

A IN RE, HON'BLE SHRI JUSTICE C. S. KARNAN

(Suo-motu Contempt Petition (Civil) No. 1 of 2017)

MAY 09, 2017¹ AND JULY 04, 2017²

[JAGDISH SINGH KHEHAR, CJI, DIPAK MISRA,

J. CHELAMESWAR, RANJAN GOGOI,

B MADAN B. LOKUR, PINAKI CHANDRA GHOSE AND

KURIAN JOSEPH, JJ.]

Contempt of Courts Act, 1971 – ss. 2(b), 2(c) – Contempt of court – Suo motu contempt proceedings against High Court judge – Alleged actions of criminal contempt by a sitting judge-Justice K – He leveled obnoxious allegations against innumerable judges of Supreme Court, Chief Justice of High Courts, but mostly against judges of Madras High Court – Wrote letters, addressed to the media, addressed correspondence to the highest constitutional authorities; and ordered registration of a case under the provisions of the 1989 Act – Suo motu judicial orders passed by Justice K, even after issuance of contempt notice – Held: Actions of Justice 'K' constituted the grossest and gravest actions of contempt of Court – He also committed contempt, in the face of the Court – None of the allegations levelled by Justice 'K' were supported by any material – His allegations were malicious and defamatory, and pointedly by name, against many of the concerned Judges – He carried his insinuations to the public at large by letters, and through internet – Some of his letters were intentionally endorsed, amongst others, to the President of the Tamil Nadu Advocate Association – During the course of hearing of the instant contempt petition, his ridicule of the Supreme Court remained unabated – He even stayed orders passed by this Court and also, restrained the Judges on this Bench, from leaving the country and convicted them, and sentenced them to 5 years imprisonment – Thus, liable to be punished, for his unsavoury actions and behavior with imprisonment for six months – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

G (Per Khehar, CJI)

¹ Judgment by the Bench of Jagdish Singh Khehar, CJI, Dipak Misra, J Chelameswar, Ranjan Gogoi, Madan B. Lokur, Pinaki Chandra Ghose and Kurian Joseph, JJ.

² Judgment by the Bench of J. Chelameswar and Ranjan Gogoi, JJ.

H

Contempt of court – Suo motu contempt proceedings against High Court judge – Unsavory allegations levelled by the judge towards a large number of named Judges and the judiciary – Held: Has seriously tarnished the image of those concerned, and the judiciary as a whole – Thus, initiation suo-motu proceedings, for contempt of court. (Per Khehar, CJI)

s.2(c) – Criminal contempt – Impeachment of contemnor – Sitting judge 'K' of the High Court addressing letters containing allegations of corruption and commission of various offences by the judge and successive Chief Justices of the Madras High Court – Letters addressed to constitutional functionaries – Judge 'K' passed order commanding various authorities to take legal action against the said judges – Allegations made public, undermining the credibility of the judiciary – Suo motu contempt proceedings against the judge – Judge's case that no contempt proceedings could be initiated against the judge of the High Court; that only legal action against the judge was to remove him from office by impeachment and that initiation of contempt proceeding against him would constitute an offence under the 1989 Act – Held: The Court has jurisdiction to initiate contempt proceedings – Present contempt proceedings initiated suo motu by this Court makes no difference to its maintainability – Power to punish for contempt of court has always been recognized to be inherent in certain superior courts – Scandalising the court and interference with the due course of any judicial proceeding is recognized to be an act constituting contempt of court – Conduct of contemnor during the pendency of the proceedings in this Court certainly constitutes criminal contempt – Main proceedings might or might not have ended in finding the guilt of the contemnor of scandalising the judiciary – Contemnor aborted all attempts to judicially resolve the charge of commission of contempt brought against him by the initial notice of the Court – Rather, he chose to challenge the very jurisdiction of this Court to enquire into an allegation of contempt against a sitting Judge of High Court – Post notice conduct and the actions of the contemnor brought disrepute to the judicial system and has the potential of shaking the confidence of the average citizen in the system – Not showing the slightest remorse could be a mitigating factor – Such conduct and act, if tolerated, would certainly reflect an element of weakness in the system – Contemnor to be punished for the contempt

A – *Constitution of India – Arts. 124(4) and 217(1)(b) – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. (Per Chelameswar, J.)*

Judiciary – Constitutional courts – Need to revisit the process of selection and appointment of judges to the constitutional courts
 B – *Need to set up appropriate legal regime to deal with situations where the conduct of a Judge of a constitutional court requires corrective measures, other than impeachment to be taken. (Per Chelameswar, J.)*

Disposing of the petition, the Court

C HELD: (Per Curiam)

1.1 The actions of Justice ‘K’ constituted the grossest and gravest actions of contempt of Court. He has also committed contempt, in the face of the Court. He is therefore, liable to be punished, for his unsavoury actions and behavior. He should be
 D punished for his actions, with imprisonment for six months. [Para 36][262-D]

1.2 The text of the letters written by Justice ‘K’ from time to time, have been examined as also the suo-motu procedure adopted by him, whereby he passed orders which were derogatory
 E to the administration of justice, before he was issued notice for contempt, by this Court. The orders passed by Justice ‘K’ suo-motu (in the purported exercise of the jurisdiction vested in him under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure), even after the issuance
 F of the contempt notice to him, by this Court have been analysed. His demeanour was found to have become further aggressive, after this Court passed orders from time to time, in this case. The contents of the letters addressed by him contained scandalous material against Judges of High Courts and the Supreme Court. This correspondence was addressed to the
 G highest constitutional authorities, in all three wings of governance-the legislature, the executive and the judiciary. His public utterances, turned the judicial system into a laughing stock. The local media, unmindful of the damage it was causing to the judicial institution, merrily rode the ‘K’ wave. Even the foreign
 H media, had its dig at the Indian judiciary. None of his actions can

be considered as bona fide, especially in view of the express directions issued by this Court requiring him to refrain from discharging any judicial or administrative work. To restrain his abuse of suo-motu jurisdiction, a further order had to be passed by this Court restraining Courts, Tribunals, Commissions and Authorities from taking cognizance of any order passed by Justice 'K' [Para 33][259-C-G]

1.3 Justice 'K' shielded himself from actions, by trumpeting his position, as belonging to an under-privileged caste. By assuming the said position, he levelled obnoxious allegations against innumerable Judges of the Supreme Court, Chief Justices of the High Courts, but mostly against Judges of the Madras High Court. None of the allegations levelled were supported by any material. His allegations were malicious and defamatory, and pointedly by name, against many of the concerned Judges. He carried his insinuations to the public at large, in the first instance, by endorsing his letters carefully so as to widely circulate the contents of his communications, to the desired circles. Some of his letters were intentionally endorsed, amongst others, to the President of the Tamil Nadu Advocate Association. And later, through the internet, he placed his point of view, and the entire material, in the public domain. During the course of hearing of the instant contempt petition, his ridicule of the Supreme Court remained unabated. In fact, it was heightened, as never before. In this process, he even stayed orders passed by this Court. By the orders passed by him, he restrained the Judges on this Bench, from leaving the country, he convicted the Judges on this Bench, and sentenced them to 5 years imprisonment, besides imposing individual costs on the convicted Judges. While disposing of the suo-motu contempt petition, this Court had directed, that no further statements issued by Justice 'K' would be publicized. The instant restraint order, however, does not prevent or hinder any public debate on the matter, academic or otherwise. The media is not restricted in any manner, other than, to the limited extent expressed. There is hope and expectation, that a meaningful debate, would lead to a wholesome understanding of the issue, from all possible perspectives. [Paras 34, 35][259-H; 260-A; 261-F-H; 262-A-C]

A Per Chelameswar, J.(For himself and Gogoi, J.)
 (Supplementing)

1.1 Faced with an unprecedented situation resulting from the incessant questionable conduct of the contemnor perhaps made the Chief Justice of India come to the conclusion that all the above-mentioned questions could better be examined by this court on the judicial side. There is no reason to doubt the authority/jurisdiction of this Court to initiate the contempt proceedings. Hypothetically speaking, if somebody were to move this Court alleging that the activity of Justice K tantamounts to contempt of court and therefore appropriate action be taken against him, this Court is bound to examine the questions. It may have accepted or rejected the motion. But the authority or jurisdiction of this Court to examine such a petition, if made cannot be in any doubt. Therefore, the fact that the present contempt proceedings are initiated *suo motu* by this court makes no difference to its maintainability. If only the contemnor appropriately participated in the proceedings, all the above-mentioned questions and perhaps many more question incidental to them could have been properly examined and necessary conclusions could have been recorded. [Para 13][265-F-G]

1.2 Unfortunately, the contemnor never allowed the inquiry in the right direction. On the other hand, he chose to question the jurisdiction of this Court to initiate contempt proceedings against him not on the ground that his activity did not constitute contempt, but on the ground that no contempt proceedings could be initiated against a judge of a High Court. According to the contemnor the only possible legal action against a judge of a High Court is to remove him from office in accordance with the procedure of impeachment prescribed under the Constitution—whatever be his “conduct” and “misconduct”, a stand which clearly is untenable in law. He did not stop there. He believed that the initiation of contempt proceedings by this Court against him would constitute an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as the contemnor belongs to one of those communities falling within the sweep of the protective umbrella of that enactment. He not

H

only believed so, but also purported to pass certain orders ostensibly in exercise of the authority vested in him by virtue of his appointment as a judge of a High Court to initiate various actions against members of this Bench. In substance, (i) he accused the members of this Bench guilty of prejudice against him, (ii) "he declared" that the initiation of contempt proceedings against him is *malafide* judicial action apart from constituting an offence under the 1989 Act. [Para 14][265-H; 266-A-D]

1.3 The authority to punish for contempt of court has always been exercised by the judiciary from times immemorial. The justification for the existence of that is not to afford protection to individual judges but to inspire confidence in the sanctity and efficacy of the judiciary, though they do not and should not flow from the power to punish for contempt. They should rest on more surer foundations. The foundations are – the trust and confidence of the people that the judiciary is fearless and impartial. [Para 16][266-F; 267-A-B]

1.4 The power to punish for contempt of court has always been recognized to be inherent in certain superior courts and in others it was conferred by statutes. The exercise of such a power has always been very infrequent and subjected to some discipline. Members of the Judiciary have always been conscious of the fact that the power for contempt should be exercised with meticulous care and caution and only in absolutely compelling circumstances warranting its exercise. "The countervailing good, not merely of free speech but also of greater faith generated by exposure to the actinic light of bona fide, even if marginally over-zealous, criticism cannot be overlooked. Justice is no cloistered virtue." [Paras 17, 20] [267-B; 269-C]

1.5 In India scandalising the Court is still recognized to be an act constituting contempt of court. Though what is the activity which constitutes scandalisation of the Court is not defined or very precisely explained in the above-mentioned cases, individuals were held guilty of contempt of court on the ground that their deeds scandalized the Court. [Para 24][273-F]

1.6 Interference with the due course of any judicial proceeding is another facet of criminal contempt. The conduct of

A the contemnor subsequent to the initiation of *suo motu* contempt
petition No.1 of 2017 in purporting to pass various orders, the
details of which are contained in paragraphs of the judgment of
Chief Justice of India leaves no scope for doubt about the question
B whether such conduct would amount to interfering with the judicial
proceedings pending in the highest court of the land. The main
proceeding might or might not have ended in finding the guilt of
the contemnor of scandalising the judiciary. The contemnor
aborted all attempts to judicially resolve the charge of commission
of contempt brought against him by the initial notice of the Court.
C Rather, he chose to engage in a tirade challenging the very
jurisdiction of this Court to enquire into an allegation of contempt
against a sitting Judge of a High Court. He had addressed
numerous written communications to the Members of the Bench
dealing with the case and had also passed several purported
judicial orders, which, even on a cursory glance, are contemptuous
D in nature and content. The “post notice” conduct and the actions
of the contemnor are to be judged by a minimum standard of
expectation, surely, the Judge before this Court has crossed even
the most liberal standards of expected and permissible expression
of opinion. There is no doubt that such conduct on the part of the
contemnor has brought disrepute to the judicial system and has
E the potential of shaking the confidence of the average citizen in
the system. He has not shown the slightest remorse which could
be a mitigating factor. Such conduct and action, if tolerated, would
certainly reflect an element of weakness in the system; no such
weakness can be allowed to enter the system. The conduct of
F the contemnor during the pendency of the proceedings in this
Court certainly constitutes criminal contempt falling both under
the heads of scandalising the court as well as interference with
the proceedings of this court. The contemnor is therefore liable
to be punished for the contempt of this court. [Para 25][274-A-
G]

G 1.7 This case has importance extending beyond the
immediate problem. This case highlights two things, (1) the need
to revisit the process of selection and appointment of judges to
the constitutional courts, for that matter any member of the
judiciary at all levels; and (2) the need to set up appropriate legal

H

regime to deal with situations where the conduct of a Judge of a constitutional court requires corrective measures - other than impeachment-to be taken. [Para 26][274-H; 275-A]

1.8 The conduct of the contemnor ever since his elevation to the bench has been controversial. Obviously, there is a failure to make an assessment of the personality of the contemnor at the time of recommending his name for elevation. The purpose is not to point fingers to individuals who were responsible for recommendation but only to highlight the system's failure of not providing an appropriate procedure for making such an assessment. What appropriate mechanism would be suitable for assessing the personality of the candidate who is being considered for appointment to be a member of a constitutional court is a matter which is to be identified after an appropriate debate by all the concerned-the Bar, the Bench, the State and Civil Society. But the need appears to be unquestionable. [Para 27][275-B-C]

1.9 This Court is sad to point out that apart from the embarrassment that this entire episode has caused to the Indian Judiciary, there are various other instances (mercifully which are less known to the public) of conduct of some of the members of the judiciary which certainly would cause some embarrassment to the system. [Para 28][275-D]

1.10 The framers of the Constitution were people of a great sense of patriotism and maturity, men and women who maintained high standards of civic morality. They expected those who are to be chosen for the higher constitutional offices or to be appointed to public service would be chosen by assessing their suitability (efficiency and integrity) by employing appropriate standards. The makers of the Constitution were conscious of the fact that ascendance to higher offices need not necessarily always guarantee rectitude and the incumbent of any constitutional office could resort to behaviour inconsistent with the nature of the office and standards of conduct expected. Thereafter, provisions were made in the Constitution for impeachment of holders of various constitutional offices starting from the President of India. [Para 29][275-E-G]

A 1.11 When it came to the members of the constitutional courts equally, it was visualised that there can be such occasions. But the standards and procedure for impeachment of judges are much more rigorous for reasons obvious. There can be deviations in the conduct of the holders of the offices of constitutional courts which do not strictly call for impeachment of the individual or such impeachment is not feasible. Surely there must be other ways of dealing with such cases. The text of the Constitution is silent in this regard. [Para 30][275-H; 276-A]

B
C
D
E
F
Supreme Court Advocates-on-Record Association v. Union of India (1993) 4 SCC 441 : [1993] 2 Suppl. SCR 659; *Special Reference No.1 of 1998* (1998) 7 SCC 739; [1998] 2 Suppl. SCR 400; (*E.M. Sankaran Nambudripad v. T. Narayanan Nambiar* (1970) 2 SCC 325; [1971] 1 SCR 697; *R.L. Kapur v. State of Madras* (1972) 1 SCC 651 : [1972] 3 SCR 417; *Pritam Pal v. High Court of Madhya Pradesh, Jabalpur* 1993 Suppl. (1) SCC 529; [1992] 1 SCR 864; *Shri Baradakanta Mishra v. The Registrar of Orissa High Court & Another* (1974) 1 SCC 374 : [1974] 2 SCR 282 – referred to. *Rex v. Almon* (1765) Wilmot’s Notes, 243; *Craig v. Harney*, 331 US 367, 376 (1947); *Helmore v. Smith*, (1887) 35 Ch D 449, 455; Law Commission’s Report of United Kingdom on “Contempt of Court : Scandalising the Court (Contempt of Court : Scandalising The Court”, (2012) The Law Com No.335 [London “(The Stationery Office)] – referred to.

F Case Law Reference

[1993] 2 Suppl. SCR 659	referred to	Para 2
[1998] 2 Suppl. SCR 400	referred to	Para 2
[1971] 1 SCR 697	referred to	Para 18
G [1972] 3 SCR 417	referred to	Para 19
[1992] 1 SCR 864	referred to	Para 19
[1974] 2 SCR 282	referred to	Para 20

H

CIVIL ORIGINAL JURISDICTION: Suo Motu Contempt A
Petition (Civil) No.1 of 2017.

Maninder Singh, ASG, Rakesh Dwivedi, K. K. Venugopal, Rupinder Singh Suri, Ajit Kr. Sinha, Sr. Advs., Chanchal Kr. Ganguli, Ms. Narmada, Ms. Madhvi Divan, Nalin Kohli, Ms. Ranjeeta Rohatgi, Prabhash Bajaj, Nikhil Nayyar, N. Sai Vinod, Ms. Smriti Shah, Divyanshu Rai, Gaurav Bhatia, M. Yogesh Kanna, Ms. Nithya, Mrs. Maha Lakshmi, Partha Sarathi, Ms. Uttara Babbar, Ms. Akanksha Choudhary, Advs. B
for the appearing parties.

The Judgments of the Court were delivered by

JAGDISH SINGH KHEHAR, CJI C

1. The task at our hands is unpleasant. It concerns actions of a Judge of a High Court: The instant proceedings pertain to alleged actions of criminal contempt, committed by Shri Justice C.S. Karnan. The initiation of the present proceedings suo-motu, is unfortunate. In case this Court has to take the next step, leading to his conviction and sentencing, the Court would have undoubtedly travelled into virgin territory. This has never happened. This should never happen. But then, in the process of administration of justice, the individual's identity, is clearly inconsequential. This Court is tasked to evaluate the merits of controversies placed before it, based on the facts of the case. It is expected to record its conclusions, without fear or favour, affection or ill-will. D E

2. The factual position which emerged in this case, during the course of hearing, was almost entirely based on the contents of correspondence addressed by Justice Karnan. They eventually resulted in his transfer, from the Madras High Court to the High Court of Calcutta. The episode of his transfer, was preceded by letters written by a series of former Chief Justices of the Madras High Court, to the then Chief Justice(s) of the Supreme Court of India, seeking his transfer. The transfer of Shri Justice C.S. Karnan was also sought, through a joint representation addressed by 20 sitting Judges of the Madras High Court. F G

3. During this period, and unconnected with the reasons for seeking his transfer, the Registrar General of the Madras High Court approached this Court, highlighting the fact that Shri Justice C.S. Karnan had initiated suo-motu writ proceedings, wherein, he had stayed administrative orders H

A passed by the Chief Justice of the Madras High Court. Having heard the matter, a Bench of this Court, presided over by the then Chief Justice of India, passed the following directions: -

“Permission to file special leave petition is granted.
Issue notice.

B In the meantime, there shall be stay of interim order, dated 30.4.2015 passed in M.P. no. 1 of 2015 in Suo-motu Writ Petition no. (unnumbered) of 2015, until further orders.

C We restrain- the learned Judge, who has initiated proceedings relating to Suo-motu Writ Petition no. (unnumbered) of 2015 pending before the High Court of Judicature at Madras from either hearing or issuing any directions in said petition and other matters connected therewith.

D There shall not be any interference by any person/authority or learned Judges in completing the process initiated by the High Court for selection and appointment of Junior Divisional Judicial Officers till the disposal of the special leave petition.

List after summer vacation.”

The petition filed by the Registrar General was later assigned Special Leave Petition (Civil) no. 14842 of 2015.

E 4. Undeterred by the intervention of this Court, Shri Justice C.S. Karnan continued to foul mouth his colleagues at the High Court of Madras, by addressing communications to the highest executive and judicial authorities. We shall refer to only those available on the record of the case. We may, for reason of brevity, leave out the past, and
F commence with his letter dated 21.8.2015, addressed to the Chief Justice of the Madras High Court. A perusal of the aforesaid communication, reveals his dissatisfaction in not having been assigned an appropriate roster, when he was deputed to the Madurai Bench of the Madras High Court. Even when he returned to the Principal Bench, after a period of three months, he was unhappy with the roster assigned to him. In the
G instant letter, he also expressed his displeasure, when matters originally assigned to him, were taken away from his Board, by the Chief Justice of the Madras High Court, and assigned to other Benches. Besides the above personal grievances, he made direct and pointed allegations (in his above letter dated 21.8.2015) against Shri Justice “... V.D. ...”, for

H

having been appointed as a Judge of the High Court, even though (according to Justice Karnan) he did not possess the requisite academic qualifications for the position. Indeed, it was alleged, that his academic certificates were bogus. It was also alleged (in the above letter dated 21.8.2015) that the Judges of the Division Bench – Dr. Justice “... T.V. ...” and Shri Justice “... C.T.S. ...” had not exercised their judicial functions independently, but had been passing orders, at the asking of the then Chief Justice of the Madras High Court. He also accused the Chief Justice of the High Court, for having approached this Court, against the suo-motu orders passed by him. The initiative at the hands of the Chief Justice of the Madras High Court (to approach the Supreme Court) was described by him (in the above communication dated 21.8.2015) as most insulting. Justice Karnan in the above letter, dated 21.8.2015, accused the Chief Justice of the Madras High Court, for not having included him in any of the committees constituted for discharging administrative responsibilities of the High Court. For this reason, he accused the Chief Justice, for segregating him on account of his belonging to an under-privileged caste. He also pointed out, that he had made a complaint in this behalf to the Chairman of the National Commission for Scheduled Castes and Scheduled Tribes. Justice Karnan also accused the then Chief Justice of the Madras High Court (in the above communication) for having created a communal divide in the High Court. His contention in this behalf was, that he favoured the advanced communities, while making recommendations for appointment of High Court Judges, and at the same time ignored the under privileged castes and tribes, as well as, the minorities. While concluding the letter dated 21.8.2015, Shri Justice C.S. Karnan expressed, that the Chief Justice of the Madras High Court, had committed offences under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. Another letter of Shri Justice C.S. Karnan, dated 5.2.2016, was addressed to the Home Secretary of Tamil Nadu. The instant letter was written to extend protection to a lawyer – Peter Ramesh Kumar, who had made serious allegations against a few Judges, especially against Shri Justice “... V.R.S.M.”. The communication is interesting, because the Home Secretary had been directed to treat his letter as a “suo-motu judicial order”. In the above letter, Justice Karnan had directed the Registry of the Madras High Court, to assign the suo-motu writ

A petition (- the letter dated 5.2.2016), a number. The direction contained in the letter dated 5.2.2016, required the Home Secretary, to arrange adequate police protection, for the safety of the afore-stated Advocate.

6. Shri Justice C.S. Karnan wrote another letter to the then Chief Justice of the Madras High Court, on 10.2.2016. In the instant communication he pointed out, that the High Court had arranged a function for the inauguration of Regional Centres of the Tamil Nadu State Judicial Academy, at Coimbatore and Madurai (- on 21.2.2016). He accused the Chief Justice, of allowing only upper caste Judges, to participate in the function. It was pointed out, that no representation from scheduled castes or scheduled tribes, was included in the celebration. It was alleged, that even though his name was initially included, it was replaced by a junior upper caste Judge. He highlighted the fact, that he had been repeatedly agitating on this issue, even on earlier occasions. In the instant communication dated 10.2.2016, Justice Karnan again declared the Chief Justice of the Madras High Court, an offender under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

7. In the above Special Leave Petition (Civil) no. 14842 of 2015 filed by the Registrar General, High Court of Madras (see paragraph 3 above). I.A. no. 6 of 2016 was filed on 12.2.2016, by the Registrar General of the Madras High Court, for urgent directions. In the said application, reference was first made to the order dated 30.4.2015 passed by Justice Karnan, which was stayed by this Court on 11.5.2015 (order extracted in paragraph 3 above). Thereafter, Justice Karnan addressed a letter dated 21.8.2015 to the Chief Justice of the Madras High Court (details narrated above). Shri Justice C.S. Karnan then addressed a letter dated 10.2.2016, again allegedly in exercise of suo-motu judicial power (details expressed above). It was also sought to be highlighted in I.A. no. 6 of 2016, that on 10.2.2016, Justice Karnan, had raised objections in connection with a function organized by the Madras High Court, alongwith the Tamil Nadu State Judicial Academy to inaugurate Regional Centres at Coimbatore and Madurai, scheduled for 21.2.2016. Justice Karnan had alleged therein, that he had been removed as a member of the Board of Governors of the Judicial Academy. It was sought to be explained (in I.A. no. 6 of 2016), that the allegations levelled by Shri Justice C.S. Karnan were misconceived, because he had never been nominated as a member of the Board of Governors of the Judicial Academy, since its inception in 2001. The contents of I.A. no. 6 of

H

2016, also make a reference to another alleged suo-motu judicial order, dated 5.8.2016, passed by Shri Justice C.S. Karnan, directing the Home Secretary to the State of Tamil Nadu to provide police protection to one Shri Peter Ramesh Kumar on the ground, that he was facing threats to his life, from a few Judges of the Madras High Court, wherein he expressly named Shri Justice "... V.R." (details narrated above). The background for passing the above order was sought to be explained in paragraph 10 of I.A. no. 6 of 2016, as under:-

"The above order has been passed in the following background, enumerated below:

(a) On 16.9.2015, few advocates along with W. Peter Ramesh Kumar barged into Court Hall no. 2 of the Madurai Bench, and stopped willing advocates from addressing the Hon'ble Bench to enforce a boycott call. Moreover, the concerned Advocate threatened the Hon'ble Bench to take any action against him. As a result, the Division Bench was forced to initiate contempt proceedings for his misdemeanors.

(b) The above named Advocate was previously hauled up for contempt on several occasions. Three years ago, the High Court directed the State Bar Council to initiate disciplinary proceedings for misconduct. Earlier, a Full Bench of the High Court had found him guilty of contempt and put him on probation for a period of one (1) year. Nonetheless, the concerned Advocate continued to indulge in disruptive practices even during the probation and the matter is pending consideration before the Full Bench.

(c) On 30.11.2015, the Suo-motu Cont. Petition (MD) no. 1449 of 2015, registered pursuant to the Order dated 16.9.2015 passed by the Madurai Bench, came up for hearing for the first time before Mr. Justice "... R.S. ..." and Hon'ble Mr. Justice "... M.V.V. ..." The above named Advocate, appearing in person, prayed for time to file a response. However, the alleged Contemnor made offensive, and casteist allegations against the Presiding Judge of the Division Bench that initiated the proceedings in his Counter Affidavit. The alleged Contemnor also made false and scandalous imputations against certain women lawyers in connection with the learned Judge.

A He further circulated the contents of the affidavit including the offensive remarks through WhatsApp and Facebook.

(d) On 28.1.2016, the Hon'ble Chief Justice of the High Court transferred the Suo-motu Cont. Petition (MD) no. 1449 of 2015 before a specially constituted Bench at the Principal Seat of the High Court. In the meanwhile, the alleged Contemnor continued to circulate scurrilous and objectionable messages against the Hon'ble Judges hearing the aforesaid contempt petition, through social media.

(e) On 4.2.2016, the Division Bench framed charges against him in the Criminal Contempt proceedings and served copies of the charges on him. Upon receipt of the copy of the charges, he shouted slogans hailing the deceased leader of a banned organization and also made casteist remarks against the Judges. However, the Bench posted the case to 15.2.2016 for the contemnor's reply to the charges.

(f) On 5.2.2016, the Division Bench of the High Court passed an Order to restrain the concerned Advocate from indulging and circulating offensive and objectionable remarks against the women members of Bar on a Writ Petition moved by a group of six concerned women lawyers being aggrieved by these allegations. Moreover, all four associations of lawyers at Madurai passed resolutions to condemn the scurrilous campaign conducted by the alleged Contemnor and urged the High Court and the State Bar Council to take stringent action against him."

F Last of all it was pointed out, that in terms of the roster issued by the Chief Justice of the Madras High Court, with effect from 1.2.2016, Justice Karnan was assigned to hear criminal revision – admission and final hearing, and specially ordered matters. It was pointed out, that Justice Karnan was passing orders in complete disregard to the roster assigned to him. It was also asserted, that Justice Karnan had been repeatedly interfering or reopening issues, even in currently pending matters before other Benches of the High Court. It was highlighted, that he had even stayed judicial proceedings pending before the High Court. In I.A. no. 6 of 2016, the Registrar General of the Madras High Court, sought appropriate directions through the following prayers:-

H

“PRAYER

A

In the premises, it is most respectfully prayed that this Hon'ble Court may be pleased to:

(a) stay the operation of Suo-motu Judicial Orders dated 5/8.2.2016 (Annexure A-6) and 10.2.2016 (Annexure A-4) passed by Hon'ble Mr. Justice C.S. Karnan of the High Court of Madras;

B

(b) direct Hon'ble Mr. Justice C.S. Karnan not to exercise any suo-motu powers of the High Court or to direct the Registrar, Madras High Court, to register such suo-motu orders as being pursuant to suo-motu writ petitions;

C

(c) restrain the Hon'ble Mr. Justice C.S. Karnan from hearing or issuing directions or in any manner dealing or connected with the proceedings relating to Suo-motu Judicial Order dated 5/8.2.2016 and 10.2.2016 of the High Court of Judicature at Madras;

(d) pass such other and further orders as this Hon'ble Court may deem fit in the facts and circumstances of the matter.”

D

During the course of hearing in the above I.A. no. 6 of 2016 (wherein one of us – Jagdish Singh Khehar, and Mrs. R. Banumathi, JJ., were members of the Bench), the Court was informed, that Shri Justice C.S. Karnan had already received the proposal for his transfer from the High Court of Madras. Having taken into consideration, the totality of the facts and circumstances of the case, this Court passed the following order on 15.2.2016:-

E

“Mr. K.K. Venugopal, learned senior counsel having entered appearance on behalf of the petitioner has filed the affidavit of Mr. “... B.H. ...”, Registrar-cum-Private Secretary to Hon'ble the Chief Justice, High Court of Madras, dated 14.02.2016. A perusal of the same reveals that Hon'ble Mr. Justice C.S. Karnan has received the proposal of his transfer from the High Court of Madras dated 12.02.2016.

F

Having taken note of the situation, in our view it would be appropriate, that Hon'ble Mr. Justice C.S. Karnan should hear and dispose of only such matters as are specially assigned to him by Hon'ble the Chief Justice of the Madras High Court. It will be open to Hon'ble the Chief Justice of the High Court, not to assign

G

H

A any further administrative/judicial work to him. This would imply, that no other orders shall be passed by Hon'ble Mr. Justice C.S. Karnan, suo-motu or otherwise, in any matter not specially assigned to him.

B The operation of all or any administrative/judicial order(s) passed by Hon'ble Mr. Justice C.S. Karnan, after the issuance of the proposal of his transfer from the Madras High Court dated 12.02.2016.(unless specially assigned to him, by Hon'ble the Chief Justice), shall remain stayed till further orders.

C A copy of the instant order shall be furnished to Hon'ble Mr. Justice C.S. Karnan, by the Registrar General of the High Court. It shall be open to the Hon'ble Judge to enter appearance before this Court, in case he is so advised (in respect of the instant/pending matter).”

D 8. The next relevant letter, was issued by Justice Karnan, on 26.10.2016. It was addressed to the City Police Commissioner, requiring him to register criminal cases. In the instant letter, Justice Karnan claimed to be a victim of social and caste discrimination. He also alleged, that he had been subjected to agony, on account of ragging and demeaning actions, of Judges of the Madras High Court, spearheaded by Shri Justice "... F.M.I.K.". These allegations of ragging were classified by him, into four categories, as under:-

E “The social boycott by the ragging Judges could be classified into four categories as under:

F 1. The below mentioned Judges directly resorted to insulting me in public premises, namely Mr. Justice "... I.K. ...", Mr. Justice "... N.N. ...", Mr. Justice "... R.S. ...", who is now posted to Jammu & Kashmir, Mr. Justice "... K.N.B. ...", Mr. Justice "... R.S.M." now posted as Judge of the Andhra Pradesh High Court, Mr. Justice "... A.A. ...", Mrs. Justice "... A.J. ...", Mr. Justice "... N.K. ...", Mr. Justice "... S.M.K." and Mr. Justice "... M.S. ...".

G The below mentioned three Judges "... M.Y.E. ...", now retired Judge of the Supreme Court of India, Mr. Justice "... R.K.A. ...", now a serving Judge of the Supreme Court and Mr. Justice "... S.K.K. ...", who also extended their cooperation with the ragging Judges of the Madras High Court by operating

H

administrative power and insulted me at the public institution/ Judiciary, to that effect I have levelled complaints against them under the Schedule Caste/Schedule Tribes Atrocities Act which are pending enquiry at the respective high dignitary offices. Now I request you to include all the above mentioned three Judges along with the first category of Judges and register a F.I.R. accordingly and precisely. To prove my allegation against the said Judges, material evidences are available on the file of the Registry of the Madras High Court.

A

B

2. The second category Judges through indirectly extending their cooperation for social boycott and ragging with their physical presence at the venues.

C

3. The third category were enjoying by way of laughing and bodily gestures, and

4. The fourth category of Judges maintained their silence and showed their consternation of their actions metered out against me.”

D

Based on the above insinuations, Justice Karnan made the following request to the City Commissioner of Police, Chennai:-

“Now I request you to register a criminal case against the first category of ragging Justices under the Ragging Act including social boycott. The other erring Judges will be included after investigation. My view of wanting to establish a prosecution case against accused persons/Judges for which I take a major role in the instant case. Your role is only marginal as a competent officer to pursue such major offences to its logical conclusion before the concerned criminal Court. As per my complaint, I will file an affidavit in my name in order to establish the case against the accused persons at an appropriate time. This kind of major offences is indeed a public crime against a Dalit Judge and this matter will also be placed before the Parliament against erring Judges after observing necessary formalities.”

E

F

G

9. Reference also needs to be made to a letter dated 18.1.2017, which was addressed by Justice Karnan, to the State Public Prosecutor, Madras High Court, Chennai, wherein he highlighted the fact, that he had passed a suo-motu judicial order, against Shri Justice “... N.D. ...”

H

A (now retired), asserting that Shri Justice "... N.D. ..." had produced
 bogus educational qualification certificates, for procuring his appointment
 as Judge of the Madras High Court. In the above letter, it was also
 pointed out, that an enquiry into the matter was pending before the
 Supreme Court of India. It was alleged, that the Chief Justice of the
 Madras High Court, was shielding the said Shri Justice "... N.D. ...". It
 B was also highlighted, that Shri Justice "... S.K.K. ..." – the then Chief
 Justice of the Madras High Court, was facing charges of corruption,
 and also, for having committed offences under the Scheduled Castes
 and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He also
 brought out that the then Chief Justice of the Madras High Court, had
 C engaged Shri Elephant Rajendran, for appearing before the Supreme
 Court, despite the fact that the said Advocate was involved in a murder
 case. It was also alleged, that a criminal case had also been registered
 against the said Advocate, for having committed forgery. In his letter,
 Justice Karnan had requested the Public Prosecutor to collect the
 particulars of the above cases, and to investigate them with the assistance
 D of top police officials of the State. He had also requested the State
 Public Prosecutor, to forward the results of the investigation to him, so
 that he could produce the same before the Supreme Court.

10. Vide another letter dated 23.1.2017, Justice Karnan highlighted
 corruption in the High Court, inter alia at the hands of the following
 E Judges:-

1. Mr. Justice "... S.K.K. ...";
2. Mr. Justice "... S.M.K. ...";
3. Mr. Justice "... V.R.S.M. ...";
4. Mrs. Justice "... C.V. ...";
- F 5. Mr. Justice "... R.S.R. ...";
6. Mr. Justice "... R.K.A. ...";
7. Mr. Justice "... T.S.T. ...";
8. Mr. Justice "... M.Y.I. ...";
9. Mr. Justice "... I.K. ...";
- G 10. Mr. Justice "... A.K. ...";
11. Mr. Justice "... E.D.R. ...";
12. Mr. Justice "... K.N.B. ...";
13. Mr. Justice "... A.A. ...";
14. Mrs. Justice "... A.J. ...";
15. Mr. Justice "... V.D. ...";

H

16. Mr. Justice "... M.M.S. ...";
17. Mr. Justice "... N.K. ...";
18. Mr. Justice "... N.N. ...";
19. Mr. Justice "... T.R. ...";
20. Mr. Justice "... S. ...".

A

The instant letter dated 23.1.2017 was endorsed by Justice Karnan to Shri "... H. ...", Private Secretary-cum-Registrar attached with the Chief Justice of the Madras High Court, to Shri "... P.K. ...", Registrar of the Madras High Court, and also, to Shri "... S.P. ...", Advocate - President, Tamil Nadu Advocates Association.

B

11. The mindset of Shri Justice C.S. Karnan emerges from a communication dated 3.1.2017, addressed by him to the Prime Minister of India. It would be appropriate to extract the same hereunder, rather than recording a summary of its contents, as has been done hitherto before. The text of the aforesaid communication dated 3.1.2017 is accordingly reproduced below:-

C

"I request you to please peruse the following:-

D

1. Mr. Justice "... T.S.T. ...", the Hon'ble Chief Justice of India comes in for retirement on 3.1.2017. The learned Judge had sent various lists of Judges as proposals for appointment to the High Courts. This list has not included adequate DALIT representation, neither from the minority communities like Muslims and Christians. The proposed list made up of financially sound candidates particularly from the upper caste and from the elite hereditary candidates. This kind of selective choice is not appropriate in a democratic country and unbecoming of the judiciary since it evidently points to discrimination.

E

2. Mr. Justice "... T.S.T. ...", CJI, at a crucial meeting wherein all the Chief Ministers of various States and Union Territories, and Hon'ble Chief Justices of various High Courts met. After observing the weeping drama of this CJI, the Indian population of 125 crores are unable to determine the attitude of the CJI since he is the top most authority of the entire judiciary, to maintain law and justice from Kanyakumari to Kashmir and all about.

F

3. The above-mentioned Hon'ble Judge was found weeping, yet in another moment showing outbursts of anger against the Union

G

H

A Government in order to approve the Judges list while at another
venue at Gujarat appreciated the Union Government. This kind
of unbalance vicious behavior is similar to the chameleon lizard
which changes its colour at random through various hues. This
erratic behavior by a top dignitary is baffling the minds of vast
B sections of our Indian populace numbering crores.

4. Mr. Justice "... T.S.T. ...", CJI and Justice "... S.K.K. ...",
Chief Justice of Madras High Court conniving prevented me from
participating at the inauguration of the Legal Aid Centre in
Coimbatore. As such they discriminated me from joining in a
C public function even though being a Judge of a High Court. Both
were Chief Guests presiding over the function. Therefore, I
initiated preliminary legal action against them by invoking the
Scheduled Caste and Scheduled Tribes Atrocity Act. This bonafide
allegation will be proved on the basis of documentary evidence
already available on file of the Madras High Court Registry besides
D circumstantial evidence.

5. Mr. Justice "... T.S.T. ...", who orally ordered the holding of
my pronounced judgments to Mr. Justice "... S.K.K. ...", Chief
Justice of the Madras High Court without assigning any valid
reasons such as enquiry or any legal provisional requirement. As
E such both have jointly resorted to conniving by insulting me in a
public institution. As such both including the Registrar (Judicial),
Madras High Court are offenders under the SC/ST Act, Mr.
Justice "... T.S.T. ..." ordered an enquiry against me on concocted
complaints which I am now facing. In that enquiry both the said
Judges have been included as co-respondents including the
F Registrar (Judicial). After the enquiry report being forwarded to
Parliament for further discussion in order to determine the actual
person for impeachment. Under these circumstances, I request
the Hon'ble Prime Minister of India to nullify the perusal and
consideration of any tentative plans for a suitable position after
G retirement by the present CJI. As such the matter may be kept
on hold until suitable amends made to all the injustices shown to
me.

6. Likewise Mr. Justice "... S.K.K. ...", Chief Justice of the
Madras High Court may also be treated similarly as mentioned in

H

(5) for conniving with the CJI and also keep him waiting for any tentative promotion until my accusations are cleared including corruption charges. A

7. My critical position restrains me and I am unable to disclose the facts and circumstances of the judiciary in its entirety to the whole Nation in general only because I belong to the fraternity of Judges and its my bounden duty to uphold the dignity and sanctity of our courts at all times. However, the rampant irregularities continuously being perpetrated by many Judges which are incurring incurable injury to the judiciary must be curbed. I cannot say in public what is going on in Madras High Court which has sunk to the bottom most level of degradation and sadly given leverage of support by the Apex Court. B C

8. As per the Indian Constitutional Law the judiciary is the highest branch in our Constitutional set up, as such other branches such as the Legislature, the Executive including the general public cannot be involved with judiciary orders and administrative methods. As such the judiciary is purely an independent body, so taking advantage of this many Judges are tarnishing the image of the judiciary for their own personal gains. D

9. Mr. Justice "... M.K. ...", had committed custodial rape in the public premises particularly in the precincts of his Court chamber with his Law Intern namely Ms. "... D. ...", who is a victim and now restrained to move with society as an Indian high cultured lady, it also spoils her carrier in the legal field and most of all casting a stigma on the child begotten by the said Judge. It is a proved case but Justice "... S.K.K. ...", Chief Justice of Madras High Court is responsible for shielding the errant Judge. Therefore, Mr. Justice "... S.K.K. ...'s" administration has fallen to pieces and irreparable deterioration of ethical standards. E F

10. Mr. Justice "... V.D. ..." (retired) had produced bogus educational qualification certificates in obtaining the distinguished post of Judge at the Madras High Court, the crime was proved while he was a sitting Judge at the Madras High Court, however, the Chief Justice Mr. "... S.K.K. ..." misused his administrative and judicial powers by protecting the erring Judge until his retirement. This also being a proved case indicating vested interest. G H

A 11. Initially I lodged a written complaint before the Madras City
Commissioner of Police around one month back against 13 Judges
consisting of Supreme Court Judges and Madras High Court
Judges, out of this group Mr. Justice "... E.K. ..." is 'captain' or
"spear head" of the accused Judges' 'team'. The allegation is
B that all the mentioned Judges in my complaint had ragged me
continuously and persistently for eight years at public premises
but the said enquiry is still pending with the Commissioner of Police
for necessary action.

C 12. Mr. Justice "... K.S. ..." (retired) the father of Mr. Justice
"... S.M.K. ..." has established an office in front of the Madras
High Court and is always found wandering at the Madras High
Court premises soliciting required clients with offers of favourable
fruitful orders as consequence of him being an Ex-Judge and
exerting good influence for his personal gain; this also being a
proved case known to the entire judiciary, advocates besides the
D general public.

E Hence, I request you, Hon'ble Prime Minister of India to initiate
necessary steps in order to save the Top Most image of the
judiciary. To that effect my sincerest request also goes out to all
political parties of India to extend their fullest cooperation in
maintaining the impeccable image at all times, a mission that you
are striving for in order to cure all the ills that has befallen our
great nation an importantly that the judiciary maintains an
unblemished reputation for perpetuity."

F 12. It would be relevant to mention, that at the beginning of the
year 2017, the issue of transfer of Shri Justice C.S. Karnan from the
Madras High Court to the High Court of Calcutta, had evoked animated
public debate. At this juncture, his attitude became far more aggressive,
than hitherto before. His insinuations were now more pointed, his
prominent singular focus being his colleague Judges, of the Madras High
Court (present and former), and the Judges of the Supreme Court, who
G had a nexus with the Madras High Court, possibly under the belief, that
they were responsible for his tribulations. Included in the list, were also
Judges of the Supreme Court (including Chief Justices), who had an
occasion to deal with matters, involving Justice Karnan. It is essential to
detail some of these communications, in order to understand the content
and nature of the allegations.
H

13. In the above context, reference may first be made to three communications dated 27.1.2017. The first of these communications was addressed to Shri Justice "... M.M.S. ...", a Judge of the Madras High Court. The contents of the letter indicate, that the concerned Judge invited Shri Justice C.S. Karnan, to the weekly Wednesday-night dinner, hosted by Judges at the Madurai Bench. It was alleged, that even though the appointed time was 8.00 p.m., since he had not reached the dinner venue, he was called on his telephone by Shri Justice "... M.M.S. ...", and was requested, that the Judges at the dinner venue were waiting for him (Justice Karnan), and they would commence their dinner, only upon his arrival. It was alleged, that he (Justice Karnan) reached the venue immediately thereafter. It was alleged in the above letter, that on reaching the venue, he observed that most of the Judges had already had their dinner, while the rest had already commenced their dinner. It was the assertion of Justice Karnan, that he had been invited only for irritating him, ragging him, and ridiculing him. Since the above actions were committed with a malafide intention at a public place, Justice Karnan wrote in his above letter, that he reserved the right to invoke his judicial power, and thereby, to take action against the concerned Judges suo-motu, for their prosecution. A copy of the instant letter was endorsed to the Prime Minister of India, the Union Law Minister and the Chief Justice of India.

14. The second letter also dated 27.1.2017, was addressed to Shri Justice "... A.A. ..." (retired). In the instant letter, he accused Justice "... A.A. ..." and Mrs. Justice "... A.J. ..." for their role along with the other Judges, in socially boycotting him (Justice Karnan), and for ragging him. It was pointed out, that he had lodged a complaint against the said Judges, before the National Commission for Scheduled Castes and Scheduled Tribes. He also affirmed, that copies of the said complaint, had been sent to various dignitaries, including the Chief Justice of India. The pointed insinuation against Shri Justice "... A.A. ..." and Mrs. Justice "... A.J. ..." was, that they had developed illicit relations, inasmuch as, they were behaving as husband and wife. It was also alleged, that the elder daughter of Mrs. Justice "... A.J. ..." had committed suicide by consuming poison, only to avoid the disgrace suffered by her, on account of the relationship between Shri Justice "... A.A. ..." and her mother Mrs. Justice "... A.J. ..." In the above second letter dated 27.1.2017, Justice Karnan alleged, that the above mentioned Judges were chargeable

A under Section 306 of the Indian Penal Code, alongwith other Judges,
 namely, Shri Justice "... S.N. ...", Shri Justice "... N.K. ..." and Shri
 Justice "... S.M.K. ...", who had misused their judicial power, to prevent
 the initiation of criminal prosecution against them. In the instant letter,
 Justice Karnan also accused the above two Judges, for having conspired
 B with six other named sitting Judges of the Madras High Court, for having
 instructed the Registry of the High Court, not to extend assistance to
 Justice Karnan, in conducting religious ceremonies, after the demise of
 his father.

C 15. The third letter also dated 27.1.2017, was addressed by Justice
 Karnan, to the Registrar General of the Madras High Court. It was
 alleged therein, that he (Justice Karnan) had already lodged a complaint
 against Shri Justice "... S.N. ...", who had maintained two concubines,
 namely, Mrs. "... J.(M) ..." and Mrs. "... R.S. ..." It was also alleged,
 that the factual position pertaining to this illegal alliance, had been brought
 to the notice of the Acting Chief Justice. Through the third communication
 D dated 27.1.2017, Justice Karnan had also enquired about the stage of
 investigation, of the case.

E 16. In February, 2017, Justice Karnan assumed charge at the
 Calcutta High Court. From Calcutta, Justice Karnan addressed an
 undated letter to the Prime Minister of India, with copies to the Chief
 Minister of Tamil Nadu, the Chief Justice of the Supreme Court of India,
 the Chief Justice of the Madras High Court and the Registrar General
 of the Madras High Court. Besides ridiculing the system of appointment
 of Judges since 1990, which (according to him) favoured the upper castes,
 he adopted the following stance on the subject of appointments:-

F "His Excellency, the President of India and Hon'ble Prime Minister
of India have given their valid view that transparency and clarity
are of paramount importance with the judiciary. Even then the
Collegium is maintaining secrecy on the mode of appointment of
Judges, since the appointment of Judges are evolving in the
documents during the processing, where in unwanted things are
actually happening like soliciting of pretty women, heavy liquor
consumption, acquisition of mass wealth, forgery and other forms
of gross misdemeanor, within a Court of law. I am not casting
aspersions but rendering direct accusations for which I am prepared
to stand at any time for a confrontation."

H

17. Having viewed the unsavory allegations levelled by Justice Karnan over a span of time, it was prima-facie felt, that his conduct towards a large number of named Judges and the judiciary in general, had seriously blemished and tarnished the image of those concerned in particular, and the judiciary as a whole. It was accordingly decided to initiate suo-motu proceedings, for contempt of Court. A Bench comprising of the seven senior most Judges of the Supreme Court was constituted, to examine whether or not Shri Justice C.S. Karnan was guilty of having committed contempt. On the administrative side, the entire material referred to above, was entrusted to the Attorney General for India. He was also requested to assist the Court, in the matter, on the judicial side. On 8.2.2017, the Bench passed the first judicial order:-

“1. Issue notice to Shri Justice C.S. Karnan, returnable on 13.02.2017.

2. The Registry is directed to ensure, that a copy of this order, and the letters taken note of while issuing notice, are furnished to Shri Justice C.S. Karnan, during the course of the day, through the Registrar General of the Calcutta High Court.

3. Shri Justice C.S. Karnan, shall forthwith refrain from handling any judicial or administrative work, as may have been assigned to him, in furtherance of the office held by him. He is also directed to return, all judicial and administrative files in his possession, to the Registrar General of the High Court immediately.

4. Shri Justice C.S. Karnan shall remain present in Court in person, on the next date of hearing, to show cause. 5. The learned Attorney General has assisted us during the 2 course of hearing, today. We request him to assist us, during the course of further proceedings in the matter.”

18. Shri Justice C.S. Karnan in response to the order dated 8.2.2017 (extracted above) addressed a letter to the Registrar General of this Court on 10.2.2017. He expressed the following view, on the initiation of suo-motu contempt proceedings against him:-

“In the above mentioned suo-motu petition it is not maintainable against a sitting Judge of the High Court, further the Suo-motu Contempt order passed against me, since I have sent representations to the various Govt. Authorities regarding high

A irregularities and illegalities occurring at the Judicial Courts. I am also a responsible Judge to control such high irregularities especially corruption and malpractice. I have furnished comprehensive proof of unethical practices happening with the respective Courts.

B Before obtaining any explanation from me, I wish to state that the Courts have no power to enforce punishment against a sitting Judge of the High Court. This said order does not conform to logic, therefore it is not suitable for execution. The characteristic of this order clearly shows that the upper caste Judges are taking the law in their hands and misusing their judicial power by operating the same against a SC/ST Judge (Dalit) with mala fide intention to get rid of him. Therefore the Suo-motu Contempt Order dated 8.2.2017 is not sustainable under law. On 15.2.2016 I proclaimed a statement in front of the Madras High Court premises which was attended by the Press Media and Electronic Media wherein the crucial statement by me was that Mr. Justice "... S.K.K. ..." is the root of all corruption at the above-mentioned Court. To substantiate my proclamation, I even offered to counteract any contempt order he may level against me. However, it is apparent that he was wary of facing the facts. Now, after keeping silence on this crucial issue for over a year, or as the adage which says: "The dust as settled down", he brought up the issue aspiring himself as a candidate for the elevation to the Apex Court. I now challenge him even at this 11th hour to prove himself being an unblemished Judge so that he may qualify for the elevation as a Supreme Court Judge.

F Furthermore, I even gave a recent allegation that there were 20 Corrupt Judges at the Madras High Court and that the Hon'ble Justice "... K.K. ..." is no. 1, even this accusation was ignored although my complaint is still on file. It is observed that the 7 Judges mentioned above are all out for a Contempt Case against me, presumably to clear the path for Justice Mr. "... S.K.K. ...'s" elevation; Please don't let it be the case of "Locking the stable after the horse has bolted". The Suo-motu Contempt Order against me a Dalit Judge and restraining my judicial and administrative assignment is unethical and goes against the SC/ST Atrocities Act. It is certainly a National Issue and a wise decision would be to refer the issue to the House of Parliament. On 15.2.2016, I

H

also included in my proclamation that Hon'ble Justice Mr. "... J.S.K. ..." and Mrs. Justice "... R.B. ..." passed a similar harsh order against me, therefore I am constraint to give a direction to the Commissioner of Police, Chennai, to register a criminal case against the both mentioned Hon'ble Judges. Therefore, the present Chief Justice of India is obviously bearing the same prejudice as in the past by passing the same order.

Therefore my deep request is to hear the Suo-motu Contempt after retirement of Chief Justice of India. In the meanwhile my administrative work and judicial assignment could be restored. My main contention is only to uproot the corruption prevailing at the Madras High Court, and not to spoil the sanctity and decorum of the Court.

The Hon'ble Judge have passed this sort of an unusual order which effect the Star Articles of 14 and 21 of the Constitution by derogating the principle of natural justice. I issued a list of the corrupt Judges wherein an enquiry is mandatory, as such the Suo-motu Contempt Petition is not maintainable. The order of the Apex Court in the Suo-motu Contempt Petition is erroneous and has been willfully wantonly and with mala fide intention was passed. Therefore, these proceedings may be referred to the Parliament, wherein I will establish the high rate of corruption prevailing with the Judiciary at the Madras High Court. The said Order also violating Article 219 of the Constitution since there is distinct ill-will in the order. Hence, I request the Hon'ble Judges to hear the matter after the retirement of the present Chief Justice of India but if considered urgent then refer the matter to Parliament. This is my humble and urgent submission. Further the Hon'ble Supreme Court had not granted the stipulated time which is highly irregular."

A perusal of the above letter of Shri Justice C.S. Karnan very clearly demonstrates, that he had made allegations against a large number of Judges, which he continued to maintain, were correct. He also acknowledged, that he had addressed the media, after this Court had issued notice to him (on 8.2.2017), wherein he affirmed the allegations he had made against 20 named Judges of the Madras High Court. He also declared before the Press, that the then Chief Justice of the High Court, was at the top of the list, amongst corrupt Judges. He also affirmed, having issued a direction to the Commissioner of Police, Chennai,

A to register a case against two Judges of the Supreme Court (Shri Justice "... J.S.K. ..." and Mrs. Justice ... "R.B. ..."), with reference to a judicial order passed by them.

B 19. Shri Justice C.S. Karnan, was duly served the notice in the Suo-Motu Contempt Petition, for 13.2.2017. He had been asked through the earlier order dated 8.2.2017 to enter appearance in person. He chose to remain absent and unrepresented. It was, therefore, that the second judicial order was passed on 13.2.2017. The above order confirmed the interim directions issued by the first order (dated 8.2.2017). The Bench, rather than taking any stringent steps against Justice Karnan, for not having entered appearance as directed (despite due service),
C granted liberty to Justice Karnan to appear in person on 10.3.2017 – the next date of hearing. The text of the order dated 13.2.2017 is reproduced below:-

D "Sri Justice C.S. Karnan has been duly served, in terms of the motion Bench order dated 08.02.2017. A communication dated 10.02.2017 addressed by Sri Justice C.S. Karnan to the Secretary General of this Court has been received in the Registry of this Court. Every page of the above communication bears his signatures. The aforesaid letter of Sri Justice C.S. Karnan is taken on record.

E 2. Despite due notice, Shri Justice C.S. Karnan has not appeared. No one has been authorised by Sri Justice C.S. Karnan to represent him today. In any case, no one having a power of attorney, has represented him today. We are not aware of the reason(s) for his non-appearance. It is therefore, that we refrain from proceeding with the matter as of now.

F 3. Post for hearing on 10.03.2017 at 10.30 a.m. Sri Justice C.S. Karnan is directed to be present in Court in person, on the next date of hearing. We also hereby direct, that the interim order passed in this matter on 08.02.2017, shall continue till further orders.

G 4. It is necessary to notice, that certain counsel, appeared on their own. We enquired from them, whether they were duly authorised by Sri Justice C.S. Karnan, and were in possession of a power of attorney to represent him. They had no such authorization. These learned counsel submitted, that they proposed to file impleadment

H

application on behalf of certain organization. The oral prayer for impleadment is rejected. A

5. Since contempt proceedings are a matter strictly between the Court and the alleged contemnor, anyone who enters appearance and disrupts the proceedings of this case in future, should understand that he/she can be proceeded against, in consonance with law. All that we need to say is, that no one should appear in this matter, without due consent and authorization. B

6. The Registry shall communicate the instant order to Sri Justice C.S. Karnan, in the same manner as he was communicated the previous order." C

20. On 13.2.2017, Justice Karnan addressed another letter to the Secretary General of this Court. And through the Secretary General, to the members of the Bench dealing with the contempt proceedings. In the instant letter he requested the Bench, to restore his judicial and administrative work, as he was to retire shortly. He also undertook to cooperate with this Court, in furtherance of the contempt proceedings initiated against him. The short text of the above communication dated 13.2.2017, is reproduced below:- D

"My Hon'ble Lords, please resume my Administrative & Judicial work forthwith since my retirement is imminent. I will certainly co-operate with the Contempt proceedings; please circulate to all the concerned Hon'ble Judges and oblige." E

Justice Karnan also addressed a separate letter dated 13.2.2017, purporting to be his explanation, to the show cause notice issued to him. Relevant extract of the same is reproduced below:- F

"...The following purports to be my condensed explanation: -

(1) I am fighting for righteousness and for the welfare of the general public of India.

(2) I reiterate as always done, during the last few years about the high rate of Corruption at the Courts I served and still serving, besides the Supreme Court of India. I will not cease my efforts and will continue to fight until every wrong doing is uprooted. G

(3) It should be noted that there has been no adequate representation from the minority communities such as the Muslims, H

A Christians, Schedule Caste and Schedule Tribe and of the most backward Communities, to the High Courts and Supreme Court even though the total strength of Judges is around 1100, an insignificant few including myself are holding the position of Justice of the peace.

B (4) Therefore, I request the Hon'ble Supreme Court Collegium to appoint as Judges around 400 candidates from the Schedule Caste, Schedule Tribe and of the Minorities including most Backward Classes so that Justice will prevail on a neutral stance and that no quarter is biased and no one is benefitted. The balance of power if unfortunately centred with the upper caste Judges resulting in the worst corrupt scenario ever witnessed since India attained Independence in 1947. I, as a serving Judge of the Judiciary cannot tolerate the degeneration of the Judiciary by corrupt Judges and in this regard I have placed on record the corruption of various Judges over the years.

C
D (5) Mr. Justice "... N.K. ...", Judge of the Madras High Court kicked me with his shoe and slyly removed my name tag pinned on my seat at a public function and I immediately reported this matter to the Supreme Court with intimation to the Chairman of the Schedule Caste and Schedule Tribes Commission. This incident smacks of the prejudice coming from a dignified Judge and is the worst form of corruption as per the Atrocities Act of the Indian Constitution. This complaint is pending with the Court for around 4 years. Hence, I am seeking a comprehensive enquiry to all my allegations.

E
F (6) Mr. Justice "... S.M.K." has committed a custodial rape with his intern, namely Ms. "... D. ..." and as a consequence of his dastardly crime she conceived and delivered a male baby. Both Ms. "... D. ..." and the boy child are living. If this atrocious crime coming from a High Court Judge, as alleged by me cannot be determined then why cannot the case be examined by more professional investigators? This incident coming from the precincts of the Madras High Court is now known to the general public. Is the general public to believe that Judges are above the law?

G
H As anyone can easily discern, these are genuine reasons why I am looking forward to a comprehensive review of all my allegations

and not be considered – “A spoil sport”. All my efforts are most paramount and imperative since it is solemnly meant for the upholding of the sanctity and decorum of the Courts.”

A perusal of the above reply of Justice Karnan reveals, his unequivocal and steadfast assertion, about the high rate of corruption in Courts, including Judges of the Supreme Court of India. His pointed and direct allegations against some individual Judges, were again reiterated.

21. Despite the fact that the Registry of this Court, had duly communicated the order dated 13.2.2017 to Shri Justice C.S. Karnan, he chose not to enter appearance even on 10.3.2017. To procure the presence of Shri Justice C.S. Karnan, this Court passed the following order on 10.3.2017:-

“1. Notice of this petition has been duly served. Despite service, wherein the personal presence of Shri Justice C.S.Karnan, in this Court, was imperative, he has neither entered appearance in person, nor through counsel.

2. It would be pertinent to mention, that the Registry of this Court received a fax message, from Shri Justice C.S.Karnan, dated 08.03.2017, seeking a meeting with the Chief Justice and the Hon’ble Judges of this Court, so as to discuss certain administrative issues expressed therein, which primarily seem to reflect the allegations levelled by him against certain named Judges. The above fax message, dated 08.03.2017, cannot be considered as a response of Shri Justice C.S.Karnan, either to the contempt petition, or to the notice served upon him.

3. In view of the above, there is no other alternative but to seek the presence of Shri Justice C.S.Karnan by issuing bailable warrants. Ordered accordingly. Bailable warrants, in the sum of Rs.10,000/- (Rupees ten thousand), in the nature of a personal bond, to the satisfaction of the arresting officer, be issued, to ensure the presence of Shri Justice C.S.Karnan, in this Court, on 31.03.2017, at 10.30 A.M.

4. We would appreciate if the aforesaid bailable warrants, are served on Shri Justice C.S.Karnan, by the Director General of Police, West Bengal.

5. Post for hearing on 31.03.2017, at 10.30 A.M.”

A 22. On the very day the third judicial order dated 10.3.2017 was passed, Shri Justice C.S. Karnan purportedly in exercise of suo-motu extra ordinary original jurisdiction (under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure), passed an order dated 10.3.2017. Relevant part of the above order, is extracted below:-

B

“As known to law, no contempt either civil or criminal can be initiated against a sitting High Court Judge under Sections 2(c), 12 and 14 of the Contempt of Courts Act or under Article 20 of the Constitution of India. But subverting all cannons of justice the accused persons due to pre-conceived prejudicial notion have initiated the above mentioned unlawful, illegal and unconstitutional suo-motu contempt proceedings only with the view to somehow punish a sitting Judge of this Court belonging to a Scheduled Caste community.

C

D

2. It is also a well-known factor only a motion of impeachment can be initiated against a sitting Judge of the higher judiciary before the Parliament after due enquiry under the Judges’ Enquiry Act.

E

3. It is well within judicial knowledge a first attempt was made by the Apex Court in the colourful transfer from the High Court of Judicature at Madras to the High Court of Judicature at Calcutta.

F

4. It is also a open secret that a die-hard affidavit was filed before the Apex Court by Advocates Shanti Bhushan and Prashanth Bhushan in a similar contempt case touching upon several corruption charges on sitting and former Supreme Court Judges now pending in the cold storage of the Supreme Court for years, without any action either way.

G

5. It is also within judicial knowledge that all communications, draftings to the appropriate executive, legislative and judicial authorities is only permitted legal ventage which in no way invite suo-motu contempt proceedings much less on High Court Judges.

H

6. Another clinching matrix is that none of the following 13 persons have preferred any complaint or defence against, whereas the accused persons have taken upon themselves as protocol guardians on the allegations of the following persons:-

- “1. Mr. Justice “... S.K.K. ...”;
2. Mr. Justice “... S.M.K. ...”;
3. Mr. Justice “... V.R.S.M. ...”;
4. Mrs. Justice “... C.V. ...”;
5. Mr. Justice “... R.S.R. ...”;
6. Mr. Justice “... R.K.A. ...”;
7. Mr. Justice “... T.S.T. ...”;
8. Mr. Justice “... M.Y.I. ...”;
9. Mr. Justice “... I.K. ...”;
10. Mr. Justice “... A.K. ...”;
11. Mr. Justice “... E.D.R. ...”;
12. Mr. Justice “... K.N.B. ...”;
13. Mr. Justice “... A.A. ...”;
14. Mrs. Justice “... A.J. ...”;
15. Mr. Justice “... V.D. ...”;
16. Mr. Justice “... M.M.S. ...”;
17. Mr. Justice “... N.K. ...”;
18. Mr. Justice “... N.N. ...”;
19. Mr. Justice “... T.R. ...”;
20. Mr. Justice “... S. ...”.
21. Mr. “... H. ...”, Private Secretary-cum-Registrar;
22. Mr. “... P.K. ...”, Registrar; &
23. Mr. “... S.P. ...”, Advocate & President,
Tamil Nadu Advocates Association.

xxx

xxx

xxx

In the result, I direct the Central Bureau of Investigation to register, investigate and file a report before the appropriate Court of law under Article 226 read with Section 482 Cr.P.C. to prevent abuse of process of any Court and to secure the ends of justice invoking my inherent powers of this Hon'ble Court, under the appropriate criminal provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other Penal provisions against the accused persons and I further direct the Secretary Generals of the Lok Sabha and Rajya Sabha to place the entire facts of the case before the Speaker for appropriate enquiry under the Judges' Enquiry Act and consequently I request His Excellency the President of India to recall the bailable warrant illegally issued

A by the Supreme Court on 10.3.2017 and lift the non-work allotment ban of port-folio allocation and file a report within 7 (seven) days before this Hon'ble Court.

Dated and signed by me this day 10th of March, 2017.”

B The above suo-motu order was endorsed to this Court. It was also endorsed to the Rajya Sabha Secretariat (Legislative Section), whereupon, the Rajya Sabha Secretariat (Legislative Section) addressed the following letter to this Court:-

“RAJYA SABHA SECRETARIAT
(LEGISLATIVE SECTION)

C Subject: Suo-motu extra ordinary special original jurisdiction under article 226 of the Constitution read with section 482 of Criminal Procedure Code, 1973 – Communication from Shri Justice C.S. Karnan, Judge, Calcutta High Court regarding.

D A copy of the communication on the above mentioned subject, containing, an order dated the 10th March, 2017 passed by Shri Justice C.S. Karnan, Judge, High Court of Calcutta in Suo-motu W.P. (Criminal) no. 1 of 2017 is sent herewith. It has been mentioned in the order that seven Judges of the Supreme Court, including the Chief Justice of India (names mentioned in the order), along with the Attorney General of India in suo-motu contempt petition (C) no. 1 of 2017 dated 8.2.2017 have called for his appearance on 10.3.2017 citing various reasons and has inter-alia directed that the Secretary-General of Rajya Sabha may place the entire facts of the case before the Hon'ble Chairman, Rajya Sabha for appropriate enquiry under the Judges (Inquiry) Act, 1968. Shri Justice C.S. Karnan has posted the matter to 31.3.2017 for compliance and reporting.

E 2. In this connection, it is stated that the provisions of the Judges (Inquiry) Act, 1968 become operative only when there is a substantive motion meeting requirements under Section 3(1) of the Judges (Inquiry) Act, 1968 presented in either House of the Parliament. Hon'ble Chairman, Rajya Sabha cannot take any suo-motu action in this regard at this stage since there is no motion before him to consider taking the action desired by Justice Karnan. Further, as per practice and convention, Hon'ble Chairman, Rajya Sabha or Secretary-General, Rajya Sabha do not respond to the

H

notices/orders received from the courts and all such communications are forwarded to the Ministry of Law and Justice for apprising the concerned court about the correct constitutional/legal procedure. A

3. The Ministry of Law and Justice is therefore requested to kindly look into the above matter and inform Shri Justice C.S. Karnan, Judge, High Court of Calcutta about the procedure relating to the conducting an enquiry or constitution of an Inquiry Committee under the Judges (Inquiry) Act, 1968." B

A perusal of the order passed by Justice Karnan, and the letter endorsed to the Supreme Court by the Rajya Sabha Secretariat (Legislative Section), affirm the continuation of his actions in levelling corruption charges against Judges by name. The above communications also demonstrate, that he wished to publicize the allegations of corruption, against his colleague Judges. C

23. At this juncture, this Court received a very interesting communication, from the Registrar General of the High Court of Calcutta. Justice Karnan had addressed the above communication (- dated 14.3.2017) to the Registrar General of the High Court of Calcutta. The same is extracted below:- D

"To Dated the 14th March, 2017
The Registrar General,
High Court,
Calcutta
Respected Sir, E

On 9.3.2017 one Mr. Mathew, Advocate, his Cell no. 9820535428, came to my residence voluntarily and insisted on me to sign an order which was already prepared in my name. In the said order I was required to give notice to the Hon'ble Judges as named below:- F

1. The Chief Justice of India, Mr. Justice "... J.S.K. ..." and Justice Mr. "... D.M. ...", on the basis of a suicide note written by former Chief Minister of Arunachal Pradesh, which I totally deny and simultaneously directed my personal security officer to send out the said Advocate from my residence. Accordingly he was sent out. The copy of the writ petition and the order prepared G

H

A by the above mentioned Advocate Mr. Mathew is enclosed herewith. A detailed enquiry may be conducted on this issue and have the report submitted to the Hon'ble Judges as mentioned above for necessary investigation and appropriate action."

B The aforesaid communication was endorsed by the Registrar General of the Calcutta High Court to the Supreme Court, alongwith its enclosures. The enclosures contained the text of a writ petition filed in the name of Bijoy Krishna Adhikary, and also, the alleged draft order, which Justice Karnan claims, he was asked to sign.

C 24. Whilst the contempt proceedings were going on, Justice Karnan regularly addressed letters, to this Court with reference to his alleged conduct, and the proceedings that had been initiated against him, he also continued to address the media on the subject. At this very relevant juncture, he passed another suo-motu judicial order (purportedly, invoking Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure), dated 15.3.2017. The text of the above
D order is reproduced below:-

"IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

Suo-motu Judicial Order passed after invoking Article 226 of the Constitution of India read with Section 482, Criminal Procedure Code.

E Present Justice C.S. Karnan

To Dt. 15.03.2017
The Director,
Central Bureau of Investigation,
New Delhi

F I have made a complaint before the Hon'ble Prime Minister of India, against 20 Hon'ble Judges consisting of Supreme Court and High Court Judges, namely:-

- G
1. Mr. Justice "... S.K.K. ...";
 2. Mr. Justice "... S.M.K. ...";
 3. Mr. Justice "... V.R.S.M. ...";
 4. Mrs. Justice "... C.V. ...";
 5. Mr. Justice "... R.S.R. ...";
 6. Mr. Justice "... R.K.A. ...";
 7. Mr. Justice "... T.S.T. ...";
 - H 8. Mr. Justice "... M.Y.E. ...";

9. Mr. Justice "... I.K. ..."; A
10. Mr. Justice "... A.K. ...";
11. Mr. Justice "... E.D.R. ...";
12. Mr. Justice "... K.N.B. ...";
13. Mr. Justice "... A.A. ...";
14. Mrs. Justice "... A.J. ..."; B
15. Mr. Justice "... V.D. ...";
16. Mr. Justice "... M.M.S. ...";
17. Mr. Justice "... N.K. ...";
18. Mr. Justice "... N.N. ...";
19. Mr. Justice "... T.R. ...";
20. Mr. Justice "... S. ..."; C

The said complaint is still pending enquiry on the file of the Hon'ble Prime Minister of India. In the said complaint I have mentioned 10 inferences in order to probe the dishonesty of Judges.

Under these circumstances the Hon'ble Supreme Court had issued Suo-motu Contempt Order on 8.2.2017 against me and also restraining my judicial and administrative work, the said order is not sustainable under law since no jurisdiction, no cause of action arise from the Supreme Court and no provision. As such the Hon'ble Judges have misused their judicial and administrative power. Further the Hon'ble 7 Judges who after breaking the Indian Constitutional Law by constituting an unconstitutional Bench, hence they are the contemnors since they have committed contempt of their own Court. Further the Hon'ble Judges have wantonly, deliberately and with mala fide intention insulted me at a public institution which amounts to harassment towards a Dalit Judge. As such all the 7 Hon'ble Judges have been squarely covered under the Scheduled Castes and Scheduled Tribes Atrocities Act. Hence, I have passed a Suo-motu Judicial Order to you on 10.03.2017 for a comprehensive enquiry and to submit the final report before the Parliament. D
E
F

Now I am giving one more direction through my Suo-motu Judicial Order to conduct a detail enquiry on my complaint dated 23.1.2017 and submit the final report before the Parliament for further discussion, since it is a national issue. Further normally a complaint if levelled by any citizen of India against whomsoever he may address, then that complaint has to be disposed of on G
H

A merits which is the procedure of law. In my case the Hon'ble 7
 Judges without following the procedures of law whatsoever and
 by taking the law in their hands have operated their judicial and
 administrative power as per their own liking, besides the Hon'ble
 Judges wantonly and deliberately have ignored the Hon'ble Prime
 Minister's Office wherein my complaint is pending enquiry. As
 B such the Hon'ble Judges have violated Article 219 of the
 Constitution besides violating the principle of natural justice besides
 functioning against Article 14, 21 and 19(g)(i) which are prime
 Articles of the Constitution.

C Therefore, on my complaint on 23.1.2017 which has to be
 decided on merits is of paramount importance in order to maintain
 the public confidence and balance of convenience. Further I
 undertake that I will extend my full co-operation and co-ordination
 to establish my complaint dated 23.1.2017 and with sufficient
 documentary proof which is available at the Madras High Court
 D Registry. Accordingly ordered.

1. Justice "... J.S.K. ..." - Chief Justice of India
2. Justice "... D.M. ..."
3. Justice "... J.C. ..."
4. Justice "... R.G. ..."
5. Justice "... M.B.L. ..."
6. Justice "... P.C.G. ..."
7. Justice "... K.J. ..."

E My Lords, on my impugned complaint dated 23.1.2017
 which has been levelled against 20 Judges under corruption
 charges. Now the said complaint has to be decided on merits by
 F the Director, Central Bureau of Investigation, New Delhi.
 Therefore your Suo-motu Contempt Petition no. 1 of 2017 and its
 interim orders including bailable warrant becomes infructuous and
 null and void. Hence I make a deep request to cancel your above
 mentioned Constitutional Bench and restore my normal judicial
 G and administrative work and oblige.

Yours
 Sd/-
 (Justice C.S. Karnan)"

H

It is not necessary for us to summarize the contents of the letter extracted above. We have chosen not to highlight any portion thereof. The contents of the letter however demonstrate, the extent of malice and contempt in the mind of Justice Karnan against his colleague Judges.

25 On 16.3.2017, Justice Karnan addressed the following communication to the members of this Bench:-

"To

Date: 16.03.2017

1. Justice "... J.S.K. ..." - Chief Justice of India
2. Justice "... D.M. ..."
3. Justice "... J.C. ..."
4. Justice "... R.G. ..."
5. Justice "... M.B.L. ..."
6. Justice "... P.C.G. ..."
7. Justice "... K.J. ..."

My Lords, you have constituted an unconstitutional Bench after breaking the Indian Constitutional Law and passed a Suo-Motu contempt order against me in Suo-Motu Contempt Petition no. 1 of 2017 wherein you have restrained my judicial and administrative work, the said order has been passed with malafide intention in order to harass a Dalit Judge (myself).

The factual position of the case is that I have levelled a complaint dated 23.1.2017, against 20 Judges for dishonesty before the Hon'ble Prime Minister of India which is pending enquiry. Under these circumstances, the above mentioned Hon'ble Judges have issued a Suo-Motu contempt order in order to protect the corrupt Judges. As such the above mentioned Hon'ble Judges have also colluded with them and secured their support by way of operating judicial power out of cause of action, out of jurisdiction, out of provision and constituted a wrong forum.

Judge means a dignified person of Law who has to hear both sides of the case and pass order in accordance with law. In the instant case the Hon'ble Judges have defended the case on behalf of the 20 erring Judges. Therefore, the Hon'ble seven Judges and other 20 Judges as mentioned are the Opposite parties/respondents and myself a complainant. As such the Hon'ble seven Judges passed a Suo-Motu order which is illegal and improper.

A Hence I request you to cancel the unconstitutional Bench and restore my normal work.

However, the Hon'ble seven Judges have prevented me in carrying out my judicial and administrative work from 8.2.2017 until now. Therefore, I am calling up on all seven Judges to pay compensation, a sum of Rs.14 Crores (Rupees fourteen crores only) as compensation since you have disturbed my mind and my normal life, besides you have insulted me in the general public consisting of a population of 120 crores in India due to lack of legal knowledge. Now all seven Judges shall pay a part of the compensation within a period of 7 days from the date of receipt of this order, failing which on the same stand of yours (same footing), I will restrain judicial and administrative work of yours.

B

C

This is for your information.

Yours,

Sd/-

(Justice C.S. Karnan)"

D

The letter extracted above, also needs no further elaboration, and as such, we do not desire to substantiate the accusations levelled by Justice Karnan therein, any further.

E

26. The bailable warrant issued in this case, to procure the personal presence of Shri Justice C.S. Karnan, was served on him on 17.3.2017. Having signed the same in token of being duly served, Shri Justice C.S. Karnan recorded the following note thereon, in his own handwriting:-

F

"On my complaint dated 23.1.2017, the Supreme Court has issued a Suo-Motu Contempt Order. On the same complaint, I directed the CBI to conduct a detailed enquiry and submit a final report before the Parliament at Delhi. Under the circumstances the bailable warrant is duly rejected, further I ordered to the CBI to register a criminal case against seven Judges of the Supreme Court and Attorney General under the SC/ST Atrocities Act. As such all the seven Judges are accused under the said Act. Hence I urge the Hon'ble seven Judges to resign their respective posts in the interest of justice and national welfare. Therefore the Hon'ble Judges have no locus standi to proceed the Contempt

G

H

Proceedings against me any further. Since now the complaint regarding the SC/ST Act between the Hon'ble Judges and myself, I hope the Hon'ble Judges in future should not commit such a kind of illegal order with malafide intention otherwise the jurisdiction system will deteriorate, therefore I rejected the bailable warrant produced by the Ld. DGP & IG”

A

B

Shri Justice C.S. Karnan also addressed a letter dated 17.3.2017 to the members of the Bench hearing this case. The text of the same, is reproduced below:-

“To

Date: 17.03.2017

C

1. Justice “... J.S.K. ...” - Chief Justice of India
2. Justice “... D.M. ...”
3. Justice “... J.C. ...”
4. Justice “... R.G. ...”
5. Justice “... M.B.L. ...”
6. Justice “... P.C.G. ...”
7. Justice “... K.J. ...”

D

My Lords, your bailable order dated 10.3.2017 in the Suo-motu Contempt Proceedings today, top Police Officers from the Calcutta High Court Circle came to my residence in order to execute the bailable warrant earmarked for 10.30 am on 31.3.2017. I rejected the same after assigning valid reasons. This kind of demeaning acts from your Lordships and further perpetrating the Atrocities Act is absolutely out of law to the utter embarrassment of a Dalit Judge. Hence, I request you to stop your further harassments in order to uphold the dignity and decorum of our Courts.

E

F

Yours,
Sd/-

(Justice C.S. Karnan)”

G

27. On 31.3.2017 (the next date of hearing, after 10.3.2017), Shri Justice C.S. Karnan appeared in person, and advanced submissions. During the course of hearing, he also handed over to the Bench, the following signed text, dated 25.3.2017:-

H

A "To

Date: 25.03.2017

1. Justice "... J.S.K. ..." - Chief Justice of India
2. Justice "... D.M. ..."
3. Justice "... J.C. ..."
- B 4. Justice "... R.G. ..."
5. Justice "... M.B.L. ..."
6. Justice "... P.C.G. ..."
7. Justice "... K.J. ..."

C

1. Now I unconditionally withdraw my complaint dated 23.1.2017 against 20 Hon'ble Judges alleging that they were dishonest in their behavior. The said complaint addressed to the Hon'ble Prime Minister of India. Hence I entreat this Hon'ble Court that the Suo-motu Contempt proceedings may be closed since my complaint is no more in force.

D

2. I unconditionally tender an apology before this Court if I committed contempt of Court.

3. I will follow Your Lordship's advice and guidelines in future in order to maintain the judicial system and its integrity.

E

4. I will be retiring on 11.6.2017, therefore, I make a deep request to permit me to retire from the Bench with the blessings of all brother and sister Judges of the Calcutta High Court. Hence, I pray Your Lordships to restore my judicial and administrative work and thus render justice and oblige.

F

Yours,
Sd/-

(Justice C.S. Karnan)"

G

A perusal of the above communication, reveals an unmistakable acknowledgement by Justice Karnan, that he had factually addressed the letter dated 23.1.2017, wherein, he had levelled allegations of corruption, against 20 Judges by name. However, in the submissions made in the open Court, he reiterated the allegations against his former colleague Judges. Since the oral submissions made by Shri Justice C.S. Karnan during the course of hearing on 31.3.2017, were in complete contrast with the contents of the note extracted above, this Court passed the following fourth judicial order, on 31.3.2017:-

H

“1. Shri Justice C.S. Karnan has entered appearance in Court in person. He was repeatedly asked, whether he affirms the contents of the letters, written by him, as are available on the record of the case. He was also asked whether he would like to withdraw the allegations. The instant latter query was made on the basis of a letter dated 25.03.2017, which Shri Justice C.S. Karnan personally handed over to us, in Court today. He has not responded, in any affirmative manner, one way or the other. We would therefore proceed with the matter only after receipt of his written response. Shri Justice C.S. Karnan is hereby called upon to respond to the factual position indicated in the various letters, addressed by him to this Court, within four weeks from today. His response shall be filed by way of an affidavit. Shri Justice C.S. Karnan is directed to appear in Court in person on the next date of hearing.

2. The repeated requests of Shri Justice C.S. Karnan, that he should be permitted to discharge judicial and administrative duties, are declined.

3. Post for hearing on 01.05.2017, at 10.30 A.M.”

It is pertinent to record, that after the above order had been dictated, Justice Karnan while moving away commented, that he may be sent to jail, but he would not appear before this Court again.

28. True to his statement, Shri Justice C.S. Karnan did not enter appearance on next date of hearing, (on 1.5.2017). But having viewed his submissions and his demeanour during the course of hearing on 31.3.2017, and having contrasted the same with the written text (- dated 25.3.2017), this Court was prima facie of the view, that he may not be in a fit condition to defend himself. It was therefore, that his medical examination, was ordered on 1.5.2017. The above order dated 1.5.2017 – the fifth judicial order of the proceedings, is reproduced below:-

“1. While issuing notice to Shri Justice C.S. Karnan on 8.2.2017, this Court had directed, that Justice Karnan would forthwith refrain from handling any judicial or administrative work, as may have been assigned to him, in furtherance of the office held by him. He was also directed to immediately return all judicial and administrative files in his possession to the Registrar General of the High Court.

A 2. Ever since the initiation of these proceedings, he has been
expressing further disrespect to this Court, he has also been making
press statements with abject impunity. However, after the last
B order dated 31.3.2017, he is stated to have issued orders (purported
to be judicial) against the members of this Bench, as also, another
Hon'ble Judge of this Court. Those orders have been received in
the Registry of this Court, and are part of the present compilation.
In order to ensure, that no Court, Tribunal, Commission or Authority
takes cognizance of the orders passed by Shri Justice C.S. Karnan,
C we hereby refrain all Courts, Tribunals, Commissions or
Authorities, from taking cognizance of any orders passed by Shri
Justice C.S. Karnan, after the initiation of the proceeding by us
on 8.2.2017.

D 3. The tenor of the press briefings, as also, the purported judicial
orders passed by Shri Justice C.S. Karnan, prima facie suggest,
that he may not be in a fit medical condition, to defend himself, in
E the present proceedings. We therefore consider it appropriate, to
require him to be medically examined, before proceeding further.
We, accordingly, direct the Director Health Services, Government
of West Bengal, to constitute a Board of Doctors from Pavlov
Government Hospital, Kolkata, to examine Shri Justice C.S.
Karnan, and submit a report to this Court whether or not Shri
F Justice C.S. Karnan is in a fit condition to defend himself. The
above Board shall conduct the examination on 4.5.2017. The
Director General of Police, West Bengal, shall constitute a team
of police personnel, to assist the Medical Board, in carrying out
the directions, recorded hereinabove.

F 4. The Medical Board shall submit its report to this Court, on or
before 8.5.2017.

G 5. Shri Justice C.S. Karnan may, if he is so advised, furnish his
response to the notice issued to him on 8.2.2017, in the meantime.
In case he does not choose to file a response on or before 8.5.2017,
H it shall be presumed, that he has nothing to say in the matter.

6. Post on 9.5.2017, at 10.30 A.M., for further orders.

7. Shri R.S. Suri, Senior Advocate, and Shri Ajit Kumar Sinha,
Senior Advocate, President and Vice President respectively, of
the Supreme Court Bar Association, have made an oral request,

that they may be allowed to intervene and assist this Court in the matter, given the importance of the issue. Prayer is allowed. The Supreme Court Bar Association, is permitted to intervene in the matter, and assist this Court, on the merits of the controversy.”

A perusal of the above order reveals, that a further direction was issued by this Court, keeping in mind strange suo-motu judicial orders passed by Shri Justice C.S. Karnan, from time to time. By the instant direction, Courts, Tribunals, Commissions and Authorities were directed not to take cognizance of any order passed by Shri Justice C.S. Karnan, after the initiation of the suo-motu contempt proceedings against him on 8.2.2017, wherein he had already been restrained from handling any judicial or administrative work.

29. In our considered view, it is not necessary for us to highlight all the submissions made by Shri Justice C.S. Karnan to the media, as well as, the orders passed by him. All these orders were placed in public domain (by Justice Karnan), well before the same were delivered to this Court. His interviews with the media, and the orders passed by him were extremely disparaging, illustratively, by an order dated 13.4.2017, he ordered the registration of a case under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against all the 7 members of the Bench; by another order dated 28.4.2017, he directed the Air Control Authority, New Delhi, not to allow any of the 7 members of the Bench to travel abroad; and by yet another order dated 7.5.2017, he sentenced all the 7 members of the Bench, and Mrs. Justice “... R.B. ...” to 5 years rigorous imprisonment. All this was widely reported by the media in India, as well as, by the foreign media. The BBC also, reported on the issue.

30. The matter was finally taken up for hearing on 9.5.2017. During the course of hearing, Shri Rakesh Dwivedi, learned senior counsel representing the State of West Bengal informed the Bench, that in compliance with the directions issued by this Court on 1.5.2017, the Director, Health Services, Government of West Bengal had constituted a Board of Doctors from Pavlov Government Hospital, Calcutta, to examine Justice Karnan. He informed this Court, that the Board of Doctors had approached Shri Justice C.S. Karnan, at his residence (along with police personnel). He also informed the Bench, that Justice Karnan had met the Board of Doctors, and had spoken to them. Justice Karnan, the Bench was informed, told the Board of Doctors, that he was in a fit

A state of health, mentally and otherwise, and needed no medical evaluation. We are of the view, that psychiatrists on the Board of Doctors, would have been in opposition to evaluate the mental health of Justice Karnan, during the above interaction. Had they found anything remiss, they would have informed this Court accordingly. Since no report has been submitted by the Board of Doctors, we would assume, that they had found nothing significant enough to report. We would, therefore, accept the assertion of Justice Karnan, that he is medically and mentally fit, to defend himself.

31. In the above view of the matter, we would have to rely on the defence tendered by him, in the form of various communications dispatched to this Court from time to time, as also, during the course of hearing, when he appeared in person on 31.3.2017. There is no other alternative with us. We had granted liberty to Justice Karnan vide our order dated 1.5.2017, to furnish his response to the show cause notice (- before 8.5.2017), with the clear indication, that if he choose not to file any response, the Court would proceed with the matter by presuming, that he had nothing more to say.

32. On the merits of the controversy, this Court was assisted by Shri Mukul Rohtagi, learned Attorney General, from time to time. He was unequivocal in his submission, that Shri Justice C.S. Karnan had consistently committed gross contempt of this Court. In view of the factual position which had emerged, after this Court issued the show cause notice to Shri Justice C.S. Karnan (- on 8.2.2017), it was the pointed contention of the learned Attorney General, that Shri Justice C.S. Karnan had also committed contempt, in the face of this Court, by openly denouncing a large number of Judges with allegations of corruption, and by passing orders which had neither any legal sanction nor any justification. Mr. Maninder Singh, learned Additional Solicitor General, reiterated the above position. Shri Rupinder Singh Suri, the President of the Supreme Court Bar Association, and Shri Ajit Kumar Sinha, its Vice-President also assisted this Court. They were also unequivocal in their submission, that Shri Justice C.S. Karnan was guilty of having consistently and repeatedly committed criminal contempt. Shri K.K. Venugopal, learned senior counsel representing the Registrar General of the Madras High Court, while endorsing the views expressed by all the other learned counsel, submitted that a final decision in the matter, be deferred till such time as Shri Justice C.S. Karnan demits his

office as Judge of the High Court. It was submitted, that Shri Justice C.S. Karnan, would retire on attaining the age of superannuation on 11.6.2017. It was urged, that the image of the institution would be tarnished, in case Shri Justice C.S. Karnan was punished for contempt of Court, whilst he is holding the high constitutional office.

33. We have given our thoughtful consideration to the factual position noticed hereinabove, as also, the submissions advanced by learned counsel, who assisted us during the course of hearing. We have carefully examined the text of the letters written by Shri Justice C.S. Karnan, from time to time. We have closely examined the suo-motu procedure adopted by him, whereby he passed orders which were derogatory to the administration of justice, before he was issued notice for contempt, by this Court. We have also carefully analysed the orders passed by Shri Justice C.S. Karnan suo-motu (in the purported exercise of the jurisdiction vested in him under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure), even after the issuance of the contempt notice to him, by this Court. His demeanour was found to have become further aggressive, after this Court passed orders from time to time, in this case. The contents of the letters addressed by him contained scandalous material against Judges of High Courts and the Supreme Court. This correspondence was addressed to the highest constitutional authorities, in all three wings of governance – the legislature, the executive and the judiciary. His public utterances, turned the judicial system into a laughing stock. The local media, unmindful of the damage it was causing to the judicial institution, merrily rode the Karnan wave. Even the foreign media, had its dig at the Indian judiciary. None of his actions can be considered as bona fide, especially in view of the express directions issued by this Court on 8.2.2017, requiring him to refrain from discharging any judicial or administrative work. To restrain his abuse of suo-motu jurisdiction, a further order had to be passed by this Court on 1.5.2017, restraining Courts, Tribunals, Commissions and Authorities from taking cognizance of any order passed by Justice Karnan.

34. We are of the considered view, that Justice Karnan shielded himself from actions, by trumpeting his position, as belonging to an under-privileged caste. By assuming the above position, he levelled obnoxious allegations against innumerable Judges of the Supreme Court, Chief

- A Justices of the High Courts, but mostly against Judges of the Madras High Court. The list of Judges against whom allegations were levelled by Justice Karnan, include the following:-
1. Justice Jagdish Singh Khehar - Chief Justice of India,
 - B 2. Justice P. Sathasivam - former Chief Justice of India,
 3. Justice T.S. Thakur - former Chief Justice of India,
 4. Justice Dipak Misra - Judge, Supreme Court of India,
 5. Justice J. Chelameswar - Judge, Supreme Court of India,
 - C 6. Justice Ranjan Gogoi - Judge, Supreme Court of India,
 7. Justice Madan B. Lokur - Judge, Supreme Court of India,
 8. Justice Pinaki Chandra Ghose - Judge, Supreme Court of India,
 - D 9. Justice Kurian Joseph - Judge, Supreme Court of India,
 10. Justice R.K. Agrawal - Judge, Supreme Court of India,
 11. Justice R. Banumathi - Judge, Supreme Court of India,
 12. Justice Sanjay Kishan Kaul - Judge, Supreme Court of India,
 - E 13. Justice F.M.I. Kalifulla - former Judge, Supreme Court of India,
 14. Justice M.Y. Eqbal - former Judge, Supreme Court of India,
 - F 15. Justice S.K. Agnihotri - Chief Justice, High Court of Sikkim,
 16. Justice R. Sudhakar - Judge, High Court of Jammu & Kashmir,
 - G 17. Justice V. Ramasubramanian - Judge, High Court of Judicature at Hyderabad
 18. Justice S. Manikumar - Judge, High Court of Madras,
 19. Justice S. Nagamuthu - Judge, High Court of Madras,
 - H 20. Justice M. Sathyanarayanan - Judge, High Court of Madras,

21. Justice C.T. Selvam - Judge, High Court of Madras, A
22. Justice N. Kirubakaran - Judge, High Court of Madras,
23. Justice M.M. Sundresh - Judge, High Court of Madras,
24. Justice T. Raja - Judge, High Court of Madras,
25. Justice K. Swamidurai - former Judge, High Court of Madras, B
26. Justice Chitra Venkataraman - former Judge, High Court of Madras,
27. Justice K.N. Basha - former Judge, High Court of Madras, C
28. Justice V. Dhanapalan - former Judge, High Court of Madras,
29. Justice S. Tamilvanan - former Judge, High Court of Madras,
30. Justice Elipe Dharma Rao - former Judge, High Court of Madras, D
31. Justice R.S. Ramanathan - former Judge, High Court of Madras,
32. Justice Aruna Jagdeesan - former Judge, High Court of Madras, E
33. Justice G.M. Akbar Ali - former Judge, High Court of Madras.

35. None of the allegations levelled by Justice Karnan were supported by any material. His allegations were malicious and defamatory, and pointedly by name, against many of the concerned Judges. He carried his insinuations to the public at large, in the first instance, by endorsing his letters carefully so as to widely circulate the contents of his communications, to the desired circles. Some of his letters were intentionally endorsed, amongst others, to the President of the Tamil Nadu Advocate Association. And later, through the internet, he placed his point of view, and the entire material, in the public domain. During the course of hearing of the instant contempt petition, his ridicule of the Supreme Court remained unabated. In fact, it was heightened, as never before. In this process, he even stayed orders passed by this Court. One of the orders passed by him, restrained the Judges on this

- A Bench, from leaving the country. By another order he convicted the Judges on this Bench, besides another Judge of this Court, and sentenced them to 5 years imprisonment, besides imposing individual costs on the convicted Judges. In the background of the factual position summarized above, while disposing of the suo-motu contempt petition on 9.5.2017, we had directed, that no further statements issued by Shri Justice C.S. Karnan would be publicized. The instant restraint order, however, does not prevent or hinder any public debate on the matter, academic or otherwise. We have not restricted, the media in any manner, other than, to the limited extent expressed above. We hope and expect, that a meaningful debate, would lead to a wholesome understanding of the issue, from all possible perspectives.

36. From the narration expressed in the preceding paragraphs, we have no hesitation in concluding, that the actions of Shri Justice C.S. Karnan constituted the grossest and gravest actions of contempt of Court. He has also committed contempt, in the face of the Court. He is therefore, liable to be punished, for his unsavoury actions and behavior. We are satisfied that he should be punished for his above actions, with imprisonment for six months. Ordered accordingly.

Note: The emphasis supplied in all the quotations in the instant judgment, are ours.

- E **CHELAMESWAR, J.** 1. This case raises many important questions. The factual background of the case is given in detail in the judgment of Hon'ble the Chief Justice of India. Therefore, we propose to mention only the bare minimum.

- F 2. The contemnor's name was recommended for elevation by the Collegium of the Madras High Court i.e. the then Chief Justice and two senior most judges. After the completion of the ritual of the necessary appointment process contemplated under the Constitution as interpreted by this Court in the *Second and Third Judges Cases*¹, he was appointed on 30th March 2009.

- G 3. Whether the conduct of the contemnor subsequent to his elevation is consistent with the conventionally accepted norms of decorum expected of a member of the judiciary-more particularly of a constitutional court must remain a puzzle. The contemnor has been in the habit of

¹Supreme Court Advocates-on-Record Association v. Union of India (1993) 4 SCC 441 and Special Reference No.1 of 1998 (1998) 7 SCC 739

addressing letters containing allegations of corruption and commission of various offences by the Judges and successive Chief Justices of the Madras High Court. The contents of some of those letters have been mentioned in the judgment of Hon'ble the Chief Justice. They need no reiteration. The current proceeding is not an inquisition either into any one of those allegations made by the contemnor or whether the activity of the contemnor is within the limits of the conduct permissible for a Judge of a High Court in this country. In our opinion, the facts relevant for recording the conviction and sentence by order of this Court dated 9th May, 2017 are limited.

4. The contemnor addressed two letters² to the Prime Minister of India. Copies of the same are marked to various other constitutional functionaries including the Chief Justice of India. These letters contained allegations (1) that the selection process of the judges of the constitutional courts of this country is unwholesome, (2) of corruption against various judges and Chief Justices of the Madras High Court, (3) of the commission of certain offences (rape) against one of the judges of the Madras High Court and (4) that the conduct of some of the judges of the Madras High Court which (according to the contemnor) constitute offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The details of these various allegations are to be found in the above-mentioned letters addressed to the Prime Minister and other documents which constitute a part of the administrative record of this Court referred to in the judgment of the Chief Justice of India.

5. Whether those various allegations made by the contemnor are based on any evidence to establish the truth of the allegations is a matter which cannot be examined in these proceedings. The allegations are too vague and some of them even incoherent. Whether any one of those alleged misdeeds of the judges of the Madras High Court referred to by the contemnor constitute any offence or actionable wrong under any law of the land requires an enquiry. If the contemnor believes and has the material with him to establish that some of the Judges of the Madras High Court are corrupt or otherwise guilty of some offences known to law, he is required to approach the appropriate forum competent to examine those allegations. What is the appropriate forum and procedure which the contemnor is required to follow for setting the law

² Letter No.I – dated 03.01.2017 & Letter No.II – undated, but sometimes in February 2017

A in motion w.r.t. each of the allegations made by the contemnor are questions to be examined in detail.

6. Such complaints, if made to the appropriate forum/authority are required to be investigated in accordance with the procedure established by law relevant in the context of each of those allegations and appropriate further legal proceedings are to be initiated, if the investigation reveals the commission of any offence cognizable or non-cognizable or any other actionable wrong.

B

7. If there is any truth in any one of those allegations made by the contemnor against any one of the judges named by him, it is too serious a matter and requires appropriate action in accordance with the constitution and the law in the interest of both the purity of the judiciary and the constitutional governance of this nation.

C

8. The contemnor who claims to have knowledge of the various alleged misdeeds of the judges of the Madras High Court at best can be a complainant or informant. If an appropriate enquiry is initiated into any one or all of the allegations made by the contemnor, he would figure as a witness to establish the truth of the allegations made by him. Unfortunately the contemnor appears to be oblivious of one of the fundamental principles of law that a complainant/informant cannot be a judge in his own complaint. The contemnor on more than one occasion “passed orders purporting to be in exercise of his judicial functions” commanding various authorities of the states to take legal action against various judges of the Madras High Court on the basis of the allegations made by him from time to time.

D

E

9. Whether all the above-mentioned conduct amounts to either “proved misbehavior” or “incapacity” within the meaning of Article 124(4) read with Article 217(1)(b) of the Constitution of India warranting the impeachment of the contemnor is a matter which requires a very critical examination. If the contemnor is unable to prove the various allegations made against judges of the Madras High Court, what legal consequences would follow from such failure also requires an examination. Probably, the contemnor would be amenable for action in accordance with law for defamation, both civil and criminal apart from any other legal consequences.

F

G

10. But the frequency and gravity with which the contemnor made such allegations against his colleagues and the manner in which such

H

allegations are made public, certainly would have some adverse impact on the reputation of the individual judges against whom allegations are made, the image of the Madras High Court and perhaps is likely to undermine the credibility of the judiciary in this country. Consequently, the activity of contemnor required scrutiny to determine whether the same would constitute contempt of court. In spite of the repeated episodes of the accusations by the contemnor, no authority under the Constitution of India competent to examine the allegations ever thought it necessary to act upon the contemnor's accusations. But that did not deter the contemnor. His activity continued unabated.

11. Therefore, there arose a necessity to examine whether the conduct of the contemnor constitutes contempt of court. If only the contemnor appropriately participated in the proceedings before the Court, a correct answer could have been found.

12. But one thing appears to be certain. If the above mentioned conduct constitutes contempt, it surely can only be criminal contempt falling under the head of scandalising the Court.

13. Faced with an unprecedented situation resulting from the incessant questionable conduct of the contemnor perhaps made the Chief Justice of India come to the conclusion that all the above-mentioned questions could better be examined by this court on the judicial side. We see no reason to doubt the authority/jurisdiction of this Court to initiate the contempt proceedings. Hypothetically speaking, if somebody were to move this Court alleging that the activity of Justice Karnan tantamounts to contempt of court and therefore appropriate action be taken against him, this Court is bound to examine the questions. It may have accepted or rejected the motion. But the authority or jurisdiction of this Court to examine such a petition, if made cannot be in any doubt. Therefore, in our opinion, the fact that the present contempt proceedings are initiated *suo motu* by this court makes no difference to its maintainability. If only the contemnor appropriately participated in the proceedings, all the above-mentioned questions and perhaps many more question incidental to them could have been properly examined and necessary conclusions could have been recorded.

14. Unfortunately, the contemnor never allowed the inquiry in the right direction. On the other hand, he chose to question the jurisdiction of this Court to initiate contempt proceedings against him not on the

- A ground that his activity did not constitute contempt, but on the ground that no contempt proceedings could be initiated against a Judge of a High Court. According to the contemnor the only possible legal action against a Judge of a High Court is to remove him from office in accordance with the procedure of impeachment prescribed under the Constitution –
- B whatever be his “conduct” and “misconduct”, a stand which clearly is untenable in law. He did not stop there. He believed that the initiation of contempt proceedings by this Court against him would constitute an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as the contemnor belongs to one of those communities falling within the sweep of the protective umbrella of that
- C enactment. He not only believed so, but also purported to pass certain orders ostensibly in exercise of the authority vested in him by virtue of his appointment as a Judge of a High Court to initiate various actions against members of this Bench, the details of which are given in paragraphs 22 to 26. In substance, (i) he accused the members of this Bench guilty of prejudice against him, (ii) “he declared” that the initiation
- D of contempt proceedings against him is *malafide* judicial action apart from constituting an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

15. Before we record the reasons which prompted us to be a
- E signatory to the order dated 9th May, 2017, we deem it appropriate to briefly indicate nature of the authority of the constitutional courts to punish the perpetrators of contumacious action.

16. The authority to punish for contempt of court has always been exercised by the judiciary from times immemorial³. The justification for

F

³ In one of the earliest legal pronouncements dealing with the subject, Justice Wilmot in *Rex v. Almon* (1765) Wilmot’s Notes, 243 explained the philosophy behind the power to punish for contempt of court. The passage now a classic exposition runs as follows:

- G “And whenever men’s allegiance to the law is so fundamentally shaken, it is the most fatal and most dangerous obstruction of justice and in my opinion calls out for a more rapid and immediate redress than any obstruction whatsoever, not for the sake of the Judges as private individuals but because they are the channels by which the King’s justice is conveyed to the people

H

the existence of that is not to afford protection to individual judges⁴ but to inspire confidence in the sanctity and efficacy of the judiciary⁵, though they do not and should not flow from the power to punish for contempt. They should rest on more surer foundations. The foundations are – the trust and confidence of the people that the judiciary is fearless and impartial.

A

17. The power to punish for contempt of court has always been recognized to be inherent in certain superior courts and in others it was conferred by statutes.

B

18. This Court in *E.M. Sankaran Namboodripad v. T. Narayanan Nambiar*, (1970) 2 SCC 325, observed:

C

“6. The law of contempt stems from the right of the courts to punish by imprisonment or fines persons guilty of words or acts which either obstruct or tend to obstruct the administration of justice. This right is exercised in India by all courts when contempt is committed in facie curiae and by the superior courts on their own behalf or on behalf of courts subordinate to them even if committed outside the courts. Formerly, it was regarded as inherent in the powers of a Court of Record and now by the Constitution of India, it is a part of the powers of the Supreme Court and the High Courts. ...”

D

19. This Court on more than one occasion examined the nature and scope of the power to punish for contempt. In *R.L. Kapur v. State of Madras*, (1972) 1 SCC 651, this Court examined the question whether the power of the Madras High Court to punish for contempt of itself arose under the Contempt of Courts Act, 1952. The Court held as follows:

E

“Para 5. ... Article 215 declares that every High Court shall be a court of record and shall have all powers of such a court including the power to punish for contempt of itself. Whether Article 215

F

⁴“The law of contempt is not made for the protection of judges who may be sensitive to the winds of public opinion. Judges are supposed to be men of fortitude, able to thrive in a hardy climate.” [Douglas, J., *Craig v. Harney*, 331 US 367, 376 (1947)]

G

⁵“The object of the discipline enforced by the Court in case of contempt of Court is not to vindicate the dignity of the Court or the person of the Judge, but to prevent undue interference with the administration of justice.” [Bowen, L.J. - *Helmores v. Smith*, (1887) 35 Ch D 449, 455]

H

A declares the power of the High Court already existing in it by
reason of its being a court of record, or whether the article confers
the power as inherent in a court of record, the jurisdiction is a
special one, not arising or derived from the Contempt of Courts
Act, 1952 ... In any case, so far as contempt of the High Court
itself is concerned, as distinguished from that of a court subordinate
B to it, the Constitution vests these rights in every High Court, and
so no Act of a Legislature could take away that jurisdiction and
confer it afresh by virtue of its own authority. ...”

Subsequently, in *Pritam Pal v. High Court of Madhya Pradesh,*
C *Jabalpur*, 1993 Supp (1) SCC 529, another Bench of this Court opined
as follows:

“Para 15. Prior to the Contempt of Courts Act, 1971, it was held
that the High Court has inherent power to deal with a contempt of
itself summarily and to adopt its own procedure, provided that it
D gives a fair and reasonable opportunity to the contemnor to defend
himself. But the procedure has now been prescribed by Section
15 of the Act in exercise of the powers conferred by Entry 14,
List III of the Seventh Schedule of the Constitution. Though the
contempt jurisdiction of the Supreme Court and the High Court
can be regulated by legislation by appropriate legislature under
E Entry 77 of List I and Entry 14 of List III in exercise of which the
Parliament has enacted the Act of 1971, the contempt jurisdiction
of the Supreme Court and the High Court is given a constitutional
foundation by declaring to be ‘Courts of Record’ under Articles
129 and 215 of the Constitution and, therefore, the inherent power
of the Supreme Court and the High Court cannot be taken away
F by any legislation short of constitutional amendment. ...”

It further indicated the various forms of contumacious action
constituting criminal contempt. Scandalising the court is one of them.

“There are many kinds of contempts. The chief forms of contempt
G are insult to Judges, attacks upon them, comment on pending
proceedings with a tendency to prejudice fair trial, obstruction to
officers of courts, witnesses or the parties, abusing the process of
the court, breach of duty by officers connected with the court and
scandalising the Judges or the courts. The last form occurs,
generally speaking, when the conduct of a person tends to bring

H

the authority and administration of the law into disrespect or disregard. In this conduct are included all acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty or challenge its authority. Such contempt may be committed in respect of a Single Judge or a single court but may, in certain circumstances, be committed in respect of the whole of the judiciary or judicial system.”⁶

20. The exercise of such a power has always been very infrequent and subjected to some discipline. Members of the Judiciary have always been conscious⁷ of the fact that the power for contempt should be exercised with meticulous care and caution and only in absolutely compelling circumstances warranting its exercise. “The countervailing good, not merely of free speech but also of greater faith generated by exposure to the actinic light of bona fide, even if marginally over-zealous, criticism cannot be overlooked. Justice is no cloistered virtue.”⁸

⁶ *E.M. Sankaran Namboodripad v. T. Narayanan Nambiar*, (1970) 2 SCC 325, para 6

⁷ *Shri Baradakanta Mishra v. The Registrar of Orissu High Court & Another*, (1974) 1 SCC 374 (Hon. Iyer, J. – separate but concurring opinion)

“Para 65. Before stating the principles of law bearing on the facets of contempt of court raised in this case we would like to underscore the need to draw the lines clear enough to create confidence in the people that this ancient and inherent power, intended to preserve the faith of the public in public justice, will not be so used as to provoke public hostility as overtook the Star Chamber. A vague and wandering jurisdiction with uncertain frontiers, a sensitive and suspect power to punish vested in the prosecutor, a law which makes it a crime to publish regardless of truth and public good and permits a process of *brevi manu* conviction, may unwittingly trench upon civil liberties and so the special jurisdiction and jurisprudence bearing on contempt power must be delineated with deliberation and operated with serious circumspection by the higher judicial echelons. So it is that as the palladium of our freedoms, the Supreme Court and the High Courts, must vigilantly protect free speech even against judicial umbrage — a delicate but sacred duty whose discharge demands tolerance and detachment of a high order.

Para 67. Considerations such as we have silhouetted led to the enactment of the Contempt of Courts Act, 1971, which makes some restrictive departures from the traditional law and implies some wholesome principles which serve as unspoken guidelines in this branch of law. ...”

⁸ *Ibid*, Para 82 at page 409

A In a judgment rendered almost a decade back, one of us (Gogoi, J.) sitting in the Gauhati High Court held⁹:

B “14. Judiciary is not over-sensitive to criticism; in fact, bona fide criticism is welcome, perhaps, because it opens the doors to self-introspection. Judges are not infallible; they are humans and they often err, though, inadvertently and because of their individual perceptions. In such a situation, fair criticism of the viewpoint expressed in a judicial pronouncement or even of other forms of judicial conduct, is consistent with public interest and public good that Judges are committed to serve and uphold. The system of administration of justice, therefore, would receive due impetus from a realization amongst Judges that they can or have actually erred in their judgments; another perspective, a new dimension or insight must, therefore, always be welcome. Such a realization which would really enhance the majesty of the Rule of Law, will only be possible if the doors of self-assessment, in the light of the opinions of others, are kept open by Judges.

D 16. But when should silence cease to remain an option? Where is the line to be drawn? A contemptuous action is punishable on the touchstone of being a wrong to the public as distinguished from the harm caused to the individual Judge. Public confidence in the judicial system is indispensable. Its erosion is fatal. Of course, Judges by their own conduct, action and performance of duties must earn and enjoy the public confidence and not by the application of the rule of contempt. Criticism could be of the underlying principle of a judicial verdict or its rationale or reasoning and even its correctness. Criticism could be of the conduct of an individual Judge or a group of Judges. Whichever manner the criticism is made it must be dignified in language and content because crude expressions or manifestations are more capable of identification of the alleged wrong with the system as a whole. Motives, personal interest, bias, pre-disposition etc. cannot be permitted to be attributed as being responsible for the judicial verdict, unless, of course, the same can be established as an existing fact. It is the above category of acts or publications that would fall within the prohibited degree warranting action in contempt law.”

H ⁹ 2008(1) GLT 800 – In re: Lalit Kalita & Others

21. The Contempt of Courts Act, 1971 recognises two forms of contempt – civil and criminal. Such a distinction has always been made in this country ever since the present legal system was introduced by the British. Civil contempt is defined under Section 2(b)¹⁰ to be “wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.”

Section 2(c) defines criminal contempt.

“Section 2(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which-

- (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
- (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;”

It can be seen from the above that any act which scandalises or tends to scandalise the authority of the Court and interference or obstruction of the administration of justice in any manner are two forms of contumacious action.

22. It must be mentioned here that Great Britain from which we have adopted the present legal system¹¹ abolished the offence of criminal

¹⁰ Section 2 (b) “civil contempt” means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

¹¹ “Para 34. It will be seen that the terminology used in the definition is borrowed from the English Law of Contempt and embodies concepts which are familiar to that Law which, by and large, was applied in India. The expressions “scandalize”, “lowering the authority of the Court”, “interference”, “obstruction” and “administration of justice” have all gone into the legal currency of our sub-continent and have to be understood in the sense in which they have been so far understood by our Courts with the aid of the English Law, where necessary.” – Shri Baradakanta Mishra’s case – See Footnote 6 supra

A contempt on the ground of scandalising the court pursuant to the recommendation of the Law Commission dated 12th December, 2012¹²

After discussing the various suggestions received and their implications, the Law Commission opined at para 91:

B “91. One question is whether these offences are capable of covering publications making collective accusations against the judiciary or a section of it rather than an individual judge. If the material is sufficiently offensive or threatening, it could in principle be covered by the Public Order Act 1986 or the Communications Act 2003. It is unlikely to fall within the Malicious Communications Act 1988 or the Protection from Harassment Act 1997, which are mainly concerned with conduct aimed at individuals.”

C and finally recorded its conclusions at para 93. The relevant portion is:

D “93. xxx xxx xxx
(11) There are several statutory offences covering the more serious forms of behavior covered by scandalising, and civil defamation proceedings are available in the case of false accusations of corruption or misconduct.”

E and recommended-
“94. Accordingly, we see no reason to alter our first preference as expressed in the consultation paper, namely the abolition of scandalising the court without replacement.”

F 23. The American law in this regard appears to be more liberal with greater emphasis on freedom of speech. We do not wish to undertake any elaborate analysis of the American jurisprudence for the present purpose. Borrowing a passage from the Law Commission’s

G ¹² One of the consideration which weighed with the Law Commission for recommending abolition of the offence of criminal contempt is the fact that there are other enactments such as Public Order Act, 1986 and the Communications Act, 2003 which can sufficiently take care of the situations where unfounded allegations which would otherwise have constituted offence of scandalising the court are made.

“80. There are several criminal offences some of the same behaviour that can constitute scandalising the court, and these would continue to be available whether or not the offence of scandalising is abolished.”

H

Report of United Kingdom on "Contempt of Court : Scandalising the Court (Contempt of Court : Scandalising The Court"¹³ would suffice: A

"Para 46. In summary, on a North American approach, the entire offence of scandalising may well be both unconstitutional and contrary to human rights."

With reference to other common law countries, the Law Commission summarized the position as follows: B

"United States law traditionally regards freedom of speech, as enshrined in the First Amendment, as the paramount right that prevails over all others in case of conflict, unless there is a "clear and present danger that [the words] will bring about the substantive evils that Congress has a right to prevent" [(1919) 249 US 47, 51 to 52]. Other common law countries, such as England and Wales and Australia, by contrast, acknowledge the importance of freedom of speech, but regard it as one right among others, with any conflict being resolved by way of a balancing exercise. [Justice R. Sackville, "How Fragile Are the courts? Freedom of Speech and Criticism of the Judiciary" (2005)]. In our consultation paper we drew attention to the same contrast. The position in Canada remained uncertain until the court in Kopyto ((1987) 47 DLR (4th) 213 (Ont CA)], disapproving of the scandalising offence, appeared to adopt an approach near to that of the United States. New Zealand declined to follow Kopyto [(1993) NZHC 423 : [1994] 1 NZLR 48], thus remaining in the Anglo-Australian camp." C D E

24. However, in India scandalising the Court is still recognized to be an act constituting contempt of court.¹⁴ Though what is the activity which constitutes scandalisation of the Court is not defined or very precisely explained in the above-mentioned cases, individuals were held guilty of contempt of court on the ground that their deeds scandalized the Court. F

¹³ Law Commission's Report of United Kingdom on "Contempt of Court : Scandalising the Court (Contempt of Court : Scandalising The Court", (2012) The Law Com No.335 [London "(The Stationery Office)]: G

¹⁴ (1974) 1 SCC 374 - *Shri Baradakanta Mishra v. The Registrar of Orissa High Court & Another*;

(2002) 3 SCC 343 - *In re: Arundhati Roy*

A 25. Interference with the due course of any judicial proceeding is
another facet of criminal contempt. The conduct of the contemnor
subsequent to the initiation of *suo motu* contempt petition No.1 of 2017
in purporting to pass various orders, the details of which are contained in
B paragraphs 22 to 26 of judgment of Chief Justice of India leaves no
scope for doubt about the question whether such conduct would amount
to interfering with the judicial proceedings pending in the highest court
of the land. The main proceeding might or might not have ended in
finding the guilt of the contemnor of scandalising the judiciary. The
contemnor aborted all attempts to judicially resolve the charge of
C commission of contempt brought against him by the initial notice of the
Court dated 08.02.2017. Rather, he chose to engage in a tirade challenging
the very jurisdiction of this Court to enquire into an allegation of contempt
against a sitting Judge of a High Court. He had addressed numerous
written communications to the Members of the Bench dealing with the
case and had also passed several purported judicial orders, which, even
D on a cursory glance, are contemptuous in nature and content. The
“post notice” conduct and the actions of the contemnor are to be judged
by a minimum standard of expectation, surely, what we have before us
is a Judge who has crossed even the most liberal standards of expected
and permissible expression of opinion. There is no doubt in our mind
that such conduct on the part of the contemnor has brought disrepute to
E the judicial system and has the potential of shaking the confidence of the
average citizen in the system. He has not shown the slightest remorse
which could be a mitigating factor. Such conduct and action, if tolerated,
would certainly reflect an element of weakness in the system; no such
weakness can be allowed to enter the system.

F The conduct of the contemnor during the pendency of the
proceedings in this Court certainly constitutes criminal contempt falling
both under the heads of scandalising the court as well as interference
with the proceedings of this court. In our view, the contemnor is therefore
liable to be punished for the contempt of this court.

G 26. This case, in our opinion, has importance extending beyond
the immediate problem. This case highlights two things, (1) the need to
revisit the process of selection and appointment of judges to the
constitutional courts, for that matter any member of the judiciary at all
levels; and (2) the need to set up appropriate legal regime to deal with
H

situations where the conduct of a Judge of a constitutional court requires corrective measures - other than impeachment – to be taken. A

27. The conduct of the contemnor ever since his elevation to the bench has been controversial. Obviously, there is a failure to make an assessment of the personality of the contemnor at the time of recommending his name for elevation. Our purpose is not to point fingers to individuals who were responsible for recommendation but only to highlight the system's failure of not providing an appropriate procedure for making such an assessment. What appropriate mechanism would be suitable for assessing the personality of the candidate who is being considered for appointment to be a member of a constitutional court is a matter which is to be identified after an appropriate debate by all the concerned – the Bar, the Bench, the State and Civil Society. But the need appears to be unquestionable. B
C

28. We are only sad to point out that apart from the embarrassment that this entire episode has caused to the Indian Judiciary, there are various other instances (mercifully which are less known to the public) of conduct of some of the members of the judiciary which certainly would cause some embarrassment to the system. D

29. The framers of the Constitution were people of a great sense of patriotism and maturity, men and women who maintained high standards of civic morality. Obviously, they expected those who are to be chosen for the higher constitutional offices or to be appointed to public service would be chosen by assessing their suitability (efficiency and integrity) by employing appropriate standards. The makers of the Constitution were conscious of the fact that ascendance to higher offices need not necessarily always guarantee rectitude and the incumbent of any constitutional office could resort to behaviour inconsistent with the nature of the office and standards of conduct expected. Thereafter, provisions were made in the Constitution for impeachment of holders of various constitutional offices starting from the President of India. E
F
G

30. When it came to the members of the constitutional courts equally, it was visualised that there can be such occasions. But the standards and procedure for impeachment of judges are much more rigorous for reasons obvious. There can be deviations in the conduct of H

A the holders of the offices of constitutional courts which do not strictly call for impeachment of the individual or such impeachment is not feasible. Surely there must be other ways of dealing with such cases. The text of the Constitution is silent in this regard. May be it is time for the nation to debate this issue.

B

Nidhi Jain

Contempt Petition disposed of.