IN THE HIGH COURT OF MADHYA PRADESH
A T J A B A L P U R

BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE VISHAL MISHRA

CONTEMPT PETITION (CRIMINAL) No.3 of 2024

BETWEEN:-

IN REFERENCE

.... PETITIONER

AND

BHARAT SEN S/O RAMSEWAK SEN, ADVOCATE AGED 45 YEARS, R/O BILGAIYA WARD, BINA DISTRICT SAGAR (MADHYA PRADESH)

.... RESPONDENT

(PARTY-IN-PERSON)

CONTEMPT PETITION (CRIMINAL) No.10 of 2024

BETWEEN:-

IN REFERENCE

.... PETITIONER

AND

BHARAT SEN S/O RAMSEWAK SEN, ADVOCATE AGED 45 YEARS, R/O BILGAIYA WARD, BINA DISTRICT SAGAR (MADHYA PRADESH)

.... RESPONDENT

(PARTY-IN-PERSON)

Reserved on : 06.03.2024

Pronounced on : 26.04.2024

These contempt petitions (criminal) having been heard and reserved for orders, ***Hon'ble Shri Justice Vishal Mishra*** *pronounced the following:*

ORDER

Both these contempt petitions (criminal) have arisen out of the two references, one sent by II[nd] Additional Sessions Judge, Bina District Sagar and another by Civil Judge Senior Division Bina District Sagar, under Section 15(2) of the Contempt of Courts Act, 1971 through Principal District and Sessions Judge, Sagar for registration of criminal contempt against respondent/contemnor Bharat Sen as he has committed contempt of the court by making indecent comments on Presiding Officers and their family members as well as other judicial officers, employees etc.

2. The allegations as contained in Concr No.3 of 2024, in substance, are that review petition being RP No.23 of 2019 (Bharat Sen vs Subrat Rai) was pending in the court of Shri Manish Lovanshi, II[nd] Additional Sessions Judge, Bina District Sagar and was listed on 14.06.2023 for submitting the arguments. On that date, the contemnor has appeared and submitted an application mentioning that the Presiding Officer has committed crime by not following the written order dated 27.03.2023 passed by his predecessor Shri Anil Chouhan and levelled serious allegations against the working and conduct of the court by shouting loudly that he wanted to see Shri Subrat Rai appearing in the court and

since the Presiding Officer is not taking it seriously or not doing anything, hence if Shri Subrat Rai does not appear and if he is not brought before the court, the contemnor will set ablaze himself by pouring petrol as he is not afraid of anyone, not even police, and he is also not afraid of being sent to jail, further saying that he will also make complaints in the High Court and Supreme Court about the working and conduct of the Presiding Officer. When this incident took place, there were several advocates and judicial staff present. The contemnor by giving intimidation of setting himself ablaze by pouring petrol, has interfered with the proceedings of the court. The contemnor has said to the Presiding Officer that he is like a criminal sitting in the chair of a Judge and after some time, the Presiding Officer along with wife and children will become poor and will be sent to jail and even no advocate and Judge will save him. He even went to the extent of saying that even the 1st Additional Sessions Judge Shri Nirmal Mandoria has no power to save the Presiding Officer. The contemnor would get one thousand copies of the application printed and get it made viral on the social media and the public would take him to the Gandhi Tiraha, Bina by dragging him and thereafter, the police would arrest him, from where he would be sent to jail and thus even making various allegations against the other Judges and staff and even advocates, the contemnor has interfered with the judicial functioning of the court and thus lowering down the reputation of the court thereby committing criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971. Thereafter, the Presiding Officer wrote down the last order sheet dated 14.06.2023 and came to the conclusion that the contemnor has

committed criminal contempt which is punishable under Section 12 of the Act of 1971. Though no notice was issued to the contemnor, a reference has been sent to this Court through Principal District and Sessions Judge, Sagar requesting to initiate contempt of court proceedings against him.

3. The allegations as contained in Concr No.10 of 2024, in short, are that a case being RCT No.332 of 2019 (State of M.P. vs Bharat Sen) was pending in the court of Shri Ashutosh Yadav, Civil Judge Senior Division District Sagar, in which the contemnor has appeared and submitted an application dated 29.09.2022 for closing the case against him and filed an application under Section 202 CrPC along with written arguments on 12.09.2023 mentioning therein various allegations against Presiding Officer and Government Advocates, further threatening the Presiding Officer while saying that the contemnor shall send him as well as his spouse and children to jail and levelled personal allegations against him, thus lowering down the reputation of the court and affecting the judicial proceedings pending against the contemnor, thereby committing criminal contempt by way of the abovementioned act as defined under Section 2(c) of the Act of 1971. It is further alleged that before sending the reference to the High Court, a show cause notice was issued and served to the contemnor and in pursuance thereof, he submitted his reply along with enclosures. Thereafter, the reference has been sent to this Court through Principal District and Sessions Judge, Sagar requesting therein to initiate contempt of court proceedings against respondent/contemnor Bharat Sen.

4. Accordingly, on 05.01.2024, the Registry was directed to register these references as contempt petitions (criminal) against the contemnor-Shri Bharat Sen. Hence, both the contempt petitions were heard together and are being decided by this common order. Notice was issued to the contemnor in each contempt petition. Vide order dated 07.02.2024 in Concr. No.10 of 2024, direction was given to issue a non-bailable warrant against accused-Bharat Sen through the Superintendent of Police, Sagar returnable by 15.02.2024 as he was absent and there was no representation, further the office note submitted by Naib Nazir, Civil Court Bina District Sagar indicated that the accused has refused to accept the notice.

5. On 08.02.2024 in Concr No.10 of 2024, the Court has passed the following order :

> *"The accused requests that since he does not know English language, the order may kindly be passed in Hindi language, which he understands.*
>
> *In view of the request made, the order is herewith dictated in Hindi.*
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> *अभियुक्त को न्यायालय समक्ष पुलिस अभिरक्षा में उपनिरीक्षक श्री कमल सिंह ठाकुर, थाना बीना, जिला सागर द्वारा प्रस्तुत किया गया।*
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> *न्यायालय के आदेश के तारतम्य में अभियुक्त को नोटिस जारी किया गया था जिसे लेने से अभियुक्त द्वारा इंकार किया गया एवं नोटिस पर टीप अंकित करते हुए लेख किया गया कि वह माननीय उच्चतम न्यायालय के समक्ष जाना चाहता है और उसे इस न्यायालय पर भरोसा नही हैं जिसके तहत थाना बीना जिला सागर द्वारा उसे गिरफ्तार कर आज दिनांक 08.02.2024 को इस न्यायालय के समक्ष प्रस्तुत किया गया।*
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> *अभियुक्त से पूंछे जाने पर कि उसके द्वारा नोटिस तामील लेने से इंकार क्यों किया गया इस पर अभियुक्त द्वारा यह दोहराया गया कि उसे इस न्यायालय पर भरोसा नही है और वह उच्चतम न्यायालय के समक्ष जाना चाहता है।*
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> *यह प्रकरण (CONCR No.10/2024) विचारण न्यायालय द्वारा रिफरेंस के माध्यम से भेजा गया है जिसमें यह लेख है कि अभियुक्त जो कि स्वयं एक*

अधिवक्ता है के द्वारा सह अभिभाषक एवं पीठासीन अधिकारी न्यायालय व्यवहार न्यायाधीश वरिष्ठ खण्ड बीना, जिला सागर के लिये अभद्र भाषा का उपयोग किया गया जिसके तहत यह क्रिमिनल कन्टेम्पट रिफरेंस इस न्यायालय में पेश हुआ है। अभियुक्त स्वयं एक अधिवक्ता होकर यह जानता है कि न्यायालय द्व ारा जो नोटिस जारी किया जाता है उसकी क्या अहमियत होती है, इसके बावजूद अभियुक्त द्वारा नोटिस लेने से इंकार किया गया। आज न्यायालय समक्ष प्रस्तुत होने पर जब उससे पूंछा गया कि उसने नोटिस लेने से इंकार क्यों किया तो उसके द्वारा पुनः न्यायालय पर भरोसा न होने की बात दोहराई गई एवं उच्चतम न्यायालय के समक्ष जाने कि प्रार्थना की गई।

प्रकरण दिनांक 07.02.2024 को इस न्यायालय के समक्ष नियत था। उक्त दिनांक को अभियुक्त के अनुपस्थित होने के कारण उसके विरूद्ध गैरजमानती वारन्ट जारी किया गया था एवं प्रकरण पुनः दिनांक 15.02.2024 के लिये नियत किया गया था लेकिन न्यायालय के नोटिस तामील लेने से इंकार करने पर अभियुक्त को बीना पुलिस द्वारा गिरफ़्तार कर आज दिनांक 08.02. 2024 को इस न्यायालय के समक्ष प्रस्तुत किया गया। न्यायालय के समक्ष अभियुक्त द्वारा नोटिस न लेने के संबंध में किसी भी प्रकार की क्षमा याचना करने से इंकार किया गया। परन्तु अभियुक्त एक अधिवक्ता है इसलिए न्यायहित में उसको अपना व्यक्तिगत जबाव प्रस्तुत करने का एक अवसर देते हुये प्रकरण को आगामी दिनांक 15.02.2024 को नियत किया जाता है।

अतः आदेशित किया जाता है कि अभियुक्त स्वयं या अधिवक्ता के माध्यम से दिनांक 15.02.2024 तक इस प्रकरण में अपना जबाव प्रस्तुत करें।

प्रकरण दिनांक 15.02.2024 को नियत किया जाता है।

अभियुक्त उक्त दिनांक को न्यायालय समक्ष उपस्थित रहेगा।

अभियुक्त पुलिस अभिरक्षा में न्यायालय समक्ष प्रस्तुत किया गया है । उसे पुलिस अभिरक्षा से उन्मुक्त किया जाता है ।''

6. Accordingly, on 15.02.2024 in Concr No.10 of 2024, the accused was present in the court. He stated that he has filed his reply. Thereafter, by order dated 16.02.2024, it has been observed as follows:

"The accused is present in the Court. He has submitted some papers. They are handwritten. There is no second copy. Therefore, we do not think it appropriate to entertain the same since it is not in a proper format. We have asked him to submit the same in accordance with the High Court Rules. Hence, the said bunch of papers which is filed in a single set is hereby returned to him for presentation in an appropriate format.

Keeping in mind the manner in which he is answering the Court and his demeanour, we had our doubts about it. Therefore, we asked him whether he wants assistance of a counsel which the Court would provide to him free of cost. He has flatly denied any such legal assistance. He has reiterated that he alone will argue his case.

At his request, call on 06.03.2024."

7. In view whereof, on 06.03.2024, the accused was present and these contempt petitions (criminal) were heard finally and the order was reserved.

8. Before adverting to the reply filed by the respondent/ contemnor, the background in which these contempt proceedings came to be initiated may first be noted. The relevant excerpts/sentences mentioned in the application filed by the contemnor in the Court of Second Additional Sessions Judge Bina District Sagar and the written arguments submitted by the contemnor in the Court of Judicial Magistrate First Class, Bina District Sagar which reflect insulting and disrespectful language are as under :

Application filed by the contemnor which find mentioned from Page No.6 to 20 in Concr No.3 of 2024

..... आप एक नम्बर के अपराधी है, अपराधी, जज, नहीं, लेकिन, बदकिस्मत से, ... नाजायज बाप है न सुब्रत राय आपका इसलिए तो आपने सुब्रत राय को सूचना पत्र जारी नहीं किया है, और ..... अगर, आपने, उपरोक्तानुसार, अपना, कानूनी दायित्व नहीं निभाया तो, ... आपकी न्यायालय में, लायेंगे, और फिर, जनता, आपको, न्यायालय कक्ष से, घसीटकर, गाँधी तिराहा बीना पर ले जाएगी फिर, बीना की अपराधी पुलिस आपको गिरफ्तार करके, बीना थाना लाएगी, फिर न्यायालय को धोखा देने के जुर्म का मामला आप पर दर्ज किया जाएगा फिर आपको सक्षम न्यायालय बीना जहाँ, अपराधी ब्रजेन्द्र रावत एवं अपराधी आशुतोष यादव जज के रूप में बैठे है, उनकी न्यायलय में पुलिस आपको पेश

करेगी और फिर जेल वारंट के साथ जनता आपका स्वागत करके, जेल तक छोडने जाएगी, इसलिए आप खुद सरेंडर कर दो ..... जेल जाओ हमें खुशी होगी .....

Handwritten arguments filed by the contemnor which find mentioned from Page No.11 to 25 in Concr No.10 of 2024

.....जुर्म आपने ही किए हैं, वो भी मय प्लानिंग सहित, जज प्रोटोकॉल का उलंघन करते हुए, खुद को पुलिस के हवाले करने की कृपा करें कि आप अपनी पत्नि के साथ एवं अपने बालिग–बालिग बच्चों के साथ..... यही एक मात्र रास्ता बचा है, आपके पास कि, आप जेल चले जाओ,.....आप सभी अपराधी लोग जेल चले जाएं और आगामी ईमानदार जज महोदय (किन्नर समुदाय से) इस न्यायालय में आकर य वो. दो. कौड़ी का टपोरी, बदमाश, अपराधी जज तत्कालीन या पूर्व या स्वर्गीय संतोष तिवारी वापिस इस न्यायालय में आकर मुझे, मेरे उक्त गैर कानूनी मामले में, भेदभाव से मुक्त सम्पूर्ण न्याय प्रदान कर सकें, ...यह कि श्रीमान आशुतोष यादव जी आप भी उपरोक्त अपराधी जजों की तरह अपराधी जज प्रमाणित हो चुके हैं, ... यह कि श्रीमान अगर मैं आपको आपकी पत्नि के साथ एवं आपके बालिग – बालिग बच्चों के साथ एवं उक्त सभी एक सवा करोड़ अपराधियों के साथ जेल नहीं भिजवा पाया तो मैं दो बाप से पैदा ..... कृपया मेरी हत्या करा दो और बच लो यही प्रार्थना है।

9. After perusal of the aforesaid, it would reveal contemptuous conduct of the contemnor in making indecent comments and mischievous allegations against the Presiding Officers and others which clearly amounts to obstructing the course of administration of justice and maligning the reputation and prestige of the court and thus, lowering the dignity of the court.

10. Examining the case in the light of the above excerpts, we have to find out whether such type of contemptuous averments made by the respondent/contemnor would amount to the contempt of the court. In this context, particulars of the relevant excerpts of respective reference

sent by Shri Manish Lovanshi, Second Additional Sessions Judge, Bina District Sagar and Ashutosh Yadav, Judicial Magistrate First Class Bina District Sagar indicating disrespectful conduct of the respondent in making false, baseless and mischievous allegations against the Presiding Officers may be tabulated in order to answer whether the provision of criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971 is attracted or not.

Reference dated	Case Nos.	Allegations contained in the reference	Findings
26.06.2023	Concr. No.03 of 2024	The contemnor alleges in the court that (a) he will set ablaze himself by pouring petrol as he is not aforesaid of anyone, not even police, and he is also not afraid of being sent to jail; (b) he will also make complaint in the High Court and Supreme Court about the working and conduct of the Presiding Officer; (c) he says to the Presiding Officer that he is like a criminal sitting in the chair of a Judge and after some time, the Presiding Officer along with wife and children will become poor and will be sent to jail and even no advocate and Judge will save him, and even went to the extent of saying that even the 1st Additional Sessions Judge Shri Nirmal Mandoria has no power to save the Presiding Officer and (d) The contemnor said that he would get one thousand copies of the	'attracted'

Reference dated	Case Nos.	Allegations contained in the reference	Findings
		application printed and get it made viral on the social media and the public would take him to Gandhi Tiraha, Bina by dragging him and thereafter, the police would arrest him, from where he would be sent to jail	
02.12.2023	Concr. No.03 of 2024	The contemnor alleges in the court that (a) he will send the Presiding Officer along with his spouse and children to jail (b) he uses scandalizing and undignified language in the court and (c) he makes personal allegation upon the Presiding Officer	'attracted'

11. The reply filed in Conc. No.10 of 2024 on 06.03.2024 which is on record does not express any remorse or apology by the contemnor. Instead, it contains offensive, insulting and derogatory language. Relevant excerpts thereof may be summarized thus :

..... मुझे, आप, लोगों, जैसे, दो, दो कौड़ी के, टपोरी, बदमाश अपराधी जजों पर भरोसा नहीं है, ...यह कि, श्रीमान् रवि मलिमठ बगैरा, आप, लोगों, के, खिलाफ, न्याय, के, मंदिर, माननीय, न्यायालय, हाई कोर्ट, म.प्र., को, धोखा देने का जुर्म, प्रमाणित हो चुका है, ध्यान, रखना, ...यह कि, श्रीमान् रवि मलिमठ बगैरा, आप, लोगों, ने, मुझे, गैर कानूनी रूप से, यहॉ, जबलपुर, हाई कोर्ट म.प्र. में, मय प्लानिंग सहित दिनांक 15/02/2024 को एवं दिनांक 16/02/2024 को उलझा कर रखा कि, आपके, साथी, अपराधी, पुलिस, बीना, के मुंशी जी जिनका मो. नं. 7987421144 है, वो, मेरे घर के मो. नं. 9340837650 पर फोन करके एवं दो, तीन, पुलिस आरक्षको (सरकारी गुण्डो) को मेरे घर पर भेजकर, रात्रि गृह अतिचार, करा कर/रात्रि गृह अतिचार करने का प्रयास कराकर, CM On Line शिकायत

दिनांक 07/02/2024 को वापिस लेने का, गैर कानूनी दबाव बना सको श्रीमान् आप लोगों ने मेरे 15/02/2024 को पेश 60 पेज के जबाव + 02 पेज के शपथ पत्र + 155 पेज के कानूनी दस्तावेजो का अवलोकन कर लिया था, आप, जान, गए थे कि, आप लोग फस चुके हो इसलिए आप लोगों ने अपराधी बीना पुलिस को मेरे घर पर भेजा, रवि, रवि, रवि, विशाल, विशाल, विशाल, बगैरा जुर्म/ जुल्म उतना करो जितना, जनता सहन, कर, सके अति, करोगे, तो आप, जुर्मी लोगों/आप जुल्मी लोगों की अति का अंत भी होगा एक न एक दिन अति का अंत भी होगा यही प्रार्थना है,

12. After perusal of the reply, it would reveal contemptuous conduct of the contemnor in making false, baseless and mischievous allegations against Hon'ble Judges of this Court which clearly amounts to obstructing the course of administration of justice and maligning the reputation and prestige of the court and thus, lowering the dignity of the court.

13. The language which is used in the aforesaid reply clearly goes to show that the same amounts to scandalizing and lowering the authority of the court. This is nothing but an act of obstructing the administration of justice. The act becomes all the more contumacious as the respondent who is member of the noble profession has committed this act. He is bound to respect the dignity of the court. The same attracts the provisions of Section 2(c) of the Contempt of Courts Act, 1971.

14. The Court is very much conscious about the fact that the contempt of court is special jurisdiction and should be exercised sparingly. However, as per the settled legal position, such jurisdiction must be exercised in the circumstances where the act committed by the contemnor is such which tends to shake public confidence in the

judicial system and tends to affect the majesty of law and dignity of courts.

15. It may further be mentioned that any act of the person which interferes or tends to interfere with the due course of any judicial proceedings or which obstructs or tends to obstruct the administration of justice would tantamount to "criminal contempt", as per the definition contained in Section 2(c) of the Contempt of Courts Act, 1971. The said clause 2(c) is reproduced as under for ready reference:-

> *Section 2 (c):- "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which-*
> *(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or*
> *(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceedings; or*
> *(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;"*

16. Recently, the Hon'ble Supreme Court in the case of Prashant Bhushan and another, in Reference Suo Motu Contempt Petition (Cri.) No.1 of 2020 decided on 14th of August, 2020, reported in (2021) 1 SCC 745 has considered the definition of Section 2(c) of the Act of 1971 and has held as under:

> *"It could thus be seen, that it has been held by this Court, that hostile criticism of judges as judges or judiciary would amount to scandalizing the Court. It has been held, that any personal attack upon a judge in connection with the office he holds is dealt with under law of libel or slander. Yet defamatory publication concerning the judge as a judge brings the court or judges into contempt, a serious impediment to justice and an inroad on the majesty of justice. This Court further observed, that any caricature of a judge*

calculated to lower the dignity of the court would destroy, undermine or tend to undermine public confidence in the administration of justice or the majesty of justice. It has been held, that imputing partiality, corruption, bias, improper motives to a judge is scandalisation of the court and would be contempt of the court."

17. A Constitution Bench of the Hon'ble Supreme Court in the case of Baradakanta Mishra vs High Court of Orissa (1974) 1 SCC 374 has held as under:

"49. Scandalisation of the Court is a species of contempt and may take several forms. A common form is the vilification of the Judge. When proceedings in contempt are taken for such vilification the question which the Court has to ask is whether the vilification is of the Judge as a judge. (See Queen v. Gray), [(1900) 2 QB 36, 40] or it is the vilification of the Judge as an individual. If the latter the Judge is left to his private remedies and the Court has no power to commit for contempt. If the former, the Court will proceed to exercise the jurisdiction with scrupulous care and in cases which are clear and beyond reasonable doubt. Secondly, the Court will have also to consider the degree of harm caused as affecting administration of justice and, if it is slight and beneath notice, Courts will not punish for contempt. This salutary practice is adopted by Section 13 of the Contempt of Courts Act, 1971. The jurisdiction is not intended to uphold the personal dignity of the Judges. That must rest on surer foundations. Judges rely on their conduct itself to be its own vindication.

50. But if the attack on the Judge functioning as a judge substantially affects administration of justice it becomes a public mischief punishable for contempt, and it matters not whether such an attack is based on what a judge is alleged to have done in the exercise of his administrative responsibilities. A judge's functions may be divisible, but his integrity and authority are not divisible in the context of administration of justice. An unwarranted attack on him for corrupt administration is as potent in doing public harm as an attack on his adjudicatory function."

18. When the matter was taken up for final consideration, the respondent-accused is not sorry for his deeds, rather in an aggressive manner, he submits that he has already filed reply. He does not want to argue anymore. No unconditional apology is tendered by him and no prayer is made by him to drop the proceedings. Therefore, this Court is left with no other option but to decide these cases on merits.

19. Being an advocate, the respondent is not merely an agent or servant of his client but he is also an officer of the court. He owes a duty towards the court. There can be nothing more serious than an act of an advocate if it tends to impede, obstruct or prevent the administration of law or it destroys the confidence of the people in such administration. In M.B. Sanghi, Advocate vs High Court of Punjab & Haryana (1991) 3 SCC 600 while deciding a criminal appeal filed by an advocate against an order of the High Court, the Court said:

> *"The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure the desired order is ever on the increase and it is high time it is nipped in the bud. And, when a member of the profession resorts to such cheap gimmicks with a view to browbeating the Judge into submission, it is all the more painful. When there is a deliberate attempt to scandalise which would shake the confidence of the litigating public in the system, the damage caused is not only to the reputation of the Judge concerned but also to the fair name of the judiciary. Veiled threats, abrasive behaviour, use of disrespectful language and at times blatant condemnatory attacks like the present one are often designedly employed with a view to taming a Judge into submission to secure a desired order. Such cases raise larger issues touching the independence of not only the Judge concerned but the entire institution. The foundation of our 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. Judicial independence was not achieved overnight. Since we have inherited this concept from the British, it would not be out of place to mention the struggle strong-willed Judges like Sir Edward Coke, Chief Justice of the Common Pleas, and many others had to put up with the Crown as well as Parliament at considerable personal risk. And when a member of the profession like the appellant who should know better so lightly trifles with the much-endeared concept of judicial independence to secure small gains it only betrays a lack of respect for the martyrs of judicial independence and for the institution itself. Their sacrifice would go waste if we are not jealous to protect the fair name of the judiciary from unwarranted attacks on its independence."*

20. From the aforesaid judgments of the Hon'ble Supreme Court and the definition provided under Section 2(c) of the Act of 1971, it is apparently clear that even an attempt to scandalize or lower the authority of a Court would fall under the definition of 'criminal contempt'.

21. The behaviour and conduct of the respondent who is a member of the bar has been thoroughly contemptuous. Under these circumstances and looking to the well-settled position of law in the aforesaid cases, we hold that the respondent has committed contempt of court (i) by making indecent comments on Presiding Officers and their family members as well as other judicial officers, employees etc. and (ii) by filing such a reply before this Court containing contemptuous averments and reckless allegations against the Judges. Therefore, he is held guilty of "criminal contempt" as defined under Section 2(c) of the Contempt of Courts Act, 1971.

22. Heard on the question of punishment.

23. The respondent party-in-person has submitted that whatever is pleaded by him in his reply, the same may be considered. As he has already been held guilty of "criminal contempt" as defined under Section 2(c) of the Contempt of Courts Act, 1971, the language which is used by respondent in his reply and the allegations levelled against the Presiding Officers/Judges repeatedly despite various warnings having been given to him coupled with the fact that he has not even bothered to tender his unconditional apology before this Court even at this stage, therefore, this Court while exercising powers under Article 215 of the Constitution deems it appropriate to impose punishment upon him. In this regard, reference can be had of the decision of the Hon'ble Supreme Court in the case of Vijay Kurle, In re, (2021)13 SCC 616 wherein it is held :

> *"11. Samaraditya Pal in The Law of Contempt [Pp. 9-10, The Law of Contempt : Contempt of Courts and Legislatures, 5th Edn., LexisNexis Butterworths Wadhwa, Nagpur (2013)] has very succinctly stated the legal position as follows:*
>
> *"Although the law of contempt is largely governed by the 1971 Act, it is now settled law in India that the High Courts and the Supreme Court derive their jurisdiction and power from Articles 215 and 129 of the Constitution. This situation results in giving scope for "judicial self-dealing"."*
>
> *12. The High Courts also enjoy similar powers like the Supreme Court under Article 215 of the Constitution. The main argument of the alleged contemnors is that notice should have been issued in terms of the provisions of the Contempt of Courts Act and any violation of the Contempt of Courts Act would vitiate the entire proceedings. We do not accept this argument. In view of the fact that the power to punish for contempt of itself is a constitutional power vested in this Court, such power cannot be abridged or taken away even by legislative enactment."*

24. In Re : Perry Kansagra (2022 SCC OnLine SC 1516), the Hon'ble Supreme Court held as under :-

> *"24. It is now well settled that the power of the Supreme Court to punish for contempt is not confined to the procedure under the Contempt of Courts Act. In Pallav Sheth vs Custodian (2001) 7 SCC 549, this Court held that:—*
> *"30. There can be no doubt that both this Court and High Courts are courts of record and the Constitution has given them the powers to punish for contempt. The decisions of this Court clearly show that this power cannot be abrogated or stultified. But if the power under Article 129 and Article 215 is absolute, can there by any legislation indicating the manner and to the extent that the power can be exercised? If there is any provision of the law which stultifies or abrogates the power under Article 129 and/or Article 215, there can be little doubt that such law would not be regarded as having been validly enacted. It, however, appears to us that providing for the quantum of punishment or what may or may not be regarded as acts of contempt or even providing for a period of limitation for initiating proceedings for contempt cannot be taken to be a provision which abrogates or stultifies the contempt jurisdiction under Article 129 or Article 215 of the Constitution."*
> *25. The above said principle is followed in Re : Vijay Kurle (supra), where this Court reiterated the above referred principle and held as under:—*
> *"38. The aforesaid finding clearly indicates that the Court held that any law which stultifies or abrogates the power of the Supreme Court under Article 129 of the Constitution or of the High Courts under Article 215 of the Constitution, could not be said to be validly enacted. It however, went on to hold that providing the quantum of punishment or a period of limitation would not mean that the powers of the Court under Article 129 have been stultified or abrogated. We are not going into the correctness or otherwise of this judgment but it is clear that this judgment only dealt with the issue whether the Parliament could fix a period of limitation to initiate the proceedings under the Act. Without commenting one way or the other on Pallav Seth's case (supra) it is clear that the same has not dealt*

> *with the powers of this Court to issue suo motu notice of contempt.*
> *39. In view of the above discussion we are clearly of the view that the powers of the Supreme Court to initiate contempt are not in any manner limited by the provisions of the Act. This Court is vested with the constitutional powers to deal with the contempt. Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated and this procedure provides that there are three ways of initiating a contempt - (i) suo motu (ii) on the motion by the Advocate General/Attorney General/Solicitor General and (iii) on the basis of a petition filed by any other person with the consent in writing of the Advocate General/Attorney General/Solicitor General. As far as suo motu petitions are concerned, there is no requirement for taking consent of anybody because the Court is exercising its inherent powers to issue notice for contempt. This is not only clear from the provisions of the Act but also clear from the Rules laid down by this Court."*

25. This Court is not oblivious to the fact that although the Contempt of Courts Act, 1971 gives the court a discretion to choose between a sentence of fine and one of imprisonment, the settled practice is that fine is the rule and imprisonment is an exception. It is only where the contumacious act is so reprehensible and outrageous that a sentence of fine would not be commensurate with its gravity, would the Court impose a sentence of imprisonment. To put it differently a sentence of imprisonment would only be imposed in the "rarest of rare cases".

26. However, in the present case, we have given deep thought as to what punishment should be imposed on the contemnor. His conduct and behaviour need to be taken into consideration. Not only on one occasion but on several occasions, we gave opportunity to him to improve but on the contrary, he made a categorical statement in a

vehement and adamant manner that he does not have any faith in any of the Judges in the State of Madhya Pradesh, therefore, the matter be sent to the Hon'ble Supreme Court for consideration. It appears that his mental state is not so good so as to enable him to argue the matter. The same is reflected from the order dated 16.02.2024, when he was asked whether he wants assistance of a counsel which the Court would provide him free of cost, he flatly denied any such legal assistance. He submitted that he alone will argue his case. On being asked and explained to him again and again to submit his reply on merits to the allegations made against him, for which time was granted to him on two-three occasions; on every occasion, he submitted that he has no faith in the Court and his matter may be referred to the Hon'ble Supreme Court. This Court has time and again made several efforts to explain him that what is a case against him and what are the allegations made against him but it appears that he is not able to understand that what proceedings are being initiated against him. He is unable to gather that what is required to be done in the present case. In the application filed by the respondent-contemnor before the trial Court, he used unparliamentary language and levelled allegations against the Presiding Officer. He was explained in English as well as in Hindi language that what is the case against him before this Court but he has shown his adamancy and was not ready to hear the Court. When the matter was listed for consideration before this Court, no reply was submitted by him and he was asked whether he wants to submit reply on merits, he has bluntly refused and stated that he has no faith on the Chief Justice nor on any of the Judges in the State of Madhya Pradesh. This goes to

show his mind set that he is not ready to listen or understand anything. Rather, it appears that either he is pretending that he is not understanding anything or there is some mental problem with the respondent-contemnmor as he is unable to understand what is the case against him. Despite several attempts being made by this Court to enable him to understand the gravity of the case and the allegations made against him, he is unable the understand what we are saying. No response is being given by him on the merits of the matter. Under these circumstances, it reveals that his mental state is not so good and he is not in a position to understand anything or argue the matter. Thus, this Court is left with no other option except to proceed in the matter on the basis of the material available on record as he has flatly denied to file any response on merits to the petition and further denied to avail the legal assistance being provided to him by this Court free of cost.

27. Undoubtedly, the Courts have been and will continue to be magnanimous in matters of contempt but there are cases and cases. If the kind attitude of the Court is misunderstood, if it is taken lightly and if as a result thereof it creates a licence to people to make contemptuous statements and indulge in contemptuous conducts, then it is very necessary that there will have to be some re-thinking on the part of the Courts with regard to the attitude that they have always displayed. Hence, if we do not take cognizance of such conduct of the contemnor, it will give a wrong message to the lawyers and litigants.

28. Proceedings for contempt are not intended for punishment, but to maintain the dignity and decorum of the Court. Having regard to the overall facts and circumstances of the case, instead of sending the

respondent-contemnor to jail by taking his mental state of mind into consideration, we are of the considered view that imposition of fine and warning would be just and appropriate punishment. Hence, we pass the following orders :

(i) The respondent-contemnor is held guilty of having committed a criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971.

(ii) He is sentenced to undergo simple imprisonment till the rising of the Court and a fine of Rs.501/-. He is permitted to tender the fine within a period of three weeks from today.

(iii) Stern warning is issued to the respondent-contemnor that in the litigations which he may have to conduct, he shall ensure that he does not undermine the dignity of the courts.

(iv) In addition, considering the conduct and behaviour which respondent-contemnor showed before the Court, we refer the case to the State Bar Council of Madhya Pradesh to look into the matter as to whether he is in a fit state of mind to continue with the legal profession as the manner in which he has behaved in the court does not appear to be reasonable.

29. With these observations and directions, the present contempt proceedings are disposed off.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE

VV