

Cont.P.No.2361 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.11.2023

Pronounced on : 15.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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Mahendra Singh Dhoni

... Petitioner

Vs.

Mr.G.Sampath Kumar, IPS,
C/o.The Office of the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

... Respondent

Contempt Petition filed under Section 15 of the Contempt of Courts Act, 1971, to issue summon to the respondent herein, as per the order in Consent Petition No.3 of 2022, dated 18.07.2022, granted by the learned Advocate General of Tamil Nadu and punish him under Section 15 of the Contempt of Courts Act, 1971.



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For Petitioner : Mr.P.R.Raman
Senior Counsel
for Mr.C.Seethapathi

For Respondent : Mr.Perumbulavil Radhakrishnan

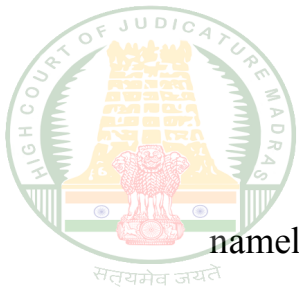
ORDER

S.S. SUNDAR, J.

The above Contempt Petition is filed under Section 15 of the Contempt of Courts Act, 1971, as against a retired high ranking Police officer, the respondent herein, for committing criminal contempt.

2.Brief facts that are necessary for the disposal of this petition are as follows :

2.1.The petitioner herein is a cricketer who has reputed career as the former Captain of the Indian Cricket Team. It is not necessary to give all the details and credentials of the petitioner in this contempt petition, except stating that the petitioner is a popular cricketer having fans throughout world particularly in this State and he is a celebrity and commands a very good reputation for leading a Cricket team in Indian Premier League,



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namely, 'Chennai Super Kings'.

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2.2.Pursuant to the order passed by the Hon'ble Supreme Court in Special Leave Petition in S.L.P.No.26633/2013, dated 30.07.2013, a three member Committee headed by Hon'ble Mr. Justice Mukul Mudgal (Retd.) was constituted to probe into the allegations of betting and spot fixing in the Indian Premier League matches. It is learnt that report of the Committee was submitted to Hon'ble Supreme Court on 10.02.2014. Following the report that was submitted to the Hon'ble Supreme Court by the Committee, it appears that two public News Channel were broadcasting the version of the respondent herein before the Committee and the contents of the report that was submitted by the Committee constituted by the Hon'ble Supreme Court.

2.3.It was in these circumstances, the petitioner herein filed the suit in C.S.No.185 of 2014 for the following reliefs :

- (a) for a permanent injunction restraining the defendants 1 to 4, their associates, sister concerns, agents, representatives, correspondents,



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officers, employees and/or any other person, entity, in print or electronic media or via internet, or otherwise from publishing, republishing, carrying out any reports or articles or telecasts or repeat telecasts or programs or debates or any discussion or reporting or publishing in any other manner, any other matter of any kind directly or indirectly pertaining to the alleged report of the 3rd defendant or any matter incidental thereto or any other matter related to the said alleged statement and/or any news content relating the plaintiff to acts of betting, spot fixing and match fixing of cricket matches or in any manner insinuating or denigrating the integrity and honesty of the plaintiff as a cricketer except the publication or news of the exact judicial officer, if any, passed by the Hon'ble Courts;

(b) for damages in favour of the plaintiff and against the defendants 1 to 4 jointly and severally for an amount of Rs.100,00,00,000/- (Rupees One Hundred Crores only).

2.4. Defendants 1 and 2 are the popular News Channel and its Editor and Business Head, respectively. The respondent herein is the 3rd defendant



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in the suit. The 4th defendant in the suit is another News Channel by name

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News Nation Network Pvt. Ltd. In the plaint, the grievance of the plaintiff is that defendants 1, 2 and 4 in the suit broadcasted news defaming the petitioner as if the petitioner had participated in the fixing of matches and he is aware of fixing matches, etc. Since the damaging part of the news against the petitioner was on the basis of the alleged information shared by the respondent herein, the respondent was also impleaded as 3rd defendant in the suit.

2.5. During the pendency of the suit, the petitioner filed an interim application in O.A.No.208 of 2014 in C.S.No.185 of 2014 for interim injunction which is almost in tune with the main prayer for permanent injunction in the suit itself.

2.6. Learned Single Judge of this Court, by order dated 18.03.2014, granted interim injunction. Later, the said order of injunction was modified/clarified by a subsequent order dated 01.04.2014, which is not very relevant or important in this context.

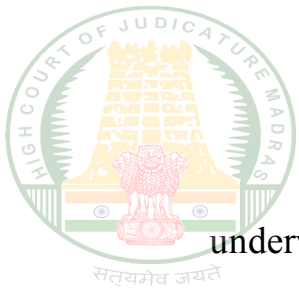


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WEB COPY 2.7.The respondent herein has filed a written statement raising several

grounds as to the maintainability of the suit. It is stated that the object is to discourage anyone who has any knowledge as regards the illegal cricket betting mafia from deposing or giving evidence before any statutory authority. It is contended that the respondent has been impleaded falsely. Since the matters are under investigation by the Police agencies and subjudiced before the Hon'ble Supreme Court, the respondent questioned the *bona fides* of the petitioner. In the written statement, the respondent has projected his credentials as an honest Police Officer who was given several assignments in view of his previous accomplishments and achievements as a decorated Police officer of IPS Cadre. Of course, a reading of the credentials of the respondent and his achievements would certainly impress anyone.

2.8.The respondent, as 3rd defendant in the suit, has denied the plaint averments and further, has also given some important informations about the Cricket illegal betting mafia. According to him, it was operating in a very big way in Chennai, through its links with national and international



underworld.

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2.9.The respondent later filed an additional written statement which was dated 22.08.2021. In the additional written statement, the respondent has stated that the object of the suit is to restrain him from stating the facts, which are detrimental to the projected image of the petitioner. In the additional written statement, the respondent has made a few statements which, according to the petitioner, would undermine and scandalize the dignity of this Court as well the Hon'ble Supreme Court of India.

2.10.The petitioner submitted a Petition before the learned Advocate General of Tamil Nadu for his consent to pursue criminal contempt as against the respondent, and by order, dated 18.07.2022, the learned Advocate General of Tamil Nadu granted consent to pursue the criminal contempt as against the respondent herein under the provisions of the Contempt of Courts Act, 1971. Thereafter, the respondent submitted a representation to the learned Advocate General to reconsider his earlier order, dated 18.07.2022, granting consent to pursue criminal contempt as



against the respondent. However, the same was rejected.

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2.11. Thereafter, the present Contempt Petition has been filed by the petitioner against the respondent for punishing him for criminal contempt under Section 15 of the Contempt of Courts Act, 1971. The respondent after notice filed a reply affidavit.

3. Heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondent.

4. Section 2(c) of the Contempt of Courts Act, 1971, defines 'criminal contempt' in the following lines :

“2. Definitions: ...

(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



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(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;”

5. Section 15 of the Contempt of Courts Act, 1971, reads as under :

“15. Cognizance of criminal contempt in other cases.

(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by-

(a) the Advocate-General, or

(b) any other person, with the consent in writing of the Advocate General, [or]

[(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.

(2) In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion



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made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation.-In this section, the expression "Advocate-General" means,-

(a) in relation to the Supreme Court, the Attorney-General or the Solicitor-General ;

(b) in relation to the High Court, the Advocate-General of the State or any of the States for which the High Court has been established ;

(c) in relation to the Court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf."

6.Since one of the objections raised by the learned counsel for the respondent is that the contempt petition has been initiated after the expiry of a period of one year from the date on which the contempt is alleged to have been committed and hence the contempt petition is liable to dismissed on the



ground of limitation, Section 20 of the Act also is relevant, and hence, the

same is extracted as under :

“20.Limitation for actions for contempt. No court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.”

7.The cause of action for this criminal contempt as against the respondent is the statements made by respondent in the additional written statement filed by the respondent in the suit, which is dated 22.08.2021 and verified by the respondent on 3rd September, 2021.

8.The following are some of the statements found in the additional written statement filed by the respondent, that are contumacious according to the petitioner :

“16. Unfortunately, despite the Committee suggested for further investigation as requested by the 3rd defendant, the Supreme Court, deviated from its focus on 'Rule of law' and shelved the deposition in sealed cover for reasons, the 3rd



defendant fails to comprehend.

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19. Unfortunately, the Supreme Court chose to keep the select portion of the Report of the Justice Mudgal Committee under sealed cover, especially the portion that needed to be probed by a SIT for reasons best known to the Supreme Court.

...

22. The 3rd Defendant submits that in the Plaintiff the sole focus was to gag the 3rd Defendant, that's the reason they chose Madras High Court whereas none of the other three defendants or the Plaintiff are based in Tamil Nadu. The Choice of Senior Counsels representing the Plaintiff speaks volumes about the conspiracy behind this Plaintiff and former TN Advocate General appeared for the plaintiff on 18/03/2014. Interestingly, Sr Counsel P.S.Raman accompanied Gurunath Meiyappan to Mumbai prior to his questioning on CSK and IPL match fixing and arrested by Mumbai Police on 25/06/2013. On first April of 2014, SR Counsel P.R.Raman, BCCI standing counsel appeared on behalf of the Plaintiff and Hon'ble Madras High Court chose to extend the gag order, without giving a chance to defend. Obviously, this is not a simple plaintiff of defamation, it is a



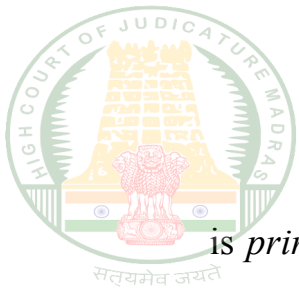
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conspiracy to damage control by the Cartel by gagging the voices. It is submitted that the gag order by means of injunction is a clear misuse of Judicial process and a bad precedent.”

9. This Court is really surprised to see that a specific statement is made by the respondent making an allegation as if the Hon'ble Supreme Court deviated from its focus on “Rule of Law” and shelved the deposition in sealed cover for reasons, the respondent unable to comprehend. He has further stated that the Hon'ble Supreme Court chose to keep the select portion of the report of the Justice Mudgal Committee under sealed cover which is required to be probed by SIT for reason best known to the Supreme Court. The respondent, thereafter, in Para No.22 of his additional written statement, while making serious allegations against the Senior Counsels who are representing the petitioner and about the present Standing Counsel, has made an allegation that this Court chose to extend the injunction order without giving a chance to defend. He described the order of injunction as a clear misuse of judicial process and a bad precedent. From a reading of the statements of the respondent in the additional written statement, this Court



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is *prima facie* convinced that the statements are contumacious and appears to have been made with an intention to scandalize and lower the authority of this Court as well as the Hon'ble Supreme Court.

10. Since the learned counsel appearing for the respondent has raised an issue relating to limitation, this Court has to examine whether the contempt petition is filed beyond the period of limitation.

11. From the additional written statement filed before the Original Side of this Court, this Court finds an endorsement of return on 20.09.2021, viz., "*Other side to be served.*" Therefore, till 20.09.2021, the additional written statement is not served on the petitioner's counsel. It appears that the written statement was filed along with the petition in O.A.Nos.4698 & 4699 of 2021. The first application is to condone the delay of 51 days in re-presenting the application to file additional written statement. The second application is one seeking leave to the applicant/3rd defendant to file additional written statement in the suit. Both these applications were allowed by order dated 17.12.2021. Therefore, the additional written



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statement was taken on file by this Court on 17.12.2021. The learned counsel for the petitioner was unable to give the date on which the additional written statement was served on the petitioner's counsel. In this case, from the records, it is seen that the contempt petition is presented on 12.10.2022. It is to be noted that the petitioner filed a petition for grant of consent before the learned Advocate General on 27.06.2022. On 18.07.2022, the learned Advocate General granted consent. On the presentation of the petition for contempt on 12.10.2022, the contempt proceedings is initiated. Though the additional written statement was filed in September, 2021, it was taken on file only in December, 2021. Since criminal contempt refers to publication of words spoken or written, in the absence of any date on which the additional written statement was served on the petitioner, this Court cannot take any other date prior to the date on which the additional written statement was taken on file as the date of commission of contempt. Therefore, the contention of the respondent that this contempt petition is barred by limitation, has no legs to stand.

12. On the question whether the respondent has committed criminal



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contempt in terms of Section 2(c) of the Contempt of Courts Act, 1971, this

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Court is convinced that the language employed by the respondent would certainly attract Section 2(c) of the Contempt of Courts Act, 1971. The respondent has consciously made an attempt to scandalize and to lower the authority of this Court and Hon'ble Supreme Court. It is established that an affidavit or any pleading that is presented by a party before the Court is an act of publication. The respondent, by his specific words, has attacked the judiciary indecently with an intention to scandalize and undermine the dignity and majesty of this Court as well as the Hon'ble Supreme Court. When a general statement is made against this Court for granting interim order describing the order as an abuse of process of law, it is not a fair comment. Similarly, accusing Hon'ble Supreme Court that it failed to focus on "Rule of Law" cannot be accepted as a fair expression of grievance of a party to the *lis*. The respondent is a responsible Police officer who had occasion to investigate a crime. The freedom of speech and expression cannot be extended to undermine the statutory limits as contained in the Contempt of Courts Act, 1971. Since maintenance of dignity of Courts is one of the cardinal principles of Rule of Law, any publication or a public



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speech which results in undermining the dignity of the Courts cannot be permitted, as held by Hon'ble Supreme Court in several precedents.

13.The Contempt of Courts Act, 1971, has been enacted to secure public respect and confidence in the judiciary as an Institution. If persons like the respondent are allowed to shake the confidence of the public in the impartial administration of justice, it should be treated as an attack on the judiciary. In the present case, we are convinced that the statements made by respondent in the additional written statement, as extracted above, is with an intention to scandalise this Court, to lower its authority, and to destroy the confidence of people in the administration of justice. From the language and the context, this Court has no hesitation to hold that the respondent wants to convey a message in the additional written statement that the High Court, as well as the Hon'ble Supreme Court, while passing orders, either do not follow Rule of Law or pass orders which are nothing but abuse of process of law.



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14. What is more perturbing or surprising is the conduct of respondent after the filing of contempt. The respondent has filed a reply affidavit in this contempt petition on 04.01.2023. In the above reply affidavit, the respondent has not tendered any apology for the serious allegations he has made against this Court and the remarks against the Hon'ble Supreme Court that it hears the cases without focussing on the Rule of Law. Though in the opening paragraphs, the respondent has made statements that he has utmost high regards to the Courts of Law, institution of justice, and the Hon'ble Judges, he has not expressed any remorse or tendered apology in the reply affidavit. He, in fact, has stated that he seriously believes in all *bona fides* that he has not done any act that would cause any disrespect or dishonour to this Court or any Court in any manner as alleged in the contempt petition. He claims himself as a dedicated Police officer by choice and as a person who was known for his skills in cracking organized crimes and for successfully executing every assignment without yielding to any extraneous pressures. In Para No.18 of the reply affidavit, the respondent has stated that the additional written statement was submitted by him in good faith, founded on facts, which he honestly believes to be facts, true to the best of



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his knowledge, and not with any *mala fide* intentions or contumacy as imputed by the petitioner. He described the additional written statement as narration of facts leading to his defence without any intention to mislead or deceive the Court. Though the respondent repeatedly says that he has not indulged in any act constituting criminal contempt in the reply affidavit, the respondent also refers to the fact as regards the rejection of the application filed by the respondent for receiving additional written statement by order dated 08.09.2021. However, the order of rejection was recalled later and the respondent was able to file the additional written statement.

15. During the course of hearing, the learned Senior Counsel appearing for the petitioner fairly submitted that the petitioner is not interested in prosecuting the respondent for contempt, in case the respondent tenders apology for the disparaging remarks made by him against the Hon'ble Supreme Court and this Court, as extracted in this order. However, learned counsel appearing for the respondent contended that the contempt petition is devoid of merits and he relied upon a few judgments to support the case of the respondent.



WEB COPY 16.Learned counsel appearing for the respondent relied upon a judgment of the Hon'ble Supreme Court in *Murray and Co. v. Ashok KR. Newatia and another* reported in (2000) 2 SCC 367, wherein, the Hon'ble Supreme Court has held as follows :

“8.This Court itself thus recognised the litigations spirit of the parties and an attempt to score over each other. Obviously, this application for contempt is also no exception to that - but that by itself, however, would not prompt this Court to come to a conclusion as regards the merits of the contentions raised in the matter. The issue, therefore, before this Court is as to whether the statement as above has, in fact, lowered the authority of the Court or there is any obstruction to the administration of justice by this Court bringing it within the purview of Section 2(c)(iii) of the Act of 1971 and in the event the answer to the above issue is in the affirmative, then and in that event to what result.

9.The right to inflict punishment for contempt of court in terms of the Act of 1971 on to the law Courts has been for the purposes of ensuring the rule of law and orderly administration of justice. The purpose of contempt



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jurisdiction is to uphold the majesty and dignity of the Courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted. The respect and authority commanded by Courts of Law are the greatest guarantee to an ordinary citizen and the entire democratic fabric of the society will crumble down if the respect for the judiciary is undermined. It is true that the Judiciary will be judged by the people for what the judiciary does, but in the event of any indulgence which even can remotely be termed to affect the majesty of law, the society is bound to lose confidence and faith in the judiciary and the Jaw courts thus, would forfeit the trust and confidence of the people in general.”

17.This Court is unable to find any clue as to the purpose for which the above judgment is relied upon by the learned counsel for the respondent. However, the learned counsel read Para No.21 of the said judgment, where a judgment reported in All England Reporter is referred to, wherein it is observed that a mere possibility of interference with the due administration of justice will not constitute criminal contempt.



18.The learned counsel then relied upon the judgment of the Hon'ble

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Supreme Court in ***Hari Singh Nagra and others v. Kapil Sibil and others***

reported in ***(2010) 7 SCC 502***, where a message sent by a Senior Counsel of the Hon'ble Supreme Court to be published in the Souvenir of a cultural and literary association of lawyers practising in Hon'ble Supreme Court, was considered. Dealing with the facts, the Hon'ble Supreme Court, while dropping the contempt proceedings, has observed as follows :

“21. There is no manner of doubt that Judges are accountable to the society and their accountability must be judged by their conscience and oath of their office. Any criticism about the judicial system or the judges which hampers the administration of justice or brings administration of justice into ridicule must be prevented. The contempt of court proceedings arise out of that attempt. National interest requires that all criticisms of the judiciary must be strictly rational and sober and proceed from the highest motives without being coloured by any partisan spirit or tactics.

...

24. There is no manner of doubt that freedom of expression as contemplated by Article 19(1)(a) of the



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Constitution is available to the Press and to criticize a judgment fairly albeit fiercely is no crime but a necessary right. A fair and reasonable criticism of a judgment which is a public document or which is a public act of a Judge concerned with administration of justice would not constitute contempt. In fact, such fair and reasonable criticism must be encouraged because after all no one, much less Judges, can claim infallibility.”

We are unable to see anything useful from the said judgment to support the case of the respondent.

19.The third judgment relied upon by the learned counsel for the respondent is the judgment of the Division Bench of Karnataka High Court in ***K.Shriman Narayana v. S.Mariyappa*** reported in ***CDJ 1997 Kar HC 392***. That was a case where the contempt was filed against the Additional City Civil Judge, Bangalore, by referring to certain observations made in the order passed by the Hon'ble Supreme Court, which according to the complainant, is unwarranted and lowers the prestige of the Hon'ble Supreme Court. Referring to Sections 10 and 14 of the Contempt of Courts Act, 1971, the Division Bench of Karnataka High Court has made the following



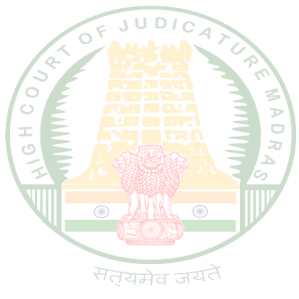
observations :

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“5. On a plain reading of the aforesaid provisions it is abundantly clear that so far as Article 215 is concerned, it empowers the High Court to punish the contempt of itself alone and no other Court including the Supreme Court. Similarly, under Sections 10 and 14 of the Contempt of Courts Act as well, the High Court can initiate proceedings for contempt either of itself or that of the Court subordinate to it. Under Section 14 as well the High Court can initiate contempt proceedings if the same is committed in its face.

6. From the foregoing provisions, it is quite clear that, the High Court has no jurisdiction to entertain any complaint alleging contempt of the Supreme Court.

7. For the aforesaid reasons, we do not find ourselves competent to enter into the merits of the allegations but nonetheless, keeping in view the facts of the present case, we cannot but observe that the filing of the present complaint before this Court is not only misconceived but is also malicious and the litigants cannot be encouraged to resort to such practices. Accordingly, the present contempt case is dismissed with costs assessed at Rs.5,000/- as an exemplary



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measure. The said amount should be deposited in this Court within two weeks from today. Petition dismissed.”

20. Under Section 10 of the Contempt of Courts Act, 1971, every High Court can exercise the same jurisdiction, power and authority in respect of contempt of Courts subordinate to it. A person who violates the order, judgment, decree or direction of any Court, is liable to be prosecuted for civil contempt. Section 10 enables the High Court to exercise jurisdiction of Contempt of Courts Act even in respect of contempt of Courts subordinate to it. Therefore, this Court understands the above judgment of the Division Bench of the Karnataka High Court as one only in the context of Section 10 of the Contempt of Courts Act. However, the same cannot be extended when this Court initiates action for committing criminal contempt of Court which falls under Section 2(c) of the Contempt of Courts Act.

21. This Court finds it more appropriate to refer to the judgment of the Hon'ble Supreme Court in the *suo motu* contempt case of **Arundathi Roy, In Re**, reported in **(2002) 3 SCC 343**, wherein, the Hon'ble Supreme Court had occasion to deal with a similar situation and held as follows :



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“28. As already held, fair criticism of the conduct of a Judge, the institution of the judiciary and its functioning may not amount to contempt if it is made in good faith and in public interest. To ascertain the good faith and the public interest, the courts have to see all the surrounding circumstances including the person responsible for comments, his knowledge in the field regarding which the comments are made and the intended purpose sought to be achieved. All citizens cannot be permitted to comment upon the conduct of the courts in the name of fair criticism which, if not checked, would destroy the institution itself. Litigant losing in the court would be the first to impute motives to the Judges and the institution in the name of fair criticism, which cannot be allowed for preserving the public faith in an important pillar of democratic set-up i.e. judiciary. In Dr D.C. Saxena case [(1978) 3 SCC 339 : 1978 SCC (Cri) 403] this Court dealt with the case of P. Shiv Shanker [1893 AC 138] by observing: (SCC p. 244, para 34)

“34. In P.N. Duda v. P. Shiv Shanker [1893 AC 138] this Court had held that administration of justice and Judges are open to public criticism and public scrutiny. Judges have their accountability to the society and their accountability must be judged by the conscience and oath to their office i.e. to defend and uphold the Constitution and the laws without fear and favour. Thus the Judges must do, in the light given to them to



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determine, what is right. Any criticism about the judicial system or the Judges which hampers the administration of justice or which erodes the faith in the objective approach of the Judges and brings administration of justice to ridicule must be prevented. The contempt of court proceedings arise out of that attempt. Judgments can be criticised. Motives to the Judges need not be attributed. It brings the administration of justice into disrepute. Faith in the administration of justice is one of the pillars on which democratic institution functions and sustains. In the free market place of ideas criticism about the judicial system or Judges should be welcome so long as such criticism does not impair or hamper the administration of justice. This is how the courts should exercise the powers vested in them and Judges to punish a person for an alleged contempt by taking notice of the contempt suo motu or at the behest of the litigant or a lawyer. In that case the speech of the Law Minister in a seminar organised by the Bar Council and the offending portions therein were held not contemptuous and punishable under the Act. In a democracy Judges and courts alike are, therefore, subject to criticism and if reasonable argument or criticism in respectful language and tempered with moderation is offered against any judicial act as contrary to law or public good, no court would treat criticism as a contempt of court.”

29. In the instant case the respondent has not claimed to be possessing any special knowledge of law and the working of the institution of judiciary. She has only claimed to be a



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writer of repute. She has submitted that “as an ordinary citizen I cannot and could not have expected to make a distinction between the Registry and the Court”. It is also not denied that the respondent was directly or indirectly associated with the Narmada Bachao Andolan and was, therefore, interested in the result of the litigation. She has not claimed to have made any study regarding the working of this Court or judiciary in the country and claims to have made the offending imputations in her proclaimed right of freedom of speech and expression as a writer. The benefit to which Mr P. Shiv Shanker, under the circumstances, was held entitled is, therefore, not available to the respondent in the present proceedings. Her case is in no way even equal to the case of E.M.S. Namboodripad [Bridges v. California, 314 US 252, 263 : 86 L Ed 192 (1941)] . In that case the contemner, believing in the philosophy he was propounding had made certain observations regarding the working of the courts under the prevalent system which, as already noticed, was found to be contemptuous.

30.*The Constitution of India has guaranteed freedom of speech and expression to every citizen as a fundamental right. While guaranteeing such freedom, it has also provided under*

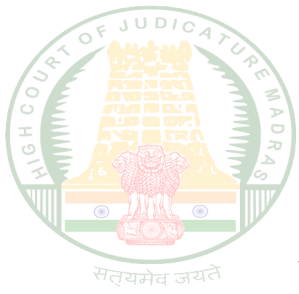


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Article 129 that the Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Similar power has been conferred on the High Courts of the States under Article 215. Under the Constitution, there is no separate guarantee of the freedom of the press and it is the same freedom of expression, which is conferred on all citizens under Article 19(1). Any expression of opinion would, therefore, be not immune from the liability for exceeding the limits, either under the law of defamation or contempt of court or the other constitutional limitations under Article 19(2). If a citizen, therefore, in the garb of exercising right of free expression under Article 19(1), tries to scandalise the Court or undermines the dignity of the Court, then the Court would be entitled to exercise power under Article 129 or Article 215, as the case may be. In relation to a pending proceeding before the Court, while showing cause to the notices issued, when it is stated that the Court displays a disturbing willingness to issue notice on an absurd, despicable, entirely unsubstantiated petition, it amounts to a destructive attack on the reputation and the credibility of the institution and it undermines the public confidence in the judiciary as a whole and by no stretch of imagination, can be held to be a fair criticism of the Court's



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proceeding. When a scurrilous attack is made in relation to a pending proceeding and the noticee states that the issuance of notice to show cause was intended to silence criticism and muzzle dissent, to harass and intimidate those who disagree with it, is a direct attack on the institution itself, rather than the conduct of an individual Judge. The meaning of the expressions used cannot come within the extended concept of fair criticism or expression of opinion, particularly to the case of the contemner in the present case, who in her own right is an acclaimed writer in English. At one point of time, we had seriously considered the speech of Lord Atkin, where the learned Judge has stated: (AIR pp. 145-46)

“The path of criticism is a public way: the wrongheaded are permitted to err therein.... Justice is not a cloistered virtue: she must be allowed to suffer the scrutiny and respectful even though outspoken, comments of ordinary men.” (Andre Paul Terence Ambard v. Attorney General of Trinidad [AIR 1936 PC 141 : 1936 All LJ 671])

and to find out whether there can be a balancing between the two public interests, the freedom of expression and the dignity of the court. We also took note of the observations of Bharucha, J. in the earlier contempt case against the present contemner, who after recording his disapproval of the statement, observed that the Court's shoulders are broad enough to shrug off the comments. But in view of the



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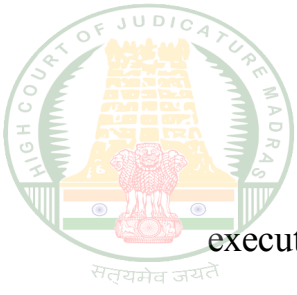


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utterances made by the contemnor in her show-causes filed and not a word of remorse, till the conclusion of the hearing, it is difficult for us either to shrug off or to hold the accusations made as comments of an outspoken ordinary man and permit the wrongheaded to err therein, as observed by Lord Atkin.”

22.For the foregoing reasons, we are unable to appreciate any of the points urged by the learned counsel appearing for the respondent. As a result, **this Contempt Petition is allowed** and this Court finds that the respondent is guilty of committing criminal contempt.

23.However, taking into consideration the credentials of the respondent, as projected by him in his written statement as well in the reply affidavit, this Court, showing lenience, restricts the punishment to Simple Imprisonment for a period of 15 days. Even though a request is not received from the side of the respondent, this Court is inclined to exercise its powers under Section 19(3) of the Contempt of Courts Act, 1971, and suspend the



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execution of punishment imposed on the respondent by this order, for a period of 30 days from the date on which the order of this Court is made ready.

(S.S.S.R., J.) (S.M., J.)
15.12.2023

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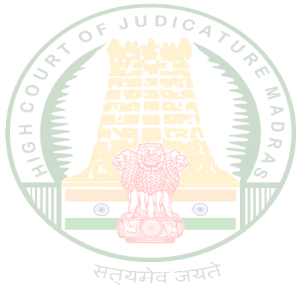
Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No

To

Mr.G.Sampath Kumar, IPS,
C/o.The Office of the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

S.S. SUNDAR, J.
and
SUNDER MOHAN, J.

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Order in
Cont.P.No.2361 of 2022

15.12.2023