Neutral Citation No:=2024:PHHC:125003-DB

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CROCP-10-2014
Reserved on: 09.09.2024
Pronounced on: 20.09.2024

Punjab and Haryana High Court Bar Association, Chandigarh.
.....Petitioner

Versus

Sanjay Narayan and Another .....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Ankur Mittal, Advocate (Amicus Curiae)
Mr. P.P.Chahar, Advocate with
Ms. Kushaldeep Kaur, Advocate
Ms. Saanvi Singla, Advocate
Mr. Sakal Sikri, Advocate

Mr. N.B.Joshi, Advocate with
Mr. Samir Rathaur, Advocate
for respondent No. 1.

Mr. Anupam Gupta, Sr. Advocate with
Mr. Gautam Pathania, Advocate and
Mr. Sukhpal Singh, Advocate
for respondent No. 2.

Mr. Swarn Singh Tiwana, Secretary and
Mr. Sukhchain Singh Gill, Advocate, Executive Members
of Punjab and Haryana High Court Bar Association.

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SURESHWAR THAKUR, J.

1. Through the filing of the instant criminal contempt petition, the petitioner herein prays for initiation of criminal contempt proceedings against respondents No. 1 and 2, for publishing in a

subjudice matter, news clipping in the newspaper (Hindustan Times) alongwith the photograph of the Hon'ble sitting Judge of this Court.

Brief facts of the case.

2. The learned Single Judge of this Court granted interim bail in an NDPS matter to two petitioners namely, Perdipt Chaudhary and Prithvi Singh and asked them to surrender before the next date of hearing. Subsequent to the passing of the said order, a news clipping was published in the newspaper namely Hindustan Times, on 24.05.2014. The relevant contents of the news article is extracted hereinafter.

"H.T. Dated: 24.05.2014

Exclusive

HC grants bail to absconding Haryana duo against rules

Bhola Drug Racket

Unholy nexus

Sanjeev Verma

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Chandigarh: In a surprising judgment, Justice Mehinder Singh Sullar of the Punjab and Haryana high Court has granted bail to Haryana industrialist and his father who have been declared proclaimed offenders in the international multi-crore drug racket by the Patiala trial court. The order has come without even giving an opportunity to the state counsel to oppose the petition as per the Narcotic Drugs and Psychotropic Substances (NDPS) Act.

Perdipt Chaudhary and his father Prithvi Singh had sought directions for staying operation of the Patiala trial court's order of April 24 declaring them proclaimed offenders, through Senior Advocate RS Cheema. It was on the first date of hearing of the application on May 19 that Justice Sullar granted them interim bail without prior notice to the Punjab Government.

The father-son duo is on the run since raids were conducted by the Punjab Police at their factory premises, Pioneer Laboratories at Rishi Nagar, Karnal, on October 7 last year.

The order not only violates the directions issued by Chief Justice Sanjay Kishan Kaul of granting an opportunity to the investigating officer in bail matters to present his side to the court but is also against Section 37 of the NDPS Act. The Act says that no accused "shall be released on bail or on his own bond unless the public prosecutor has been given an opportunity to oppose the application for such release."

TIMING OF ORDER

The order by Justice MS Sullar has come when not only former Punjab DGP Shashi Kant but also congress leaders Partap Bajwa and Jagmeet Brar had moved the High court for a CBI Probe and the case is being heard by the Chief Justice itself. On Thursday, Punjab jails minister Sarwan Singh Phillaur had resigned taking moral responsibility for the alleged role of his son Damanvir Singh in the Jagdish Bhola drug racket.

Recall of order:

When contacted, Patiala SSP Hardial Singh Maan, heading the special Investigating team constituted to probe the drug racket, said it had been decided to file an application for recalling the May-19 order of grating bail to the accused.

Before Justice Sullar, the case had earlier been heard by two high court judges but neither had granted relief to the accused. On being questioned, senior advocate Reeta Kohli representing the state, said, "We never got the court notice. Otherwise we would have vehemently opposed it."

The CASE:

The petitioners had earlier filed a petition seeking transfer of probe from the Punjab Police to any independent agency outside Punjab in the FIR registered on September 18 last year under the NDPS Act at Shambhu Police station in Patiala district.

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HC grants bail to absconding...

The petitioners had alleged that Punjab Police had illegally carried out search operations in Haryana without associating local authorities

just to falsely implicate them and were making all-out efforts to get them declared as proclaimed offenders.

After registration of the FIR, search and raid was conducted in the petitioners' factory premises on October 7 last year by the Punjab police and allegedly huge recovery of synthetic drugs and powder used to make drugs was made, including 1,570 capsules."

3. Subsequent to the publication of the said Article, the counsel for the petitioners wrote a letter to the Editor, Hindustan Times stating that the news article dated 24.05.2014 is factually incorrect and that the reporter without verifying the facts, had proceeded to publish the apposite news items in the newspaper (supra).

4. Pursuant to the afore letter, the respondent concerned published another article in the newspaper concerned, carrying thereins explanation(s) and verified facts vis-a-vis the publication of the earlier article dated 24.05.2014.

5. The present contempt petition was filed by the Punjab and Haryana High Court Bar Association, against the respondents herein.

6. Notice of motion was issued by this Court vide order dated 14.07.2014. Pursuant to the said issued notice, the contemnors filed their respective counter affidavits to the petition.

Arguments of the learned Amicus Curiae.

7. It has been vehemently argued before this Court that since in a judgment rendered by the Hon'ble Apex Court in case titled as '**Prashant Bhushan and Another, reported in (2021) 1 SCC 745**, it becomes graphically expounded, that Section 15 of the Contempt of Courts Act, 1971 (hereinafter for short called as the Contempt Act,

1971), underlines the trio of sources of power to issue notice for contempt. Resultantly it has been argued that the apposite envisaged procedure, thus underlines the hereafter trio of sources of power for initiating contempt proceedings.

(i) suo motu

(ii) on the motion by the Advocate General/Attorney General/Solicitor General and

(iii) on the basis of a petition filed by any other person with the consent in writing of the Advocate General/Attorney General/Solicitor General.

8. Moreover, since it has been also stated thereins that in-so-far as suo motu petitions are concerned, thus there is no requirement for taking the consent of anybody, because on such suo motu petitions, rather the Court exercises its inherent powers to issue notice for contempt.

9. The learned counsel also refers to paragraph No. 18, as carried in the verdict (supra), para whereof becomes extracted hereinafter.

"18. From the perusal of various judgments of this Court, including those of the Constitution Benches, it could be seen, that the source of power of this Court for proceeding for an action of contempt is under Article 129. ***It has further been held, that power of this Court to initiate contempt is not in any manner limited by the provisions of the Contempt of Courts Act, 1971. It has been held, that the Court is vested with the constitutional powers to deal with the contempt and Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be***

initiated. It has been held, that insofar as suo motu petitions are concerned, the Court can very well initiate the proceedings suo motu on the basis of information received by it. The only requirement is that the procedure as prescribed in the judgment of P.N. Duda (supra) has to be followed. In the present case, the same has undoubtedly been followed. It is also equally settled, that as far as the suo motu petitions are concerned, there is no requirement for taking consent of anybody, including the learned Attorney General because the Court is exercising its inherent powers to issue notice for contempt. It is equally well settled, that once the Court takes cognizance, the matter is purely between the Court and the contemnor. The only requirement is that, the procedure followed is required to be just and fair and in accordance with the principles of natural justice. *In the present case, the notice issued to the alleged contemnors clearly mentions the tweets on the basis of which the Court is proceeding suo motu. The alleged contemnor No.1 has also clearly understood the basis on which the Court is proceeding against him as is evident from the elaborate affidavit-in-reply filed by him. ”*

10. A reading of the hereinabove extracted paragraph, does make explicit underpinnings, that thereins the Apex Court had drawn suo motu contempt proceedings, thus on the basis of tweets made by the contemnor concerned. As such, it became ultimately concluded that when in terms of the envisaged procedure (supra), thus, suo motu jurisdiction for initiating contempt proceedings, rather becomes vested in the Contempt Court concerned, whereupon, *prima facie,* the consent of the Attorney General or of the Advocate General, as the case may be, rather became declared therein to be not required.

11. Moreover, yet in paragraphs No. 79 and 80, as carried in the verdict (supra), paras whereof become extracted hereinafter, it has

been emphasized that the contempt jurisdiction, as vested in the Contempt Court, is to be exercised thus not to vindicate the dignity and honour of the Hon'ble Judge, who is personally attacked or scandalized, but is to exercised only for upholding the majesty of the law and for the administration of justice.

> ***"79. The summary jurisdiction of this Court is required to be exercised not to vindicate the dignity and honour of the individual judge, who is personally attacked or scandalised, but to uphold the majesty of the law and of the administration of justice. The foundation of the judiciary is the trust and the confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is sought to be shaken by acts which tend to create disaffection and disrespect for the authority of the court by creating distrust in its working, the edifice of the judicial system gets eroded. The scurrilous/malicious attacks by the alleged contemnor No.1 are not only against one or two judges but the entire Supreme Court in its functioning of the last six years. Such an attack which tends to create disaffection and disrespect for the authority of this Court cannot be ignored. Recently, the Supreme Court in the cases of National Lawyers Campaign for Judical Transparency and Reforms and others vs. Union of India and others and Vijay Kurle & Ors (supra) has suo motu taken action against Advocates who had made scandalous allegations against the individual judge/judges. Here the alleged contemnor has attempted to scandalise the entire institution of the Supreme Court. We may gainfully refer to the observations of Justice Wilmot in R. v. Almon made as early as in 1765:***

> ***".....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 other 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."***
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> ***80. The tweets which are based on the distorted facts, in our considered view, amount to committing of 'criminal contempt'.***

12. Given the enunciation of the said principle in the verdict (supra), it became concluded that since rather scurrilous/malicious attacks became made by the contemnor concerned, thus not only against one or two of the Judges of the Apex Court but qua the entire Supreme Court, thus in its functioning since the last six years. Therefore, the said uncalled for attacks were termed to create disaffection and disrespect for the authority of the Apex Court, and became stated to be un-vindicable.

13. Consequently, the tweets were declared by the Hon'ble Apex Court to amount to commission of criminal contempt by the contemnor concerned.

Arguments raised by the counsel for the contemnor.

14. The argument raised before this Court by the counsel for the contemnors, is that, without the consent of the Advocate General, no action for contempt can become justifiably drawn against the contemnors.

15. In support of his arguments, the counsel concerned places reliance on a verdict rendered by the Hon'ble Apex Court in case titled as ***Biman Basu Vs. Kallol Guha Thakurta and Another***, reported in ***(2010) 8 SCC 673***, relevant paragraphs whereof, are extracted hereinafter.

17. The question that arises in the present case is whether the High Court can entertain a contempt petition filed by a private person without the consent in writing of the Advocate General? For determination of this issue, it will be relevant to note the observations of the Sanyal Committee, whose recommendations were taken into consideration for enacting the Act. The Committee observed:

> *"**In the case of criminal contempt, not being contempt committed in the face of the Court, we are of the opinion that it would lighten the burden of the court, without in any way interfering with the sanctity of the administration of justice, if action is taken on a motion by some other agency. Such a course of action would give considerable assurance to the individual charged and the public at large. Indeed, some High Courts have already made rules for the association of the Advocate- General in some categories of cases at least. . .the Advocate-General may, also, move the court not only on his own motion but also at the instance of the court concerned. . .** ."*

18. In S.K. Sarkar, Member, Board of Revenue, U.P. Vs. Vinay Chandra Misra this Court, approvingly referred to the recommendations of the Committee and observed:

> *"19.... **If the High Court acts on information derived from its own sources, such as from a perusal of the records of a subordinate court or on reading a report in a newspaper or hearing a public speech, without there being any reference from the subordinate court or the Advocate-General, it can be said to have taken cognizance on its own motion. But if the High Court is directly moved by a petition by a private person feeling aggrieved, not being the Advocate-General, can the High Court refuse to entertain the same on the ground that it has been made without the consent in writing of the***

Advocate-General? It appears to us that the High Court, has, in such a situation, a discretion to refuse to entertain the petition, or to take cognizance on its own motion on the basis of the information supplied to it in that petition. If the petitioner is a responsible member of the legal profession, it may act suo motu, more so, if the petitioner-advocate, as in the instant case, prays that the court should act suo motu. The whole object of prescribing these procedural modes of taking cognizance in Section 15 is to safeguard the valuable time of the High Court or the Supreme Court from being wasted by frivolous complaints of contempt of court. If the High Court is prima facie satisfied that the information received by it regarding the commission of contempt of a subordinate court is not frivolous, and the contempt alleged is not merely technical or trivial, it may, in its discretion, act suo motu and commence the proceedings against the contemner. However, this mode of taking suo motu cognizance of contempt of a subordinate court, should be resorted to sparingly where the contempt concerned is of a grave and serious nature. Frequent use of this suo motu power on the information furnished by an incompetent petition, may render these procedural safeguards provided in sub-section (2), otiose. In such cases, the High Court may be well advised to avail of the advice and assistance of the Advocate-General before initiating proceedings".

19. In State of Kerala Vs. M.S. Mani this Court held:

*"****6. The requirement of consent of the Advocate-General/Attorney-General/Solicitor-General where any person other than the said law officers makes motion in the case of a criminal contempt in a High Court or Supreme Court, as the case may be, is not a mere formality; it has a salutary purpose. The said law officers being the highest law officers at the level of the State/Centre as also the officers of the courts are vitally interested in the purity of the administration of justice and in preserving the dignity of the courts. They are expected to examine whether the averments in the proposed motion of a criminal contempt are made vindicating public interest or personal vendetta and accord or decline consent postulated in the said provision. Further, cases found to be vexatious, malicious or motivated by personal vendetta and not in public interest will get filtered at that level. If a motion of criminal contempt in the High Court/Supreme Court is not accompanied by the written consent of the***

aforementioned law officers, the very purpose of the requirement of prior consent will be frustrated. For a valid motion compliance with the requirements of Section 15 of the Act is mandatory. A motion under Section 15 not in conformity with the provisions of Section 15, is not maintainable".

20. In M.S. Mani the consent of the learned Attorney General was obtained after filing of the contempt petition. This Court held that the motion to take action against the respondents therein was not made with the consent of the learned Attorney General or Solicitor General and therefore is incompetent. This Court observed:

"7.....Subsequent obtaining of the consent, in our view, does not cure the initial defect so as to convert the incompetent motion into a maintainable petition".

21. In P.N. Duda Vs. P. Shiv Shankar this Court observed that in terms of Section 15(1) and Rule 3(c), a petition for contempt will not be maintainable by a private person without the written consent of the Attorney General or the Solicitor General. One cannot get over the objection to the maintainability of a petition without such consent merely by the device of adding the Attorney General and Solicitor General as respondents to the petition. In Paragraph 54 of the Judgment, it is explained that so far as this Court is concerned, action for contempt may be taken by the court on its own motion or on the motion of the Attorney-General (or Solicitor-General) or of any other person with his consent in writing. This Court further observed:

"54. There is no difficulty where the court or the Attorney-General choose to move in the matter. But when this is not done and a private person desires that such action should be taken, one of three courses is open to him. He may place the information in his possession before the court and request the court to take action: (vide C.K. Daphtary v. O.P. Gupta, and Sarkar v. Misra, ; he may place the information before the Attorney-General and request him to take action; or he may place the information before the

Attorney-General and request him to permit him to move the court. In the present case, the petitioner alleges that he has failed in the latter two courses -- this will be considered a little later -- and has moved this "petition" praying that this Court should take suo motu action. The "petition" at this stage, constitutes nothing more than a mode of laying the relevant information before the court for such action as the court may deem fit and no proceedings can commence until and unless the court considers the information before it and decides to initiate proceedings. Rules 3 and 4 of the Supreme Court (Contempt of Court) Rules also envisage a petition only where the Attorney- General or any other person, with his written consent, moves the court".

22. In Bal Thackrey Vs. Harish Pimpalkhute this Court held:

"20. It is well settled that the requirement of obtaining consent in writing of the Advocate General for making motion by any person is mandatory. A motion under Section 15 not in conformity with the requirements of that section is not maintainable".

23. It is settled law that the High Courts even while exercising their powers under Article 215 of the Constitution to punish for contempt, the procedure prescribed by law is required to be followed (See L.P. Misra (Dr.) Vs. State of U.P., Pallav Seth Vs. Custodian).The High Court in the present case relied on the decision of this Court in C.K. Daphtary Vs. O.P. Gupta wherein this Court overruled the objection raised on behalf of the alleged contemnor that the contempt petition filed in the Supreme Court without the consent of the Attorney General was not maintainable. The decision was rendered prior to the Act coming into force.There was no provision of law at the relevant time which prevented the Courts from entertaining a petition filed by interested persons even without the prior consent in writing of the Attorney General or the Advocate General, as the case may be.

24.The High Court in the present case rested its conclusion relying on averments made in the petition stating that "even a suo motu contempt proceedings may be initiated" at the instance of the petitioners "on going through the newspapers". Be it noted that there is no prayer in the contempt petition filed by the respondents to initiate suo motu proceedings. We are unable to sustain the finding of the High Court in this regard for the same is not supported by any material available on record. The order dated 17th October, 2003 and the Rule issued in clear and categorical terms reflects that law was set in motion exclusively based on the averments made in the petition and the affidavit of verification filed in support of the petition and the arguments of the counsel. There is nothing on record suggesting that the contents of the petition were treated as information placed before the Court for initiating the contempt proceedings suo motu by the Court. The contents of the petition of the respondents, their affidavit of verification dated 13th October, 2003, the exhibits and annexures to the said petition and the arguments of the counsel alone constituted the foundation, based on which the law was set in motion. The petition itself is not styled as any piece of information that was placed before the court for its consideration. It is not a case where the High Court refused to entertain the petition and took cognizance on its own motion on the basis of the information supplied to it in the petition. The record does not bear any such proceedings of the Court. Had it been so, the respondents would have been nowhere in the picture.

25. It is true that any person may move the High Court for initiating proceedings for criminal contempt by placing the facts constituting the commission of criminal contempt

to the notice of the Court. But once those facts are placed before the Court, it becomes a matter between the Court and the contemnor. But such person filing an application or petition does not become a complainant or petitioner in the proceeding. His duty ends with the facts being placed before the Court. The Court may in appropriate cases in its discretion require the private party or litigant moving the Court to render assistance during the course of the proceedings. In D.N. Taneja Vs. Bhajan Lal this Court observed that

"12. a contempt is a matter between the Court and the alleged contemnor. Any person who moves the machinery of the Court for contempt only brings to the notice of the court certain facts constituting contempt of Court. After furnishing such information he may still assist the Court, but it must always be borne in mind that in a contempt proceeding there are only two parties, namely, the Court and the contemnor". Thus the person bringing the facts constituting contempt to the notice of the Court can never be a party to the lis nor can join the proceedings as a petitioner. Similar is the view taken by this Court in State of Maharashtra Vs. Mahboob S. Allibhoy & Anr.

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28. In the case in hand, it is evident from the record, the respondents were continued to be shown as the petitioners in the contempt case before the High Court and participated throughout as if they were prosecuting the appellant. There is no order reflecting that the Court having taken note of the information made before it, initiated suo motu proceedings on the basis of such information furnished and required the respondents only to assist the Court till the disposal of the matter. On the contrary, respondents are shown as the petitioners in the contempt case before the High Court. It is thus clear, it is the respondents who initiated the proceedings and continued the same but without the written consent of the

Advocate General as is required in law. The proceedings, therefore, were clearly not maintainable.

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34. In the present case, Rule Nisi has been issued under the orders of the High Court in Form No. 1 and not in Form No.2. Had it been a proceeding initiated by the Court on its own motion, the Rule Nisi would have been issued in the model Form No.2, Apendix I. It is clearly evident from the record that the Court did not set the law in motion on its own accord. In the present case, the petitioner No.1 before the High Court is a practicing advocate and argued his case in person. Sofaras petitioner No.2 is concerned, he was represented by more than one lawyer. We have meticulously examined the contempt petition in which there was no prayer for taking suo motu action against the appellants. The proceedings before the High Court were initiated by the respondents by filing contempt petition under Section 15. The petition was vigorously pursued and argued as private petition. From the material available on record including the impugned judgment, it is impossible to accept the view taken by the High Court that the Court had taken suo motu action. Even in this Court, the respondents entered their appearance through their counsel who did not turn up but elaborate written submissions were submitted by the first respondent.

35.For all the aforesaid reasons, we hold that the petition to take action against the appellant under Section 15 without the written consent of the learned Advocate General was not maintainable in law.

16. Further, in support of his arguments, the learned counsel for the respondent-contemnor places reliance, upon, a verdict rendered

by the Hon'ble Apex Court in case titled as **State of Kerala Vs. M.S.Mani and Others**, reported in **(2001) 8 Supreme Court Cases 82**. The relevant paragraph whereof, is extracted hereinafter.

*"**The requirement of consent of the Advocate General/Attorney General/ Solicitor General where any person other than the said law officers makes motion in the case of a criminal contempt in a High Court or Supreme Court, as the case may be, is not a mere formality, it has a salutary purpose.** The said law officers being the highest law officers at the level of the State/Centre as also the officers of the Courts are vitally interested in the purity of the administration of justice and in preserving the dignity of the Courts. They are expected to examine whether the averments in the proposed motion of a criminal contempt are made vindicating public interest or personal vendetta and accord or decline consent postulated in the said provisions. Further cases found to be vexatious, malicious or motivated by personal vendetta and not in public interest will get filtered at that level. If a motion of criminal contempt in the High Court/Supreme Court is not accompanied by the written consent of the aforementioned law officers, the very purpose of the requirement of prior consent will be frustrated. For a valid motion compliance with the requirements of Section 15 of the Act is mandatory. A motion under Section 15 not in conformity with the provisions of Section 15, is not maintainable."*

17. The learned counsel for the contemnor also places reliance on a verdict rendered by the Hon'ble Apex Court in case titled as **Bal Thackrey Vs. Harish Pimpalkhute and Others,** reported in **(2005) 1 SCC 254**. Relevant paragraph whereof is extracted hereinafter.

"14. The direction issued and procedure laid down in Duda's case is applicable only to cases that are initiated suo motu by the Court when some information is placed before it for suo motu action for contempt of court.

15. A useful reference can also be made to some observations made in J.R.Parashar, Advocate, and Others v. Prasant Bhushan, Advocate and Others. In that case noticing the Rule 3 of the Rules to regulate proceedings for contempt of the Supreme Court, 1975 which like Section 15 of the Act provides that the Court may take action in cases of criminal contempt either (a) suo motu; or (b) on a petition made by Attorney-General or Solicitor-General, or (c) on a petition made by any person and in the case of a criminal contempt with consent in writing of the Attorney-General or the Solicitor-General as also Rule 5 which provides that only petitions under Rules 3(b) and (c) shall be posted before the Court for preliminary hearing and for orders as to issue of notice, it was observed that the matter could have been listed before the Court by the Registry as a petition for admission only if the Attorney-General or Solicitor-General had granted the consent. In that case, it was noticed that the Attorney-General had specifically declined to deal with the matter and no request had been made to the Solicitor-General to give his consent. The inference, therefore, is that the Registry should not have posted the said petition before the Court for preliminary hearing. Dealing with taking of suo motu cognizance in para 28 it was observed as under:-

> ***"28. Of course, this Court could have taken suo motu cognizance had the petitioners prayed for it. They had not. Even if they had, it is doubtful whether the Court would have acted on the statements of the petitioners had the petitioners been candid enough to have disclosed that the police had refused to take cognizance of their complaint. In any event the power to act suo motu in matters which otherwise require the Attorney-General to initiate proceedings or at least give his consent must be exercised rarely. Courts normally reserve this exercise to cases where it either derives information from its own sources, such as from a perusal of the records, or on reading a report in a newspaper or hearing a public speech or a document which would speak for itself. Otherwise sub-section (1) of Section 15 might be rendered otiose"***

Inference of this Court.

18. On an incisive reading of the hereinabove extracted underlined paragraphs, as carried in the judgment (supra), the hereinafter formulated questions of law, thus require becoming answered.

a) Whether the criminal contempt proceedings were amenable to be drawn against the contemnor concerned, without obtaining the prior consent of the Advocate General concerned, especially, when it is contended before this Court that the criminal contempt petitions, became generated from a petition filed before this Court, by the petitioner, whereby thus *ex facie,* no so motu action became initiated by this Court vis-a-vis the instant criminal contempt petition.

b) Whether, *prima facie*, the publication of the news item (supra) was a fair reporting besides upheld the majesty of law and administration of justice, than through the initiation of criminal contempt proceedings against the contemnors concerned, therebys, this Court rather proceeding to vindicate the dignity and honour of the Hon'ble Judge, who purportedly became personally attacked or scandalized.

19. For the reasons to be assigned hereinafter, the Court answers both the questions (supra) against the petitioner and in favour of the respondents.

I) The instant contempt petition has been instituted by the petitioner, thus therebys the instant petition can not become classified to fall in the category of suo motu actions for criminal contempt becoming drawn against the contemnors.

II) The natural corollary of the above, is that, in terms of the three sources for assumption of competent criminal contempt jurisdiction, as become underlined in the judgment rendered by the Hon'ble Apex Court in case titled as ***'Prashant Bhushan and Another, reported in (2021) 1 SCC 745***, wherebys excepting suo motu initiation of criminal contempt proceedings rather by the Contempt Court, thus permission of the Advocate General is imperatively required. Resultantly, since the petition for contempt has been filed without the prior permission of the Advocate General concerned. Moreover, when no suo motu action for criminal contempt against the contemnors becomes initiated on the basis of the news paper clipping. Predominantly also since a reading of all the orders commencing from the date of filing of the instant contempt petition, in the year 2014, uptil now omits to unravel, that this Court irrespective of the fact that the criminal contempt petition was filed by the petitioner, and, that too without the consent of the Advocate General, thus had converted the said petition into suo motu actions takings against the contemnor concerned. Therefore, the lack of makings of the apposite orders qua conversion by this Court from the petition filed without the consent of the Advocate General, into a suo motu action takings against the

respondents, thus since 2014, uptil now, but leads to an inevitable conclusion that no suo motu criminal contempt proceedings became initiated by this Court against the contemnors concerned. Contrarily, when the petitioners took to file the instant criminal contempt petition, without the ordained consent of the Advocate General concerned. In sequel, since the only exception to the necessity of obtaining the apposite prior consent from the Advocate General, is the initiation of suo motu criminal contempt proceedings by this Court. However, when the instant criminal contempt petition did not evidently become suo motu initiated. Consequently, this Court is led to declare that for want of obtaining of the apposite prior consent of the learned Advocate General, that therebys the instant petition is mis-constituted.

20. Be that as it may, it becomes candidly declared in the above extracted underlined paragraphs No. 79 and 80, carried in the judgment rendered by the Hon'ble Apex Court in case titled as ***'Prashant Bhushan and Another, reported in (2021) 1 SCC 745,*** that the exercise of contempt jurisdiction requires that it becomes so exercised only for vindicating the majesty of law and the administration of justice rather than to vindicate the dignity and honour of the Hon'ble Judge, who is purportedly personally attacked or scandalized.

21. Therefore, *prima facie*, if fair reportings of Court orders are made, wherebys the majesty of law and the administration of justice becomes vindicated. Consequently, if the said *prima facie*, fair reporting of an order made by the Hon'ble Judge also begets the

consequence of the Hon'ble Judge becoming purportedly personally attacked or scandalized. In sequel, *prima facie*, the makings of personal attack upon any Hon'ble Judge, besides any Hon'ble Judge becoming purportedly scandalized upon printing of a news clip relating to the passing of the judicial orders, but would not attract against author of the news clipping or the publisher concerned, any actions for criminal contempt becoming drawn against them.

22. In other words, the said personal attack made upon any Hon'ble Judge and/or in case any Hon'ble Judge is purportedly scandalized through printing of a news item relating to any judicial order or a judicial verdict passed by him. Nonetheless, the said media printing, unless, it also ruins the administration of justice or fails to uphold the majesty of law, thereupon, such appositely printed news item would not beget the ill consequence qua the author thereof or the publisher of the newspaper concerned, thus attracting against themselves any criminal contempt action.

23. The fair reportings of the Court verdicts are an insegregable part of the administration of justice. Moreover, fair reporting also foster freedom of press, be it print or electronic media, which are angels in guard not only vis-a-vis brazen and arbitrary State action, but also are angels on guard vis-a-vis verdicts of Court of Law, omitting to derogate from the settled principles of law, and well established procedure, wherebys the administration of justice, rather may become defiled.

24. The Courts of law are the repository of deep trust and confidence of the public at large, who expect unpolluted and undefiled justice emanating from the hallowed pens of Hon'ble Judge(s). Therefore, the Hon'ble Judges are to ensure that they uphold the administration of justice. Moreover, they are expected to also uphold the majesty of law through dispensing undefiled justice, through their judgments which are to be within the bounds of the established norms and procedures. It is but fair reporting which ensures that the Hon'ble Judges remain within the said bounds. Therefore, the above made expostulations of law, do condone fair reportings of verdicts of Hon'ble Judge, thus on the hinge that such fair reporting of verdicts of Hon'ble Judges, ensure that they do not breach the ordained processes, established procedures and established laws nor all above said become blatantly flouted.

25. Reiteratedly, if the said principle is undermined, therebys, the freedom of expression, as endowed upon any citizen would become infringed. Moreover, when through dissemination of news amongst the public either by the print media or the electronic media appertaining to fair reporting of verdicts of the Courts of Law, thus therebys becomes ensured the necessity of ensuring the fairness in the administration of justice, by the Hon'ble Judges, therebys too, the freedom of expression but cannot become stifled. Resultantly when therebys the necessity of upholding the majesty of law, and, the administration of justice, through fair reportings of judicial verdicts becoming made, but would also beget

immense trauma. Moreover, therebys there would be a complete leeway and latitude to the Hon'ble Judge concerned, to proceed to derogate from settled laws and the established procedures, thus governing the *lis* concerned. Resultantly therebys the stream of justice would become polluted whereupon the trust reposed by the general public in the administration of justice, would become completely eroded, thus leading to chaos and anarchy in the society.

26. The questions of law are answered accordingly. The contempt petition is closed and the Rule is discharged.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

20.09.2024

kavneet singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No