

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-11-2015

CORAM

**THE HON'BLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P.DEVADASS**

Suo Motu Contempt Petition No.716 of 2015

1. Ramamoorthy,
Advocate.

2. Mayilsamy,
Advocate.

3. Dominic Ravi,
Advocate.

4. Prabakaran,
Advocate

All at Rameswaram Bar Association,
Rameswaram,
Ramanathapuram District.

... Contemnors

Suo motu contempt proceedings initiated against the
contemnors herein as per order dated 27.03.2015 made in
R.O.C.No.1175A/2015/F2.

Mr.S.Haja Mohideen Gisthi for petitioner (High Court)

Mr.A.L.Somayaji, Advocate General, Amicus curiae

Mr.R.C.Paul Kanagaraj for Contemnors

Mr.S.Y.Masood for Tamil Nadu Bar Council

Mr.D.Selvam, Chairman, Bar Council of Tamil Nadu

(ORDER OF THE COURT WAS MADE BY DR.P.DEVADASS, J.)

<https://hcservices.ecourts.gov.in/hcservices/> This Sua Motu Contempt proceedings as against four
Advocates of Rameswaram in Ramanathapuram District, came to be

initiated by this Court in R.O.C.No.1175A/2015/F2 dated 27.3.2015 under the following circumstances.

2. In the Ramanathapuram District in Rameswaram, a Court of District Munsif cum Judicial Magistrate is functioning. During March 2015, Thiru G.N.Saravanakumar was its Presiding Officer.

3. On 17.3.2015, the said Presiding Officer submitted a Report to the Principal District Judge of the District that on that day at about 9.45 a.m., Mr.K.Ramamoorthy, Secretary, Mr.R.Dominic Ravi, Executive Member, Mr.K.Mayilsamy, Executive Member of the Advocate's Association, Rameswaram, Mr.G.Prabakaran, Advocate, Rameswaram have locked the entrance to the Court building and prevented the Presiding Officer, the Court staff and others from entering the Court, the request of the Officer to unlock the locked entrance went in vain, the Presiding Officer and the Court staff have gained entry into the Court through another entrance, at 10.30 a.m., the Presiding Officer conducted the Court proceedings, at that time the said four Advocates unlocking the main entrance came inside the Court Hall, abused the Presiding Officer in filthy language against the Presiding Officer, the Court proceedings were disrupted, the Officer and the Court staff got humiliated.

4. On the same day, Advocate's Association, Rameswaram passed resolution boycotting the Court indefinitely. The Principal District Judge, Ramanadapuum

submitted the said Report of the District Munsif cum Judicial Magistrate, Rameswaram to this Court.

5. On the said report, this Court took cognizance and initiated Suo Motu Contempt proceedings against four Advocates, namely, (1) K.Ramamoorthy, (2) K.Mayilsamy, (3) R.Dominic Ravi and (4) G.Prabakaran and issued them statutory notices.

6. This Court also issued notice to the Chairman, Bar Council of Tamil Nadu and Puducherry and this Court also requested the learned Advocate General to assist the Court.

7. Accordingly, the four Contemnors have appeared before this Court. They have also filed their unconditional apology affidavits.

8. In his written submissions, the learned Advocate General and the Chairman, Bar Council of Tamil Nadu and Puducherry in his affidavit have condemned the act and the behaviour of the said Advocates. The Chairman, Bar Council of Tamil Nadu and Puducherry also submitted that the Contemnors have expressed their unconditional apology and they have repent for their behaviour and remorseful conduct.

9. This Court directed the Contemnors to submit their unconditional apology to the District Munsif cum Judicial Magistrate, Rameswaram. Accordingly, they have submitted their apology affidavits to the said Presiding Officer. The Presiding Officer, instead of taking further action on their affidavits, has submitted the same to the

Registry of this Court.

10. In their affidavits, the Contemnors have submitted as under:-

(1) Apology affidavit of Mr.K.Ramamoorthy:-

"I tender my unconditional apology to this Hon'ble Court for the incidents that had happened on 17.3.2015 at the premises of this Hon'ble Court. I further submit that I further unconditionally undertake to uphold the Majesty and Dignity of this Hon'ble Court and the Process of Law.

7. I also express and seek unconditional apology for the above happenings not only as a contemnor but also as the Secretary of the Advocate's Association, Rameswaram. I further submit that I alongwith the Advocate's Association, Rameswaram, also express and pledge to function in a manner upholding the dignity and prestige of the profession and the Majesty of Law and Law Courts.

8. I submit that in the above facts and circumstances and in the interests of justice, the unconditional apology given as above deserves to be accepted.

In the above facts and circumstances and in the interests of justice, it is prayed that this Hon'ble Court may be pleased to accept the unconditional apology given in respect of the incidents occurred on 17.3.2015 at the premise of the Hon'ble District Munsif cum Judicial Magistrate, Rameswaram and thus render

justice."

(2) Apology affidavit of Mr.K.Mayilsamy:-

"I tender my unconditional apology to this Hon'ble Court for the incidents that had happened on 17.3.2015 at the premises of this Hon'ble Court. I further submit that I further unconditionally undertake to uphold the Majesty and Dignity of this Hon'ble Court and the Process of Law.

7. I also express and seek unconditional apology for the above happenings not only as a contemnor but also as a practising Advocate. I further submit that I express and pledge to function in a manner upholding the dignity and prestige of the profession and the Majesty of Law and Law Courts.

8. I submit that in the above facts and circumstances and in the interests of justice, the unconditional apology given as above deserves to be accepted.

In the above facts and circumstances and in the interests of justice, it is prayed that this Hon'ble Court may be pleased to accept the unconditional apology given in respect of the incidents occurred on 17.3.2015 at the premise of the Hon'ble District Munsif cum Judicial Magistrate, Rameswaram and thus render justice."

(3) Apology affidavit of Mr.R.Dominic Ravi:-

<https://hcservices.ecourts.gov.in/hcservices/>

"I tender my unconditional apology to this Hon'ble Court for the incidents that

had happened on 17.3.2015 at the premises of this Hon'ble Court. I further submit that I further unconditionally undertake to uphold the Majesty and Dignity of this Hon'ble Court and the Process of Law.

7. I also express and seek unconditional apology for the above happenings not only as a contemnor but also as a practising Advocate. I further submit that I express and pledge to function in a manner upholding the dignity and prestige of the profession and the Majesty of Law and Law Courts.

8. I submit that in the above facts and circumstances and in the interests of justice, the unconditional apology given as above deserves to be accepted.

In the above facts and circumstances and in the interests of justice, it is prayed that this Hon'ble Court may be pleased to accept the unconditional apology given in respect of the incidents occurred on 17.3.2015 at the premise of the Hon'ble District Munsif cum Judicial Magistrate, Rameswaram and thus render justice."

(4) Apology affidavit of Mr.G.Prabakaran:-

"I tender my unconditional apology to this Hon'ble Court for the incidents that had happened on 17.3.2015 at the premises of this Hon'ble Court. I further submit that I further unconditionally undertake

to uphold the Majesty and Dignity of this Hon'ble Court and the Process of Law.

7. I also express and seek unconditional apology for the above happenings not only as a contemnor but also as a practising Advocate. I further submit that I express and pledge to function in a manner upholding the dignity and prestige of the profession and the Majesty of Law and Law Courts.

8. I submit that in the above facts and circumstances and in the interests of justice, the unconditional apology given as above deserves to be accepted.

In the above facts and circumstances and in the interests of justice, it is prayed that this Hon'ble Court may be pleased to accept the unconditional apology given in respect of the incidents occurred on 17.3.2015 at the premise of the Hon'ble District Munsif cum Judicial Magistrate, Rameswaram and thus render justice."

11. Mr.R.C.Paul Kanagaraj, learned counsel for the Contemnors who is also heading 'Madras High Court Advocates Association' (MHAA), in his submission completely denounced the behaviour of the Contemnors as reported by the Presiding Officer of the Court in Rameswaram and he has submitted that the said Advocates are repenting very much for the untoward incident and they have tendered their unconditional apology

and smooth running of the Court will not be disturbed and in the circumstances, this Bench may give them an opportunity by accepting their unconditional apology.

12. Mr.R.C.Paul Kanagaraj also submitted that the style of the functioning of the then Presiding Officer of the said Court was such that it has irritated one and all and they were all put to ridicule.

13. Mr.D.Selvam, Chairman, Bar Council of Tamil Nadu and Puducherry submitted that the Bar Council is strict in disciplinary matters and it has taken severe action as against such untoward incidents.

14. We have perused the apology affidavits of the Contemnors and also the submissions of the learned counsels at the Bar.

15. In *Lalit Mohan Das vs. State of Orissa & Another*, AIR 1957 SC 250, the Hon'ble Supreme Court observed as under: (AIR p. 254, para 11)

"11. ... A member of the Bar undoubtedly owes a duty to his client and must place before the Court all that can fairly and reasonably be submitted on behalf of his client. He may even submit that a particular order is not correct and may ask for a review of that order. At the same time, a member of the Bar is an officer of the Court and owes a duty to the Court in which he is appearing. He must uphold the dignity and decorum of the Court and must not do anything to bring

the Court itself into disrepute. The appellant before us grossly overstepped the limits of propriety when he made imputations of partiality and unfairness against the Munsif in open Court. In suggesting that the Munsif followed no principle in his orders, the appellant was adding insult to injury, because the Munsif had merely upheld an order of his predecessor on the preliminary point of jurisdiction and Court fees, which order had been upheld by the High Court in revision. Scandalizing the Court in such manner is really polluting the very fount of justice; such conduct as the appellant indulged in was not a matter between an individual member of the Bar and a member of the judicial service; if brought into disrepute the whole administration of justice."

16. In *R.K. Garg Advocate v. State of Himachal Pradesh*, (1981) 3 SCC 166, where a lawyer hurled a shoe on the judicial officer which hit him on the shoulder, the Hon'ble Supreme Court opined that there is no doubt that: (SCC p. 170, para 9)

"9. ... The Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar and their past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar.

It is unquestionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a courtroom. But members of the Bar will do well to remember that such flagrant violations of professional ethics and cultured conduct will only result in the ultimate destruction of a system without which no democracy can survive."

17. In *Ajay Kumar Pandey, Advocate, In Re:*, (1998) 7 SCC 248, an Advocate was charged of criminal contempt of Court for the use of intemperate language and casting unwarranted aspersions on various judicial officers and attributing motives to them while discharging their judicial functions.

The Hon'ble Supreme Court held as under: (SCC p.259, para 17)

"17. The subordinate judiciary forms the very backbone of the administration of justice. This Court would come down with a heavy hand for preventing the judges of the subordinate judiciary or the High Court from being subjected to scurrilous and indecent attacks, which scandalise or have the tendency to scandalise, or lower or have the tendency to lower the authority of any court as also all such actions which interfere or tend to interfere with the due course of any judicial proceedings or obstruct or tend

to obstruct the administration of justice in any other manner. No affront to the majesty of law can be permitted. The fountain of justice cannot be allowed to be polluted by disgruntled litigants. The protection is necessary for the courts to enable them to discharge their judicial functions without fear."

18. In *O.P.Sharma vs. High Court of Punjab & Haryana* {2011 (6) SCC 86}, overruling the opposition of the Advocate to send his client to police custody, a Judicial Magistrate, First Class, Faridabad remanded the accused to police custody, the Advocate became enraged and hurled abuses, derogatory remarks and unparliamentary words against the Magistrate, who reported the incident to the District and Sessions Judge, Faridabad, who has also submitted a report to the Punjab and Haryana High Court, the High Court initiated suo motu contempt proceedings, the Advocate tendered unconditional apology and ultimately the matter came before the Hon'ble Supreme Court.

While accepting the Advocate's unconditional apology in the form of affidavit, the Hon'ble Supreme Court in *O.P.Sharma* (supra) observed as under:--

"32. A lawyer cannot be a mere mouthpiece of his client and cannot associate himself with his client in maligning the reputation of judicial officer merely because his client failed to secure the desired order from the said officer. A deliberate attempt to

scandalize the Court which would shake the confidence of the litigating public in the system and would cause a very serious damage to the name of the judiciary. [vide M.Y.Shareef & Anr. Vs. Hon'ble Judges of Nagpur High Court & Ors., (1955) 1 SCR 757; Shamsher Singh Bedi vs. High Court of Punjab & Haryana, (1996) 7 SCC 99 and M.B. Sanghi, Advocate vs. High Court of Punjab & Haryana & Ors. [(1991) 3 SCC 600)].

40. As a rule, an Advocate being a member of the legal profession has a social duty to show the people a beacon of light by his conduct and actions rather than being adamant on an unwarranted and uncalled for issue.

41. We hope and trust that the entire legal fraternity would set an example for other professionals by adhering to all the above-mentioned principles."

19. There shall be cordiality between the Bench and the Bar, then only dispensation of justice could be carried out smoothly and effectively. It is very often said that Bench and the Bar shall work in unison to run the Chariot of justice smoothly. The members of the Bar, who are Officers of the Court, has a basic duty to assist the Court in its mission to deliver justice. 'Access to justice', 'recourse to judicial remedies' itself an essential feature of democratic countries. In affording people such access, the learned

members of the Bar are tools for the Court. But the Advocates, should not be 'fence eating the grass'. They should not impede the running of the Courts, place bottlenecks on the road to justice. As in the instant case, they should not close the doors of the Court, preventing the Presiding Officer, the Court staff and the litigant public to enter the Court.

20. Courts cannot function without the Bar members and the Bar members cannot function without Courts. If they have any grievance, they have to iron out their differences by mutual understanding and discussions. The Districts Judicial Administration is headed by a District Judge who is the immediate supervising/ controlling Officer. If the Bar members have any grievance as against any Presiding Officer, they should bring it to the notice of the Principal District Judge. Thereafter, it is his lookout to ensure smooth functioning of the Court and if he needs assistance of this Court, it is for him to approach this Court. But, lawyers themselves have their own method of redressing their grievances cannot be accepted, digested.

21. Now, the Contemnors have realised their abnormal behaviour, repent and also tendered their unconditional apology.

22. Now normalcy has been restored in the said Court and Court proceedings are going on smoothly. The Principal District Judge and the Chief Judicial Magistrate of

Ramanathapuram District shall ensure the continuance of the same by their swift action.

23. In the circumstances, we order as under:-

(i) The four Contemnors namely, (1) K.Ramamoorthy, (2) K.Mayilsamy, (3) R.Dominic Ravi and (4) G.Prabakaran, Advocates, Rameswaram shall appear before the learned District Munsif cum Judicial Magistrate, Rameswaram on 23.11.2015 at 10.30 a.m., in open Court and shall tender their unconditional apology.

(ii) It is made clear that as assured by the Chairman, Bar Council of Tamil Nadu and Puducherry that, in case, in future, if the Advocates indulge in similar activities, strict disciplinary action will be taken by the concerned as per the Rules and Regulations.

(iii) The Registrar (Judicial) is directed to send the apology affidavits of the four Advocates to the District Munsif cum Judicial Magistrate, Rameswaram immediately.

(iv) This Suo Motu Contempt proceedings is closed.

Svn/Vaan

SD/

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this

To:

- (i) The Registrar General, High Court, Madras.
- (ii) The Registrars (Judicial), High Court, Madras.
- (iii) The Principal District Judge, Ramanathapuram.
- (iv) The Chief Judicial Magistrate, Ramanathapuram.
- (v) The District Munsif cum Judicial Magistrate, Rameswaram.
- (vi) The Section Officer, Contempt Section, High Court, Madras.

Copies:

- (i) The Advocate General of Tamil Nadu, High Court, Madras-104.
- (ii) Mr.D.Selvam, Chairman, Bar Council of Tamil Nadu and Puducherry, Chennai-104.
- (iii) Mr.R.C.Paul Kanagaraj, Advocate and President, Madras High Court Advocate's Association, Chennai-104.
- (iv) Mr.K.Ramamoorthy, Rameswaram Bar Association, Rameswaram, Ramanathapuram District.
- (v) Mr.K.Mayilsamy, Rameswaram Bar Association, Rameswaram, Ramanathapuram District.
- (vi) Mr.R.Dominic Ravi, Rameswaram Bar Association, Rameswaram, Ramanathapuram District.
- (vii) Mr.G.Prabakaran, Rameswaram Bar Association, Rameswaram, Ramanathapuram District.

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