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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW)

CONTEMPT No. 39 of 2002

Applicant :- State Of U.P. (Gonda)

Opposite Party :- Rama Kant Pandey And Othres (12)
Advocates.

Counsel for Applicant :- Reference

Counsel for Opposite Party :- C S C,A.G.A.,S C Kashish

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Narendra Kumar Johari,J.

(Per Devendra Kumar Upadhyaya, J.)

1. Nobility and contribution to freedom struggle of our nation are the two attributes which rush to our minds whenever and wherever the profession of law-practice is ever referred to. The judiciary neither has power of sword nor that of purse. It stands tall only by virtue of trust and faith of people.

2. We have been called upon to deal with these criminal contempt proceedings instituted on the strength of a letter bearing no.1315 of 2001 dated 17.08.2001, written by the then District Judge, Gonda whereby a reference has been made to initiate contempt proceedings against 12 lawyers mentioned in the said letter.

3. The first thought which struck our minds has been extracted in the opening paragraph of this judgment and order. It is painful for this Court to deal with the contempt proceedings drawn against the lawyers who are supposed to be the officers of the Court first and whose role stands recorded in the annals of history in strengthening the judiciary of our country which is supposed to

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embark upon a perilous and painstaking path of imparting justice to our citizenry.

4. Having observed as above, what we notice in present times is the uncalled for and unwarranted conduct/behaviour of the lawyers which has the potential of eroding the faith and trust of public in the judicial system.

5. In the background of the aforesaid observations, we proceed to examine the instant matter. A reference was made by the then District Judge, Gonda to the Registrar General of this High Court vide his letter dated 17.08.2001 to initiate contempt proceedings against the respondents in relation to certain incidents which, as alleged in the said letter, are said to have taken place on 14.11.2000 and 01.12.2000 in district-Gonda Judgeship. The said letter of the District Judge contains allegations that on 01.12.2000 the lawyers resolved to go on strike and boycott the court of First Civil Judge (Junior Division), Gonda and on that date the respondents-lawyers along with their colleagues indulged in an act of destruction and throwing away the records of the said court. However, further mishapening could be avoided as the Presiding Officer of the said court went on leave. The letter further states that on 01.12.2000 itself the respondents and their fellow advocates misbehaved with the then In-charge District Judge. The allegation in the letter further is that the District Judge took charge on 11.08.2000 and immediately thereafter he received certain complaints about the functioning of the then Chief Judicial Magistrate. The letter further states that a complaint was received against the then Chief Judicial Magistrate in respect of certain misconduct regarding his misbehaviour with a girl whose statement was recorded by him under section 164 of the Code of Criminal Procedure. The District Judge in the said letter has further stated that he went to Allahabad to apprise the Registrar

General of this Court of the aforesaid incidents. On 14.11.2000 the lawyers passed a resolution to go on strike on the said date on the instigation of the then Chief Judicial Magistrate and the First Additional District Judge. The letter also states that for maintaining peace and order in the court premises, on the request of the District Judge, police personnels were deployed and it is in these circumstances that the District Judge by the said letter requested to initiate contempt proceedings against the contemnors.

6. On the reference made by the then District Judge, Hon'ble the then Chief Justice had passed an order on 30.10.2001 to place the matter before the appropriate Bench and accordingly though the matter thereafter was listed on several occasions, however, it is only on 31.10.2011 that the notices were issued to the respondents directing them to show cause as to why they should not be punished for committing contempt of court.

7. A reply was filed by the respondents through their counsel Shri Satish Chandra Kashish on 13.07.2012 wherein it has been stated that on another letter of the same District Judge, dated 17.08.2001 bearing no.1313 of 2001 contempt proceedings were institute which was numbered as Criminal Misc. Case No.1463 (C) of 2002 wherein an order was passed by a coordinate Bench of this Court on 10.02.2003 whereby the Court refrained from issuing notices to the respondents therein and disposed of the reference in the said manner in the light of the provisions of section 20 of the Contempt of Courts Act.

8. The respondents in their reply have stated that the reference by the then District Judge has been made on the basis of conjectures which is not based on any report of the court or the officer concerned, rather it is based on a hearsay story. The contemnors in their reply categorically denied the alleged incident narrated in the letter of the District Judge which is said to have

occurred on 01.12.2000 in the court of First Additional Civil Judge, (Junior Division), Gonda and have further stated that the Bar Association had resolved to go on strike which was observed following expected decorum. The assertions made in the reference letter of the District Judge relating to the incidents which are said to have occurred on 14.11.2000 have also been denied in the reply. It has rather been stated that no resolution was passed either by the Civil Bar, Gonda, Zila Bar Association and Zila Adhivakta Sangh, Gonda or Oudh Bar Association of Gonda to strike the work in the court on 14.11.2000. Certain other averments have been made in their reply by the respondents.

9. We have examined the paper book of Criminal Misc. Case No.1463 (C) of 2002. The said contempt proceedings were instituted on a reference made by the then District Judge by a letter of the same date i.e. 17.08.2001 which is numbered as 1313 of 2001. The instant contempt proceedings have also been instituted on a reference made by the then District Judge vide his letter dated 17.08.2001 bearing no.1315 of 2001. In the letter dated 1313 of 2001 the District Judge has requested to initiate the contempt proceedings in relation to certain incidents including the incident said to have occurred on 01.12.2000 and also the incident dated 14.11.2000. As observed above, Criminal Misc. Case No.1463 (C) of 2002 has been decided by this Court vide order dated 10.02.2003 and by the said order the Court had refrained itself from issuing notices and accordingly the reference stood disposed of in the said manner.

10. In the instant case, what we notice is that the notices were issued only on 31.10.2001 and accordingly the rigour of section 20 of the Contempt of Courts Act will operate in this case as well. We may also notice that out of twelve respondents six respondents have since died. The respondents, who are no more, are, (1)

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Ramakand Pandey, (2) Satya Prakash Singh, (3) Tikam Dutt Shukla, (4) Bhagya Dutt Ojha, (5) Radhey Shyam Ojha and (6) Deep Narayan Pandey.

The respondents, who are alive, are, (i) Indrajeet Singh (ii) Gokaran Nath Pandey, (iii) Sangam Lal Dwivedi, (iv) Dinesh Kumar Srivastava, (v) Rakesh Nath Srivastava and (vi) Onkar Nath Dubey.

11. All the respondents are senior citizens, who are aged between 62 years to 78 years. The incidents, on the bass of which contempt proceedings have been instituted, are said to have occurred about 21 years ago. The respondents have denied the said incident narrated in the reference letter dated 17.08.2001 made by the then District Judge.

12. Most importantly all the respondents who are alive have submitted their unqualified apology and have also stated in their apology that they condemn the alleged incidents as find mentioned in the reference letter of the District Judge.

13. Considering all these aspects of the matter, specially the fact that the respondents have tendered their unconditional apology and that they are very old practising lawyers and also that Contempt Petition No.1463 of 2002 has already been disposed of without even issuing notices, we are of the opinion that this matter now needs to be given a quietus.

14. We, thus, do not think it necessary to pursue this matter further. We accept the apology tendered by the respondents and discharge the notices of contempt issued against them.

15. However, before parting with the matter, we would like to put on record our anguish and concern emanating from the reports which this Court receives almost on daily basis about the conduct and behaviour of the Advocates. In this regard certain observations made about the nature of legal profession by Hon'ble

Supreme Court in the case of **R. Muthur Krishnan vs. Registrar General, High Court of Judicature at Madras**, reported in [(2019) 16 SCC 407], are relevant, which are extracted herein below:

"16. The legal profession cannot be equated with any other traditional professions. It is not commercial in nature and is a noble one considering the nature of duties to be performed and its impact on the society. The independence of the Bar and autonomy of the Bar Council has been ensured statutorily in order to preserve the very democracy itself and to ensure that judiciary remains strong. Where the Bar has not performed the duty independently and has become a sycophant that ultimately results in the denigrating of the judicial system and judiciary itself. There cannot be existence of a strong judicial system without an independent Bar.

17. It cannot be gainsaid that lawyers have contributed in the struggle for independence of the nation. They have helped in the framing of the Constitution of India and have helped the courts in evolving jurisprudence by doing hard labour and research work. The nobility of the legal system is to be ensured at all costs so that the Constitution remains vibrant and to expand its interpretation so as to meet new challenges.

18. It is basically the lawyers who bring the cause to the Court are supposed to protect the rights of individuals of equality and freedom as constitutionally envisaged and to ensure the country is governed by the rule of law. Considering the significance of the Bar in maintaining the rule of law, right to be treated equally and enforcement of various other fundamental rights, and to ensure that various institutions work within their parameters, its independence becomes imperative and cannot be compromised. The lawyers are supposed to be fearless and independent in the protection of rights of

litigants. What lawyers are supposed to protect, is the legal system and procedure of law of deciding the cases.

19. Role of the Bar in the legal system is significant. The Bar is supposed to be the spokesperson for the judiciary as Judges do not speak. People listen to the great lawyers and people are inspired by their thoughts. They are remembered and quoted with reverence. It is the duty of the Bar to protect honest Judges and not to ruin their reputation and at the same time to ensure that corrupt Judges are not spared. However, lawyers cannot go to the streets or go on strike except when democracy itself is in danger and the entire judicial system is at stake. In order to improve the system, they have to take recourse to the legally available methods by lodging complaint against corrupt Judges to the appropriate administrative authorities and not to level such allegation in the public. Corruption is intolerable in the judiciary.

20. The Bar is an integral part of the judicial administration. In order to ensure that judiciary remains an effective tool, it is absolutely necessary that the Bar and the Bench maintain dignity and decorum of each other. The mutual reverence is absolutely necessary. The Judges are to be respected by the Bar, they have in turn equally to respect the Bar, observance of mutual dignity, decorum of both is necessary and above all they have to maintain self-respect too.

21. It is the joint responsibility of the Bar and the Bench to ensure that equal justice is imparted to all and that nobody is deprived of justice due to economic reasons or social backwardness. The judgment rendered by a Judge is based upon the dint of hard work and quality of the arguments that are advanced before him by the lawyers. There is no room for arrogance either for a lawyer or for a Judge.

22. There is a fine balance between the Bar and the Bench that has to be maintained as the independence of the

Judges and judiciary is supreme. The independence of the Bar is on equal footing, it cannot be ignored and compromised and if lawyers have the fear of the judiciary or from elsewhere, that is not conducive to the effectiveness of the judiciary itself, that would be self-destructive.

23. Independent Bar and independent Bench form the backbone of the democracy. In order to preserve the very independence, the observance of constitutional values, mutual reverence and self-respect are absolutely necessary. The Bar and Bench are complementary to each other. Without active cooperation of the Bar and the Bench, it is not possible to preserve the rule of law and its dignity. Equal and even-handed justice is the hallmark of the judicial system. The protection of the basic structure of the Constitution and of rights is possible by the firmness of the Bar and the Bench and by proper discharge of their duties and responsibilities. We cannot live in a jungle raj.

24. The Bar is the mother of the judiciary and consists of great jurists. The Bar has produced great Judges, they have adorned the judiciary and rendered the real justice, which is essential for the society.

25. The role of a lawyer is indispensable in the system of delivery of justice. He is bound by the professional ethics and to maintain the high standard. His duty is to the court, to his own client, to the opposite side, and to maintain the respect of opposite party counsel also. What may be proper to others in the society, may be improper for him to do as he belongs to a respected intellectual class of the society and a member of the noble profession, the expectation from him is higher. Advocates are treated with respect in society. People repose immense faith in the judiciary and judicial system and the first person who deals with them is a lawyer. Litigants repose faith in a lawyer and share with them privileged information. They

put their signatures wherever asked by a lawyer. An advocate is supposed to protect their rights and to ensure that untainted justice is delivered to his cause.

26. The high values of the noble profession have to be protected by all concerned at all costs and in all the circumstances cannot be forgotten even by the youngsters in the fight of survival in formative years. The nobility of the legal profession requires an advocate to remember that he is not over attached to any case as advocate does not win or lose a case, real recipient of justice is behind the curtain, who is at the receiving end. As a matter of fact, we do not give to a litigant anything except recognising his rights. A litigant has a right to be impartially advised by a lawyer. Advocates are not supposed to be money guzzlers or ambulance chasers. A lawyer should not expect any favour from the Judge and should not involve by any means in influencing the fair decision-making process. It is his duty to master the facts and the law and submit the same precisely in the court, his duty is not to waste the courts' time."

16. Para 21 of yet another judgment of Hon'ble Supreme Court in the case of **Ex Capt. Harish Uppal vs. Union of India and another**, reported in [(2003) 2 SCC 45] is also relevant which is extracted as under:

"21. It must also be remembered that an advocate is an officer of the court and enjoys special status in society. Advocates have obligations and duties to ensure smooth functioning of the court. They owe a duty to their clients. Strikes interfere with administration of justice. They cannot thus disrupt court proceedings and put interest of their clients in jeopardy. In the words of Mr H.M. Seervai, a distinguished jurist:

"Lawyers ought to know that at least as long as lawful redress is available to aggrieved lawyers, there is no justification for lawyers to join in an illegal

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conspiracy to commit a gross, criminal contempt of court, thereby striking at the heart of the liberty conferred on every person by our Constitution. Strike is an attempt to interfere with the administration of justice. The principle is that those who have duties to discharge in a court of justice are protected by the law and are shielded by the law to discharge those duties, the advocates in return have duty to protect the courts. For, once conceded that lawyers are above the law and the law courts, there can be no limit to lawyers taking the law into their hands to paralyse the working of the courts. 'In my submission', he said that 'it is high time that the Supreme Court and the High Courts make it clear beyond doubt that they will not tolerate any interference from any body or authority in the daily administration of justice. For in no other way can the Supreme Court and the High Courts maintain the high position and exercise the great powers conferred by the Constitution and the law to do justice without fear or favour, affection or ill will.'

17. Observations made by Hon'ble Supreme Court In Re: **(1) Sanjiv Datta, Deputy Secretary, Ministry of Information and Broadcasting, New Delhi, (2). Kailash Vasdev, Advocate (3). Kitty Kumaramangalam (Smt.) Advocate**, reported in [(1995) 3 SCC 619] are also extracted below for guidance of the respondents and for rest of the community of the lawyers. Paras 19 and 20 of the said judgment are reproduced herein below:

"19. Of late, we have been coming across several instances which can only be described as unfortunate both for the legal profession and the administration of justice. It becomes, therefore, our duty to bring it to the notice of the members of the profession that it is in their hands to improve the quality of the service they render both to the litigant-public and to the courts, and to brighten their image in the

society. Some members of the profession have been adopting perceptibly casual approach to the practice of the profession as is evident from their absence when the matters are called out, the filing of incomplete and inaccurate pleadings — many times even illegible and without personal check and verification, the non-payment of court fees and process fees, the failure to remove office objections, the failure to take steps to serve the parties, et al. They do not realise the seriousness of these acts and omissions. They not only amount to the contempt of the court but do positive disservice to the litigants and create embarrassing situation in the court leading to avoidable unpleasantness and delay in the disposal of matters. This augurs ill for the health of our judicial system.

20. The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable members. Although the entry to the profession can be had by acquiring merely the qualification of technical competence, the honour as a professional has to be maintained by its members by their exemplary conduct both in and outside the court. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilised society. Both as a leading member of the intelligentsia of the society and as a responsible citizen, the lawyer has to conduct himself as a model for others both in his professional and in his private and public life. The society has a right to expect of him such ideal behaviour. It must not be forgotten that the legal profession has always been held in high esteem and its members have played an enviable role in public life. The regard for the legal and judicial systems in this country is in no small measure due to the tireless role played by the stalwarts in the profession to strengthen them. They took their profession seriously and practised it with dignity, deference and devotion. If the profession is to survive, the

judicial system has to be vitalised. No service will be too small in making the system efficient, effective and credible. The casualness and indifference with which some members practise the profession are certainly not calculated to achieve that purpose or to enhance the prestige either of the profession or of the institution they are serving. If people lose confidence in the profession on account of the deviant ways of some of its members, it is not only the profession which will suffer but also the administration of justice as a whole. The present trend unless checked is likely to lead to a stage when the system will be found wrecked from within before it is wrecked from outside. It is for the members of the profession to introspect and take the corrective steps in time and also spare the courts the unpleasant duty. We say no more."

18. We understand that the approach of the Court while dealing with contempt specially against the lawyers should be correctional as well and therefore we have extracted the observations made by Hon'ble Supreme Court in its various judgments as above.

19. We hope and trust that no such incident shall be repeated.

20. The contempt petition stands disposed of in the aforesaid terms.

Order Date :- 24.12.2021

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[Narendra Kumar Johari, J.] [D. K. Upadhyaya, J.]