IN THE MATTER OF : 'K', A JUDICIAL OFFICER

FEBRUARY 8, 2001

[DR. A.S. ANAND, CJ. AND R.C. LAHOTI, J.]

Judicial Restraint :

Judicial order—Remarks against subordinate judge by Court of superior jurisdiction—Judicial restraint and discipline—Need for, emphasised—Held, a judge is not expected to indulge in criticising the conduct of the subordinate judicial or quasi-judicial authority unless expression of opinion thereon becomes necessary as a part of reasoning requisite for arriving at a conclusion necessary for deciding the main controversy—Dais in a court room not properly built—Obstruction in the functioning of the court—Public Works Department officials non responsive—Metropolitan Magistrate initiating contempt proceedings and taking cognisance of substantive offences under the Indian Penal Code against erring officials—High Court making certain observations against the Magistrate in its judicial order while quashing the aforesaid proceedings—Legality of—Held, such remarks were not necessary for the decision of the case as an integral part thereof—Direction for expunging the objectionable remarks—Such remarks which percolated into the annual confidential rolls of the Metropolitan Magistrate also expunged—Contempt of Courts Act, 1971—Indian Penal Code, 1872—Sections 380, 201, 120-B.

Constitution of India, 1950 :

Articles 136, 142—Remarks against a subordinate judicial officer contained in judgement order of High Court—Expunging of—Jurisdiction of Supreme Court.

Article 235—Administrative and disciplinary control of High Court over subordinate judiciary—Role as a friend, philosopher and guide—Incorporating criticisms and observations against subordinate judicial officer in judicial pronouncements—Infirmities therein, enumerated—Alternative appropriate course to follow on the administrative side suggested.

Appellant is a judicial officer posted as Metropolitan Magistrate. A dais was constructed in her court room by the Public Works Department

during summer vacation when she was away from the headquarters. Dais not being properly built, caused obstruction in the functioning of the court. The officials concerned being non-responsive, appellant initiated proceedings calling upon the officials to show cause why proceedings under the Contempt of Courts Act be not drawn up and a reference be not made to the High Court. During the pendency of these proceedings, the Public Works department chopped off a wooden piece forming part of the dais and removed the same. On these facts coming to the knowledge of the appellant, she took cognisance of offences punishable under Sections 380, 201, 120-B of the Indian Penal Code.

The persons proceeded against preferred a petition before High Court seeking quashing of both the aforesaid proceedings under the Contempt of Courts Act and the Indian Penal Code. During the pendency of the petition before the High Court, appellant having felt satisfied by the response of officials concerned, directed the notice under the Contempt of Courts Act to be discharged. To that extent, the petition filed before the High Court was rendered infructuous. Subsequently, the High Court directed the quashing of the proceedings under the Indian Penal Code. While quashing the said proceedings, the High Court made certain observations against the appellant in its judicial order. The said observations so made later on found their way into her annual confidential records. Aggrieved, the appellant filed the present appeal.

Allowing the appeal, the Court

HELD : 1. Metropolitan Magistrate in initiating contempt proceedings and taking cognisance of substantive offences under the Indian Penal Code against the officials of Public Works Department was not properly advised or was at the worst indulging into a misadventure. Therefore to the extent of quashing of the proceedings by the High Court no fault can be found and certainly no one has come up to this Court complaining against the merits of that part of the order of the high Court by which criminal proceedings have been quashed. Nevertheless, the ill advised move or misadventure of the Metropolitan Magistrate was neither a misconduct nor an outcome of malice. The facts and circumstances of the case point out that her only desire was to make her court room functional. The remarks were not necessary for the decision of the case by the High Court as an integral part thereof.[971-B-E]

2.1. The primary purpose of pronouncing a verdict is to dispose of the

matter in controversy between the parties before it. A judge is not expected to drift away from pronouncing upon the controversy, to sitting in judgment over the conduct of the judicial and quasi-judicial authorities whose decisions or orders are put in issue before him, and indulge in criticising and commenting thereon unless the conduct of an authority or subordinate functionary or anyone else than the parties comes of necessity under review and expression of opinion thereon becomes necessary as a part of reasoning requisite for arriving at a conclusion necessary for deciding the main controversy. [965-G-H; 966-A] A B

Panchanan Banerji v. *Upendra Nath Bhattachrji,* AIR (1927) All 193; *Niranjan Patnaik* v. *Sashibhusan Kar and Anr.,* [1986] 2 SCR 569 and *A.M. Mathur* v. *Pramod Kumar Gupta,* [1990] 2 SCC 533, referred to. C

Essays on Jurisprudence, Columbia Law Review, 1963 p.315, referred to.

2.2. A subordinate judge faced with disparaging and undeserving remarks made by a Court of superior jurisdiction is not without any remedy. He may approach the High Court invoking its inherent jurisdiction seeking expunction of objectionable remarks. However, if a similar relief is sought for against remarks or observations contained in judgment or order of High Court the aggrieved judicial officer can, in exceptional cases, approach the Supreme Court also invoking its jurisdiction under Article 136 and/or 142 of the Constitution. Any passage from an order or judgment may be expunged or directed to be expunged subject to satisfying the following tests:- (i) that the passage complained of is wholly irrelevant and unjustifiable; (ii) that its retention on the records will cause serious harm to the persons to whom it refers; (iii) that its expunction will not affect the reasons for the judgment or order. Though the power to make remarks or observations is there but on being questioned, the exercise of power must withstand judicial scrutiny on the touchstone of following tests:- (a) whether the party whose conduct is in question is before the Court or has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on that conduct justifying the remarks; and (c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. The overall test is that the criticism or observation must be judicial in nature and should not formally depart from sobriety, moderation and reserve. D E F G

[967-C-D-E-F-G-H]

Dr. Raghubir Saran v. *State of Bihar and Anr.,* [1964] 2 SCR 330; *State* H

A *of Uttar Pradesh* v. *Mohammad Naim,* **[1964] 2 SCR 363 and** *Philip William Ravanshawe Hardless* v. *Gladys Isabel Hardless and Ors.,* **AIR (1940) Lahore 82, referred to.**

3.1. High Courts have to remember that criticism and observations touching a subordinate judicial officer incorporated in judicial
B **pronouncements have their own mischievous infirmities. Firstly, the judicial officer is condemned unheard which is violative of principles of natural justice. Secondly, the harm caused by such criticism or observation may be incapable of being undone. Thirdly, human nature being what it is , such criticism of a judicial officer contained in the judgement of a higher court gives the**
C **litigating party a sense of victory not only over his opponent but also over the judge who had decided the case against him. This is subversive of judicial authority of the deciding judge. Fourthly, seeking expunging of the observations by a judicial officer by filing an appeal or petition of his own reduces him to the status of a litigant arrayed as a party before the High Court or Supreme Court-a situation not very happy from the point of view of**
D **the functioning of the judicial system. And last but not the least, the possibility of a single or casual aberration of an otherwise honest, upright and righteous judge being caught unawares in the net of adverse observations cannot be ruled out . Such an incident would have a seriously demoralising effect not only on him but also on his colleagues. [969-B-H]**

E **3.2 The conduct of a judicial officer, unworthy of him having come to the notice of a judge of the High Court hearing a matter on the judicial side, the lis may be disposed of by pronouncing upon the merits thereof as found by him but avoiding in the judicial pronouncement criticism of, or observations on the 'conduct' of the subordinate judicial officer who had decided the case**
F **under scrutiny. Simultaneously but separately in-office proceedings may be drawn up inviting attention of the Chief Justice of the High Court to the facts describing the conduct of the subordinate judge concerned by sending a confidential letter or note to the Chief Justice. It will thereafter be open to the Chief Justice to deal with the subordinate judicial officer either at his own Level or through the inspecting judge or by placing the matter before**
G **the Full Court for its consideration. The action so taken would all be on the administrative side. The subordinate judge concerned would have an opportunity of clarifying his position or putting-forth the circumstances under which he acted. He would not be condemned unheard. [970-A-B-C-D]**

'JUDGES' by David Pannick (Oxford University Press) Publication,
H **1987, referred to.**

CRIMINAL APPELLATE JURISDICTION : Criminal appeal No. 165 of 2001. A

From the Judgment and Order dated 19.1.2000 of the Delhi High Court in Crl. M. No. 1984 of 1999.

Kapil Sibal, R.P.Lao, Sanjay Lao, Chirag M. Shroff and M.N. Shroff for the Appellant. B

Sanjay K. Kaul and Ms. A. Subhashini for the Respondents.

The Judgment of the Court was delivered by

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R.C. LAHOTI, J. This special leave petition under Article 136 of the Constitution of India filed by a judicial officer, seeks expunging of remarks detrimental to her, contained in the judgment of the High court disposing of a criminal miscellaneous petition under Section 482 of the code of Criminal Procedure, 1973 filed by the accused persons seeking quashing of certain criminal proceedings. D

Leave granted.

The backdrop of events has an unusual setting. The appellant is a serving judicial officer posted as Metropolitan Magistrate. The courtroom wherein the appellant held her court was not properly furnished and not only her courtroom but other court-rooms located in the same building also seriously lacked in infrastructural facilities and needed additions, alterations and improvements. The District judge was persuading the state officials to do the needful. So far as the appellant is concerned her courtroom needed a dais to be constructed. That was done during summer vacation when the appellant was away from the headquarters. On her return she found a mess of the work having been done by the PWD officials. According to the appellant the dais was made like a box. The presiding judge if seated on the dais would touch the ceiling fan on the head and while looking down from the dais, would not be able to see the arguing counsel, the parties appearing and the staff seated in the court room. Attention of the District & Sessions judge was invited who communicated with the officials concerned but they were non-responsive. As the work done by the PWD personnel caused an obstruction in the functioning of the court, and yet they would not listen to reason, the appellant initiated proceedings calling upon certain officials to show cause why proceedings under the Contempt of Courts Act, 1971 be not drawn up and a reference be

E F G H

A not made to the High Court. During the pendency of these proceedings the PWD people chopped off a wooden piece forming part of the dais and removed the same. On these facts coming to the knowledge of the appellant she took cognisance of offences punishable under sections 380, 201, 120-B of the Indian Penal Code and issued process requiring presence of the accused persons before her. The persons proceeded against preferred a petition B under section 482 of the Code of Criminal Procedure read with Article 227 of the Constitution seeking quashing of both the proceedings-one under the Contempt of Courts Act and the other in the criminal case wherein cognisance for substantive offences under the IPC was taken. During the pendency of the petition before the High Court, the learned Metropolitan Magistrate having C felt satisfied by the response of the PWD officials, directed the notice under the Contempt of Courts Act to be discharged and to that extent the petition filed before the High Court was rendered infructuous. The hearing before the High Court then remained confined to the question of quashing the cognisance of the offences under Sections 380,201, 120-B IPC taken by the learned Metropolitan Magistrate. After hearing the leaned counsel for the accused D persons and the learned counsel for the State, the High court has directed the proceedings to be quashed. The operative part of the order of the High Court reads as under:-

> "Thus *prima facie*, no offence either under sections 380 or 201 or E 120B IPC is made out against the petitioners. [The manner in which the cognisance of the said offences came to be taken clearly suggest that the Magistrate wanted to rope in the petitioners in a criminal case in order to pressurise them to have the dais in court room no. 8 and other civil work as noted in the petition carried out as desired by her] which matter could well be taken up by the Judge Incharge...../ F District & Sessions Judge with the appropriate authority in CPWD on administrative side. In passing the impugned order dated 1st July, 1999 the Magistrate had thus exceeded the jurisdiction [defying all judicial norms]. This order [being gross abuse of process of court], therefore, deserves to be set aside under section 482 Cr.P.C. Having G arrived at this conclusion it is not necessary to examine the plea raised on petitioner's behalf regarding the applicability of section 197 Cr.P.C.
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> Consequently, the petition is allowed and the criminal proceedings under Sections 380/201/120B IPC initiated against the petitioners by H the Magistrate, are hereby quashed."

With the above said order the controversy so far as it related to the persons proceeded against, that is, the PWD officials has come to an end. But, the appellant is aggrieved by the observations made by the High Court in its judicial order. The observations grieving the appellant have been quoted with emphasis and placed into brackets by us.

During the courts of hearing we were informed by Shri Kapil Sibal, the learned senior counsel for the appellant that the observations so made in the judicial order of the High Court have found their way into the annual confidential records of the appellant and they are sure to affect her career ahead.

Several cases are coming to our notice wherein observations are being made against the members of subordinate judiciary in the orders of superior forums made on judicial side and judicial officers who made orders as presiding Judges of the subordinate courts are being driven to the necessity of filing appeals to this Court or petitions before the High Court seeking expunging of remarks or observations made and sometimes strictures passed against them behind their back. We would therefore like to deal with a few aspects touching the making of observations or adverse comments against judicial officers and methodology to be followed if it becomes necessary.

A judge entrusted with the task of administering justice should be bold and feel fearless while acting judicially and giving expression to his views and constructing his judgment or order. It should be no deterrent to formation and expression of an honest opinion and acting thereon so long as it is within four-corners of law that any action taken by a subordinate judicial officer is open to scrutiny in judicial review before a superior forum with which its opinion may not meet approval and the superior court may upset his action or opinion. The availability of such fearlessness is essential for the maintenance of judicial independence. However, sobriety, cool, calm and poise should be reflected in every action and expression of a judge.

The primary purpose of pronouncing a verdict is to dispose of the matter in controversy between the parties before it. A judge is not expected to drift away from pronouncing upon the controversy, to sitting in judgment over the conduct of the judicial and quasi-judicial authorities whose decisions or orders are put in issue before him, and indulge into criticising and commenting thereon unless the conduct of an authority or subordinate functionary or anyone else than the parties comes of necessity under review and expression of opinion thereon going to the extent of commenting or

A criticising becomes necessary as a part of reasoning requisite for arriving at a conclusion necessary for deciding the main controversy or it becomes necessary to have animadverted thereon for the purpose of arriving at a decision on an issue involved in the litigation. This applies with added force when the superior court is hearing an appeal or revision against an order of a subordinate judicial officer and feels inclined to animadvert on him. The B wisdom of a superior judge itching for making observations on a subordinate judge before ventilating into expression must pause for a moment and read the counsel of Cardozo- "Write an opinion, and read it a few years later when it is dissected in the briefs of counsel. You will learn for the first time the limitations of the power of speech, or, if not those of speech in general, at C all events your own. All sorts of gaps and obstacles and impediments will obtrude themselves before your gaze, as pitilessly manifest as the hazards on a golf course. Sometimes you will know that the fault is truly yours, in which event you can only smite your breast, and pray for deliverance thereafter." (Essays on Jurisprudence, Columbia Law Review, 1963 at p.315).

D The courts do have power to express opinion, make observations and even offer criticism on the conduct of anyone coming within their gaze of judicial review but the question is one of impelling need, justification and propriety. The following observation by Sulaiman, J. in *Panchanan Banerji* v. *Upendra Nath Bhattacharji,* AIR [1927] All 193 was cited with approval E before this Court in *Niranjan Patnaik* v. *Sashibhusan Kar and Anr.,* [1986] 2 SCR 569.

> "The High Court, as the Supreme Court of revision, must be deemed to have power to see that Courts below do not unjustly and without any lawful excuse take away the character of a party or of a witness F or of a counsel before it."

This Court went on to add:-

> "It is, therefore, settled law that harsh or disparaging remarks are not to be made against persons and authorities whose conduct comes G into consideration before Court of law unless it is really necessary for the decision of the case, as an integral part thereof to animadvert on that conduct. We hold that the adverse remarks made against the appellant were neither justified nor called for.

Having regard to the limited controversy in the appeal to the High H Court and the hearsay nature of evidence of the appellant it was not

at all necessary for the Appellate Judge to have animadverted on the conduct of the appellant for the purpose of allowing the appeal of the first respondent. Even assuming that a serious evaluation of the evidence of the appellant was really called for in the appeal the remarks of the learned Appellate Judge should be in conformity with the settled practice of Courts to observe sobriety, moderation and reserve. We need only remind that the higher the forum and the greater the powers, the greater the need for restrain and the more mellowed the reproach should be."

A subordinate judge faced with disparaging and undeserving remarks made by a Court of superior jurisdiction is not without any remedy. He may approach the High Court invoking its inherent jurisdiction seeking expunction of objectionable remarks which jurisdiction vests in the High Court by virtue of its being a court of record and possessing inherent powers as also the power of superintendence. This view is settled by the law laid down in Dr. *Raghubir Saran* v. *State of Bihar and Anr.*, [1964] 2 SCR 330. However, if a similar relief is sought for against remarks or observations contained in judgment or order of High Court the aggrieved judicial officer can, in exceptional cases, approach this court also invoking its jurisdiction under Article 136 and/or 142 of the Constitution. With the law laid down by this Court in Dr. *Raghubir Saran* (supra) and the *State of Uttar Pradesh* v. *Mohammad Naim*, [1964] 2 SCR 363 it is well-settled that the power to expunge remarks exists for redressing a kind of grievance for which the law does not provide any other remedy in express terms though it is an extraordinary power. Any passage from an order or judgment may be expunged or directed to be expunged subject to satisfying the following tests:- (i) that the passage complained of is wholly irrelevant and unjustifiable; (ii) that its retention on the records will cause serious harm to the persons to whom it refers; (iii) that its expunction will not affect the reasons for the judgment or order.

Though the power to make remarks or observations is there but on being questioned, the exercise of power must withstand judicial scrutiny on the touchstone of following tests :- (a) whether the party whose conduct is in question is before the Court or has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on that conduct justifying the remarks; and (c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. The overall test is that the criticism or observation must be judicial in nature and should not formally depart from sobriety, moderation and reserve [see *Mohmmad*

A *Naim* (supra)].

It was so said by a Special Bench of three-Judges presided over by Tek Chand, J. in *Philip William Ravanshawe Hardless* v. *Gladys Iqabel Hardless and Ors.*, AIR [1940] Lahore 82 :

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> "A passage which is not necessary to the conclusion of the Judge nor even necessary to his arguments and is likely to militate seriously against party's earning a living in his profession should be expunged from the judgment."

In *A.M. Mathur* v. *Pramod Kumar Gupta*, [1990] 2 SCC 533 this Court C sounded a note of caution emphasising a general principle of highest importance to the proper administration of justice that derogatory remarks ought not to be make against persons or authorities whose conduct comes into consideration unless it is absolutely necessary for the decision of the case to animadvert on their conduct and said :-

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> "Judicial restraint and discipline are as necessary to the orderly administration of justice as they are to the effectiveness of the army. The duty of restraint, this humility of function should be constant theme of our judges. This quality in decision making is as much necessary for judges to command respect as to protect the E independence of the judiciary. Judicial restrain in this regard might better be called judicial respect, that is, respect by the judiciary. Respect to those who come before the court as well to other co-ordinate branches of the State, the executive, and legislature. There must be mutual respect. When these qualities fail or when litigants and public believe that the judge has failed in these qualities, it will F be neither good for the judge nor for the judicial process."

In the case at hand we are concerned with the observations made by the High Court against a judicial officer who is a serving member of subordinate judiciary. Under the constitutional scheme control over the district courts and G courts subordinate thereto has been vested in the High Courts. The control so vested is administrative, judicial and disciplinary. The role of High Court is also of a friend, philosopher and guide of judiciary subordinate to it. The strength of power is not displayed solely in cracking a whip on errors, mistakes or failures; the power should be so wielded as to have propensity to prevent and to ensure exclusion of repetition if committed once innocently H or unwittingly. "Pardon the error but not its repetition". The power to control

is not to be exercised solely by welding a teacher's cane; the members of subordinate judiciary look up at the High Court for the power to control to be exercised with parent-like care and affection. The exercise of statutory jurisdiction, appellate or revisional and the exercise of constitutional power to control and supervise the functioning of the district courts and courts subordinate thereto empowers the High Court to formulate an opinion and place it on record not only on the judicial working but also on the conduct of the judicial officers. The existence of power in higher echelons of judiciary to make observations even extending to criticism incorporated in judicial orders cannot be denied, however, the High Courts have to remember that criticisms had observations touching a subordinate judicial officer incorporated in judicial pronouncements have their own mischievous infirmities. Firstly the judicial officer is condemned unheard which is violative of principles of natural justice. A member of subordinate judiciary himself dispensing justice should not be denied this minimal natural justice so as to shield against being condemned unheard. Secondly, the harm caused by such criticism or observation may be incapable of being undone. Such criticism of the judicial officer contained in a judgment, reportable or not, is a pronouncement in open and therefore becomes public. The same judge who found himself persuaded, sitting on judicial side, to make observations guided by the facts of a single case against a subordinate judge may, sitting on administrative side and apprised of overall meritorious performance of the subordinate judge, may irretrievably regret his having made those observations on judicial side the harming effect whereof even he himself cannot remove on administrative side. Thirdly, human nature being what it is, such criticism of a judicial officer contained in the judgment of a higher court gives the litigating party a sense of victory not only over his opponent but also over the judge who had decided the case against him. This is subversive of judicial authority of the deciding judge. Fourthly, seeking expunging of the observations by a judicial officer by filing an appeal or petition of his own reduces him to the status of a litigant arrayed as a party before the High Court or Supreme Court—a situation not very happy from the point of view of the functioning of the judicial system. May be for the purpose of pleading his cause he has to take the assistance of a legal practitioner and such legal practitioner may be one practising before him. Look at the embarrassment involved. And last but not the leart, the possibility of a single or casual aberration of an otherwise honest, upright and righteous judge being caught unawares in the net of adverse observations cannot be ruled out. Such an incident would have a seriously demoralising effect not only on him but also on his colleagues. If all this is avoidable why it should not be avoided?

A B C D E F G H

A We must not be understood as meaning that any conduct of a subordinate judicial officer unbecoming of him and demanding a rebuff should be simply overlooked. But there is an alternate safer and advisable course available to choose. The conduct of a judicial officer, unworthy of him, having come to the notice of a judge of the High Court hearing a matter on the judicial side, the lis may be disposed of by pronouncing upon the merits B thereof as found by him but avoiding in the judicial pronouncement criticism of, or observations on the 'conduct' of the subordinate judicial officer who had decided the case under scrutiny. Simultaneously but separately in-office proceedings may be drawn up inviting attention of Hon'ble Chief Justice to the facts describing the conduct of the subordinate judge concerned by C sending a confidential letter or note to the Chief Justice. It will thereafter be open to the Chief Justice to deal with the subordinate judicial officer either at his own level or through the inspecting judge or by placing the matter before the Full Court for its consideration. The action so taken would all be on the administrative side. The subordinate judge concerned would have an opportunity of clarifying his position or putting-forth the circumstances under D which he acted. He would not be condemned unheard and if the decision be adverse to him, it being on administrative side, he would have some remedy available to him under the law. He would not be rendered remediless.

The remarks made in a judicial order of the High Court against a member E of subordinate judiciary even if expunged would not completely restitute and restore the harmed judge from the loss of dignity and honour suffered by him. In 'JUDGES' by David Pannick (Oxford University Press Publication, 1987) a wholesome practise finds a mention suggesting an appropriate course to be followed in such situations :

F "Lord Hailsham explained that in a number of cases, although I seldom told the complainant that I had done so, I showed the complaint to the judge concerned. I thought it good for him both to see what was being said about him from the other side of the court, and how perhaps a lapse of manners or a momentary impatience could undermine confidence in his decision."

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Though the learned author observes that such a private discussion, uncommunicated to the complainant, would be unlikely to remove his sense of grievance, the resolution is to be found in the same book elsewhere in the following passage (though in a different context) :-

H "Lord bridge gave a similar explanation in 1984: 'If one Judge in a

thousand acts dishonestly within his jurisdiction to the determinant of a party before him, it is less harmful to the health of society to leave that party without a remedy than that nine hundred and ninety-nine honest judges should be harassed by various litigation alleging malice in the exercise of their proper jurisdiction'. A

Reverting back to the case at hand, may be that the learned Metropolitan Magistrate in initiating contempt proceedings and taking cognisance of substantive offences under the Indian Penal Code against the officials of Public Works Department was not properly advised or was at the worst indulging into a misadventure and therefore to the extent of quashing of the proceedings by the High Court we may not find fault and certainly no one has come up to this Court complaining against the merits of that part of the order of the High Court by which criminal proceedings have been quashed. Nevertheless, the ill advised move or misadventure of the learned Metropolitan Magistrate was neither a misconduct nor an outcome of malice. Though she acted in a way which did not meet the approval of the High Court, the facts and the circumstances of the case point out that her only desire was to make her court room functional. Probably she felt aggrieved, rather agitated, by the apathy of the Public Works Department people who were taking the things too easy unmindful of the practical difficulties faced by the presiding judge occupying the courtroom and discharging judicial functions. The fact remains that the observations were made by the High Court without affording the Metropolitan Magistrate and opportunity of explaining or defending herself. The remarks were not necessary for the decision of the case by the High Court as an integral part thereof. Animadverting on the conduct of the learned Metropolitan Magistrate was not a necessity for the exercise by the High Court of inherent power or the power of superintendence to quash the proceedings initiated by the learned Metropolitan Magistrate. Expunging of the remarks, as we propose to do, will not affect the reasons for the judgment of the High Court. On the other hand, the remarks have a potential to prejudice the career of the appellant. B C D E F

We must peace on record the very its stand taken by Shri Sanjay Kaul, the learned senior counsel for the High Court, who told us that he was instructed by the High Court to appear in deference to the notice issued by this Court and to offer such assistance as might be needed and any verdict which this Court may deliver shall be acceptable to it; the High Court neither opposes nor supports the appellant's prayer; its stand is neutral. G

For the foregoing reasons the petition is allowed. The following portions H

A occurring in the judgment of the High Court are directed to be expunged:-

> [The manner in which the cognisance of the said offences came to be taken clearly suggest that the Magistrate wanted to rope in the petitioners in a criminal case in order to pressurise them to have the dais in court room no. 8 and other civil work as noted in the petition
B carried out as desired by her]
>
> [defying all judicial norms]
>
> [being gross abuse of process of court]

C The petition stands disposed of accordingly. Needless to say the above-said observations having been directed to be expunged if the said observations have percolated into the annual confidential rolls of the learned Metropolitan Magistrate the same shall also stand expunged for the foundation thereof has itself ceased to exist.

D M.P. Appeal allowed.