

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VISHAL MISHRA

CONTEMPT PETITION CRIMINAL No. 5 of 2020

BETWEEN:-

IN REFERENCE (SUO MOTU)

.....PETITIONER

AND

SHRI KRISHNA KUMAR RAGHUVANSHI

.....RESPONDENT

(BY SHRI ANIL KHARE – SENIOR ADVOCATE WITH MS KRATIKA
INDURKHYA AND SHRI ARVIND SONI - ADVOCATE)

Reserved on : 12.04.2023

Pronounced on : 15.05.2023

This petition having been heard and reserved for orders, coming on for pronouncement this day, the Court passed the following:

ORDER

These *suo motu* proceedings for contempt were initiated in pursuance to a reference sent by Shri S.P.S. Bendela, Additional District Judge, Bareilly under Section 15(2) of the Contempt of Courts Act, 1971

(hereinafter referred to as 'the Act of 1971') for registration of a civil as well as criminal contempt against the accused Krishna Kumar Raghuvanshi son of late Shri Shankar Singh Raghuvanshi and Shri Sumer Singh son of Shri Dhannu Lal for flouting the order dated 11.07.2019 passed in the Regular Civil Appeal No.27-A/2018 directing them to deposit the amount received as donation from the devotees in the Bank in the name of trust. The Additional District and Sessions Judge Bareilly, District Raisen has further submitted that the contemnor Shri Krishna Kumar Raghuvanshi committed criminal contempt as after the order dated 11.07.2019 passed in the Regular Civil Appeal No.27-A/2018, he has circulated a letter in the social media (Whatsapp) maligning the image, reputation and prestige of the Court causing adverse impact in the due process of the judicial proceedings in view of the judgment passed by the Hon'ble Supreme Court in the case of **Het Ram Beniwal and others vs. Raghuvveer Singh, reported in 2017 Cri.LJ 175**. Thus, the Additional District and Sessions Judge has sent a reference praying to punish contemnors Shri Krishna Kumar Raghuvanshi and Shri Sumer Singh Raghuvanshi under the Contempt of Courts Act, 1971.

2. The facts in nutshell are that the accused Krishna Kumar Raghuvanshi filed a Regular Civil Appeal No.27-A/2018 in the Court of 1st Additional District Judge, Bareilly against the judgment and decree passed by the 2nd Civil Judge, Class-I, Bareilly in Regular Civil Suit No.25-A/2016 dated 04.12.2018. During the pendency of the appeal, the respondents filed a compromise application and the Additional District Judge decreed the appeal in terms of the settlement arrived at between the parties. On 29.07.2019 one Shri Yashpal Singh Raghuvanshi made an application before the Additional District Judge under Section 15 of the Act of 1971 alleging that the respondents have violated the decree of the

Court, on the basis of which, an M.J.C. No.12/2019 was registered. The statements of the witnesses have been recorded and the documentary evidence has been produced before the Court. The respondents denied the allegations leveled against them. Vide order dated 09.05.2020, it has been observed that the respondents have violated the conditions Nos. 5 and 6 of the decree, which amounts to civil contempt under the Act of 1971. It has also been pointed out that respondent - Krishna Kumar sent a complaint against the Additional District Judge, Bareilly alleging misuse of his office and adopting corrupt practice. During the enquiry in the application filed by applicant Yashpal Raghuvanshi, the respondent Krishna Kumar admitted the fact that he has sent a complaint to the High Court. On being asked to file a reply with regard to Article A-05, he refused to do so. It has also been mentioned in the reference that respondent Krishna Kumar circulated in Whatsapp, a letter (Article A04) written to the Ministry of Law and Legislative Affairs, Government of Madhya Pradesh stating that he has complained regarding corruption and misuse of powers by Shri S.P.S. Bundela, Additional District Judge, Bareilly. The Bar Association of Bareilly also resolved that a criminal contempt be instituted against the non-applicants.

3. The High Court took cognizance of the reference and documents annexed therewith and found that both respondents have violated the decree of the Court and respondent Krishna Kumar Raghuvanshi leveled baseless allegations against Shri S.P.S. Bundela, Additional District Judge of corruption and misuse of his office with a view to scandalize and lower the dignity and authority of the Court of Shri S.P.S. Bundela, Additional District Judge, Bareilly, District Raisen. Hence, the present criminal contempt has been registered *suo moto* against Shri Krishna Kumar Raghuvanshi.

4. Notice was issued and the accused/contemnor filed a return tendering unconditional apology for inadvertent violation of the order, if any. It is pointed out that father of the respondent preferred a civil suit against the State Government and others with respect to the private temple located at Khasra No.157 admeasuring 0.70 acres at Village Chind, Tehsil Bareli, District Raisen, which was decreed. It was held that the temple in question is a private trust of the plaintiffs and the order dated 31.03.1997 passed by the Registrar, Public Trust, Bareli was set aside. Owing to difference of opinion between the family members, another Civil Suit bearing No.25-A of 2016 was filed and vide judgment and decree dated 04.12.2018, the same was decreed holding the plaintiff and defendant No.1 and their family members as owners of the private trust in question, however permitted intervention of the Sub Divisional Officer (Revenue) owing to the factum 'mandatory involvement'. Being aggrieved by the same, an appeal was preferred being RCA No.27-A of 2018 before the Additional District Judge, Bareli, District Raisen. The same was accompanied with an application under Order XLI Rule 5 of the Code of the Civil Procedure. The case was not taken up by the concerning Court and was adjourned and even the application for grant of interim relief was not considered. Thereafter, an application for compromise was filed on 08.03.2019. One Vijay Singh filed an application under Order I Rule 10 of the Code of Civil Procedure. On 11.05.2019, learned first appellate court passed an order directing the Sub Divisional Officer (Revenue) to submit a report with respect to the compliance of direction contained in para 39 of the judgment and decree passed by the trial Court dated 17.05.2019. Thereafter, a writ petition being W.P.No.9949 of 2019 was filed by the respondent herein praying for a direction to the appellate court for deciding the compromise

application in 08.03.2019. It is further stated about the manner in which the proceedings of the first appeal were conducted by the first appellate court resulting in filing of the complaint dated 21.05.2019 by the accused/contemnor. Thus, no criminal contempt is made out against him.

5. Heard the learned counsel for the respondent and perused the record.

6. It is undisputed that on 21.05.2019, the respondent made a complaint against Shri S.P.S. Bundela, Additional District Judge, Bareilly, Raisen to the Principal Registrar, which is filed as Annexure R/1-5. The aforesaid letter is the basic letter on the basis of which reference for initiation of criminal contempt was made. However, learned counsel appearing for the respondent/contemnor has made an attempt to justify his action of making a complaint against the Presiding Officer of the First Appellate Court and simultaneously tendered an unconditional apology. He has tried to justify that as the temple in question is a private trust, therefore, a direction for involvement of the revenue authorities and putting a lock in the donation box was not called for. Therefore, the direction issued by the First Appellate Court to the Sub Divisional Officer (Revenue) was *per se* illegal, but the fact remains that the reckless allegation is leveled against the integrity and working of the Presiding Officer of the First Appellate Court. The language of the letter reads as under:

“4. यह कि पक्षकारों की अनुपस्थिति में बिना किसी आवेदन के श्री बुंदेला जी द्वारा अपने पद का दुरुपयोग करते हुए तथा पक्षकारों को स्थाई छति पहुँचाने के लिये स्वयं की ओर से अपील प्रकरण की आदेश पत्रिका में अंतरिम आदेश पत्रिका दिनांक 11.05.2019 पर अनुविभागीय अधिकारी (राजस्व) को मंदिर में तालाबंदी किये जाने हेतु निर्णय दिनांक 04.12.2018 की कंडिका 39 का पालन करने हेतु पत्र जारी किया। जो स्वयं की आदेश पत्रिका दिनांक 04.02.2019 में दिये गए निर्देशों का उल्लंघन है। तथा व्यवहार न्यायालय द्वारा व्यवहार वाद क्रमांक 04-अ/1980 में पारित डिग्री दिनांक 31.03.1983 की अवहेलना की जा रही है।

जिससे श्री बुन्देला जी का भ्रष्ट आचरण एवं पद का दुरुपयोग तथा न्यायिक कार्यवाही का दुरुपयोग स्पष्ट प्रमाणित होता है।’

In para 7 of the letter it is mentioned that -

“यह कि श्री बुन्देला जी अपने कर्तव्यों एवं अधिकारों के बाहर जाकर मनमाने ढंग से अपने पद का दुरुपयोग कर रहे हैं। जिससे जनता का ज्यूडिसियरी से विश्वास उठता जा रहा है। ज्यूडिसियरी की गरिमा को बनाये रखने के लिये श्री बुन्देला जी का तत्काल बरेली से ट्रांसफर किया जाकर आवेदन पत्र के बिन्दुओं पर जांच किया जाना न्याय हित में अति आवश्यक है।”

7. Prior to initiation of the contempt proceedings against the respondent/contemnor, an enquiry was got conducted by the District Judge (Vigilance) and the complaint made by the respondent/contemnor against the Judicial Officer was found to be incorrect. The opinion was placed before the Portfolio Judge and thereafter to the Hon’ble the Chief Justice. The same was directed to be closed. However, a decision was taken to initiate contempt proceedings against the respondent keeping in view of the letter/complaint which was made by him.

8. The provision of the Criminal Contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971 is required to be seen, which is as under:

“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;

(emphasis supplied)

From the aforesaid, it is apparently clear that if a complaint alleging reckless allegation of misuse of powers and corruption against a

Presiding Officer is made, the same falls under the definition of the ‘criminal contempt’.

9. By the words as pointed out hereinabove, an attempt is made by the respondent to scandalize and lower the majesty of the Court and also the Judicial Officer. The complaint was got investigated and the allegations were found to be reckless and, therefore, with the approval of the Hon’ble Chief Justice on 08.08.2020, a decision was taken to initiate a criminal contempt proceedings against the respondent. He was served with a notice of the allegation made against him along with relevant material and also granted opportunity to get his statement recorded before the authorities. Article-5 marked in the enquiry is a copy of the complaint dated 21.05.2019. It is not in dispute that proper opportunity of hearing was granted to the respondent to submit his explanation in the enquiry. Thus, the procedure which was required to be followed in the enquiry, was adhered to by the authorities. Therefore, there is no illegality as far as the procedure adopted in the enquiry is concerned.

10. The sole question for consideration before this Court is as to whether the words which are spelt out in the complaint made by the respondent fall under the definition of ‘criminal contempt’ under Section 2(c) of the Contempt of Courts Act, 1971 or not?

11. Recently, the Hon’ble Supreme Court in the case of ***Prashant Bhushan and another***, in Reference Suo Motu Contempt Petition (Cri.) 1 of 2020 decided on 14th of August, 2020, reported in ***(2021) 1 SCC 745*** has considered the definition of Section 2(c) of the Act of 1971 and has held as under:

“It could thus be seen, that it has been held by this Court, that hostile criticism of judges as judges or judiciary would amount to scandalizing the Court. It has been held, that any personal attack upon a judge in connection with the office he holds is

dealt with under law of libel or slander. Yet defamatory publication concerning the judge as a judge brings the court or judges into contempt, a serious impediment to justice and an inroad on the majesty of justice. This Court further observed, that any caricature of a judge calculated to lower the dignity of the court would destroy, undermine or tend to undermine public confidence in the administration of justice or the majesty of justice. It has been held, that imputing partiality, corruption, bias, improper motives to a judge is scandalisation of the court and would be contempt of the court.”

12. A Constitutional Bench of the Hon’ble Supreme Court in the case of ***Baradakanta Mishra vs. High Court of Orissa***, reported in **(1974) 1 SCC 374** has held as under:

*“49. Scandalisation of the Court is a species of contempt and may take several forms. A common form is the vilification of the Judge. When proceedings in contempt are taken for such vilification the question which the Court has to ask is whether the vilification is of the Judge as a judge. (See *Queen v. Gray*), [(1900) 2 QB 36, 40] or it is the vilification of the Judge as an individual. If the latter the Judge is left to his private remedies and the Court has no power to commit for contempt. If the former, the Court will proceed to exercise the jurisdiction with scrupulous care and in cases which are clear and beyond reasonable doubt. Secondly, the Court will have also to consider the degree of harm caused as affecting administration of justice and, if it is slight and beneath notice, Courts will not punish for contempt. This salutary practice is adopted by Section 13 of the Contempt of Courts Act, 1971. The jurisdiction is not intended to uphold the personal dignity of the Judges. That must rest on surer foundations. Judges rely on their conduct itself to be its own vindication.*

50. But if the attack on the Judge functioning as a judge substantially affects administration of justice it becomes a public mischief punishable for contempt, and it matters not whether such an attack is based on what a judge is alleged to have done in the exercise of his administrative responsibilities. A judge's functions may be divisible, but his integrity and

authority are not divisible in the context of administration of justice. An unwarranted attack on him for corrupt administration is as potent in doing public harm as an attack on his adjudicatory function.”

From the aforesaid judgments of the Hon’ble Supreme Court and the definition provided under Section 2(c) of the Act of 1971, it is apparently clear that even an attempt to scandalize or lower the authority of a Court falls under the definition of ‘criminal contempt’.

13. The words which are mentioned in the letter Annexure R/1-5 dated 21.05.2019 on the basis of which the proceedings of the criminal contempt have been initiated, are questioning the working of the Judicial Officer and levying allegation regarding corruption and misuse of his position. The same clearly falls under the definition of ‘criminal contempt’ under Section 2(c) of the Act of 1971. The reply/explanation which has been given by the respondent and the arguments advanced by the learned counsel for the respondent to justify the action is of no help to him as there is no explanation for making such reckless allegation against the Judicial Officer, who in the interest of public at large and just to put a check on the misappropriation of funds of the temple had directed the Sub Divisional Officer to put a lock on the donation box. Making allegation on the Judicial Officer regarding his working, integrity and misuse of his position, there cannot be any explanation for the same especially in the event when the complaint made by the respondent was duly investigated and found to be baseless by the authorities. There is no material placed on record by the respondent before this Court to show that the allegations were correct.

14. For the aforesaid reasons, the respondent is held guilty of committing criminal contempt as defined under Section 2(c) of the

Contempt of Courts Act, 1971 and, therefore, is liable to be punished under Section 12 of the Contempt of Courts Act

15. We have heard Ms. Kratika Indurkhya and Shri Guransh Bhurak, learned counsels on sentence. They plead that a sentence of fine alone be awarded.

16. However, on considering the same, we do not find that only imposing of fine would be adequate. The accused has made reckless allegations against the Presiding Judge. We do not think this would attract the least amount of sentence. At this stage, counsel appearing for respondents/contemnors prays that the respondents be convicted with minimum of sentence along with fine. On considering the overall situation and the prayer made by the learned counsel for the respondents, we deem it just and appropriate to sentence him to undergo simple imprisonment for a period of ten days along with fine of Rs.2000/- to be paid by the respondent/contemnor before the Registry of this Court within seven days from the date of receipt of a copy of the judgment, failing which, he is directed to undergo simple imprisonment for a further period of ten days.

17. Accordingly, the criminal contempt proceedings are disposed off.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE