

ARUN KUMAR YADAV

v.

STATE OF U.P. THRU DIST. JUDGE
(Criminal Appeal No. 1430 of 2010)

MAY 29, 2013

[DR. B.S. CHAUHAN AND DIPAK MISRA, JJ.]

Contempt of Courts Act, 1971 – s.12 – Contempt of Court – Accused (a litigant) using loud threatening utterances and using unparliamentary language for Judicial Officer, while he was conducting court – Complaint—Charge-sheet framed by High Court – Accused initially denying the charges, but later tendered unconditional apology – High Court did not accept the apology and convicted the accused u/s.12 and sentenced him to suffer simple imprisonment for one month and imposed fine of Rs.2,000/- with default clause – Appeal – Held: Judicial proceeding has its own solemnity and sanctity – It is obligation of everyone to behave with propriety when a judicial proceeding is conducted – The sanctity of law, which is sustained through dignity of courts cannot be marred by errant behaviour of any counsel or litigant or judge himself – The apology was rightly rejected as the same was neither prompt nor genuine – A concept of mercy and compassion is ordinarily attracted keeping in view the infirmities of man's nature and the fragile conduct – Conviction and sentence upheld – However, the court expressed its displeasure on the issue that High Court took a lenient view in sentencing the accused.

R.K. Garg, Advocate vs. State of Himachal Pradesh (1981) 3 SCC 166; 1981 (3) SCR 536; Mahabir Prasad Singh vs. M/s. Jacks Aviation Pvt. Ltd. AIR 1999 SC 287; 1998 (2) Suppl. SCR 675; Lt. Col. S.J. Chaudhary vs. State (Delhi Administration) AIR 1984 SC 618; 1984 (2) SCR 438;

- A *M.B. Sanghi vs. High Court of Punjab and Haryana* (1991) 3 SCC 600: 1991 (3) SCR 312; *L.D. Jaikwal vs. State of U.P.* (1984) 3 SCC 405: 1984 (3) SCR 833 – relied on.

- B *In Re: Sanjiv Datta, Deputy Secretary, Ministry of Information and Broadcasting, New Delhi, Kailash Vasdev, Advocate and Kitty Kumaramanglam (Smt.), Advocate* 1995 (3) SCC 619: 1995 (3) SCR 450 – referred to.

Case Law Reference:

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|---|-------------------------|-------------|---------|
| C | 1981 (3) SCR 536 | relied on | Para 6 |
| | 1998 (2) Suppl. SCR 675 | relied on | Para 7 |
| | 1984 (2) SCR 438 | relied on | Para 7 |
| | 1995 (3) SCR 450 | referred to | Para 9 |
| D | 1991 (3) SCR 312 | relied on | Para 9 |
| | 1984 (3) SCR 833 | relied on | Para 11 |

- E CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1430 of 2010.

From the Judgment and Order dated 17.08.2007 of the High Court of Judicature at Allahabad in Criminal Contempt No. 13 of 2006,

- F T.N. Saxena, Jyoti Saxena, M.P. Shorawala for the Appellant.

The following Order of the Court was delivered

O R D E R

- G 1. This appeal has been filed under Section 19 of the Contempt of Courts Act, 1971 (hereinafter referred to as “the Act”) against the judgment and order dated 17.08.2007 passed by the High Court of Judicature at Allahabad in Criminal

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Contempt No. 13 of 2006, by way of which the High Court has convicted the appellant for committing the contempt of court under Section 12 of the Act and sentenced him to suffer simple imprisonment for one month and to pay a fine of Rs2,000/- in default, to undergo simple imprisonment for a further period of two weeks.

2. On 5.9.2005 the appellant moved an application to surrender Chhandra Pal @ Badara s/o Shri Mathura under various sections of the Indian Penal Code in pursuance of the order passed under Section 82 of the Code of Criminal Procedure (for short "the Code") by the learned Judicial Magistrate. As the offences mentioned in the application and the process issued under Section 82 of the Code were different, the court asked a report from the police station concerned fixing the next date for disposal. About 3.45 p.m., when the Presiding Officer of the Court was in the midst of dictation of the order to his stenographer in another case, i.e., Original Suit No. 200/90 titled Balraj V. Rangpal, the appellant came inside the Court and shouted loudly uttering as under: -

"As to why you did not take my accused in judicial custody. You have passed arbitrary orders. Now, my accused would be arrested and he would be encountered. You have done injustice. I will see you. If you have your official force I am also having my own force."

3. Apart from the aforesaid loud threatening utterances the appellant had also used unparliamentary language for the said Judicial Officer. The Judicial Officer sent a complaint to the High Court against the appellant through proper channel, the cognizance of which was taken by the High Court, first on administrative side and, thereafter, on judicial side. After hearing the parties, the High Court framed the charges against the contemnor on 6.10.2006 in respect of this incident dated 5.9.2005 at Khaga Court, District Fatehpur, using abusive language to Abdul Qayum, learned Civil Judge, (Junior Division/ Judicial Magistrate, Khaga, District Fatehpur) and interrupted

- A him from working and shouting loudly while he was dictating the order to his stenographer in other case. To the said charge-sheet, the appellant filed the counter affidavit dated 20.7.2006 denying all the allegations made in the report of the Presiding Officer. However, at a later stage by filing an affidavit dated
- B 14.11.2006 he tendered unconditional apology to the court. The matter was heard at length. The High Court discussed the entire facts and law and came to the conclusion that it was not a fit case wherein unconditional apology tendered by the appellant should be accepted and, thus, considering the gravity
- C of the charge against him, he had been convicted and sentenced as referred to hereinabove.

4. We have heard Mr. T.N. Saxena, learned counsel appearing for the appellant in detail, who has argued all the legal and factual aspects before us. However, we can express

D our anxiety and displeasure only on the issue that we fail to understand how the High Court could afford to take such a lenient view sentencing the appellant for one month's simple imprisonment only.

E 5. It has been reiterated by this Court time and again that the Bar and the Bench are required to maintain the decorum of the Court, for Court is the temple of justice for all. No one has the authority to conduct in a manner which would demean and disgrace the majesty of justice which is dispensed by a

F court of law. The administration of justice is the paramount role of the court and both Bar and the Bench have an equal role in performance of the said sacrosanct duty.

6. In this context, we may refer with profit to the pronouncement in *R.K. Garg, Advocate v. State of Himachal Pradesh*¹, wherein the Court has observed thus:-

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"The Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar and their

H 1. (1981) 3 SCC 166.

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past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar. It is unquestionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a court room. But members of the Bar will do well to remember that such flagrant violations of professional ethics and cultured conduct will only result in the ultimate destruction of a system without which no democracy can survive.” A B

7. In *Mahabir Prasad Singh v. M/s. Jacks Aviation Pvt. Ltd.*², this Court has observed that judicial function cannot and should not be permitted to be stonewalled by browbeating or bullying methodology whether it is by litigants or by counsel. In the said case the two learned Judges, after referring to a three-Judge Bench decision in *Lt. Col. S.J. Chaudhary v. State (Delhi Administration)*, has opined thus: - C D

“It was further reminded that “having accepted the brief, he will be committing a breach of his professional duty, if he so fails to attend”. E

“A lawyer is under obligation to do nothing that shall detract from the dignity of the Court, of which he is himself a sworn officer and assistant. He should at all times pay deferential respect to the Judge, and scrupulously observe the decorum of the Court room.” F

(Warevelle’s Legal Ethics at p. 182)

Of course, it is not a unilateral affair. There is a reciprocal duty for the Court also to be courteous to the members of the Bar and to make every endeavour for maintaining and protecting the respect which members of the Bar are entitled to have from their clients as well as from the litigant public. Both the Bench and the Bar are the G

A two inextricable wings of the judicial forum and therefore
the aforesaid mutual respect is sine qua non for the efficient
functioning of the solemn work carried on in Courts of law.
But that does not mean that any advocate or group of them
can boycott the courts or any particular Court and ask the
B Court to desist from discharging judicial functions. At any
rate, no advocate can ask the Court to avoid a case on
the ground that he does not want to appear in that Court."

8. In *In Re: Sanjiv Datta, Deputy Secretary, Ministry of
Information and Broadcasting, New Delhi, Kailash Vasdev,
C Advocate and Kitty Kumaramanglam (Smt.), Advocate*⁴
certain observations were made, though in different context, yet
we think it apt to reproduce the same:-

D "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 its members by their exemplary conduct
E 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
F 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."

9. In *M.B. Sanghi v. High Court of Punjab and Haryana*⁵,
G it has been opined that

3. AIR 1984 SC 618.

4. 1995 (3) SCC 619

H 5. (1991) 3 SCC 600.

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"The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure the desired order is ever on the increase and it is high time it is nipped in the bud. And, when a member of the profession resorts to such cheap gimmicks with a view to browbeating the Judge into submission, it is all the more painful. When there is a deliberate attempt to scandalise which would shake the confidence of the litigating public in the system, the damage caused is not only to the reputation of the Judge concerned but also to the fair name of the judiciary."

10. From the aforesaid enunciation of law it is clear as noon day that the judicial proceeding has its own solemnity and sanctity. No one has any authority to sully the same. It is the obligation of everyone to behave with propriety when a judicial proceeding is conducted. Any kind of deviancy not only affects the system but corrodes the faith of the collective at large. Neither any counsel nor a litigant can afford to behave in this manner. This being the position, it is really shocking that a counsel who was in his mid fifties could afford to behave like that. Hence, we have expressed our displeasure.

11. The learned counsel for the appellant has endeavoured had to impress us that when the appellant had offered unconditional apology, the same should have been accepted. In *L.D. Jaikwal v. State of U.P.*⁶ it has been observed as follows: -

"We do not think that merely because the appellant has tendered his apology we should set aside the sentence and allow him to go unpunished. Otherwise, all that a person wanting to intimidate a Judge by making the grossest imputations against him has to do, is to go ahead and scandalize him, and later on tender a formal empty apology which costs him practically nothing. If such an apology were to be accepted, as a rule, and not as an

6. (1984) 3 SCC 405.

- A exception, we would in fact be virtually issuing a “licence”
to scandalize courts and commit contempt of court with
impunity. It will be rather difficult to persuade members of
the Bar, who care for their self-respect, to join the judiciary
if they are expected to pay such a price for it. And no
B sitting Judge will feel free to decide any matter as per the
dictates of his conscience on account of the fear of being
scandalized and persecuted by an advocate who does not
mind making reckless allegations if the Judge goes
against his wishes. If this situation were to be
C countenanced, advocates who can cow down the Judges,
and make them fall in line with their wishes, by threats of
character assassination and persecution, will be preferred
by the litigants to the advocates who are mindful of
professional ethics and believe in maintaining the decorum
of courts.”
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12. In the case at hand, we are absolutely convinced that
apology or for that matter the unconditional apology was neither
prompt nor genuine. The concept of mercy and compassion is
ordinarily attracted keeping in view the infirmities of man’s
E nature and the fragile conduct but in a court of law a counsel
cannot always take shelter under the canopy of mercy, for the
law has to reign supreme. The sanctity of law which is sustained
through dignity of courts cannot be marred by errant behaviour
by any counsel or litigant. Even a Judge is required to maintain
F the decorum and dignity of the court.

13. In view of the above, we do not find any force in the
appeal, which is accordingly dismissed. The appellant is
directed to surrender and deposit the fine within a period of
thirty days from today, failing which the Chief Judicial
G Magistrate, Fatehpur, shall ensure to give effect to the judgment
and order passed by the High Court.

K.K.T.

Appeal dismissed.