calculated to obstruct or destroy the judicial process. The Court must harmonise the constitutional values of free criticism, and the need for a fearless curial process and its presiding functionary, the judge. To criticise a judge fairly albeit fiercely, is no crime but a necessary right. Where freedom of expression subserves public interest in reasonable measure, public justice cannot gag it or manacle it. The Court must avoid confusion between personal protection of a libelled judge and prevention of obstruction of public justice and the community's confidence in that great process. The former is not contempt but latter is, although overlapping spaces abound. The fourth functional canon is that the Fourth Estate should be given free play within responsible limits even when the focus of its critical attention is the court, including the highest court. The fifth normative guideline for the Judges to observe is not to be hypersensitive even where distortions and criticisms overstep the limits, but to deflate vulgar denunciation by dignified bearing, and the sixth consideration is that if the Court considers the attack on the judge or judges scurrilous, offensive, intimidatory or malicious beyond condonable limits, the strong arm of the law must strike a blow on him who challenges the supremacy of the rule of law by fouling its sources and stream."

Therefore, no case for contempt much less criminal contempt is made out against the respondents.

21. When learned Judge himself recused from the proceedings then attempt on the part of petitioner to take the facts further, appears to be mischievous.

22. Now coming to the maintainability of this contempt petition, it appears that petition is not maintainable. The instant contempt petition is filed under Article 215 of the Constitution of India read with Sections 10 and 12 of the Act of 1971.

23. Under the High Court Rules, 2008 Chapter II rule 7, it is contemplated that if a contempt application is filed under Article 215 of the Constitution, it has to be treated as a civil contempt and to be decided in accordance to the procedure contemplated for hearing of a civil contempt. As this is an application filed under Article 215 of the Constitution, therefore, it ought to be registered as a civil contempt in accordance to the High Court Rules.

24. Section 10 of the Act of 1971 is reiterated for ready reference:

> "***10. Power of High Court to punish contempts of subordinate courts.***—*Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself:*
>
> *Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (45 of 1860).*"

25. From perusal of Section 10 of the Act of 1971, it appears that High Court can exercise the same jurisdiction in respect of power of High Court to punish contempt of Courts subordinate to it. Learned Single

Judge is not subordinate to the High Court or its Division Bench. Therefore, Section 10 of the Act of 1971 would not be applicable. Said view is fortified by the judgment of Apex Court in the case of **Roma Sonkar Vs. Madhya Pradesh State Public Service Commission and Anr., AIR Online 2018 SC 267.** Section 12 of the Act of 1971 provides for punishment for contempt of the Court.

26. In prayer clause, petitioner seeks initiation of criminal contempt proceeding against contemnors but under Article 215 of the Constitution of India. Even if petitioner wants to initiate criminal contempt proceeding then as per the judgments of **P.N. Duda (supra), Bal Thackrey (supra), Biman Basu Vs. Kallol Guha Thakurta and another, (2010) 8 SCC 673, Vilas V. Sanghai Vs. Sumermal Mishrimal Bafna and another, (2016) 9 SCC 439**, unless application is moved to the Office of Advocate General and permission is obtained or application was moved before this Court, placing information in his possession before the Court and request the Court to take action, petition was not maintainable. Para 54 of the judgment of Apex Court in the case of **P.N. Duda (supra)** is relevant in this regard, which reads as under:

> "54. *A conjoint perusal of the Act and rules makes it clear that, so far as this Court is concerned, action for contempt may be taken by the Court on its own motion or on the motion of the Attorney General (or Solicitor General) or of any other person with his consent in writing. There is no difficulty where the court or the Attorney-General choose to move in the matter. But when this is not done and a private person desires that such action should be taken, one of three courses is open to him. He may place the information*

in his possession before the Court and request the Court to take action: (vide C.K. Daphtary v. O.P. Gupta and Sarkar V. Misra, he may place the information before the Attorney General and request him to take action; or he may place the information before the Attorney General and request him to permit him to move the Court. In the present case, the petitioner alleges that he has failed in the latter two courses-this will be considered a little later-and has moved this "petition" praying that this Court should take suo motu action. The "petition" at this stage, constitutes nothing more than a mode of laying the relevant information before the Court for such action as the Court may deem fit and no proceedings can commence until and unless the Court considers the information before it and decides to initiate proceedings. Rules 3 and 4 of the Supreme Court (Contempt of Court) Rules also envisage a petition only where the Attorney General or any other person, with his written consent, moves the Court. Rule 5 is clear that only a petition moved under rule 3(b) and (c) is to be posted before the Court for preliminary hearing. The form of a criminal miscellaneous petition styling the informant as the petitioner and certain other persons as respondents is inappropriate for merely lodging the relevant information before the Court under rule 3(a). It would seem that the proper title of such a proceeding should be " In re .. (the alleged contemner)" (see: Kar v. Chief Justice, though that decision related to an appeal from an order of conviction for contempt by the High Court).The form in which this

request has to be sought and considered in such cases has also been touched upon by the Delhi High Court in Anil Kumar Gupta v. K. Subba Rao. This case, at the outset, pointed out that the information had been erroneously numbered by the office of the Court as Criminal original No. 51 of 1978 and concluded with the following observations:

> *"The office is to take note that in future if any information is lodged even in the form of a petition inviting this court to take action under the Contempt of Courts Act or Article 215 of the Constitution, where the information is not one of the persons named in section 15of the said Act, it should not be styled as a petition and should not be placed for admission on the judicial side. Such a petition should be placed before the Chief Justice for orders in chambers and the Chief Justice may decide either by himself or in consultation with the other judges of the court whether to take any cognizance of the information. The office is directed to strike off the information as "Criminal original No. 51 of 1973" and to file it"*

I think that the direction given by the Delhi High Court sets out the proper procedure in such cases and may be adopted, atleast in future, as a practice direction or as a rule, by this Court and other High Courts. However, a petition having been filed and similar petitions having perhaps been entertained earlier in several courts, I do not suggest that this petition should be dismissed on this

ground."

27. Recently, in the case of **Vilas V. Sanghai (supra)** the Apex Court held as under:

> "*15. In the instant case, the alleged criminal contempt was of a subordinate Court and therefore, the action could have been taken on a reference made to the High Court by the subordinate Court or on a Motion made by the Advocate General, but the proceedings had been initiated in pursuance of an application submitted by Respondent No.1. From the record, we do not find that the learned Advocate General had ever given his consent for initiation of the said proceedings.*
>
> *16. Without going into the facts of the case, only on this limited ground that the criminal contempt proceedings had not been initiated as per the provisions of Section 15 of the Act, in our opinion, the proceedings are vitiated and therefore, the impugned order passed by the High Court is neither just nor legal and therefore, we set aside the impugned order."*

28. Even if petitioner moves an application for initiating proceedings for criminal contempt by placing facts allegedly constituting the commission of criminal contempt to the notice of the Court thereafter his role ends. Now it becomes the matter between the Court and Contemnor. The said view is reflected in the judgment of **Biman Basu (supra)**. The relevant discussion reads as under:

> "25. *It is true that any person may move the High Court for initiating proceedings for criminal contempt by placing the facts constituting the commission of criminal contempt to the notice*

of the Court. But once those facts are placed before the Court, it becomes a matter between the Court and the contemnor. But such person filing an application or petition does not become a complainant or petitioner in the proceeding. His duty ends with the facts being placed before the Court. The Court may in appropriate cases in its discretion require the private party or litigant moving the Court to render assistance during the course of the proceedings. In D.N. Taneja Vs. Bhajan Lal this Court observed that

"12. ....A contempt is a matter between the Court and the alleged contemnor. Any person who moves the machinery of the Court for contempt only brings to the notice of the court certain facts constituting contempt of Court. After furnishing such information he may still assist the Court, but it must always be borne in mind that in a contempt proceeding there are only two parties, namely, the Court and the contemnor".

Thus the person bringing the facts constituting contempt to the notice of the Court can never be a party to the lis nor can join the proceedings as a petitioner. Similar is the view taken by this Court in State of Maharashtra V. Mahboob S. Allibhoy.

26. In Om Prakash Jaiswal V. D.K. Mittal, this Court held that:

"17. .....the jurisdiction to initiate proceedings for contempt as also the jurisdiction to punish for contempt in spite of a case of contempt having been made out are both discretionary with the Court. "Contempt generally and criminal contempt certainly is a matter between the Court and the alleged contemnor". No one can compel or demand as of right initiation of proceedings for contempt. Certain principles have emerged."

29. In view of the above discussion, neither petition was maintainable nor it was having trappings of undermining the authority and majesty

of this Court in any manner by any of the respondents. Both the Contempt petitions (Contempt Petition No.1900/2025 and Contempt Petition No.1926/2025) appear to be misconceived, hence, dismissed. All applications stand rejected.

30. *Resultantly*, both the Contempt Petitions stand **dismissed**.

(ANAND PATHAK)
JUDGE

(HIRDESH)
JUDGE

Anil*

ANIL KUMAR CHAURASIYA

Digitally signed by ANIL KUMAR CHAURASIYA
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