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R.K. ANAND

v.

REGISTRAR, DELHI HIGH COURT  
(Criminal Appeal No. 1393 of 2008)

B

NOVEMBER 21, 2012

[G.S. SINGHVI, AFTAB ALAM AND  
CHANDRAMAULI KR. PRASAD, JJ.]

C *Contempt of Courts Act, 1971 – s. 2(c) clauses (ii) and*  
*(iii) – Contempt proceedings – Initiated suo motu by High*  
*Court – Against senior advocate-contemnor – For suborning*  
*the court witness in a criminal trial, in which he represented*  
*the accused – High Court held him guilty of contempt and as*  
*a punishment prohibited him from appearing in the Delhi*  
D *High Court and the courts subordinate to it for a period of four*  
*months – However, he was left free to carry on his other*  
*professional work e.g. consultation, advices, conferences and*  
*opinions etc. – Further the court recommended the full court*  
*to divest him of the honour as a senior advocate and imposed*  
E *fine of Rs. 2000/- – On appeal, Supreme Court confirmed the*  
*finding of High Court as to his guilt, but opined that the*  
*punishment was inadequate – Notice of enhancement of*  
*punishment issued – The contemnor tendered unconditional*  
*apology and in addition proposed to take certain steps to*  
F *atone his guilt i.e. (1) would donate Rs. 21 lakhs to Bar*  
*Council of India, (2) would not make any earning out of the*  
*legal profession for a period of one year and (3) would offer*  
*his services as lawyer for the period of one year for rendering*  
*legal aid to the poor and needy – Held: The action of*  
G *contemnor struck at the root of the administration of criminal*  
*justice – Therefore, normally punishment for such act should*  
*be a term of imprisonment – But in view of the facts and*  
*circumstances of the case viz. the age of the contemnor; that*  
*his wife is confined to bed and wheel chair for over 20 years;*

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*that the contempt proceedings were initiated five years ago; that the criminal trial from which the present proceedings arose, has attained finality, lenient view taken – The offer given by contemnor accepted – The Court directed the contemnor to exclusively devote his professional services to help the accused pro bono; to place his professional services at the disposal of Delhi Legal Services Authority, which would frame a scheme to avail contemnor's services and to appear in court only in cases assigned by the Legal Services Authority – Legal Services Authority to keep a record of the cases assigned – After one year, the contemnor permitted to start his private law practice, but not to leave the cases, assigned through Legal Services Authority, incomplete – The contemnor to pay Rs. 21 lakhs through a demand draft to the Bar Council of India – Bar Council to give the money to a Law College preferably situated at a mufassil place for development of the infrastructure of the College – Punishment.*

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1393 of 2008.

From the Judgment & Order dated 21.8.2008 of the High Court of Delhi at New Delhi in W.P.(Crl.) No. 796 of 2007.

L.N. Rao, Gopal Subramaniam, Anand Varma, Yakshay Chhada for the Appellant.

M.R. Calla, Uday Gupta, Shivani, M. Lal, M.K. Tripathi, Pratiksha Sharma, Sarthak Guru, Ankit Acharya, Dharmendra Kumar Singh, Subramoniam Prasad for the Respondent.

The Order of the Court was delivered by

**AFTAB ALAM, J.** 1. In a proceeding initiated *suo motu* [registered as Writ Petition (Criminal) No.796 of 2007], the Delhi High Court found the contemnor guilty of suborning the court witness in a criminal trial in which he represented the accused as the senior advocate. The High Court, thus, held him

A guilty under clauses (ii) and (iii) of Section 2(c) of the Contempt of Courts Act, 1971 and in exercise of the power under Article 215 of the Constitution of India the High Court prohibited him, by way of punishment, from appearing in the Delhi High Court and the courts subordinate to it for a period of four months from the date of the judgment dated August 21, 2008 leaving him, however, free to carry on his other professional work e.g. consultations, advices, conferences, opinions etc. The High Court further held that the contemnor had forfeited his right to be designated as a senior advocate and recommended to the full court to divest him of the honour. In addition, the High Court also imposed on him a fine of Rs.2,000/-.

2. The contemnor brought the matter to this Court in appeal under Section 19(1) of the Contempt of Courts Act. This Court by judgment and order dated July 29, 2009 (*R.K. Anand v. Registrar, Delhi High*)<sup>1</sup> affirmed the finding of the High Court as to the guilt of the contemnor. But so far as the punishment is concerned, this Court took the view that in the facts and circumstances of the case, the punishment given to the contemnor was wholly inadequate. In paragraphs 272 and 273 of the judgment, this Court held and observed as follows:-

“272. The action of the appellant in trying to suborn the court witness in a criminal trial was reprehensible enough but his conduct before the High Court aggravates the matter manifold. He does not show any remorse for his gross misdemeanour and instead tries to take on the High Court by defying its authority. We are in agreement with Mr. Salve and Mr. Subramaniam that punishment given to him by the High Court was wholly inadequate and incommensurate to the seriousness of his actions and conduct. We, accordingly, propose to issue a notice to him for enhancement of punishment.

273. We also hold that by his actions and conduct the appellant has established himself as a person who needs to be kept away from the portals of the court for a longer

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time. The notice would therefore require him to show cause why the punishment awarded to him should not be enhanced as provided under Section 12 of the Contempt of Courts Act. He would additionally show cause why he should not be debarred from appearing in courts for a longer period. The second part of the notice would also cure the defect in the High Court order in debarring the appellant from appearing in courts without giving any specific notice in that regard as held in the earlier part of the judgment.”

3. Accordingly, this Court directed for issuing a notice of enhancement of punishment to him and directing him to file a show cause within eight weeks from the date of service of the notice.

4. In response to the notice issued by the Court, the contemnor filed his show cause on January 13, 2010. In the show cause he tendered apology to the Court and made the prayer to drop the proceedings. There were, however, certain statements made in the show cause that showed a lack of remorse for the wrong done by him. When it was pointed out to the learned counsel representing the contemnor, he filed an additional affidavit on May 4, 2011 accepting all the observations and findings recorded in the judgment of this Court and seeking to withdraw all statements made in the Court that suggested any lack of contrition on his part.

5. Here, it may be stated that the hearing of the case took place for brief periods after long gaps because we, the three members on this Bench, were sitting in different combinations and this Bench could assemble specially for this matter only when all three of us could get free from the regular combinations. As a result, the hearing was protracted till September 24, 2012 when the contemnor filed yet another additional affidavit proposing to undertake certain steps in atonement of his guilt.

A 6. Paragraph 2 of the affidavit which enumerates the steps which the contemnor wishes to undertake is reproduced below:-

B “2. That this matter has been pending for quite some time and it has allowed the Deponent to introspect and in addition to the unconditional apologies dated January, 2010 and 04.05.2011 already tendered by the Deponent before this Hon’ble Court, the Deponent voluntarily submits before this Hon’ble Court as under:-

C A. That the Deponent has decided to donate a sum of Rs.21 Lakhs (Rupees Twenty Lakhs (sic.) Only) through cheque favouring Bar Council of India for establishment of Computer Centre/ Library in any Law College / Institution/ University which the Bar Council of India may deem fit. Photostat copy of the Cheque No.010592 dated D 20.09.2012 drawn on UCO Bank, High Court of Delhi, New Delhi in the sum of Rs.21 Lakhs (Rupees Twenty One Lakhs Only) favouring Bar Council of India along with a copy of covering letter dated 20.09.2012 addressed to the Secretary, Bar Council of India is enclosed herewith as E ANNEXURE-A (Colly). The Deponent undertakes to send the cheque along with the covering letter to Bar Council of India immediately on passing of the final order by this Hon’ble Court in the present case on 24.09.2012.

F B. That the Deponent also undertakes before this Hon’ble Court that the Deponent shall not make any earning out of the legal profession by way of Practice/ Conference/ Consultation/ Legal Opinion/ Arbitration etc. in any form whatsoever for a period of 1 year from the date of order on which the apology is accepted by this Hon’ble G Court and during this period his services rendered as a Lawyer/ appearances, if any will all be *pro bono*.

H C. That the Deponent also undertakes to offer his services as a lawyer for a period of 1 year as aforesaid for rendering legal aid to the poor and needy persons and

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for this purpose his services can be utilized by the Delhi Legal Services Authority, Patiala House Courts/ Delhi High Court Legal Services Authority, High Court of Delhi, New Delhi/ Supreme Court Legal Services Authority, Supreme Court, New Delhi.” A

7. The offence committed by the contemnor was indeed odious. In the judgment, the gravity of the offence committed by him is discussed in detail and it is pointed out that the contemnor’s action tended to strike at the roots of the administration of criminal justice. We reaffirm the observations and findings made in the earlier judgment. Further, we have not the slightest doubt that normally the punishment for the criminal contempt of the nature committed by the contemnor should be a term of imprisonment. B C

8. In a judicial proceeding, however, it is important not to lose complete objectivity and that compels us to take note of certain features of this case. The contemnor is 69 years old. His wife has suffered a stroke of multiple sclerosis in the year 1992 and she is confined to the bed and a wheel chair for over 20 years. The contempt proceeding was initiated against the contemnor in the year 2007 and he has, thus, been facing the rigours of the proceeding for five years. D E

9. In the meanwhile, the criminal trial from which the present proceeding arises was concluded by the trial court and the accused was found guilty under Section 304 Part II of the Penal Code. In appeal, the High Court converted his conviction to one under Section 304-A of the Penal Code. But, on further appeal by the State to this Court, the conviction of the accused was, once again, brought under Section 304 Part II of the Penal Code by judgment and order dated August 3, 2012. In other words, the criminal trial from which the present proceedings arise has also attained finality. F G

10. The aforesaid facts and circumstances persuade us to take a slightly lenient view of the matter. We feel that no useful H

A purpose will be served by sending the contemnor to jail. On the contrary, by keeping him out and making him do the things that he has undertaken to do would serve a useful social purpose. We, accordingly, accept the offer made by the contemnor.

B 11. In terms of his undertaking, the contemnor shall not do any kind of professional work charging any fees or for any personal considerations for one year from today. He shall exclusively devote his professional services to help *pro bono* the accused who, on account of lack of resources, are not in a position to engage any lawyer to defend themselves and have no means to have their cases effectively presented before the court. The contemnor shall place his professional services at the disposal of the Delhi Legal Services Authority which, in coordination with the Delhi High Court Legal Services Authority, will frame a scheme to avail of the contemnor's services for doing case of undefended accused either at the trial or at the appellate stage. The contemnor shall appear in court only in cases assigned to him by the Legal Services Authority.

E 12. The Delhi Legal Services Authority shall keep a record of all the cases assigned to the contemnor and the result/progress made in those cases. At the end of the year, the Delhi Legal Services Authority shall submit a report to this Court in regard to all the cases done by the contemnor at its instance which shall be placed before the Judges for perusal.

F 13. At the end of one year it will be open to the contemnor to resume his private law practice. But he shall not leave any case assigned to him by the Legal Services Authority incomplete. He shall continue to do those cases, free of cost, till they come to a close.

G 14. The contemnor shall pay a sum of Rs.21,00,000/- (Rupees Twenty One Lakhs) through a demand draft to the Bar Council of India within one week from today. The Bar Council shall give the money to a law college preferably situated at a *muffassil* place and attended mostly by children from the under-

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privileged and deprived sections of the society. The money may be used for developing the infrastructure of the college, such as class rooms, library, computer facilities or moot court facilities, etc. The Bar Council of India will ensure a proper utilisation of the money.

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15. With the aforesaid observations and directions, the proceedings of this case are closed.

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16. The criminal miscellaneous petition No.21373 of 2012 also stands disposed of.

K.K.T.

Appeal disposed of.

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