

Court No.1**SUO MOTU CONTEMPT PETITION (CRIMINAL) NO. 1493 OF 2021**

RE: ASOK PANDE

..... ALLEGED CONTEMNOR

Hon'ble Ritu Raj Awasthi,J.**Hon'ble Dinesh Kumar Singh,J.**

1. We have to deal with a very unpleasant situation due to outrageous and utterly contemptuous behaviour of Advocate, Sri Asok Pande, inside the Court today in the morning. The facts which led to drawing these contempt proceedings are that as soon as the Court assembled in the morning, Mr. Asok Pande, Advocate came to the podium. He was in civil dress with unbuttoned shirt. When the Court asked him, why he was not in uniform, he said that he had challenged the Bar Council Rules prescribing the Dress Code in PIL Civil No. 14907 of 2021 and, therefore, he would not put on the uniform. He however, said that he was appearing in-person and therefore, it was not required for him to don Lawyers' Uniform. The Court told him that he should at least appear in 'decent dress' if he was appearing in person. On this, he started questioning the Court that 'what is decent dress'. The Court asked him to button his shirt, which he did not do. He created ruckus in the Court in the morning and atmosphere of the Court got completely vitiated. He used intemperate language, indulged in indecent behaviour amounting to gross misconduct and he challenged the authority of the Court. His conduct was unbecoming a member of the legal profession. When he was warned that if he would not behave properly, the Court would have no option except to remove him from the Court, he challenged the Court and said that if the Court

had power; it could remove him from the Court. He used abusive language against the judges and said that the Judges were behaving like 'goondas'.

2. Two days back on 16.8.2021, when this Court took *suo motu* cognizance in PIL Civil No. 18055 of 2021 in respect of Bar Association Election scheduled to be held on 14.8.2021, the Court was hearing the Returning Officer and Chairman of the Elders' Committee of Awadh Bar Association, Mr Asok Pande barged in the Court and came to podium without uniform and started shouting on top of his voice. When the Court asked him that in what capacity, he was addressing the Court, he said that he was a Member of the Avadh Bar Association and had every right to address the Court. When the Court asked that why he was not in uniform, he said that would not don the advocate's uniform as he had challenged the Bar Council Rules prescribing the Dress Code for Lawyers.

3. The behaviour and conduct of Mr. Asok Pande would show that he had committed *ex facie* contempt of the Court. He has a long history of misbehaviour inside and outside the court room and committing contempt of the Court. Today, when he did not stop and continued to create unpleasant atmosphere inside the Court and went on to disturb the Court proceedings amounting to interference with the administration of justice and scandalizing the court, we called the Court Officer and the security to remove him from the Court Room in order to maintain serenity and decorum of the Court proceedings, dignity of the High Court and majesty of law. We ordered to keep him

in custody till 3PM so that he could come to Court and express his remorse and tender unconditional apology to the court for his outrageous behaviour in the Court.

4. A senior Member of the Bar Mr. Mohd. Arif Khan, Senior Advocate mentioned the matter, before Asok Pande arrived in the Court after 3 p.m. that the matter may be given a quietus, if Mr Pande could tender his unconditional apology. We asked the respected Members of the Bar that who would take responsibility of Mr Asok Pande's future behaviour in the Court, no respected Member came forward to guarantee his decent and appropriate behaviour in the Court in future. After release from custody at 3 PM, Mr Asok Pande again came to the Court and instead of tendering apology or exhibiting any remorse, he again tried to disrupt the court proceedings.

5. Brief history regarding misbehaviour, using indecent and intemperate language in pleadings and oral submissions and making scurrilous allegations against sitting and retired Chief Justices, Judges of this Court and judges of the Supreme Court by Mr. Asok Pande is given here under:-

(i) A Division Bench of this Court dismissed the writ petition filed by Sri Asok Pande vide judgment dated 3.3.2003, *(2003) 2 UPLEC 1294* on the ground that the PIL which was instituted by Sri Asok Pande was misconceived, ill-advised and untenable and Sri Asok Pande "wants to remain in limelight by way of filing such PILS". This petition was dismissed with costs.

(ii) In pursuance of the order dated 1.2.2006, whereby this Court referred the matter about misconduct of Mr. Asok Pande in the Court

during the Court proceedings to the Bar Council of U.P., three criminal contempt petitions Nos.309 of 2006, 310 of 2006 and 311 of 2006 have been drawn against him. The said petitions are still pending.

(iii) Mr. Asok Pande had filed a Writ Petition No. 4736 (MB) of 2016 soon after inauguration of sesquicentennial celebrations of the High Court on 13.3.2016 representing an organization called the Hindu Personal Law Board. This petition was filed as P.I.L. for seeking a direction to the Union of India and the Allahabad High Court not to hold the sesquicentennial celebrations primarily on the ground that the completion of 150 years was founded on an erroneous assumption and even otherwise, amounted to celebrating “the subservient legacy of the British Rule”. A Division Bench of this Court in its judgment and order dated 10.3.2016 found the petition lacking in substance and exhorted earnestly all members of the legal fraternity to make forthwith event a memorable success while observing as under: -

“The petition having failed to stand the scrutiny of law in the extraordinary jurisdiction of Article 226 of the Constitution of India, is hereby rejected with an earnest request to all members of the legal fraternity, particularly those who have nurtured the High Court with their toil and blood including the petitioner, to make the forthcoming events of celebrations a memorable success notwithstanding their diverse opinions.”

(iv) Sri Asok Pande did not stop there. He filed another Writ Petition No. 8216 (MB) of 2016 in respect of cultural program which was held at the new campus of the High Court building at Lucknow on 14.4.2016. The following reliefs were sought in the aforesaid writ petition: -

“(a) Issue a writ of Mandamus thereby directing the Chief Justice of Allahabad High Court to order an enquiry that under what circumstances and under what conspiracy the High Court function started with Sufi songs of Allah-hu, Allah-hu and in the falahar room, non-veg items were kept and to take action accordingly.

(b) Issue a writ of Mandamus commanding the respondents to ban the cooking and serving of veg and non-veg items for dinner together in the same venue and by the same caterers in all public functions and for public dinner/lunch at public expenses.

(c) Issue a writ of Mandamus commanding the respondents to evolve a policy not to permit praising of religious symbols and shrines of any particular religion in the name of Sufi gayan.”

(v) The intervenor in his application filed in the aforesaid writ petition highlighted the manner in which Sri Asok Pande attempted to disrupt the sesquicentennial celebrations on 14.4.2016 by inciting the members of the Bar, however, his attempt failed to stall the program. This Court in its judgment and order dated 19.4.2016 took note of paragraphs 9 and 10 of the said the writ petition filed by Sri Asok Pande which are extracted hereunder:-

“9. That it appears that this 'Harkat' to hurt the sentiments of Hindus was planned by the Chairman of the organizing committee, Sri Shabibul Hasnain and his other religious men in the High Court administration to give the befitting reply to the Governor Sri Ram Naik as during the day session, in the presence of Sri Hamid Ansari, Vice President of India, Sri Ram Naik did Ram Katha and congratulated the persons gathered there on the eve of the Navratri and Ram Navami.

10. That it appears that only to give befitting reply to the Governor and other Hindus, the evening culture program, which should have been started with Saraswati Vandana and Vande Mataram started with Allah-hu, Allah-hu, in the name of so-called Sufi gayan.”

This Court was of the view that the effort of Sri Pande had been to target the Chairperson of the Organizing Committee at Lucknow,

who was a sitting Judge of the High Court. It was a scandalous attempt to lower the dignity of the Court. Relevant portion of the observation of the court is extracted as under: -

“We find prima facie that the manner in which the petition has been drafted and an effort has been made to target the Chairperson of the Organizing Committee at Lucknow, who is a sitting Judge of the High Court, is a scandalous attempt to lower the dignity of the Court. The event in relation to which the allegations have been levelled is intrinsically connected with the High Court as an institution for the administration of justice. The event was to mark the sesquicentennial of the High Court as a court of justice under the law. The averments in the petition, including those which have been extracted above, prima facie, indicate that a conscious and premeditated attempt has been made to bring the Court and the Judge of the Court into disrepute. This is a calculated attempt to sow the seed of hatred and to divide the institution on communal lines.”

The Court also observed that Sri Asok Pande is habitual to instituting petitions either in his own name or in the name of the body, namely, Hindu Personal Law Board and repeated recourse to the jurisdiction of this Court under Article 226 of the Constitution of India is undertaken by him merely as a means of publicity and without any supervening cause or justification based on public interest. This Court observed as under:-

“The petitioner is habitual to instituting petitions either in his own name or in the name of the body through which the present petition has been filed. We are affirmatively of the view that repeated recourse to the jurisdiction of this Court under Article 226 of the Constitution is initiated merely as a means of publicity and without any supervening cause or justification based on public interest. The time, effort and attention of the Court which should be devoted to dealing with genuine causes and cases is deflected in the hearing of these petitions which are conducted without a sense of restraint and are drafted without any concern for the rules of pleadings and without a sense of responsibility. Proceedings are argued ad nauseam and are reduced to a spectacle of frivolity.”

This Court did not only dismiss the aforesaid writ petition, but Sri Asok Pande was issued show cause notice why he should not be proceeded against for committing criminal contempt under the Contempt of Courts Act, 1971. The Court further directed that the petitions filed by Sri Asok Pande or in the name of Hindu Personal Law Board can be accepted only if it is accompanied by a Demand Draft of Rs.25,000/- drawn on a nationalized Bank. The Demand Draft should be drawn in the name of the Senior Registrar of the High Court at Lucknow. It was further observed that if the Court found that the petition was a genuine effort to espouse the cause in public interest, the Demand Draft would be ordered to be returned to the petitioner by the Court. However, if it was found that the petition filed by Asok Pande was frivolous exercise or an abuse of the process, the amount should abide by such orders in regard to the payment of costs as be passed by the Court.

This Court also took notice of that fact that on numerous occasions, various Courts had found Sri Asok Pande to have indulged in drafting pleadings which did not give credit to a member of legal profession. The said writ petition was dismissed with costs of Rs.25,000/- which was payable to Uttar Pradesh Legal Services Authority. We are informed that he has not deposited any cost imposed on him in several proceedings.

(vi) A Division Bench of the Gujarat High Court in its judgment dated 14.4.2011 passed in Writ (PIL) No. 129 of 2011 filed by Sri Asok Pande wherein he challenged the appointment of Governor of the State of Gujarat observed as under: -

"This petition is a fine specimen of abuse of process of the Court in the name of Public Interest Litigation. It was expected from a member of a noble profession not to invoke jurisdiction of the Court in a matter where the position of law is abundantly clear."

The Division Bench further observed:

"We are of the view that the petition is not only wholly misconceived, but, we find that the bona fides of the petitioner in preferring this petition also appears to be doubtful."

We are disturbed to note that a member of a noble profession, a practicing lawyer has not exercised any restraint even while drafting the petition. We also find that the averments are quite derogatory and not acceptable at least from the petitioner who is appearing as a Party-in-Person."

(vii) Sri Asok Pande challenged the aforesaid judgment before the Supreme Court by means of Special Leave to Appeal (Civil) No.9767 of 2012 which was also dismissed by the Supreme Court vide order dated 22.3.2012 with costs of Rs.1,00,000/- in addition to costs imposed by the Gujarat High Court. The order of the Supreme Court reads as under:-

"After hearing the petitioner in detail, we are of the view that the High Court has not committed any error whatsoever while dismissing the petition filed by the petitioner which is styled as Public Interest Litigation. We add that the petition filed by the petitioner is not only frivolous but highly mischievous. Therefore, while affirming the order passed by the High Court, we dismiss the special leave petition. For wasting precious public time of this Court, we feel that the petitioner should be mulcted with exemplary costs. Accordingly, we direct that the petitioner shall pay a further sum of Rs. 1 lac, apart from the costs already imposed by the High Court with the Gujarat State Legal Services Authority in three week's time from today. If for any reason, the petitioner fails to deposit the costs as directed, the Gujarat State Legal Services Authority shall initiate appropriate recovery proceedings against the petitioner."

Order accordingly."

Review Petition (c) No.1782 of 2012 in SLP (c) No.9767 of 2012 filed Sri Asok Pande was also dismissed by the Supreme Court vide order dated 29.8.2012.

(viii) Sri Asok Pande filed a Writ Petition No. 624 (MB) of 2011 (PIL), Asok Pande v. N. K. Mehrotra and sought to challenge the appointment of Lokayukta. In the aforesaid petition, a former Chief Justice, a retired Judge of this Court and a sitting Judge of the Supreme Court were impleaded. A Division Bench of this Court in its order dated 31.5.2011 held as under:-

“A reading of entire writ petition only reflects and exposes the own assumption, personal grouse and personal view of the petitioner regarding the judges and the orders passed by them and his own interpretation of such orders.”

The Division Bench also observed that:

*"We are constrained to observe that the manner in which the petition has been drafted, the language used and the allegations made, which besides being inappropriate, uncalled for and without any basis, not only reflect the personal grudge of the petitioner, but also show that **he has scant respect for the Court** (emphasis supplied). The Courts cannot be allowed to be maligned for settlement of personal grievances of a litigant, may be a lawyer. The dignity of the Court and the majesty of law have to be maintained."*

(ix) Another writ petition filed by Asok Pande being Misc Bench No. 6349 of 2014 seeking a writ of Certiorari for quashing the appointment of the Governor of Uttar Pradesh was also dismissed with costs.

(x) A writ petition filed by Asok Pande being Misc Bench No.7335 of 2014 seeking to challenge an order of the Governor recalling the appointment of the Advocate General of the State was dismissed

among various other writ petitions and public interest petitions filed by him.

(xi) A Full Bench of this Court was hearing a reference to decide the question "Whether a Judge of Hon'ble High Court sitting alone or Judges sitting in a Division Bench hearing any matter in his/their determination assigned by Hon'ble the Chief Justice, can overstep into the determination of another Bench, if any issue or question arises in the matter including a question in public interest, which is not connected to the matter before him/them, and which in his/their opinion is necessary to be decided, and further in such case where in his/their discretion it is necessary to decide such question, what should be the procedure to be adopted" which was referred to it in Writ Petition No. 2599 (MB) of 2014, Sri Asok Pande filed an application for intervention making allegations against the Chief Justice and other Judges in para 14 and 15 which are extracted here-in-below:-

"14. That in view of it the constitution of the three judges bench to hear this matter is highly illegal and unconstitutional. This amounts to indictment, insult and misbehaviour with the Sri Uma Nath and Sri Zaki Ulla. Though the Chief Justice is master of the roster but that does not give an authority to the Chief Justice to insult and misbehave the good, honest, bold judges.

15. That one more fact the applicant intends to bring on the record of the matter is that a friend of mine Sri R.N.S. Chauhan advocate who is also a close friend of Sri Imtiaz Murtaza J. informed me that some contractor approached him with an offer of 25 lakh rupees in case he is able to manage a contract in his favor with the Ashirvad/blessing of Sri Imtiaz Murtaza J. Sri R.N.S. Chauhan denied the offer but even then later on he was informed that the same person has got the contract. This shows that the contractors are moving around the High Court, the resident of the judges and the resident of their

nears and dears with huge money for getting the contract. The question is why the judges are so involved in the award of contract? Whether it is judges work or it is work of the bureaucracy? The bribe which was offered to Mr. R.N.S. Chauhan Advocate went to whom? How many such more contracts were awarded and who received the bribe? On whose recommendations and directions, the contract of Civil Court and High Court building are being awarded?"

This Court dismissed the aforesaid application on the ground that he had absolutely no locus to address the Full Bench on merits of the writ petition, and secondly, he has refused to delete paragraphs 14 and 15 of his affidavit which the Division Bench vide order dated 28.04.2014 had directed him to consider. This Court found the assertions made by Sri Asok Pande wholly irresponsible and callous. Time and again, this Court had observed that he was in a habit of making unfounded and reckless allegations not only against the judiciary but against any person. This Court in para 18 and 19 of the judgment dated 5.1.2017 passed in the aforesaid writ petition held as under:-

"18. When we commenced hearing, we once again requested Mr. Pande to consider the deletion of paragraphs 14 and 15 of his affidavit but he refused to do so. Further, he repeatedly made an attempt to make submissions in support of the observations made in the order dated 01.04.2014 and on the merits of the writ petition, and did not make any submission on the question formulated for the opinion of this Bench. In the circumstances, we reject his application for intervention on this ground as also on the ground that he advanced no submissions on the merits of the reference and continued to only repeat the allegations, as made in the aforesaid paragraphs 14 and 15.

19. The request made by Mr. J.N. Mathur, learned Senior Counsel appearing for UPRNN, that an action needs to be taken against Mr. Pande, who is appearing in person, for making irresponsible, baseless, reckless and unfounded allegations in paragraphs 14 and 15 of his

affidavit, either for having committed criminal contempt of this Court and/or to restrain him from entering the precincts of this Court at Lucknow and at Allahabad in exercise of the powers under Rule 11 falling in Chapter XXIV of the Allahabad High Court Rules, 1952, is kept open to be considered at an appropriate stage.”(Emphasis supplied)

Thus, the matter has been kept open for debarring him from entering the precincts of this Court at Lucknow and at Allahabad at an appropriate stage.

(xiii) *Ex facie* contempt proceedings were initiated against Mr. Asok Pande during hearing of PIL Civil No. 383 of 2017. This Court in its order dated 10.1.2017 passed in PIL Civil No. 383 of 2017 noted that Mr. Asok Pande during the course of hearing of the petition made serious allegations about the conduct of the learned Single Judge while passing a judicial Order. This Court warned Mr. Asok Pande not to utter any such word that may amount to scandalizing the Court or calling upon the repute of the Court and not to further impede the proceedings as sufficient time had been given for hearing of the matter. However, Sri Pande instead of adhering to the request of the Court repeated the allegations and did not refrain from disturbing the proceedings of the Court as a result whereof was left with no option but to warn him of initiation of proceedings of criminal contempt. Despite Court warning, he insisted upon his submissions and the Court was also compelled to call upon the Court Officer and ordered to take Sri Pande into custody.

A little after the aforesaid incident and after the proceedings had virtually culminated in passing of an order for drawing criminal contempt, some respected members of the Bar intervened and made a

request not to proceed with the criminal contempt proceedings and offered their apology on behalf of Sri Pande. In the meantime, a hand written note of Sri Asok Pande in which he said that he never intended to make any comment against any Judge and he was taking his words back was handed over by the President of the Oudh Bar Association along with Pt.S. Chandra, General Secretary, Oudh Bar Association to the Court.

The Court did not find the said communication of Sri Pande to be worth a remorseful apology. The matter was taken up after lunch when Sri Pande was again produced before the Court, and he appeared in person and expressed his regret in unequivocal terms. This Court noted that Sri Asok Pande's insulting behaviour, anger and revengeful attitude had obstructed the court proceedings. This Court had also noted that the writ petition was filed with intention to insult the Judges, lower the dignity of the Court and obstruct the judicial proceedings. This Court noted that Sri Asok Pande had been warned about his behavior earlier and he was taken into custody in a previous case which was admitted by him in the application.

This Court finally in its judgment and order dated 10.1.2017 noted the past conduct of Sri Asok Pande in the High Court which had been recorded in various judicial pronouncements of this Court and other Courts. His contemptuous activities and his behavior and conduct in the Court in the past had exhibited a behaviour that *prima facie* indicates misconduct and unprofessionalism on his part that had been deprecated, commented upon and suitably punished in the past.

This Court also noted four of such cases which are mentioned hereunder:-

- “(i) *Writ Petition No.624 (MB) of 2011, Asok Pande v. Sri N. K. Mehrotra and others*
- (ii) *Writ Petition No.6349 (MB) of 2014, Asok Pande v. Union of India and others*
- (iii) *Writ Petition No.8216 (MB) of 2016, Hindu Personal Law Board through Asok Pande v. Union of India and others*
- (iv) *Special Leave to Appeal (Civil) No.9767 of 2012, Asok Pande v. Union of India and others”*

The Division Bench of this Court in the aforesaid judgment held that the conduct of Sri Asok Pande inside the court was to scandalize the court proceedings, to insinuate and insult Judges personally so as to browbeat them in relation to their work and conduct in judicial proceedings and attempt in bench hunting by such tactics, and, therefore, he deserved to be tried for contemptuous behaviour. The Court drew the contempt proceedings and framed the charge in terms of Section 15 of the Contempt of Courts Act, 1971 read with the provisions of Chapter XXXV-E of the Allahabad High Court Rules, 1952 and the plenary powers of the High Court under Article 215 of the Constitution of India. The charge framed against him reads as under:-

“You Asok Pande, Advocate on 10.1.2017 moved an application extracted here-in-above the contents whereof were pressed into service by you openly in Court during Court proceedings in the present writ petition, clearly reveal the description of the orders passed on 6.1.2017 in Special Appeal No. 2 of 2017 and your anguish about the same describing the judicial order passed and recorded in open Court on 6.1.2017 to be an outcome of bad behaviour and misbehaviour of one of us [A.P. Sahi, J.], and that such application was moved in the presence of all concerned including Lawyers, litigants and Court officials which appears to be clearly intended to defile

the image of the Court, cast insinuations and personally insult a Judge in open Court and is clearly intended to bring the Court into disrepute by making scandalous allegations that are contemptuous, which contempt coupled with your demeanour in levelling such allegations in writing that have been reduced in the form of an application by you and placed on record, amounts to a clear contemptuous behaviour as envisaged under Section 15 of the Contempt of Courts Act, 1971 defining criminal contempt that makes you liable to be punished and to be debarred from practicing in this Court in view of the provisions of the Contempt of Courts Act, 1971 read with the judgments referred to here-in-above particularly the observations made by the Full Bench in Writ Petition No.2599 (MB) of 2014 vide order dated 5.1.2017, and therefore you are hereby called upon to answer the aforesaid charge in person or through counsel and present yourself to be tried on Monday, i.e., 16.1.2017 before the Bench concerned.”

(xiv) Thus, the contempt proceedings in Contempt Petition No. 103 of 2017, *State of U.P. v. Asok Pande*, were drawn against him to try him for the aforesaid charge. This Court, after noticing his conduct, demeanour and belligerent attitude as well as pleadings, passed a detailed judgment and found him guilty of charge levelled against him. He was sentenced to three months simple imprisonment and a fine of Rs.25,000/-. Besides Sri Asok Pande was restrained from entering the premises of the High Court of Judicature at Allahabad and Lucknow for a period of two years. Paragraphs 52 to 61 of the said judgment are extracted hereunder:-

“52. During the course of argument we pointed out to Contemnor that wild allegations levelled upon conduct or otherwise of Judges is a serious act and within the definition of "criminal contempt" though truth is a valid defence in view of amendment made under Section 13(b) vide by Act 6 of 2006 but for that purpose Contemnor will have to substantiate his allegations by placing relevant material on record for which he simply reiterated what was already contained in various documents filed along with his Deferment Application and said that the things may be directed to be enquired into by appropriate investigation agency.

53. *Of late we find that a tendency has developed of making allegations and aspersions upon Judges hearing cases when a counsel argue it and finds some inconvenience in one or the other way. Every Judge knows that Judges presiding Courts have no platform to speak and clear allegations made against them. At the best they can confine entire thing to the matter which is under consideration in the order, to be passed therein. Such orders are not to be taken as a pretext to explain conduct of Judges also and that is how Judges are always in a position where they can be condemned ex parte by Advocates and others, knowing it well that there is no platform available to Judges for clarification. It is a situation where an honest Judge, working bona fide and wholesome integrity, sometimes due to his strict adherence to Rule of Law and unquestionable integrity, suffers, in the hands of naive and mischievous parties or sometime scrupulous advocates who show more sincerity to their clients instead of devotion to Court, of which they are officers. We need not go into the reasons and considerations behind such conduct which may be many. Many a times we find that stakes in the matter are very high. Counsel show more adherence to interest of their clients than an objective and independent persuasion in accordance with law, in Court.*

54. *Instances of open threat as well as veiled threat are now occurring frequently. Many a times undue pressure on the part of members of Bar, keeping in view sole right or wrong interest of their clients is also writ large when they proceed to exert pressure by a collective decision of abstention of Court or otherwise outside condemnation of Presiding Officers of Court.*

55. *Another unfortunate part is that in the name or pretext of harmony and smooth functioning of Institution, by possession an attitude, not to become a party to any controversy or conflict, those responsible to manage the entire institution, keep such instances under the carpet and avoid to take appropriate action, forgetting golden rule that anything rotten kept and covered is bound to decay and stink. It would ultimately prove disastrous for the institution as a whole. Inaction or lack of appropriate action on the part of those responsible to take action, many a times, has the effect of demoralization to others, and encouraging nasty members of Bar and litigants to continue with their pressure tactics and other nefarious activities. Those who stand on judicial side are a few individuals and become an eyesore to remaining stakeholders of Institution, in one or other way. To stand*

in such a situation for a Judicial Officer is an act of courage and valiant but many a times he finds people supporting him, almost negligible. It is high time when an inside, deep and thorough review of entire situation is needed to check such instance and growing tendency amongst other side of stakeholders, otherwise independence, objectivity and strength of Institution would be in jeopardy.

56. Nobody is above law and everybody is under an obligation to adhere to rule of law. This principle every stakeholder of an institution of dispensation of justice has to follow, in words and spirit. If we allow any deviation or distraction in the name of convenience, harmony, smooth functioning or such other clumsy pretext, it will do more harm to system. We however find it our duty to stand in such a situation to maintain majesty, honour and independence of institution of justice instead of surrendering to individual interest of anybody, whatsoever, in the name of sympathy, leniency, compassion etc.

57. Power of justice has been handed down to Courts from sovereignty of State. Amongst all other kinds of sovereign functions, dispensation of justice is treated to be a power which would have been exercised by King as a representative of God. It is treated a divine power. A divine power does not mean compassion to wrong doer and allow or continue or to cause irreparable injury and loss to wronged one. Power to do justice includes power of punishment. When someone has done something wrong, adequate punishment for such wrong is also a divine obligation upon the Court of law wherethrough such power is to be exercised.

58. In the present case in the zeal of so called public service no one including an officer of Court, i.e., a member of Bar can be allowed to make insinuations, allegations and aspersions on the Judges of this Court or, in that way, even of any other Court which has the effect of lowering down majesty of Court as a whole in the eyes of general public. Contemnor has not only made allegations, wild and unsubstantiated, in various writings but also sought to make public in different ways and also during course of argument by reading these allegations in open Court in presence of Advocates, litigants and staff.

59. We find also no sense of remorse, repentance or apologetic attitude on the part of Contemnor at any point of time. We, therefore, find that act of Contemnor of

committing criminal contempt, in view of our finding with regard to charge, that it stands proved, is quite serious and deserves an appropriate stringent punishment.

60. In these facts and circumstances, holding Contemnor guilty of charge levelled against him, we sentence him three months simple imprisonment and fine of Rs. 2,000/-. In case of failure of payment of fine within one month from today, Contemnor shall undergo further simple imprisonment of three months.

61. Besides, we also restrain Contemnor from entering premises of High Court of Judicature at Allahabad and Lucknow, for a period of two years. In computing above period, the period he has already undergone pursuant to our order dated 01.03.2017 shall be adjusted. In other words, period of two years shall be treated to commence from 02.03.2017.”

6. Lord Diplock had said regarding the contempt of Court as under:-

"The due administration of justice requires first that all citizens should have unhindered access to the constitutionally established courts of criminal or civil jurisdiction for the determination of disputes as to their legal rights and liabilities; secondly, that they should be able to rely on obtaining in the courts the arbitrament of a tribunal which is free from bias against any party and whose decision will be based on those facts only that have been proved in evidence adduced before it in accordance with the procedure adopted in courts of law; and thirdly that once the dispute has been submitted to a court of law, they should be able to rely on their being no usurpation by any other person of the function of that court to decide it according to law. Conduct which is calculated to prejudice any of these three requirements or to undermine the public confidence that they will be observed is contempt of court."

Lord Morris of Borth-y-Gest said,

"When such unjustifiable interference is suppressed it is not because those charged with the responsibilities of administering justice are concerned for their own dignity: it is because the very structure of ordered life is at risk if the recognized courts of the land are so flouted that their authority wanes and is supplanted."

Three clauses of Section 2(c) of the Contempt of Courts Act, 1971 defines "criminal contempt". It is in terms of obstruction of or interference with the administration of justice.

7. The Supreme Court in the case of *Baradakanta Mishra v. The Registrar of Orissa High Court [(1974) 1 SCC 374]* noted that broadly the Act accepts that proceedings in contempt are always with reference to the administration of justice. With reference to the three sub- clauses of Section 2(c) of the Act, the Supreme Court observed that sub- clauses (i) and (ii) deal with obstruction and interference respectively in the particular way described therein, while sub-clause (iii) is a residuary provision by which any other type of obstruction or interference with the administration of justice is regarded as a criminal contempt.

8. In the case of *Balogh v. St. Albans Crown Court, [1975] 1 QB 72*, which is a rather interesting case that dealt with contempt in the face of the Court. Lord Denning MR said that contempt in the face of the Court led to instant punishment or punishment on the spot, unlike punishment rendered on motion. It was never confined to conduct which a judge saw with his own eyes and so contempt in the face of the Court is the same thing as contempt which the Court can punish of its own motion and it really means contempt in the cognizance of the Court.

In other words, contempt "of its own motion" is a species of contempt in the face of the Court. Some instances were given of this such as contempt (i) in the sight of the Court, (ii) within the court

room but not seen by the judge, and (iii) at some distance from the Court.

In this context it was said that the power to punish for contempt is a summary power, it is a great power, and it is a necessary power. This is a drastic power which should be invoked to meet the ends of justice.

9. The High Court has power under Article 215 of the Constitution of India to punish for contempt of itself. The definition of ‘criminal contempt’ defined in Section 2 (c) of the Contempt of Courts Act, 1971 reads as follows:-

*"2. **Definitions:** - In this Act, unless the context otherwise requires,*

(a) xxx

(b) xxx

(c) criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, 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;

(d) xxx"

10. The Supreme Court in ***M. Y. Shareef and another v. The Hon'ble Judges of the High Court of Nagpur and others [(1955) 1 SCR 757]*** at page 764 noted the growing tendency of maligning the reputation of Judicial Officers by disgruntled elements and members

of the profession resorting to cheap gimmicks with a view to browbeating the Judges. Para 44 of the judgment reads as under:-

“The tendency of maligning the reputation of Judicial Officers by disgruntled elements who fail to secure the desired order is ever on the increase and it is high time it is nipped in the bud. And, when a member of the profession resorts to such cheap gimmicks with a view to browbeating the judge into submission, it is all the more painful. When there is a deliberate attempt to Scandalize which would shake the confidence of the litigating public in the system, the damage caused is not only to the reputation of the concerned judge but also to the fair name of the judiciary; Veiled threats, abrasive behavior, use of disrespectful language and at times blatant condemnatory attacks like the present one are often designedly employed with a view to taming a judge into submission to secure a desired order. Such cases raise larger issues touching the independence of not only the concerned judge but the entire institution. It is high time that we realise that the much-cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are an integral part of the system.”

11. The Supreme Court in the case of ***R. K. Anand v. Registrar, Delhi High Court [(2009) 8 SCC 106]*** in paragraph – 333 expressed its concern on the falling professional norms amongst the Lawyers.

Paragraphs 333 to 335 of the judgment read as under:-

"333. We express our concern on the falling professional norms among the lawyers with considerable pain because we strongly feel that unless the trend is immediately arrested and reversed, it will have very deleterious consequences for administration of justice in the country. No judicial system in a democratic society can work satisfactorily unless it is supported by a bar that enjoys the unqualified trust and confidence of the people, that share the aspirations, hopes and the ideals of the people and whose members are monetarily accessible and affordable to the people.

334. We are glad to note that Mr. Gopal Subramaniam, the amicus fully shared our concern and realised the gravity of the issue. In course of his submissions he eloquently addressed us on the elevated position enjoyed by a lawyer in our system of justice and the responsibilities cast upon him in consequence. His

Written Submissions begin with this issue and he quotes extensively from the address of Shri M C Setalvad at the Diamond Jubilee Celebrations of the Bangalore Bar Association, 1961, and from the decisions of this Court in [Pritam Pal vs. High court of Madhya Pradesh](#), 1993 Supp (1) SCC 529 (observations of Ratnavel Pandian J.) and Sanjeev Datta, In Re, (1995) 3 SCC 619 (observations of Sawant J. at pp 634-635, para 20). We respectfully endorse the views and sentiments expressed by Mr. M.C. Setalvad, Pandian J. and Sawant J.

335. Here we must also observe that the Bar Council of India and the Bar Councils of the different states cannot escape their responsibility in this regard. Indeed, the Bar council(s) have very positively taken up a number of important issues concerning the administration of justice in the country. It has consistently fought to safeguard the interests of lawyers and it has done a lot of good work for their welfare. But on the issue of maintaining high professional standards and enforcing discipline among lawyers its performance hardly matches its achievements in other areas. It has not shown much concern even to see that lawyers should observe the statutory norms prescribed by the Council itself. We hope and trust that the Council will at least now sit up and pay proper attention to the restoration of the high professional standards among lawyers worthy of their position in the judicial system and in the society.”

12. We are drawing these contempt proceedings *suo motu*, finding prima facie the conduct, insinuation and insulting behaviour of Sri Asok Pande, Advocate towards judges and intemperate language used by him with an aim to disrupt the court proceedings and scandalize the Court and interfere with the administration of justice *ex facie* contemptuous. He has been habitual in making scandalous and scurrilous allegations against the Judges including the Chief Justices of this Court and even the Supreme Court Judges inside and outside the court. Despite warning, he did not mend his ways and exhibited his belligerent behaviour bringing down the majesty of the law and dignity of the High Court as such. Every attempt in the past has failed to correct his contemptuous conduct in the Court. Even punishments

have not deterred him, and any leniency has only emboldened him for indulging in contemptuous behaviour, using intemperate and abusive language, insinuating, intimidating and insulting the judges and interfering with the administration of justice.

13. When the Bar Council of India has prescribed the ‘Dress Code’ in rules framed under Section 49 (I)(gg) of Act, a Lawyer cannot come to the Court not wearing the uniform and when he is pointed out he cannot say that since he has challenged the Bar Council Rules in PIL Civil No. 14907 of 2021, therefore he would not wear the uniform prescribed by the Bar Council of India.

14. This High Court in Rule 12 of Allahabad High Court Rules, 1952 has also prescribed ‘Dress of Advocate appearing before Court’, which reads as under:-

12. Dress of advocate appearing before Court :-
Advocates, appearing before the Court, shall wear the following dress:

(1) Advocates other than lady advocates :

(a) Black buttoned up coat chapkan, Achakan or Sherwani, Barrister’s gown and bands, or

(b) Black open collar coat, white shirt, white collar, stiff or soft with Barrister’s gown and bands.”

15. The Bar Council of India Rules and State Bar Council Rules mention certain canons of conduct and etiquette as general guide for an Advocate. Section I of Chapter II of Part IV of the Bar Council of India Rules has explained the Rules pertaining to ‘Advocate’s Duty to the Court’ as under: -

“1. An advocate while presenting his case should conduct himself with dignity and self-respect.

2. *Respectful attitude must be maintained by the advocate. He has to keep in mind the dignity of the Judge.*

3. *An advocate should not, by any improper means should influence the decision given by the court.*

4. *It is the duty of the advocate to prevent his client from resorting to unfair practices and also the advocate himself should not do any of such acts.*

5. ***Dress code has to be maintained by the advocate while appearing before the court.***

6. *An advocate should not take up any case of his family members and relatives.*

7. *No bands or gowns had to be worn by the advocate in the public places. It is only limited to the court premises.*

8. *An advocate cannot be as a surety for his client.*

9. *It is the duty of the advocate to cooperate with the bench in the court.*

10. ***It is the duty of the advocate to perform his functions in such a manner that due to his acts the honour, dignity and integrity of the courts shall not be affected.***

11. *An advocate should not laugh or speak loudly in the court room especially when the proceedings are going on.*

12. *When an advocate accepts a brief, he should attend all adjournments properly. If he has any other work in another court, he should first obtain the permission from the court concerned. Particularly in criminal cases, it is the first and foremost duty of an advocate to attend.*

13. *While the case is going on, the advocate cannot leave the court without court's permission and without putting another man in charge, preferably his colleague or junior or friend advocate."*

16. Finding the misconduct, misbehaviour, and foul and intemperate language of Sri Pande *ex facie* contemptuous and his belligerent attitude challenging the authority and majesty of the court

and his resolute attempt to disturb the Court proceedings, in the morning we passed the order for taking him into custody till 3 p.m. as mentioned above. After release, he again came to the Court and instead of tendering apology or exhibiting any remorse, he again tried to disrupt the court proceedings.

17. Judges and lawyers have worked in great harmony and cooperation and have built the glorious judicial institutions in India. Lawyers have boldly and fearlessly participated in the national movement. Even today most of the lawyers are discharging their social duties honourably and contributing their best for upholding the majesty of Courts. "DHARMA protects those who protect it. Those who destroy Dharma get destroyed. Therefore, Dharma should not be destroyed so that we may not be destroyed as a consequence thereof." (Manusmiriti VIII-15)

18. As noted above, a minuscule minority of the Lawyers are bringing disrepute to the noble profession and trying to browbeat Judges and interfere with administration of justice. It is the duty of the Judges and Advocates' community to uphold the majesty of law and maintain the purity in justice delivery system. The dignity of judges cannot be allowed to be polluted by these disgruntled and publicity seeking persons. The past conduct of Sri Asok Pande and *ex facie contempt* committed by him today in the Court room does not leave us with any scope other than charging him for committing *ex facie contempt* of the court in order to protect the majesty and dignity of this Court. We are pained to act against him, but we are also conscious

of our duties and responsibilities to protect the institution of High Court and to maintain purity in the administration of justice.

19. In view thereof, we hold that Sri Asok Pande has prima facie committed *ex facie* contempt of Court during the court proceedings today, i.e, 18-08-2021 which amounts to scandalizing and lowering the authority of this Court and interference with due course of judicial proceedings and, it also has tendency to interfere or obstruct the administration of justice.

20. We exercising powers in terms of Section 15 of the Contempt of Courts Act, 1971 read with the provisions of Chapter XXXV-E of the Allahabad High Court Rules, 1952 and the plenary powers of the High Court under Article 215 of the Constitution of India, frame following charge against Mr Asok Pande:-

(a) "You Mr. Asok Pande, Advocate on 18.08.2021 as soon as the Court assembled in the morning, came to the podium in civil dress with unbuttoned shirt. When the Court asked you, why you were not in uniform, you said that since you had challenged the Bar Council Rules prescribing the Dress Code in PIL Civil No. 14907 of 2021 therefore, you would not put on the uniform. You informed the court that you were appearing in-person and therefore, it was not required for him to don Lawyers' Uniform. When the court asked you that you should at least appear in 'decent dress' if you were appearing in person. On this, you started questioning the Court that 'what is decent dress'. The Court asked you to button your shirt, which you did not do. You created ruckus in the Court in the morning and atmosphere of the Court got completely vitiated. You used intemperate language, indulged in indecent behaviour amounting to

gross misconduct and challenged the authority of the Court. Your conduct was unbecoming a member of the legal profession. When Court warned that if you would not behave properly, the Court would have no option except to remove you from the Court, you challenged the Court and said that if the Court had power; it could remove him from the Court. You used abusive language against the judges and said that the Judges were behaving like 'goondas'.

(b) Two days back on 16.8.2021, when this Court took suo motu cognizance in PIL Civil No. 18055 of 2021 in respect of Bar Association Election which was scheduled to be held on 14.8.2021, the Court was hearing the Returning Officer and Chairman of the Elders' Committee of Awadh Bar Association, You, Mr Asok Pande barged in the Court and came to podium without uniform and started shouting on top of your voice. When the Court asked you that in what capacity, you were addressing the Court, you said that being a Member of the Avadh Bar Association, you had every right to address the Court. When the Court asked that why you were not in uniform, you said that would not don the advocate's uniform as he had challenged the Bar Council Rules prescribing the Dress Code for Lawyers and insisted on addressing the court without donning Advocate's uniform.

(c) Your conduct in the court and outside the court clearly intended to defile the image of the Court, cast insinuations and personally insult judges in open Court. It is clearly intended to bring the Court into disrepute by making scandalous allegations and using abusive language against the judges. Your ex-facie contemptuous

behaviour as envisaged under Section 15 of the Contempt of Courts Act, 1971 defining criminal contempt that makes you liable to be punished and to be debarred from practicing in this Court in view of the provisions of the Contempt of Courts Act, 1971, and, therefore, you are hereby called upon to answer the aforesaid charge in person or through counsel and present yourself to be tried on 31-08-2021 before the Bench concerned”

21. Besides initiating these contempt proceedings, we direct the Bar Council of Uttar Pradesh to examine the past conduct of Sri Asok Pande, Advocate, detailed above in order to decide whether such a person is worthy of being part of the noble profession, and take appropriate disciplinary proceedings against Sri Asok Pande. Let a copy of this order be sent to the Uttar Pradesh Bar Council for compliance.

Order Date :- 18.8.2021
lakshman