

**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. 3 of 2020

BETWEEN:-

IN REFERENCE (SUO MOTU)

.....PETITIONER

AND

**SHRI SUDAMA BAGHEL (ADVOCATE) S/O LATE
SHRI RATIRAM BAGHEL, AGED 53 YEARS, R/O
PATHADHANA, CHANDANGAON, TEHSIL AND
DISTRICT CHHINDWARA, OFFICE ADDRESS:
COURT PREMISES, DISTRICT BAR
ASSOCIATION, CHHINDWARA, DISTRICT COURT
CHHINDWARA (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI BALRAM KOSHITA - ADVOCATE)

Reserved on : *11.04.2023*

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 criminal contempt were initiated in pursuance to a reference sent by Shri Pradeep Kumar Soni, Judicial Magistrate First Class, Chhindwara under Section 15(2) of the Contempt of Courts Act, 1971 (hereinafter referred to as 'the Act of 1971') for registration of Criminal Contempt against accused Shri Sudama Baghel s/o late Shri Ratiram Baghel alleging that on 18.01.2020 when he was on remand duty, the respondent/accused being inebriated condition was shouting in the court premises. While he was going to the court, the respondent/accused called out in an indecent manner, stopped him and when he objected, the respondent/accused rushed and made gesture to attack him. When he came into the court room, the accused/respondent continued shouting, threatening, uttering swearing words nearby the court room. Because of the act of the respondent/accused, he was not able to perform his work. He had submitted an application to the Police Station Kotwali, Chhindwara and after investigation, a complaint was filed before the Executive Magistrate Chhindwara. Medical report shows that the respondent/accused was in inebriated state and talking nonsense. Prior to the aforesaid incident, on 18.11.2019 and 22.11.2019, the respondent/accused did the similar act and the complaints were lodged against him. Therefore, it is alleged that the respondent/accused is in habit of creating nuisance by uttering swearing words and making noise in the court premises and he disrupts the judicial work in the Court. Thus, the Chief Judicial Magistrate First Class has sent a reference praying to punish contemnor Shri Sudama Baghel (Advocate) under the Contempt of Courts Act, 1971.

2. The High Court took cognizance of the reference and documents annexed therewith and found that the respondent had lowered the dignity

and authority of the Court. Hence, with the approval of the Hon'ble the Chief Justice, the present Criminal Contempt has been registered *suo motu* against respondent/contemnor Shri Sudama Baghel, Advocate.

3. On notice being issued, the accused/contemnor filed a return denying the allegations levelled against him. It is further submitted that he has been doing practice regularly in the Court since 12.11.1994 and has never misbehaved with any judicial officers and senior members of the Bar. On 17.02.2020 a notice for criminal contempt has been received by him but due to illness, he could not file reply to the same and ex-parte proceedings have been drawn against him. With a view to harass him, a false and concocted story has been developed and the present criminal contempt proceedings have been initiated against him. It is further submitted that the respondent had never consumed liquor nor did he enter into the premises of the court after consuming liquor. However, he tenders unconditional apology for the act, if any, done by him with a promise that he will never repeat such act or action before any court of law and has prayed to drop the proceedings.

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

5. It is an admitted fact that on 18.11.2019, 22.11.2019 and 18.01.2020, complaints have been registered against the respondent/accused levelling allegation of causing nuisance and obstructing the judicial work in the court. The complaint was duly investigated by the police authorities and the respondent/contemnor was arrested. The medical reports have been enclosed along with the enquiry reports. Allegations levelled against the respondent/accused read as under:

“1- यह कि अनावेदक द्वारा दिनांक 18.01.2020 को जब यह न्यायालय अवकाश दिवस में रिमाण्ड ड्यूटी पर उपस्थित होने के लिये न्यायालय परिसर में न्यायालय की ओर जा रहे थे, तब अनावेदक शराब के नशे में चिल्लाचोंट कर रहे थे व शांतिभंग कर रहे थे, जिन्होंने इस न्यायालय के न्यायाधीश महोदय को असभ्यतापूर्ण तरीके से चिल्लाकर, आवाज देकर रोका और मना करने पर दौड़कर हमले की भावभंगिमा बनाकर न्यायाधीश महोदय के एकदम करीब आकर रास्ता रोका और धीरे से न्यायाधीश महोदय से कहा कि “मैं आपके खिलाफ उच्च न्यायालय को लिफाफा तैयार कर रहा हूँ” और न्यायाधीश महोदय को धमकाने लगे तथा न्यायाधीश महोदय के लगातार अनावेदक को वहां से चले जाने का कहने पर भी अनावेदक ने रास्ता नहीं छोड़ा।

2- यह कि अनावेदक द्वारा न्यायाधीश महोदय के न्यायालय कक्ष में आ जाने के बाद भी न्यायालय कक्ष के पीछे व पास लगातार गालीगलौच, चिल्लाचोंट व सीटी बजाये जाने व धमकी देने का कृत्य जारी रखा गया, जिससे रिमाण्ड ड्यूटी करते दौरान कार्य संपादन हो ही नहीं पा रहा था व न्यायदान के कार्य में लगातार व्यवधान उत्पन्न हो रहा था, जिसके कारण माननीय उच्च न्यायालय की दांडिक अपील क्रं० 437/11 धनपाल वि० म०प्र० राज्य के मामले में पारित आदेश दिनांक 17.01.2020 के परिपालन में श्री पी०आर० दंताले अधिवक्ता द्वारा अभियुक्तगणों की जमानत बंधपत्र तस्दीक करने हेतु कार्यवाही प्रस्तुत करनी चाही, परंतु अनावेदक श्री सुदामा बघेल के द्वारा शराब के नशे में उत्तेजित होकर लगातार की जा रही चिल्लाचोंट, गाली बकने व धमकी देने के कृत्य से उक्त आदेश के परिपालन में जमानत तस्दीक हेतु कार्यवाही प्रारंभ ही नहीं हो पा रही थी व रिमाण्ड ड्यूटी का कार्य संपादित ही नहीं हो पा रहा था व न्यायालयीन कार्य/न्यायदान के कार्य में घोर व्यवधान उत्पन्न हो रहा था।

5- यह कि इसके पूर्व भी अनावेदक के द्वारा दिनांक 18.11.2019 को न्यायालय परिसर में शराब पीकर उत्पात मचाया गया था, गालीगलौच कर सीटी बजायी गयी व अभद्र भाषा का इस्तेमाल न्यायालय परिसर में करते हुये शांतिभंग की गयी थी, जिससे न्यायालय परिसर में स्थापित इस न्यायालय, न्यायालय माननीय सी०जे०एम० महोदय, माननीय जे०एम०एफ०सी० श्री कुसुमहर चक्रवर्ती, माननीय जे०एम०एफ०सी० सुश्री प्रियंका सुमन, माननीय जे०एम०एफ०सी० सुश्री अंशुल मंगल, माननीय जे०एम०एस०सी० श्री प्रियांशु पांडे, श्री गुरुवेन्द्र हुरमाड़े, सुश्री निकिता वार्ष्ण्य के न्यायालयों में न्यायदान के कार्य में उनके द्वारा व्यवधान उत्पन्न किया गया था, जिस संबंध में उक्त सभी न्यायिक मजिस्ट्रेट महोदयगण छिंदवाड़ा के द्वारा माननीय सी०जे०एम० महोदय छिंदवाड़ा के मार्फत माननीय जिला एवं सत्र न्यायाधीश महोदय छिंदवाड़ा को उक्त अधिवक्ता के कृत्य के संबंध में शिकायती आवेदकन पत्र प्रस्तुत किये गये थे, जिन आवेदनों पर तत्काल संज्ञान लेते हुये माननीय जिला न्यायाधीश महोदय छिंदवाड़ा के द्वारा इस न्यायालय के पीठासीन अधिकारी व जिला रजिस्ट्रार छिंदवाड़ा को लिखित व मौखिक रूप से दिनांक 18.11.2019 को यह आदेशित किया गया था कि उक्त अनावेदक अधिवक्ता के विरुद्ध पुलिस कार्यवाही हेतु इस न्यायालय के पीठासीन अधिकारी को अधिकृत किया गया है तथा की गयी कार्यवाही का प्रतिवेदन भी माननीय जिला न्यायाधीश महोदय द्वारा आहूत किया गया था।(संलग्नक क्रं० 1)

7- यह कि उक्त पृष्ठभूमि में यह भी उल्लेख करना आवश्यक है कि दिनांक 22.11.2019 को भी उक्त अनावेदक अधिवक्ता अपने शराब पीकर गालीगलौच कर चिल्लाचोट करने के कृत्य को न्यायालय परिसर में जारी रखे हुये थे, जिस पर माननीय सी०जे०एम० महोदय छिंदवाड़ा ने संज्ञान लेते हुये कार्यवाही हेतु उनकी ओर से एक आवेदन पत्र थाना कोतवाली छिंदवाड़ा को प्रेषित किया था, जिसके संबंध में कार्यवाही करते हुये पुनः कोतवाली छिंदवाड़ा की पुलिस ने उक्त अनावेदक अधिवक्ता के विरुद्ध धारा 151 द०प्र०सं० सहपठित धारा 107, 116(3) द०प्र०सं० की कार्यवाही करते हुये उन्हें गिरफ्तार कर कार्यपालिक/सिटी मजिस्ट्रेट महोदय छिंदवाड़ा के समक्ष इशतगासा कं० 242/1451/2019 प्रस्तुत किया था। उक्त इशतगासा कार्यवाही के साथ संलग्न उक्त दिनांक के चिकित्सकीय प्रतिवेदन से भी यही प्रकट होता है कि उक्त अनावेदक अधिवक्ता ने उक्त दिनांक को शराब का सेवन किया हुआ था। (संलग्नक कं० 5, 6 व 7)”

6. Prior to initiation of the contempt proceedings against the respondent/contemnor, an enquiry was conducted by the District Judge (Vigilance) and the complaint made by the Chief Judicial Magistrate First Class was found to be correct and a decision was taken to initiate contempt proceedings against the respondent keeping in view of the repeated acts done by him. The respondent/accused filed a reply denying allegations leveled against him. However, he tenders unconditional apology for the act done by him. He has filed an application (I.A.No.4708 of 2023) for grant of unconditional apology. It is stated in the application that the respondent/contemnor is sorry for such disgusting act and will comply with the order of this court and will never repeat the same again.

7. The provisions 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;

From the aforesaid, it is apparently clear that if any act, to interfere or tends to interfere with or obstructs or tends to obstruct in the administration of justice is made, the same falls under the definition of the ‘criminal contempt’. The complaint made against the accused/contemnor falls under all the three categories as defined under Section 2(c) of the Act of 1971.

8. 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 completed by the authorities. Therefore, there is no issue with respect to procedural part of enquiry. The sole question of consideration before this Court is as to whether the act done by the respondent falls under the definition of ‘criminal contempt’ under Section 2(c) of the Contempt of Courts Act, 1971 or not?

9. 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.”

10. 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’.

11. The Act done by the respondent/contemnor 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. Allegations of shouting in the court premises, stopping the way of judicial officer, disturbing the court proceedings, abusing the judges using filthy language etc. were found to be correct in the enquiry. Such act is covered under the definition of ‘criminal contempt’ as defined under Section 2(c) of the Act of 1971. The respondent/contemnor being a lawyer, an officer of the Court has utmost responsibility to maintain the honour and dignity of the court. However, today when the matter was taken up for consideration, he has tendered his unconditional apology and sworn an affidavit along with an application dated 20.02.2023 tendering his apology. The application submitted by him reads as under:

“1. That, the afore mention criminal contempt has been registered against the present contemnor by this Hon’ble Court and the contemnor has been produced before this Hon’ble Court under the custody of police on day of 16 Feb. 2023 as per order dated 09th Feb. 2023 having the reason of non-appearance.

2. That, the contemnor humbly seeks for unconditional apology for the act against which such matter has been registered before this Hon'ble Court and make a promise he will never repeat such types of act or action before any court of law. He has understood the same and taught a lesson the results of present incident.

3. That, the contemnor is very much sorry to do its on such disgusting act and want to pardon from its guilty and ready to compliance any order direction terms and conditions which may be imposed on him by this Hon'ble Court."

12. From the records and the inquiry report, it is seen that he has committed similar act on earlier occasions also. There cannot be any explanation for the same especially in the event when the act done by the respondent/contemnor was duly investigated by the police authorities and he was arrested from the court premises. There is no material placed on record by the respondent before this Court to show that the allegations were incorrect.

13. We have heard learned counsel on sentence.

14. Shri Balram Koshta, learned counsel pleads that a sentence of fine alone be awarded.

15. However, on considering the same, we do not find that only imposing of fine would be adequate.

16. 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. However, looking to the fact that he has tendered unconditional apology in his reply/affidavit/application, coupled with the fact that the learned counsel has also tendered apology on his behalf before this Court in his affidavit

filed on 20.02.2023, this Court deems it appropriate to sentence the respondent to undergo simple imprisonment for a period of 15 days and 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. In default of payment fine, he is further directed to undergo simple imprisonment for a period of 15 days and will be debarred from practising in the courts of law for a period of 15 days.

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

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE

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