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IN RE : SANJIV DATTA AND ORS.

APRIL 19, 1995

[P.B. SAWANT AND B.P. JEEVAN REDDY, JJ.]

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*Contempt of Courts Act, 1971 : Sec 2(c), 12—Contempt of Court—Suo moto contempt notice issued to a public servant and his advocates—Affidavit filed in the Supreme Court containing allegations against the Court—Allegations made with intention of casting aspersions on the Court and attributing motives to it—Accusing the Court of making mockery of established policy of Government of India by permitting a foreign agency to undertake broadcasting from India against national interest thereby undermining sovereignty of the nation—Unconditional apology of public servant not accepted—Allegations made by the contemner were intentional—Made with full knowledge of its grave implications and therefore has potentiality of mischief—If not curbed firmly, may assume proportion grave enough to sabotage the rule of law. Unconditional apology of advocates—Accepted for want of knowledge of allegations.*

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The contemner, a Deputy Secretary in the Ministry of Information and Broadcasting (MIB), filed in the Supreme Court of India an affidavit in reply, on behalf of the MIB, to a writ petition filed by the Cricket Association of Bengal (CAB). The said writ petition arose from a dispute between the CAB on one hand and the Government of India and Director General of Doordarshan on the other, regarding the right to broadcast a six-nation cricket tournament.

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The CAB as part of its diamond jubilee celebrations organised a six-nation tournament from 9th November to 20th November, 1993. In order to make arrangements for telecasting and broadcasting the matches, through its agency, the Transworld International (TWI), the CAB started to negotiate with the Director General of Doordarshan. In course of the said negotiations a stage reached when the CAB had to file writ petitions before the High Court of Calcutta and subsequently before the Supreme Court of India. This Court taking into consideration the then hostile relations between the parties and to avoid constant bickering and disputes between them resulting in possible interruption in telecasting, thus affecting the interests of the viewers, permitted the TWI to generate its own

signals for broadcasting and telecasting of the matches and stayed the order of the Secretary, MIB. A

It is then that the contemner on behalf of the MIB filed in this Court, an affidavit in reply making allegations against the Court and casting aspersions on the Court. The said affidavit though filed through his Advocates, was done so, without giving the Advocates any opportunity to peruse the contents of the same and was done without their consultation. Written unconditional apologies were tendered by the contemner and his Advocates. B

Disposing of the contempt petition, this Court C

HELD : 1. Our Constitution has demarcated the functions of the three organs of the State. Each has to perform its functions entrusted to it and respect that of the others. None is free from errors and the judiciary does not claim infallibility. Our legal system acknowledges the fallibility of courts and provides for both internal and external checks to correct the errors. Abuses, attribution of motives, vituperative terrorism and defiance are no methods to correct the errors of the Court. In discharge of their functions the Courts must be allowed to operate freely and fearlessly but for which impartial adjudication will be an impossibility. [461-A, B, C, D] D

2. The Constitution entrusts the task of interpreting and administering the law to the judiciary, and those living and functioning under the Constitution have to accept and submit to this obligation of respecting the Constitutional authority of the Courts. [461-E] E

3. Courts verdict has to be respected not necessarily by authority of its reason but always by reason of its authority. Any conduct which challenges this crucial balance of power, devised by the Constitution is an attempt to subvert the rule of law and an invitation to anarchy. [461-F] F

4. In the present case, a responsible officer of the Government like the contemner ought to have known the serious implications of his statements. Coming as they do from a public functionary representing the executive, the Court will fail in its duty if it does not bring home his special obligations to respect the authority of the Court, and if he is allowed to go scot free there is a danger of the erosion of the deference to and confidence in the judicial system. [460-D, E] G H

A 5. Since the contemner did not even take care to have the opinion of his Advocates it makes his action doubly suspect with regard to his intentions. This conduct of his, speaks for itself and aggravates his offence. His apology therefore cannot be accepted. Hence, the contemner is held guilty of criminal contempt of Court and is convicted for the said offence. B Contemner is accordingly sentenced to pay a fine of Rs. 2000 and in default to undergo simple imprisonment for one week. Since the said offence committed by him, was done so, not for his personal gain or advantage, the Government is directed not to initiate any departmental disciplinary proceedings against him. [460-G, H, 462-B, 462-C]

C 6. The offence of Contempt of Court is committed, not only by those who author the offensive document but also those who file it in the Court. In the present case the affidavit in question came to be filed without the Advocates having an opportunity to peruse it and was also not the one corrected or settled by them. Hence their apologies are accepted for want of knowledge. [462-E, 464-G, H]

D CRIMINAL ORIGINAL JURISDICTION : Contempt Petition No. 101 of 1995.

E Suo Moto proceedings for contempt of Court initiated vide this Court's orders dated 9.2.1995 and 28.2.1995 for the contents of the Affidavit dated 30.11.93 filed in Writ Petition No. 836 of 1993.

F.S. Nariman, Ms. K.Kumaramangalam, Mrs. Radha Rangaswamy and U.N. Banerjee for the Contemnners.

F Dipankar Gupta, Solicitor General, B.K. Prasad, T.C. Sharma, V.B. Desai, P. Patnaik, K. Vasdev and A.M. Khanwilkar for the Respondent.

The Judgment of the Court was delivered by

G SAWANT, J. These contempt proceedings arise out of Writ Petition No. 836/93 which has already been disposed of along with C.A. Nos. 1429-30/1995 by our decision of 9th February, 1995. It is not necessary to refer to all the details of the said proceedings for deciding this matter. Suffice it to say that the Cricket Association of Bengal (CAB) had organised a six-nation international cricket tournament from 9th November, 1993 to 20th November, 1993 as a part of its Diamond Jubilee Celebrations. H the first of the matches was to be played in Bangalore on 9th November,

1993. As early as on 15th March, 1993, the CAB had intimated the said fact to the Director General of Doordarshan (DD) and negotiations for the telecasting of the match had started since that day. Rest of the history of the developments in the negotiations has been referred to in our decision. A

It appears that during the course of the said negotiations and offers and counter offers for telecasting of the matches, a stage reached when the CAB had to file a writ petition on 8th November, 1993 before the Calcutta High Court praying, among other things, that the respondents to the writ petition - Union of India, the Ministry of Information and Broadcasting (MIB), Videsh Sanchar Nigam Limited (VSNL) and Doordarshan (DD) - should be directed to provide telecast and broadcast of all the matches and also to provide all arrangements and facilities for telecasting and broadcasting of the matches by the agency engaged by the CAB, viz., Trans World International (TWI). In view of the urgency of the matter, interim reliefs were also sought in the petition. The learned Single Judge of the High Court on the same day, directed the learned advocate of the Union of India to obtain instructions in the matter, and in the meanwhile, passed interim order making it clear that it would not prevent the DD from telecasting the matches without affecting the existing arrangements between the CAB and TWI. The writ petition was posted for further hearing on 9th November, 1993 on which date, the learned Single Judge confirmed the interim order and the respondents were restrained from interfering with the frequency lines given to TWI. On 10th November, 1993, the VSNL advised INTELSAT at Washington seeking cancellation of its request for booking. On 11th November, 1993, the learned Single judge partly allowed the writ petition by directing the All India Radio to broadcast the matches. Against these orders, the Union of India preferred an appeal before the Division Bench of the High Court on 12th November, 1993 and the Division Bench passed an order to the following effect :- B  
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(a) that CAB would pay DD a sum of Rs. 5 lakh per match and the revenue collected by DD on account of sponsorship will be kept in separate account. G

(b) that DD would be the host broadcaster.

(c) that Ministry of Telecommunication would consider the question of issuing a license to TWI under the Telegraphs Act and H

A decide the same within three days.

B On 12th November, 1993, the Film Facilities Officer of the MIB informed the Customs Department at New Delhi, Bombay and Calcutta airports, that as TWI had not obtained the required clearance from the Government for the coverage of the tournament, they should not be permitted to expose the films outside India till it was cleared by the Government. On the same day, DD asked CAB for providing various facilities at each match venue, as this was a pre-requisite for creating host broadcaster's signal in India. CAB sent a reply on the same day and called upon DD to telecast matches within India pursuant to the High Court's order of 12th November, 1993. On the same day, the Collector of Customs, Bombay called upon the CAB to pay customs duty on the equipment as there was a breach of the terms of the exemption order. The Committee of Secretaries of the Government of India also decided on the same day that the telecast of all sporting events should be within the exclusive purview of the DD/MIB.

D On 14th November, 1993, the Division Bench of the High Court in clarification of its order of 12th November, 1993 directed among others, as follows :

- E (a) In case the signal is required to be generated by TWI separately, such necessary permission should be given by DD and/or other competent authorities.
- F (b) The differences with regard to the placement of cameras etc., if any, between cricket authority and DD should be mutually worked out, and if this cannot be done, the dispute should be decided by the Head of the Police in the place where the match was being played.
- G (c) The equipment of TWI which had been seized by the Customs Authority should be released upon undertaking that the same would not be used for any other purpose and
- (d) The VSNL should take proper steps for uplinking, and should not take any steps to defeat the orders of the Court. The TWI should comply with all financial commitments to VSNL.

H 2. On 15th November, 1993, CAB and another filed writ petition No.

836/1993 in this Court from which the present contempt proceedings have arisen. On 15th November, 1993, this Court passed an order directing the Secretary, Ministry of Communications to hold meeting on the same day by 4.30 p.m. and communicate its decision by 7.30 p.m. This order became necessary because, although the High Court on 12th November, 1993 had directed that the Ministry of Telecommunications should consider the question of issuing licence to TWI under the Telegraph Act and decide the same within three days from that date (which time limit was expiring in any case by 15th November, 1993), the Secretary of the MIB had fixed the meeting only on 16th November, 1993. This Court by the same order also directed the Customs authorities to release the equipment.

The Secretary, Ministry of Communications passed his order by about 7.30 p.m. on that day. However, the order directed TWI, i.e., the agency engaged by the CAB, to take the signal from the DD, thus keeping the CAB and the TWI at the mercy of the DD. On the same night, therefore, the CAB moved this Court and this Court taking into consideration the then hostile relations between the parties and to avoid constant irritations, bickerings and disputes between them resulting in possible interruptions in telecasting thus affecting the interests of the viewers, permitted the TWI to generate its own signals and also directed the Customs authorities to release the goods forthwith. That order may be reproduced here:

"The order passed by Shri N. Vittal, Chairman (TC) & Secretary, DOT on 15.11.1993 is stayed to the extent that it imposes the condition that the TWI will have to get the signals from Doordarshan for uplinking through the VSNL by making mutual arrangements. The TWI can generate their own signal by focussing their cameras only on the ground where the cricket matches are being played, as directed by the Home Ministry, they will take care not to focus their cameras anywhere else.

The learned counsel appearing for the Doordarshan states that Mr. Basu, the Director General of Doordarshan informed her at 5.30 P.M. today on telephone that the Customs Authorities are releasing the equipment as directed by this Court. Shri Sibbal appearing for the petitioners informs us that the equipment has not been released by the Customs Authorities. However, the

A learned counsel further informs after taking instructions from his junior that a copy of the court's order was served on Mr. Devender Singh, Under Secretary, Ministry of Finance who was present before Mr. Vittal at the time of hearing this evening. In case, the customs authorities have not as yet released the equipment, they are once again directed to release the equipment forthwith. This shall not be treated as a precedent in the future and the order is made in the facts and circumstances of the present case keeping in view the fact that no appeal has been filed against the order of the Calcutta High Court by the Doordarshan."

C It is thereafter that the affidavit in reply to the writ petition was filed on behalf of the MIB by the contemner Shri Sanjiv Datta, who is working as Deputy Secretary in MIB. In the said affidavit, the contemner, among other things, averred as follows:

D "This Hon'ble Court erred in law by entertaining this petition and thereafter passing interim orders with undue haste on it without affording an opportunity to the respondents to set down their case through a proper affidavit thereby causing irreparable damage to the respondents by making a mockery of the established policy of the Government of India by permitting a foreign corporation to undertake broadcasting from India against the national interest and thereby undermining the sovereignty of the national in order to ensure the execution of an agreement that the petitioners entered into with the foreign corporation which was *ab-initio* void because of the failure of the petitioners to apply for and be granted the requisite licence to enable them to operate from Indian soil."

F 3. This Court on 6th December, 1993 issued a notice to the contemner to show cause as to why he should not be proceeded against for contempt of this Court for the above statements made by him. On 7th January, 1994, the contemner filed his reply to the show cause notice tendering unconditional apology for not only the statements mentioned in the show cause notice but also for the following statements in the counter filed on behalf of the MIB:

H "However, since this hon'ble court has already passed two interim orders on 15.11.1993, without affording the respondents an opportunity to submit their written submissions in the matter, the respon-

dents now set out the grounds on which the said petition should have been and should now be dismissed. A

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It is, therefore, submitted that the order passed by this court on 15th November staying the condition imposed by the Secretary, Ministry of Telecommunications directing TWI to take the signal of Doordarshan is bad in law since it flows from the erroneous conclusions drawn by the High Court of Calcutta that a legitimate expectation had been created in the minds of the petitioners by the no objection certificate conveyed by the Department of Telecommunication to the Ministry of Finance - a letter the petitioners were not legitimately required to possess - and acceptance of money by VSNL which as has been pointed out earlier is only a service agency and not a licensing authority under the Indian Telegraph Act, 1885. B C D

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The odds cannot, it is submitted, be totally loaded against Doordarshan. Either, it is allowed to decide such matter on purely commercial considerations and its decision respected or, its position as the host broadcaster, consistent with the established policy of the government of India, be recognised and no party, much less a foreign party, allowed to subvert the law of this land be it in connivance with an Indian entity such as the petitioners for petty commercial considerations. E F

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It is submitted that without adjudicating as to how the order passed by the Secretary, Ministry of Telecommunications was erroneous or bad in law, this Court stayed the condition imposed in the order requiring TWI to take the signal from Doordarshan and allowed TWI to generate its own signal. Further, the hollowness of the so called "urgent" nature of the matter presented before this Court while moving this petition stands exposed by the subsequent behaviour of TWI in failing to cover the matches held at Patna and H

A Indore. It also brings into focus the purely commercial nature of its agreement with the petitioners belong all their protestations of working in the interest of the cricket lovers of this country."

B 4. We have given above *in extenso* the background of the two orders that this Court passed on 15th November, 1993 with a view to point out that the contemner all along was aware of the urgency of and the reasons for the passing of the said orders and also of the fact that the orders were passed after fully hearing the counsel for the parties on both the occasions. As a responsible officer, he ought to have known that on many occasions even in non-urgent matters, interim orders are passed on the basis of the oral arguments. In urgent matters such as the present, such a procedure becomes all the more imperative to prevent injustice being done to one or the other party in the meanwhile. Written submissions are not a *sine qua non* of the hearing of a matter. Oral arguments are as good as written submissions. It is not the case and it was never the grievance of the counsel appearing on behalf of the respondents that they were not heard in the matter before the orders were passed. Hence the allegations made by the contemner that the orders were passed "with undue haste" and "without affording an opportunity to the respondents to set down their case through a proper affidavit thereby causing irreparable damage" are factually incorrect, insinuating and malicious. These allegations are repeated throughout the affidavit in different forms with the same intention of casting aspersions on the Court and to malign it. What is further, the contemner has recklessly accused the Court also of "making mockery" of the so-called established policy of the Government of India, by permitting a foreign Corporation to undertake broadcasting from India against the "national interest and thereby undermining the sovereignty of the nation". This, according to the contemner, was done by the Court "in order to ensure the execution of an agreement which the petitioners entered into with the foreign Corporation". This accusation not only attributes motives to the Court but also accuses it of working against the national interests and to undermine the sovereignty of the nation. These accusations, attributions and aspersions are not only deliberately calculated to malign the Court but also to undermine its authority and to deter it from performing its duty. It is nothing but an intentional attempt to obstruct the course of justice and thus patently amounts to the criminal contempt of the court. This is to be disputed before us. In fact, to purge the contempt, the contemner has tendered an unconditional apology in the following terms:

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"2. I say with all humility that I realise that the averments made in paragraph 17 of the said affidavit quoted in the said notice dated 13th December, 1993.... was most improper and unfortunate and the said averments ought not to have been made by me. I am truly and sincerely sorry for having made such averments and I tender my unreserved unqualified and unconditional apology to this Hon'ble Court for having done so. I most respectfully pray that this Hon'ble Court may be graciously pleased to accept the same. I further pray that this Hon'ble Court may be pleased to permit me to withdraw the said portion of paragraph 17 of the said affidavit and to order that the same may be expunged.

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4. I have carefully gone through the rest of the averments made by me in my said affidavit dated 30th November 1993 and I most respectfully submit that the following further portions contained therein are also improper and unfortunate and these averments also ought not to have been made by me.

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(i) In paragraph 1 of the said affidavit:

x x x x x x x

(ii) In paragraph 7 of the said affidavit:

x x x x x x x

(iii) In paragraph 10 of the said affidavit:

x x x x x x x

(iv) In paragraph 16 of the affidavit:

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5. I am truly and sincerely sorry for having made such averments in the said other paragraphs of the said affidavit for which in all humility I tender my unreserved, unqualified and unconditional apology to this Hon'ble Court. I most respectfully pray that this Hon'ble Court may be graciously pleased to accept the same.

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6. I further pray that this Hon'ble Court may be pleased to permit to further withdraw the said portions of paragraph 1, 7, 10 and 16

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A of the said affidavit quoted above and to order that the same may be expunged.

7. Without in any way trying to detract from the sincere expression of contriteness and the unreserved and unconditional apology tendered above, which I repeat and reiterate, I submit that the said unfortunate averments came to be made not with any deliberate or contumacious intent.

8. I once again express my unconditional and sincere apologies to this Hon'ble Court for the language used in my said affidavit."

C 5. We have considered the above apology tendered by the contemner. We find that the statements made in the affidavit when they were so made were to the knowledge of the contemner, a malicious attempt to cast aspersions on and attribute motives to the Court. They were not made in ignorance of their consequences nor were they innocent. A responsible officer of the Government like the contemner ought to have known, and we have no doubt that he did know the serious implications of the said statements. If he did not know of their grave implications he does not deserve to hold the office he does. If such statements were made by a layman we might have probably ignored them and also accepted the apology. Coming as they do from a public functionary, the Court will fail in its duty if it does not bring home to him his special obligations to respect the authority of the Court. If such trends as are displayed in these proceedings by the contemner are allowed to go scot-free, there is a danger of the erosion of the deference to and confidence in the judicial system. Coming as it does from the executive branch of the State, it has all the potentiality of mischief and if not curbed firmly, may in course of time assume proportion grave enough to sabotage the rule of law from within. As it transpires, the draft of the affidavit which was settled by Smt. Kumaramangalam was not the one which was filed and the affidavit was filed without even Shri Vasdev, Advocate-on-Record having a sufficient opportunity to peruse the same. That makes the action of the contemner doubly suspect with regard to his intentions in filing the affidavit with the offending statements. He did not even take care to have the opinion of his advocates on the said statements. Probably, he did not want their opinion. This conduct of his speaks for itself and aggravates his offence. It is for this reason that we are not inclined to accept his apology.

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6. The responsibility to maintain the rule of law lies on all individuals and institutions. Much more so on the three organs of the State. Our Constitution has separated and demarcated the functions of the Legislature, the Executive and the judiciary. Each has to perform the functions entrusted to it and respect the functioning of the others. None is free from errors, and the judiciary does not claim infallibility. It is truly said that a judge who has not committed a mistake is yet to be born. Our legal system in fact acknowledges the fallibility of the courts and provides for both internal and external checks to correct the errors. The law, the jurisprudence and the precedents, the open public hearings, reasoned judgments, appeals, revisions, references and reviews constitute the internal checks while objective critiques, debates and discussions of judgments outside the courts, and legislative correctives provide the external checks. Together, they go a long way to ensure judicial accountability. The law thus provides procedure to correct judicial errors. Abuses, attribution of motives, vituperative terrorism and defiance are no methods to correct the errors of the courts. In the discharge of their functions the courts have to be allowed to operate freely and fearlessly but for which impartial adjudication will be an impossibility. Ours is a Constitutional government based on the rule of law. The Constitution entrusts the task of interpreting and administering the law to the judiciary whose view on the subject is made legally final and binding on all till it is changed by a higher court or by a permissible legislative measure. Those living and functioning under the Constitution have to accept and submit to this obligation of respecting the constitutional authority of the courts. Under a Constitutional government, such final authority has to vest in some institution. Otherwise, there will be a chaos. The court's verdict has to be respected not necessarily by the authority of is reason but always by reason of its authority. Any conduct designed to or suggestive of challenging this crucial balance of power devised by the Constitution is an attempt to subvert the rule of law and an invitation to anarchy.

The contemner, for reasons which can only be attributed to his misconception of his role and over-zealousness to assert himself and his side of the matter intentionally overstepped his limits and conveniently ignored the above legal position, and abrogated to himself, in substance the role of a judge in his own cause. He has thus in effect not only challenged the jurisdiction of the Court to discharge its functions but also its authority to do so.

A 7. We, therefore, hold the contemner guilty of the criminal contempt of the court and convict him of the said offence. Taking into consideration all the facts and circumstances of the case and exercising our power under Article 129 independently and also under Article 129 read with Article 142 of the Constitution, we sentence the contemner to pay a fine of Rs. 2,000 and in default, to undergo simple imprisonment for one week. The contemner is given two weeks' time to pay the fine.

Although we have convicted the contemner as above, we are of the view that his conviction needs no departmental disciplinary proceedings against him. Nor should the conviction come in his way in his future career. This is because although the contemner has committed the offence, he has done so not for his personal gain or advantage but to assert his ill-conceived self-appointed role. We, therefore, direct that the Government should not initiate any departmental disciplinary proceedings against him.

C *Contempt Petition against Advocates:*

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*Re: Shri Kailash Vasdev*

8. On 9th February, 1995 this Court issued a notice to Shri Kailash Vasdev, Advocate-on-Record for Respondents in the writ petition, to show cause as to why he should not be proceeded against for the contempt of this Court for filing the said affidavit of the contemner, Shri Sanjiv Datta. The offence of contempt of the court is committed not only by those who author an offensive document but also by those who file it in the Court. In the present case, it is not disputed that Shri Vasdev had filed the said affidavit. However, he has given his explanation for the same as follows:

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"...I state that it is correct that the said affidavit of 30th of November, 1993 was filed by me as an Advocate-on-Record engaged on behalf of the Ministry of Information and Broadcasting. I state that on the 1st of December, 1993 when I was entering Court No. 2 the said affidavit was brought to me pre-drafted, pre-typed and pre-attested by the officials of the Ministry of Information and Broadcasting when I was attending to a part-heard matter.....

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I state that the present writ petition was to be heard on the 6th of December, 1993 therefore the affidavit in reply was to have been

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filed 5 days prior to the listing of the case, and the same was filed on the 1st of December, 1993. A

I state that I did not read the contents of the affidavit and I had no reason to believe that there was any objectionable or derogatory statement made in the said affidavit. I had no conference with the deponent of the affidavit on the contents of the affidavit prior to the filing of this affidavit. B

I state that when the matter was listed before this Hon'ble Court on the 6th of December, 1993..., the learned Solicitor General of India who appeared for the Ministry of Information and Broadcasting for whom I was acting as the Advocate-on-Record tendered an unqualified apology on behalf of the deponent to the said affidavit dated 30.11.1993 and myself for filing the said affidavit. I state that on the 6th of December, 1993 itself - when I was present in Court during these proceedings I tendered my own unconditional apology orally to this Hon'ble Court for filing the said affidavit. On that date, notice to show cause why proceedings for initiating proceedings for contempt of Court was issued only to Shri Sanjeev Dutta, Deputy Secretary, deponent of the said affidavit dated 30.11.1993. C D E

I state that on 9th February, 1995 when I was present in Court to hear the judgment being pronounced by this Court, this Hon'ble Court ascertained from me whether it was I who had drafted the affidavit. In reply I state that the affidavit had not been drafted by me and it was correct that the same had been filed under my signature as the Advocate-on-Record. F

I tender an unqualified and unconditional apology for my not scrutinising the affidavit dated 30th November, 1993 before it was filed since I genuinely had no apprehension or reason to apprehend that any derogatory statement had been made in the said affidavit. It was entirely my fault that I did not peruse the said affidavit for which I have tendered my unqualified apology. I now realise that had I been more vigilant, there would have been no occasion for the public record to have been tainted with this statement. I deeply regret that because of the constraints of time H

A the aforesaid affidavit had been filed. For this too, I unhesitatingly and sincerely apologise.

B I state that on the 6th of December 1993 itself I tendered my own unconditional apology orally to this Hon'ble Court for filing the said affidavit. I say that the only reason why I did not put this apology in writing an affidavit is that I carried a *bona fide* impression that this Hon'ble Court after considering the matter, had confined the issue of notice for showing cause as to why action for contempt be not taken only against Shri Sanjeev Dutta, and that my oral unconditional apology stood accepted.

C I submit that I have the greatest respect for this Honourable Court and in my entire career of over 19 years at the Bar, I have not knowingly done or permitted the doing of any act which would in the least affect the prestige of this Hon'ble Court or any other Court. I have not willfully or knowingly done anything in this case D which would be tantamount to contempt of this Honourable Court. I have apologised and I repeat my apology for having filed the affidavit in question in the circumstances mentioned in this affidavit.

E I once again tender my unqualified apology for having had filed the aforesaid affidavit without perusing the same. I assure this Hon'ble Court that such an action shall not be repeated on my part. I most humbly and respectfully pray that my unqualified and unconditional apology be accepted by this Hon'ble Court and the F notice to show cause as to why proceedings for contempt be not issued against me be discharged."

G 9. Shri Vasdev has been an advocate of this Court of the last 19 years and during his practice he has not only not given any cause for complaint but has in many respects displayed an exemplary conduct. We have no reason to doubt that the affidavit in question came to be filed without his having had an opportunity to peruse the same in the circumstances explained by him. We have, further, no doubt that had he perused it, he would certainly not have lent his services for filing it. We, therefore, accept his unconditional apology and discharge the notice of contempt issued H against him.

*Re: Mrs. Kitty Kumaramangalam*

10. During the hearing of the contempt proceedings against Shri Vasdev on 28th February, 1995, it transpired that the draft of the affidavit in question had passed through the hands of Mrs. Kumaramangalam. The advocate who drafts and/or settles an offending document also commits contempt of the court as the author of the document. We had, therefore, issued notice to her to show cause as to why action for the contempt be not taken against her for the offending statements in the affidavit. This became necessary also because Mrs. Kumaramangalam was concerned with the writ and appeal proceedings throughout and it was she who had appeared on behalf of the Union of India, the MIB and the DD at the time of the hearing on 15th November, 1993 when both the abovesaid orders were passed by this Court. However, she has given a written explanation of the role she had played with regard to the affidavit. The relevant portion of her explanation is as follows :

"3. With reference to the notice issued by this Hon'ble Court, I say that a document called "parawise comments on the writ petition" already drafted by someone was brought to me – frankly I cannot recollect by whom it was brought. I made corrections in this document and handed it back there and then. At that time another document of a draft SLP (against the Calcutta High Court order) was also brought to me and I made corrections on the same and handed it back there and then.

4. (a) When it became known that notice to show cause was issued to me by this Hon'ble Court on 28.2.1995, I approached the Learned Solicitor General, who was kind enough to permit me to glance through the particular "parawise comments on the writ petition", some pages of which had my handwriting in pencil. This was on 1.3.1995. However, another document containing my handwriting could I see in the file.

(b) Later, after receiving the formal notice of this Hon'ble Court, I requested the Director General, Doordarshan by letter dated 8.3.1995 to permit me to scrutinise the file – finally on 13.3.1995 I was permitted to go through the file in the room of the Secretary to the Ministry of Information & Broadcasting at Shastri Bhavan. I could not locate in the file either my detailed draft

A counter, all of which was in my handwriting nor the draft SLP, all  
of which was also in my handwriting. I also could not locate the  
draft SLP which should have had corrections in my handwriting,  
as the same was corrected at the same time as the "parawise  
B comments...." were corrected by me. I asked for the same, but was  
informed that all the relevant documents were in the file of which  
I was being given inspection, and that there was no other document  
containing my handwriting with the department. I was then given,  
at my request, a zerox copy of the document headed "parawise  
comments in the writ petition...." which was in the file.

C 5. I wish to bring to your Lordship's notice:-

(i) that a comparison of the "parawise comments" [Zerox copy  
supplied to me] and the counter affidavit as filed in this Hon'ble  
Court show that it was not even my corrected/alterd parawise  
D comments that were filed in Court - for instance, the second  
passage extracted from the counter affidavit in the order dated  
28.2.1995 reads differently from what is found in the zerox copy of  
the "parawise comments".

(ii) that certain corrections like that on page 5 of the zerox  
"parawise comments" in regard to reply to para 13 of the writ  
E petition, is not to be found in the final counter affidavit as filed.

(iii) that page 6, 7, 8 and 9 of the zerox "parawise comments" does  
[sic] not contain my handwriting at all - not even putting the words  
"in reply to para...".

(iv) that with regard to the first passage quoted in Your Lordship's  
order dated 28.2.1995 [at pages 9 and 10 of the zerox "parawise  
F comments"] no part of it contains my handwriting, and a certain  
correction ("hon'ble") has been added in the final affidavit filed.  
Besides, in the zerox draft "parawise comments" the letter "(a)"  
G indicating that this was in reply to the prayer (a) found in para 25  
of the writ petition is not present in the final counter affidavit as  
filed.

(v) I wish to submit that to the best of my recollection, the first  
H passage in this Hon'ble court's notice could not have been a

paragraph I had ever perused. The language is not such which would ever be approved by me, nor pass through even a cursory glance of mine. A

6. Finally, I humbly submit that a comparison of the zerox of "parawise comment" and the final counter affidavit filed, reveal a substantial number of omissions, corrections and additions. B

11. The above explanation of Mrs. Kumaramangalam reveals that the draft of the affidavit which was corrected or settled by her was not the same which was ultimately filed in the Court. That made the offence of the contemner, Shri Datta all the more serious as stated earlier. Not only he had not filed the draft which was settled by his counsel but also an affidavit which the Advocate-on-Record had no time to peruse. He had, therefore, taken the entire responsibility for making the offending statements in question. However, since Mrs. Kumaramangalam has given her explanation which absolves her of her responsibility in the matter, and since we have no reason to disbelieve what she has stated in the explanation, we do not think it necessary to pursue this matter any further. We accept her explanation and discharge the notice of contempt issued to her. C D

12. Before parting with these contempt proceedings, we may voice a few words not by way of admonition but caution. Judges also belong to legal fraternity. Most of them have come from the profession and some of them have practised law for more years than they have administered it. Hence the anxiety to express the concern. E

Of late, we have been coming across several instances which can only be described as unfortunate both for the legal profession and the administration of justice. It becomes, therefore, our duty to bring it to the notice of the members of the profession that it is in their hands to improve the quality of the service they render both to the litigant-public and to the courts, and to brighten their image in the society. Some members of the profession have been adopting perceptibly casual approach to the practice of the profession as is evident from their absence when the matters are called out, the filing of incomplete and inaccurate pleadings - many times even illegible and without personal check and verification, the non-payment of court fees and process fees, the failure to remove office objections, the failure to take steps to serve the parties, *et al.* They do not realise the seriousness of these acts and omissions. They not only amount to the F G H

A contempt of the court but do positive dis- service to the litigants and create embarrassing situation in the court leading to avoidable unpleasantness and delay in the disposal of matters. This augurs ill for the health of our judicial system.

B The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable members. Although the entry to the profession can be had by acquiring merely the qualification of technical competence, the honour as a professional has to be maintained by the its members by their exemplary conduct both in and outside the court. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilised society. Both as a leading member of the intelligentsia of the society and as a responsible citizen, the lawyer has to conduct himself as a model for others both in his professional and in his private and public life. The society has a right to expect of him such ideal behaviour. It must not be forgotten that the legal profession has always been held in high esteem and its members have played an enviable role in public life. The regard for the legal and judicial systems in this country is in no small measure due to the tireless role played by the stalwarts in the profession to strengthen them. They took their profession seriously and practised it with dignity, deference and devotion. If the profession is to survive, the judicial system has to be vitalised. No service will be too small in making the system efficient, effective and credible. The casualness and indifference with which some members practise the profession are certainly not calculated to achieve that purpose or to enhance the prestige either of the profession or of the institution they are serving. If people lose confidence in the profession on account of the deviant ways of some of its members, it is not only the profession which will suffer but also the administration of justice as a whole. The present trend unless checked is likely to lead to a stage when the system will be found wrecked from within before it is wrecked from outside. It is for the members of the profession to introspect and take the corrective steps in time and also spare the courts the unpleasant duty. We say no more.

The contempt proceedings are disposed of in the above terms.

T.W.

Petition disposed of.