

Court No. - 43**Case :-** CONTEMPT APPLICATION (CRIMINAL) No. - 7 of 2023**Applicant :-** In Re**Opposite Party :-** Shri Yogendra Trivedi**Counsel for Applicant :-** Sudhir Mehrotra,Suo Moto**Counsel for Opposite Party :-** Sharad Kumar Srivastava**Hon'ble Ashwani Kumar Mishra,J.****Hon'ble Dr. Gautam Chowdhary,J.**

1. Notices were issued to the contemnor/opposite party on a reference made by the Civil Judge (Junior Division/Fast Track Court (CAW)), Kanpur Nagar dated 04.02.2023, wherein specific instances were referred to in respect of proceedings pending before the Court on 03.02.2023.
2. The contemnor questioned Presiding Officer for having issued non-bailable warrants and also snatched the file from the court's staff, which was later returned. Uncalled for comments were also made against the Presiding Officer. Reference is also made to previous proceedings of 14.07.2022 and 22.11.2022, wherein also certain undesirable comments were made against the Presiding Officer.
3. On issuance of notice, the contemnor/opposite party has appeared and submitted an unconditional apology before the court. On 25.01.2024, this Court permitted the contemnor to appear before the concerned court and furnish an apology by way of an affidavit. Such an apology was tendered before the court concerned but neither the Presiding Judge nor this Court was satisfied with such apology as in the opinion of the Court no remorse was expressed. The matter was adjourned on the prayer of the contemnor to permit him to submit a fresh apology. The matter was again taken up on 27.05.2024, wherein a fresh affidavit was filed in the matter. The affidavit before the concerned court was filed, which gave impression that it was under the orders of the Court that the unconditional apology was submitted. This Court, therefore, proceeded to pass following orders on 09.07.2024:-

"Notices were issued in the present contempt petition to the contemnor on 27.03.2023. It transpires that when the matter was taken up before this Court on 25.01.2024 a statement was made on behalf of the contemnor seeking time to submit an unconditional and unqualified apology before the concerned court. The matter was accordingly adjourned.

It transpires that an affidavit has been filed before the contempt court stating that because of the orders of the High Court a conditional apology is being submitted. The concerned Officer has taken exception to the manner in which apology has been submitted.

VERDICTUM.IN

We may clarify that this Court never asked the contemnor to submit an unconditional apology. Notices of contempt have already been issued to the opposite party and it is for the contemnor to choose his course of action. Statement made by the counsel before this Court seeking time to submit unconditional apology cannot be construed as an order by the Court to submit such apology.

We, therefore, are of the opinion that the apology submitted by the contemnor is no apology as neither any remorse is expressed nor the apology is voluntary. We, therefore, reject the plea of the contemnor that he has submitted an unconditional apology.

List this matter again on 29.07.2024 for the contemnor to appear before the Court so that proceedings of criminal contempt be pursued further against him."

4. Again on 29.07.2024, the contemnor was permitted to file a better affidavit after submitting an apology before the court concerned.

5. On 21.08.2024 also this Court passed following orders:-

"Affidavit filed by the contemnor today in Court is taken on record.

The contemnor, who appears in person undertakes to appear before the Presiding Judge and offer his unconditional apology. It shall be open for him to do so.

List again on 30.8.2024. "

6. An affidavit has been filed submitting unconditional apology in the matter.

7. Contents of para 1 to 5 of the affidavit filed before the court concerned is reproduced hereinafter:-

"1. That the deponent from the core of his heart regret the unfortunate incident occurred in your Hon'ble Court.

2. That deponent with the sense of remorse and repentance from the core of his heart tender unconditional apology be before your goodself which may kind be accepted in the interest of justice.

3. That the deponent further assures the Hon'ble Court that he will be more vigilant in future so that no further incident may reoccur.

4. That the deponent has full faith in the Judicial system an assures that he will maintain the dignity of the Hon'ble Court.

5. That the deponent at the cost of repetition again tendering his unconditional apology for kind consideration by your honour."

8. Today when the matter is taken up, the contemnor is present before the Court and submitted that he shall never ever repeat an act of insubordination before the court and would always behave properly. Remorse is also expressed for the previous acts on which proceedings of contempt have been initiated.

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9. Shri Sharad Kumar Srivastava, learned counsel appearing for the contemnor states that the contemnor is a young advocate and this is the first instance that an undesirable act has been attributed to him. Shri Srivastava further submits that considering the fact that career of the contemnor might be put in jeopardy, this Court may take a lenient view in the matter. It is also urged that the contemnor has otherwise appeared thrice before the Presiding Officer to offer his apology.

10. Having considered the respective arguments, we are constrained to observe that instances of the kind in which the advocates show discourteous behaviour towards the Presiding Judge cannot be tolerated. The Judges can function only in an cordial atmosphere. Being an Officer of court an Advocate cannot be expected to be either discourteous to the Judge or use intemperate language against the Presiding Officer.

11. We were inclined to take a more serious view in the matter, but considering the fact that contemnor is a young advocate and there has been no previous allegation of such conduct on his part, we drop the present proceedings by issuing him a strict warning. We, however, make it clear that in the event any such undesirable act on part of the contemnor is brought to our notice this Court shall proceed to revive the proceedings of instant contempt and take serious view in the matter.

12. A report of the concerned District Judge would be submitted before the Registry of this Court upon expiry of two years with regard to the satisfactory conduct of the contemnor.

13. Subject to the above observations, the proceedings of present contempt are consigned to records.

Order Date :- 10.9.2024

Anurag/-