

**IN THE HIGH COURT OF MADHYA PRADESH,
JABALPUR**

CON.CR. NO. 03/2015

IN REFERENCE

Vs.

RAVI SHYAMNANI

CONTEMNER PRESENT IN PERSON.

**PRESENT : HON. SHRI R.S.JHA &
HON. MRS. NANDITA DUBEY, JJ.**

**O R D E R
(20-07-2017)**

PER R.S.JHA, J :

The present contempt proceedings have been initiated against the contemner on a reference being made in this regard by the Second Civil Judge Class-II and Judicial Magistrate First Class, Sagar, Dr. (Smt.) Rekha Markam in view of the contemptuous conduct of the contemner during the proceedings of Civil Suit No. 4A/2014 on 22.04.2015. The proceedings were initiated by the aforesaid Judicial Magistrate by suo motu registering an MJC on the same date i.e. 22.04.2015 and while doing so also obtained signatures on the order sheet of Advocates Shri Anshuman Agrawal, Shri Suneet Verma, Shri Kishore Agrawal, Shri Raja Bhaiya Bhatt,

(DW) Shri Pushpendra Ahirwar, Civil Reader Neerja Choubey and Criminal Reader Ku. Anjum Parveen who were present in the Court when the incident occurred. The Magistrate issued notice to the contemner giving him an opportunity to file his reply as to why contempt proceedings be not initiated against him and if he so desired, to appear and record his statements and cross examine the witnesses. The relevant part of the order passed by the Judicial Magistrate First Class, dated 22.04.2015 in the MJC suo-motu registered by her recording reasons for initiating proceedings against the contemner is as follows :

“22.04.2015

आज दिनांक 22.04.2015 को इस न्यायालय में लंबित दीवानी प्रकरण क्र. 04ए/14 में निर्णित ऋणी रवि श्यामनानी ने न्यायालय में समय 03 से 03:15 बजे उपस्थित होकर व्यक्त किया कि उसने पूर्व में तीन-चार न्यायाधीशगण की शिकायतें की हैं, जिनकी शिकायतें लंबित हैं।

निर्णित ऋणी/मद्यून द्वारा क्रोधित व आक्रोशित होकर व्यक्त किया कि लंबी पेशी दी जाये। मद्यून द्वारा कड़े शब्दों में न्यायालय के समक्ष कहा कि आप आदेश पत्रिका में लिखें कि उसके पैर में चोट लगी है, तथा उसे सागर के किसी भी अधिवक्ताओं पर विश्वास नहीं है, इसलिए बाहर का अधिवक्ता नियुक्त करने हेतु समय दिया जाये। इसलिए उसे 20 दिवस का अधिवक्ता नियुक्ति हेतु दिनांक 22.04.2015 से दिनांक 13.05.2015 की तिथि दी गयी। किन्तु वह कहने लगा कि उसे 03-04 महीने की लंबी तारीख दें, उसे अन्य कार्यों से दिल्ली एवं अन्य कई जगह जाना है। मद्यून डिक्रीदार द्वारा आवेशित होकर कहा गया कि यदि न्यायालय द्वारा 03 माह का समय नहीं दिया गया तो मैं इस न्यायालय की भी शिकायत करूंगा और काम करना मुश्किल कर दूंगा एवं आदेश पत्रिका पर हस्ताक्षर नहीं करूंगा। उसके पैर में लगी चोट के संबंध में देखने पर कोई चोट नहीं

नजर आ रही थी, ना ही उसके द्वारा उसके पैर की चोट के संबंध में कोई चिकित्सीय दस्तावेज दिखाये गये तथा देखने से रवि श्यामनानी म्दयून अच्छी तरह से खड़ा था एवं अच्छी तरह से चलकर न्यायालय के अंदर आया था एवं न्यायालय के बाहर गया था।

म्दयून द्वारा बंद लिफाफा अधिवक्तागण श्री अंशुमान अग्रवाल, श्री सुनीत वर्मा, श्री किशोर अग्रवाल, श्री राजा भैया भट्ट, डी.डब्लू पुष्पेन्द्र अहिरवार एवं सिविल रीडर नीरजा चौबे, क्रिमीनल रीडर कु. अंजुम परवीन, भृत्य श्रीमती अंजू शुक्ला के समक्ष दिया जाने लगा। इसलिए उसे कहा गया कि वह लिफाफा खोलकर डिक्रीधारी को उसके अंदर रखे दस्तावेज जो प्रकरण से संबंधित है, उनकी प्रति देने के पश्चात् आवेदन सहित प्रोसेस से दस्तावेज पेश करे, तो उसके द्वारा कहा गया कि इसके अंदर दस्तावेज नहीं है, बल्कि आप से पूर्व 03 न्यायाधीशों की शिकायते हैं और उसका व्यवहार इतना आक्रोष्ट और बुरा था कि न्यायालय तथा न्यायालय में उपस्थित अधिवक्ता और स्टॉफ के समझाने पर वह यही कहता रहा कि तीन महीने की तारीख दे, तीन महीने की तारीख नही दी तो मैं रजिस्ट्रार के पास जाकर आपकी शिकायत करूंगा तथा उसके द्वारा कहा गया कि पूर्व पीठासीन अधिकारी द्वारा जब पूर्व के 03 न्यायाधीश मेरी दुकान खाली नहीं करा सके तो यह न्यायालय उसके निष्पादन की कार्यवाही कैसे कर सकता है और न्यायालय की अन्य कार्यवाही नहीं करने दे रहा था और जोर-जोर से अमर्यादित शब्द बोल रहा था। इस कारण से न्यायालय की सभी कार्यवाही स्थगित रही।

रवि श्यामनानी के उक्त कृत्य के कारण उसके विरुद्ध न्यायालय की अवमानना अधिनियम के तहत एम.जे.सी. प्रकरण पंजीबद्ध किया गया।”

2. The contemner did not appear personally but filed a written reply and, therefore, the Judicial Magistrate on the basis of the statements of the aforementioned persons who were present in Court and on finding the reply filed by the contemner to be unsatisfactory held that the conduct of the applicant amounted to a criminal contempt and, accordingly, by recording the aforesaid conclusion in her order dated 08-06-2015

forwarded the matter to the High Court for initiating contempt proceedings against him. The reference was sent by the JMFC, Sagar on 12.08.2015 and was forwarded by the District Judge, Sagar to this Court by his memo dated 17.08.2015 pursuant to which notices were issued to the contemner by this Court on 23.09.2015.

3. It is pertinent to note that while framing charges against the contemner we have already considered the aforesaid facts to reject his contention that the reference was barred by limitation and we find support for the view taken by us from the decision of the Supreme Court rendered in the case of **Pallav Sheth Vs. Custodian**, (2001) 7 SCC 549.

4. Order sheets of this Court indicate that after receiving notice the contemner appeared before this Court in person and filed a detailed reply alongwith documents and thereafter again sought time to file additional replies which have subsequently been filed by him by I.A.No. 21552/2016 as well as I.A.No. 2990/2017. The record and the order sheets also indicate that the contemner had also filed I.A.No. 21286/2016 seeking permission to disengage his

advocates, Shri D.C.Malik and Ms. Swati Sharma who had been engaged by him and to argue the matter in person which was allowed by this Court on 19.01.2017. The order sheets further indicate that since then the contemner has been appearing and arguing his case in person throughout and inspite of having executed bonds to appear before this Court did not do so on two occasions in respect of which initially bailable warrants were issued against him and thereafter non-bailable warrants of arrest were also issued to secure his presence.

5. The record of the reference proceedings further establishes that there is a decree of eviction against the contemner and that the courts below are in fact dealing with the issue of execution of that order and that whenever the matter came up before the court, the contemner with a view to prolong the proceedings intimidated the Judge dealing with the matter by not just threatening to file complaints against him but in fact filing false complaints against the Judge dealing with the same. According to the contemner himself he filed complaints against four Judges dealing with his case one after the other, namely, Shri Praveen Patel,

Judicial Magistrate First Class, Sagar, Shri V. K.Tiwari, Second Civil Judge Class-II, Sagar, Smt. Neelima Gajrakar, First Civil Judge Class-II, Sagar and lastly, Dr. (Smt.) Rekha Markam, Second Civil Judge Class-II and JMFC, Sagar and that the last Judge, Smt. Rekha Markam ultimately referred the matter by initiating contempt proceedings against the contemner.

6. It is also evident from a perusal of the record that after issuance of notice to the contemner by this Court he filed a reply before this Court in which he adopted the same tactics and made unsubstantiated, unwarranted and false allegations against Hon'ble the Chief Justice, Shri A.M.Khanwilkar, Hon'ble Shri Justice C.V.Sirpurkar, Hon'ble Shri Justice Sanjay Yadav and Hon'ble Shri Justice S.K.Gangele to the effect that they had conspired against him with a view to prevent him from obtaining certified copies of the documents and that he would be filing complaints as well as RTI applications against them.

7. In such circumstances, in view of the conduct of the contemner before the JMFC at Sagar which was referred to this Court and in view of the reply filed by the contemner making false allegations against the

Hon'ble Chief Justice and several Hon'ble sitting Judges of this Court, charges were framed against the contemner on 09.02.2017 as it was found that the act and conduct of the contemner before the Second Civil Judge Class-II, Sagar as well as the making of absolutely false and malicious allegations against the Hon'ble Chief Justice and several Hon'ble sitting Judges of this Court, both amounted to a criminal contempt. This Court thereafter gave several opportunities to the contemner to argue and put up his defence in respect of the charges framed against him.

8. Apparently, the contemner did not improve or mend his ways inspite of the framing of charge no.2 against him in respect of the allegations made by him against sitting Judges of this Court and again with a view to undermine and lower the authority of this Court and with a deliberate attempt to interfere with the due course of justice and judicial proceedings and to prevent and obstruct the Court from proceeding further against him, has filed I.A.No. 11794/2017 making totally unsubstantiated, false and malicious allegations against the Judges who framed charges against him and one other Judge. The contents of I.A.No. 11794/2017 which

are material to indicate the conduct of the contemner,
are reproduced for ready reference as under :

“यह कि, Applicant रवि श्यामनानी द्वारा दिनांक 08.06.17 को आई.ए.नं. 11499/17 द्वारा आवेदन पत्र वास्ते आदेश दिनांक 30.03.2017 एवं आदेश दिनांक 27.04.2017 एवं आदेश दिनांक 11.05.2017 को निरस्त करने/एवं पुर्नपुकार करने के लिये आवेदन पत्र प्रस्तुत है एवं सुरक्षा एवं अन्य कानून एवं नियमानुसार न्यायालय जो उचित समझसे उसके लिये आवेदन पत्र प्रस्तुत किया गया है।

यह कि, आवेदक रवि श्यामनानी द्वारा दिनांक 08.06.2017 को दो आई.ए. नं. 11528/2017 आवेदन अन्तर्गत ग्रीष्म कालीन अवकाश में अर्जेन्ट सुनवाई हेतु एवं आई.ए. नं. 11527/17 ग्रीष्म कालीन अवकाश में सुनवाई करने हेतु एवं 14.06.2017 को कोर्ट स्लिप माननीय न्यायालय में डाली गई, परंतु दिनांक 15.06.2017 को माननीय डबल बेंच में उपस्थित हुआ परंतु कोर्ट स्लिप में सुनवाई न हो सकी।

यह कि माननीय (1). मान. न्यायाधीश रविशंकर झा, एवं (2). माननीय न्यायाधीश एच.पी.सिंह, (3) मान. श्री मनोहर मनतानी रजिस्ट्रार जनरल म.प्र. उच्च न्यायालय, (4) रजिस्ट्रार/पी.आई.ओ. आर.टी.आई. 2005 म.प्र. उच्च न्यायालय जबलपुर, (5) एस.पी. श्री सचिन, पुलिस अधीक्षक सागर जिला सागर म.प्र. (6) थाना प्रभारी सिविल लाईन समस्त थाना सिविल लाईन एवं राजेश प्रशांत रावत रविशुक्ला व अन्य सिविल लाईन थाना 470001 म.प्र.ग की सभी को शिकायतें रवि श्यामनानी एवं उसकी माता श्रीमती कविता श्यामनानी शिकायत मुख्य रूप से सभी आपस में डायरेक्ट, इन्डायरेक्ट रूप से मिलीभगत/समूह/ अलग तरीके/अलग अलग तरह से साजिश, षडयंत्र, प्रताड़ित, धमकियां एवं बहुत बड़ चकव्यूह रच रहे हैं। अन्य के अलावा वर्तमान में सभी से जान का खतरा है एवं अन्य खतरे भी हैं, एवं रवि श्यामनानी एवं श्रीमती कविता श्यामनानी को जान खतरा है, अगर रवि श्यामनानी एवं कविता श्यामनानी की जान जाती है तो प्रकरण CONCR/03/15 को दस्तावेजों की जांच में शामिल लोगों एवं 6 लोग जिम्मेदार माने जायें इन सभी शिकायत रवि श्यामनानी एवं श्रीमती कविता श्यामनानी ने शिकायत एवं आवेदन

क्रं. LIFE/0/30/2017. को दिनांक 01.02.2017 से रजिस्टर्ड डाक द्वारा क्रमशः माननीय 1. मान. राष्ट्रपति भारत सरकार, 2. मान. उपराष्ट्रपति राज्य सभा., 3. माननीय लोकसभा अध्यक्ष भारत सरकार, 4-ए मान. चीफ जस्टिस सुप्रीम कोर्ट ऑफ इंडिया, 4 बी-माननीय चीफ जस्टिस म.प्र. हाई कोर्ट जबलपुर म.प्र., 5-प्रधानमंत्री भारत सरकार, 6 गृह मंत्रालय भारत सरकार भोपाल, 7. मान. राज्यपाल म.प्र. को रजिस्टर्ड डाक द्वारा शिकायत की गई है।

इस संबंध में स्व हस्ताक्षरित दस्तावेज आवेदन क्रं. LIFE/0/30/2017 एवं रजिस्टर्ड डाक रसीदों की कापी संलग्न है, जो कि, बी-1 से बी-7 तक है।

यह कि, माननीय न्यायाधीश माननीय न्यायाधीश रविशंकर झा एवं माननीय न्यायाधीश एच.पी. सिंग एवं माननीय न्यायाधीश अशोक कुमार जोशी पर हमें एक प्रतिशत विश्वास नहीं है कि हमें न्याय व किसी तरह की रिलीफ मिलने की उम्मीद नहीं है एवं प्रकृतिक न्याय निष्पक्ष सुनवाई सुरक्षा आदि के कारण हमारा प्रकरण Concr. 03/2015 को आज दिनांक के बाद माननीय न्यायाधीश माननीय न्यायाधीश रविशंकर झा एवं माननीय न्यायाधीश एच.पी. सिंग एवं माननीय न्यायाधीश अशोक कुमार जोशी आदि के द्वारा प्रकरण में सुनवाई न की जाये एवं न ही लिस्ट किया जाये। एवं किसी कारण प्रकरण लिस्ट हो जाये तो प्रकरण को किसी अन्य सीनियर निष्पक्ष डबल बेंच में प्रकरण का ट्रांसफर किया जाये।

यह कि माननीय न्यायाधीश रविशंकर झा एवं माननीय न्यायाधीश एच.पी.सिंग मुख्य रूप से इन्हें की शिकायत की गई है, एवं शिकायतों जब तक कम्पलीट रिकार्ड की जांच न हो जाये एवं यह सभी आरोपी से बरी न हो जाये तब तक दोनो माननीय न्यायाधीश रविशंकर झा एवं माननीय न्यायाधीश एच.पी.सिंग प्रकरण में सुनवाई न करें। जिससे कि निष्पक्ष सुनवाई एवं प्रार्कृतिक न्याय आवेदक को मिल सके, ऐसा विनम्र अनुरोध है।

यह कि, प्रकरण किसी कारण माननीय न्यायाधीश रविशंकर झा एवं माननीय न्यायाधीश एच.पी.सिंग एवं माननीय न्यायाधीश अशोक कुमार जोशी अगर इनके यहां सुनवाई के लगा तो तब आवेदक रवि श्यामानानी को पेशी में छूट प्रदान की जाये।”

9. In the peculiar circumstances created by the contemner, hypothetically even if, one of us (R.S.Jha, J.) may have thought of recusing himself for personal reasons from hearing the case, however, in view of the history of the case and the facts narrated by us in the previous paragraphs, it is apparent that even considering such a course would in fact abet and make the contemner successful in his attempt to defer hearing of the case and avoid hearing before a particular Judge and would encourage him in making such further attempts by filing false and malicious applications against other Judges as he would be emboldened by the success of his attempt. We therefore reject I.A. No. 11794/2017.

10. We have stated the aforesaid facts in the preceding paragraphs only to indicate and enumerate that the conduct of the contemner before the courts below as well as before this Court has been extremely obnoxious and that the contemner is in the habit of filing totally false, baseless and malicious applications against the Judges who hear his case or are likely to hear his case having been emboldened by the success of his first attempt in obtaining adjournment by doing so before Shri Praveen Patel, JMFC, Sagar before whom

his case was listed for hearing at first and that the contemner having been successful in doing so did not hesitate and in fact deliberately adopted the same tactics before the other Judges as well as before this Court by making similar false and malicious allegations against the Judges of this Court.

11. Though normally we would have recorded a detailed and elaborate finding in respect of the charges against the contemner as well as in respect of the allegations made by him in I.A.No. 11794/2017 which have been reproduced above, however, when the matter was taken up today, the contemner has repeatedly admitted his guilt in respect of the deliberate attempt on his part to malign the integrity and honesty of the Judges of the court below as well as of this Court and has also tendered unconditional apology by filing an affidavit alongwith a covering memo dated 07.07.2017 and, therefore, in view of the repeated admission of guilt and the prayer for accepting the unconditional apology made by the contemner before this Court today, we find the charges of criminal contempt against the contemner to be proved and record a finding to that effect accordingly.

12. Having done so, we now proceed to consider the prayer of the contemner for accepting the unconditional apology at this belated stage and of pardoning him.

13. At the very outset we would like to clarify and emphasize that this Court is perfectly aware and extremely conscious of the manner, extent and meticulous approach that this Court is required to keep in mind while exercising the powers to punish for contempt that have been conferred upon this Court under Article 215 of the Constitution of India and Section 12(1) of the Contempt of Courts Act 1971. Punishing a person for contempt is not a routine matter and is resorted to in cases where the person leaves the Court with no other option. At the same time we are also conscious of our onerous inherent duty to uphold the dignity and authority of this Court and to ensure that no person who deliberately and maliciously tarnishes and destroys the image of the Court and resorts to derogatory and disparaging language and conduct which scandalizes and lowers the authority of the Court and interferes with the due course of judicial proceedings and the administration of justice goes scot free by tendering a false and remorseless apology and

is duly punished for such acts of criminal contempt.

14. We are also conscious of the settled law that the unconditional apology of a person who has been found guilty of having committed criminal contempt of court can be accepted only when the same is genuine and bona fide and is actually tendered with remorse genuine regret and repentance and has been made by the contemner on having realized his mistake during the course of hearing and, therefore, an unconditional apology tendered by a contemner cannot be routinely accepted specially in a case where it has been made as a tool and a calculated strategy to avoid punishment which has become inevitable, in other words, it is artificial and only a “paper apology”.

15. The Supreme Court in the case of **L.D.Jaikwal Vs. State of U.P.** (1984) 3 SCC 405, has held that the Courts while dealing with contempt cases have to be cautious in not succumbing to the theory of “**slap, say sorry and forget**”. The Supreme Court in several cases has clearly laid down that an apology tendered in contempt cases is not to be accepted as a matter of course and if such an apology is tendered, the Court is not bound to accept the same specially in cases where

the contemner has deliberately used insulting and sacrilegious language and the subsequent apology is not genuine and lacks genuine repentance, regret and penitence specifically in the cases of **M.Y. Sharif Vs. Hon'ble Judges of Nagpur High Court and others**, AIR 1955 S.C. 19, **Baradakanta Mishra Vs. Registrar of Orissa High Court** (1974) 1 SCC 374, **Patel Rajnikant Dhulabhai Vs. Patel Chandrakant Dhulabhai** (2008) 14 SCC 561 and **Vishram Singh Raghubanshi Vs. State of U.P.** (2011) 7 SCC 776.

16. In the case of **Bal Kishan Giri Vs. State of Uttar Pradesh** (2014) 7 SCC 280, the law in this regard has been laid down by the Supreme Court in the following terms :-

“12. This Court in *M.B. Sanghi, Advocate v. High Court of Punjab and Haryana & Ors.*, AIR 1991 SC 1834, while examining a similar case observed :

“2.The foundation of judicial system which is based on the independence and impartiality of those who man it will be shaken if disparaging and derogatory remarks are made against the presiding judicial officers with impunity. It is high time that we realise that the much cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are an integral part of the system. An independent judiciary is of vital

importance to any free society”.

13. In *Asharam M. Jain v. A.T. Gupta & Ors.* AIR 1983 SC 1151, while dealing with the issue, this Court observed as under:

“3.The strains and mortification of litigation cannot be allowed to lead litigants to tarnish, terrorise and destroy the system of administration of justice by vilification of judges. It is not that judges need be protected; judges may well take care of themselves. It is the right and interest of the public in the due administration of justice that has to be protected.”

14. In *Jennison v. Baker* [1972] 1 All E.R. 997, 1006, it was observed:

“.....The law should not be seen to sit by limply, while those who defy it go free, and those who seek its protection lose hope”

15. The appellant has tendered an absolute and unconditional apology which has not been accepted by the High Court. The apology means a regretful acknowledge or excuse for failure. An explanation offered to a person affected by one’s action that no offence was intended, coupled with the expression of regret for any that may have been given. Apology should be unquestionable in sincerity. It should be tempered with a sense of genuine remorse and repentance, and not a calculated strategy to avoid punishment.

16. Sub-section (1) of Section 12 of the Act and Explanation attached thereto enables the court to

remit the punishment awarded for committing the contempt of court on apology being made to the satisfaction of the court. However, an apology should not be rejected merely on the ground that it is qualified or tempered at a belated stage if the accused makes it bona fide. A conduct which abuses and makes a mockery of the judicial process of the court is to be dealt with iron hands and no person can tinker with it to prevent, prejudice, obstructed or interfere with the administration of justice. There can be cases where the wisdom of rendering an apology dawns only at a later stage. Undoubtedly, an apology cannot be a defence, a justification, or an appropriate punishment for an act which tantamounts to contempt of court. An apology can be accepted in case where the conduct for which the apology is given is such that it can be "ignored without compromising the dignity of the court", or it is intended to be the evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow; there is no remorse; no regret; no repentance, or if it is only a device to escape the rigour of the law. Such an apology can merely be termed as "paper apology".

17. *In L.D. Jaikwal v. State of U.P.*, AIR 1984 SC 1374, this court noted that it cannot subscribe to the 'slap-say sorry- and forget' school of thought in administration of contempt jurisprudence. Saying 'sorry' does not make the slapper poorer. (See also: *T.N. Godavarman Thirumulpad v. Ashok Khot & Anr.*, AIR 2006 SC 2007) So an apology should not be "paper apology" and expression of

sorrow should come from the heart and not from the pen; for it is one thing to 'say' sorry, it is another to 'feel' sorry.

18. An apology for criminal contempt of court must be offered at the earliest since a belated apology hardly shows the “contrition which is the essence of the purging of contempt”. Of course, an apology must be offered and that too clearly and at the earliest opportunity. However, even if the apology is not belated but the court finds it to be without real contrition and remorse, and finds that it was merely tendered as a weapon of defence, the Court may refuse to accept it. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment, it ceases to be an apology and becomes an act of a cringing coward. (Vide: *Debabrata Bandopadhyay & Ors. v. The State of West Bengal & Anr.*, AIR 1969 SC 189; *Mulkh Raj v. The State of Punjab*, AIR 1972 SC 1197; *The Secretary, Hailakandi Bar Association v. State of Assam & Anr.*, AIR 1996 SC 1925; *C. Elumalai & Ors. v. A.G.L. Irudayaraj & Anr.*, AIR 2009 SC 2214; and *Ranveer Yadav v. State of Bihar*, (2010) 11 SCC 493).

19. This Court has clearly laid down that an apology tendered is not to be accepted as a matter of course and the Court is not bound to accept the same. The court is competent to reject the apology and impose the punishment recording reasons for the same. The use of insulting language does not absolve the contemnor on any

count whatsoever. If the words are calculated and clearly intended to cause any insult, an apology, if tendered and lack penitence, regret or contrition, does not deserve to be accepted. (Vide: *Shri Baradakanta Mishra v. Registrar of Orissa High Court & Anr.*, AIR 1974 SC 710; *The Bar Council of Maharashtra v. M.V. Dabholkar etc.*, AIR 1976 SC 242; *Asharam M. Jain v. A.T. Gupta & Ors.*, AIR 1983 SC 1151; *Mohd. Zahir Khan v. Vijai Singh & Ors.*, AIR 1992 SC 642; In Re: *Sanjiv Datta*, (1995) 3 SCC 619; *Patel Rajnikant Dhulabhai & Ors. v. Patel Chandrakant Dhulabhai & Ors.*, AIR 2008 SC 3016; and *Vishram Singh Raghubanshi v. State of U.P.*, AIR 2011 SC 2275).

20. That the power to punish for contempt is a rare species of judicial power which is by the very nature calls for exercise with great care and caution. Such power ought to be exercised only where "silence is no longer an option." (See: In re: *S. Mulgaokar* AIR 1978 SC 727; *H.G. Rangangoud v. M/s State Trading Corporation of India Ltd. & Ors.*, AIR 2012 SC 490; *Maninderjit Singh Bittav. Union of India & Ors.*, (2012) 1 SCC 273; *T.C. Gupta & Anr. v. Hari Om Prakash & Ors.*, (2013) 10 SCC 658; and *Arun Kumar Yadav v. State of U.P. through District Judge*, (2013) 14 SCC 127) Power of courts to punish for contempt is to secure public respect and confidence in judicial process. Thus, it is a necessary incident to every court of justice.

21. Being a member of the Bar, it was his duty not to demean and disgrace the majesty of justice dispensed by a court of law. It is a case where

insinuation of bias and predetermined mind has been leveled by a practicing lawyer against three judges of the High Court. Such casting of bald, oblique, unsubstantiated aspersions against the judges of High Court not only causes agony and anguish to the judges concerned but also shakes the confidence of the public in the judiciary in its function of dispensation of justice. The judicial process is based on probity, fairness and impartiality which is unimpeachable. Such an act especially by members of Bar who are another cog in the wheel of justice is highly reprehensible and deeply regretted. Absence of motivation is no excuse.”

17. Similar view has been taken by the Supreme Court in the cases of **Amit Chanchal Jha Vs. Registrar, High Court of Delhi**, (2015) 13 SCC 288, **Mahipal Singh Rana, Advocate Vs. State of Uttar Pradesh**, (2016) 8 SCC 335 and **Hetram Beniwal and others Vs. Raghuveer Singh and others**, (2017) 4 SCC 340.

18. In the light of the aforesaid law laid down by the Supreme Court we proceed to consider the question as to whether the unconditional apology tendered by the contemner is genuine, contrite and filled with penitence and remorse and has been made at the earliest possible instance and, therefore, can be accepted

without compromising the dignity of the Court or is bona fide and does not fall within the category of **“slap, say sorry and forget”**.

19. In the instant case though the contemner has repeatedly admitted his guilt and has also repeatedly tendered an unconditional apology during the course of hearing, however, at the same time he has stated that the entire case initiated against him and referred to this Court is false as the order sheet passed by Smt. Rekha Markam, Judicial Magistrate on 22.04.2015 was written in the hand of the Reader and was signed only by two persons, whereas the copy of the order passed by the aforesaid Magistrate, Smt. Rekha Markam on 22.04.2015 which has been supplied to him in the present contempt proceedings, is totally different and is signed by eight persons. He submits that as the two order sheets that have been obtained by him; one which is the certified copy of the order passed by Smt. Rekha Markam, Judicial Magistrate in the proceedings on 22.04.2015 and the other which is the order passed by the same Judge of the same date that has been supplied to him along with the contempt proceedings are different, therefore, the entire case against him is a

false one and has been fabricated by the Judge concerned to implicate him and, therefore, his apology be accepted and he be discharged.

20. We have carefully perused the aforesaid two order sheets. From a perusal of the same, it is apparent that the contention of the contemner is absolutely incorrect. The first order dated 22.04.2015 is written in the hand of the Reader and is the order passed in the court proceedings by Smt. Rekha Markam, Judicial Magistrate in Execution Case/Civil Suit No.04-A/14 and records the proceedings and the incidence of contempt committed by the contemner in the Court during the same. The other order which has been supplied to the contemner by this Court is of the same date i.e. 22.04.2015 and has been passed by the same Judge by suo motu registering a separate miscellaneous judicial case (M.J.C.), for making a reference for initiating contempt proceedings against the contemner by recording the incidence that occurred on 22.04.2015 during the hearing of Civil Suit No.04-A/14 in the presence of the Advocates and others who were present in the Court at the time when the incident occurred and is, therefore, signed by four Advocates and the other persons who

were witnesses to the same.

21. In the circumstances, the contention of the contemner that a false order sheet of the same date has been fabricated against him with a view to implicate him and initiate false proceedings against him is patently and apparently incorrect and false. Moreso as the contemner, in his own detailed reply filed before the Magistrate as well as before this Court, has not denied the occurrence and on the contrary has admitted his guilt before this Court whereafter he is trying to shift the blame on the Magistrate.

22. In the facts of the instant case it is also apparent that though the contemner was made aware of the fact that his conduct of making false, frivolous and malicious allegations against the Judges hearing his case amounts to contempt, the contemner instead of showing contrition, repentance and remorse continued to commit such acts of criminal contempt even before this Court during these contempt proceedings by firstly making false and malicious allegations against the Hon'ble Chief Justice and several other Judges of this Court regarding preventing him from obtaining certified copies and threatening filing of complaints against them

for which Charge No. 2 was framed against him and thereafter again by filing I.A.No. 11794/2017 and it is only after the contemner realized during the course of hearing him that this Court was going to hold him guilty of having committed criminal contempt of the Court and punish him that he has filed the affidavit and has repeatedly admitted his guilt orally during the proceedings today and has also repeatedly tendered an unconditional apology praying for being exonerated.

23. In view of conduct of the contemner, it is also apparent that the affidavit praying for unconditional apology filed by the contemner is neither genuine nor true; and has been filed only with a view to obstruct and prevent the Court from proceeding further against him and to avoid punishment. We are, therefore, of the considered opinion that the conduct of a person like the contemner who is in the habit of making false scandalous and baseless allegations against Judges who deal with his case and to threaten and intimidate the Court with a view to interfere and impede in the due course of justice, cannot be condoned or overlooked.

24. In the backdrop of the facts of the present case we are of the considered opinion that the apology tendered

by the contemner cannot be accepted as that would result into compromising the dignity of this Court and would encourage persons like the contemner to happily adopt the “slap, say sorry and forget” practice. The conduct of the contemner also indicates that the apology has been tendered by him at the last stage after realizing that the Court was going to impose punishment upon him and is, therefore, neither genuine or real and does not show even an iota of genuine remorse contrition and repentance. It is merely a strategy adopted by the contemner to avoid punishment. If we accept such a false “paper apology” it would shake the public confidence in the judicial system and would also result in erosion and lowering of the dignity and authority of the Court as well as the judicial system in the eyes of the public at large. As we have held that the act of the contemner is deliberate and amounts to scandalizing and lowering the authority of the Court and amounts to obstruct in the administration of justice, we refuse to accept the unconditional apology tendered by the contemner.

25. In the circumstances, we find that the present case is a fit case for punishing the contemner for committing

contempt of the Court and we do not find any reason or justification to accept the false and artificial apology submitted by him and to let a person like him who is in the habit of making baseless allegation against the Judges to go scot-free by a simple apology which is even otherwise is not genuine and is only a “paper apology”. In view of the aforesaid facts we are of the considered opinion that we would in fact be shirking and failing in the pious and onerous duty bestowed upon us if we accept the apology of the contemner.

26. We have also deliberately and consciously applied our mind to the quantum of punishment that is required to be imposed upon the contemner. From a perusal of the facts enumerated by us in the preceding paragraphs it is evident that the contemner was and is in the habit of filing false and frivolous complaints against the judges and deliberately and mischevously adopted such a practice to routinely obtain adjournments of his cases and to intimidate and threaten the Judges from proceeding against him. In other words he is in the habit of scandalizing the Courts and interfering with and obstructing the due course of justice and the administration of justice.

27. We have also taken note of the fact that after the reference was made to this Court, the contemner adopted the same tactics before this Court although he was informed and told on several occasions that filing such applications against the Judges amounted to criminal contempt specially at the time of framing charges against him inspite of which the contemner, instead of realizing his mistake and tendering an apology at that stage itself, proceeded to file repeated applications making fresh allegations against Judges including I.A. No. 11794/2017 and it is only when he realized that this Court was about to hold him guilty of criminal contempt and punish him that he has admitted his guilt and tendered apology. Taking all these aspects into consideration we have already held in the preceding paragraphs that the apology is neither genuine nor sincere and a mere paper apology made only with a view to escape the punishment that is going to be imposed upon him.

28. In such circumstances, we are of the considered opinion that in case we do not impose the maximum punishment upon the contemner as there can be no higher degree of contempt than one that he has

committed, we would be giving a wrong message to persons like the contemner who are making working of the lower courts practicably impossible and extremely taxing for the judges of the lower judiciary all over the State as well as for the Judges who are sitting and performing their sincere and honest duties in this Court and therefore we are of the considered opinion that the contemner deserves to be accorded maximum punishment under Section 12 (1) of the Contempt of Courts Act 1971.

29. The contemner has been arrested and produced before this Court on account of the fact that inspite of executing a bond for his appearance before this Court on 30-03-2017, he jumped bail and did not appear before this Court on account of which, initially aailable warrant of arrest was issued and thereafter a non-ailable warrant of arrest was issued for his production before this Court. The Report submitted by the police indicates that the contemner was absconding and could not be traced inspite of serious efforts made by the Police at Sagar, Bhopal and other cities of M.P. The report states that the contemner was ultimately arrested on 25-06-2017 at Sagar and he has now been

produced before this Court.

30. In the circumstances, the contemner is punished with **simple imprisonment for six months** and **with fine of Rs.2,000/-** (Rupees two thousand) with a further stipulation that in case of default he shall undergo a further sentence of fifteen days. It is clarified that the period that the contemner has remained in jail after his arrest, shall be adjusted in and treated as part of the period of punishment.

31. Let a copy of this order be transmitted to the police authorities at Sagar as well as the concerned Jail Authorities for taking the necessary steps and for ensuring compliance.

In view of the aforesaid this contempt petition stands disposed of.

(R.S.JHA)
J U D G E

(MRS. NANDITA DUBEY)
J U D G E

mct

**IN THE HIGH COURT OF MADHYA PRADESH,
JABALPUR**

CON.CR. NO. 03/2015

IN REFERENCE

Vs.

RAVI SHYAMNANI

DATE OF ORDER 20-07-2017

**BENCH CONSTITUTED OF HON. SHRI R.S.JHA &
HON. MRS. NANDITA DUBEY, JJ.**

**JUDGEMENT DELIVERED BY HON'BLE JUSTICE SHRI
R. S .JHA.**

APPROVED FOR REPORTING

CONTEMNER PRESENT IN PERSON.

SIGNIFICANT PARAGRAPHS 24 TO 30.