

***THE HON'BLE THE CHIEF JUSTICE
SRI KALYAN JYOTI SENGUPTA
AND
HON'BLE SRI JUSTICE SANJAY KUMAR**

+SUO MOTU CONTEMPT CASE NO.2275 OF 2014

% 15-04-2015

In Re ...

\$ Sri Bandaru Madhava Naidu,
Member of the Legislative Assembly,
Narsapur, West Godavari District

... Respondent/Contemnor

<GIST:

>HEAD NOTE:

! *Amicus Curiae*

: Sri Vedula Srinivas

^ Counsel for respondent

: Sri K. Chidambaram

? CASES REFERRED:

1. 1997 (6) Andhra Law Times 420 (DB)
2. AIR 1974 SC 710
3. AIR 1978 SC 727
4. AIR 1954 SC 10
5. AIR 2011 SC 2275
6. (2002) 3 SCC 343

7. (1996) 5 SCC 216
8. AIR 1954 SC 743
9. (1991) 4 SCC 406
10. AIR 1970 SC 2015

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)
PRESENT**

**THE HON'BLE THE CHIEF JUSTICE
SRI KALYAN JYOTI SENGUPTA
AND
HON'BLE SRI JUSTICE SANJAY KUMAR**

SUO MOTU CONTEMPT CASE NO.2275 OF 2014

DATED _____ APRIL, 2015

In Re ...

Sri Bandaru Madhava Naidu,
Member of the Legislative Assembly,
Narsapur, West Godavari District

... Respondent/Contemnor

**THE HON'BLE THE CHIEF JUSTICE
SRI KALYAN JYOTI SENGUPTA
AND
HON'BLE SRI JUSTICE SANJAY KUMAR**

SUO MOTU CONTEMPT CASE NO.2275 OF 2014

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ORDER: (*per* Hon'ble Sri Justice Sanjay Kumar)

The Principal District Judge, West Godavari, forwarded to the High Court the letter dated 25.08.2014 addressed by the Additional District Judge, Narsapur, to the Superintendent of Police, West Godavari, relating to an incident that occurred on 15.08.2014 involving Sri Bandaru Madhava Naidu, MLA, Narsapur, who was stated to have abused the Additional District Judge, Narsapur, in connection with the removal of hawkers from the encroached road side on the western side of the Court complex. The Additional District Judge, Narsapur, addressed a separate letter in this regard on 28.08.2014 to the High Court. The Bar Association, Narsapur, also submitted a representation to the High Court on the issue. Thereupon, the Hon'ble The Chief Justice directed the District Judge to enquire into the matter and report. Upon due enquiry, the Principal District Judge, West Godavari, submitted report dated 19.09.2014. An Office Note was then placed before the Hon'ble The Chief Justice and the matter was directed to be placed before this Bench on the judicial side. This *suo motu* contempt case was accordingly registered.

Appearance having been entered by the respondent/ contemnor through learned counsel, upon notice; he also filed two affidavits putting forth his defence. Taking into account the gravity of the matter, this Court appointed Sri Vedula Srinivas, learned counsel, as *amicus curiae*.

Heard Sri K. Chidambaram, learned counsel for the respondent/contemnor, and Sri Vedula Srinivas, learned *amicus curiae*.

The report dated 19.09.2014 submitted by the Principal District Judge, West Godavari, reflects as under: Push-carts of street-vendors in front of the western side compound wall of the Court complex at Narsapur were removed by the municipal authorities at the request of the Additional District Judge, Narsapur, prior to 15.08.2014. However, they again occupied the said area and this was noticed by the Additional District Judge and others after the flag hoisting on 15.08.2014. At that point of time, the respondent/contemnor came there with his followers on about twenty motor-cycles and he questioned how the push-carts/ street-vendors could be removed without providing alternative accommodation to them. The members of the Bar Association, Narsapur, tried to convince the respondent/contemnor, informing him of the presence of the Additional District Judge, Narsapur, but he did not care for the same and questioned whether we were living in a dictatorship or democracy or British rule.

The Principal District Judge, West Godavari, also examined various persons who were present at the time of the incident and the statements recorded by her were also appended to the report. Perusal of the statements of Sri P.V.V. Narayana Swamy and Kum. T. Santhosh Kumari, President and General Secretary of the Bar Association, Narsapur, respectively, along with the statements of Sri M. Ram Mohana Rao, Special Judicial Magistrate of Second Class, Narsapur, and Sri Md. Shakeel Ahmed, Process Server, Additional

District Judge's Court, Narsapur, manifests that the respondent/contemnor allegedly said:

"How could you get removed the encroachers who are my voters without giving any notice and without providing any alternative site."

"You (Court) cannot evict my persons, who are on the road doing business, without my knowledge and permission or we are in British rule or in dictatorship."

Owing to this altercation, it appears that there was severe disruption of Court work as advocates went on strike protesting the high handed behaviour of the local MLA against the judicial officer and advocates of Narsapur. The incident was also given wide press and media coverage.

The Additional District Judge, Narsapur, addressed letter dated 28.08.2014 to the High Court, wherein he apprehended danger to himself and his family and requested the High Court to take appropriate action to safeguard the prestige of the judiciary. He also issued show-cause notice dated 01.09.2014 to the respondent/contemnor under Rule 9(4) of the Contempt of Courts Rules, 1980 (for brevity, 'the Rules of 1980') framed by this Court. Rule 9 of the Rules of 1980 reads as under:

- '9. (1) All references made by the Subordinate Courts under Rule 5(d) shall contain the particulars as mentioned in Rule 7(1) (a) and (b) so far applicable.
- (2) The Subordinate Courts shall transmit all relevant documents or true copies thereof duly attested along with the letter of reference.
- (3) All references made under Rule 5(d) by the Subordinate Courts other than the Courts of District and Sessions Judges shall be forwarded through the respective District and Sessions Judges for onward transmission of the same to the high Court expeditiously with their report.
- (4) Before making reference, the Subordinate Courts shall hold a preliminary enquiry by issuing a show cause notice to the Contemnor and after hearing him, the said court shall write a concise reasoned order of reference about the alleged contempt.'

Aggrieved by issuance of the said show-cause notice, the respondent/contemnor filed W.P.No.27112 of 2014 before this Court, which was disposed of by order dated 12.09.2014 permitting the respondent/contemnor to take the assistance of a lawyer while personally appearing before the Additional District Judge, Narsapur. Thereupon, by order dated 15.09.2014 passed in the preliminary enquiry case taken on file as CrI. M.P.No.55 of 2014, the Additional District Judge, Narsapur, dropped all further action accepting the apology tendered by the respondent/ contemnor.

However, Rule 9(4) of the Rules of 1980 did not vest the Additional District Judge, Narsapur, with the discretion of dropping further proceedings having already informed the High Court. All that was permitted thereunder was for him to write a concise reasoned order of reference about the alleged contempt after holding a preliminary enquiry. That being the legal position, this Court is empowered to act independently in the matter notwithstanding the order passed by the Additional District Judge, Narsapur, in CrI. M.P.No.55 of 2014.

The particulars of the incident, as set out hereinabove, in our considered opinion, would attract the provisions of Section 2(c)(i) of the Contempt of Courts Act, 1971 (for brevity, the Act of 1971), which relates to ‘criminal contempt’. This provision reads as under:

- ‘ 2 . (c) “*criminal contempt*” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which:
- (i) scandalises, or tends to scandalise, or lowers or tends to lower the authority of, any Court; or
 - (ii)
 - (iii)

The report of the Principal District Judge, West Godavari, along with the independent statements of various witnesses referred to *supra*, demonstrate that the alleged utterances made in public by the

respondent/contemnor clearly had the effect of denigrating and damaging the image and authority of the Court, notwithstanding the fact that the incident took place outside the Court complex. The respondent/contemnor was said to have been informed of the presence of the judicial officer but despite the same, he continued to use intemperate language, going to the extent of aggressively stating that his permission had to be obtained by the judicial officer before evicting his voters. This incident received wide coverage by the press and media, as is clear from the material placed on record. There can therefore be no doubt that the utterances attributed to the respondent/contemnor, if true, invariably had the effect of scandalizing and lowering the authority of the subordinate Court.

Cognizance of criminal contempt of a subordinate Court may be taken by this Court *suo motu* under Section 15 of the Act of 1971 (**S. SURYAPRAKASH RAO V/s. PRESIDING OFFICER, FAMILY COURT, SECUNDERABAD^[1]**).

The respondent/contemnor filed counter-affidavit dated 10.02.2015, wherein he stated that he did not address the Additional District Judge, Narsapur, either by shouting or aggressively in the incident dated 15.08.2014. He further stated to the effect that while passing through the main road of Narsapur he noticed a huge gathering by the side of the Court complex and tried to solve the issue amicably and peacefully. He asserted that he did not notice the presence of the Additional District Judge, Narsapur, at that time as there was a large gathering and in the meanwhile some words were exchanged between the people who were present but he was not able to hear anything and that he left thereafter. He further asserted to the effect that he did not address or interact with either the Additional District Judge or the advocates present there and only appealed to the revenue and municipal authorities who were removing the hawkers. He stated that he had utmost respect and regard towards the judiciary and felt absolutely sorry and regretted having been part of the incident

that occurred on 15.08.2014. Having stated so, he surprisingly went on to state that he 'never addressed the Additional District Judge, Narsapur, and that he never intended to address the Additional District Judge in the said incident'. He ended the affidavit by stating that though he never addressed the Additional District Judge, Narsapur, to erase any unfortunate adverse impressions created by the totally 'unintended sequence of events', he was expressing his regret for the incident on 15.08.2014 and tendered his sincere and unconditional apology. He undertook to be cautious in future while discharging his duties as an MLA and as an individual.

He thereafter filed additional counter-affidavit dated 18.02.2015 wherein he pointed out that the incident that occurred on 15.08.2014 was not within the Court premises but beyond the compound wall of the Court complex. He also filed his statement dated 15.09.2014 recorded by the Additional District Judge, Narsapur, during the preliminary enquiry and pointed out that no suggestion or question had been put to him as regards addressing the learned judge during the course of the incident.

Having considered the contents of the aforestated affidavits, we are distressed to note that the respondent/contemnor chose to adopt an ambivalent and rather belligerent tone. On the one hand, he altogether denied his involvement but at the same time, he pretended to tender his apology. Further, in one breath, he stated that he never addressed the learned judge and then went on to say that he never intended to address him.

Given the weight of the contrary evidence of various independent witnesses, including a judicial officer and members of the Bar, we are not inclined to accept the bald denial of the respondent/contemnor as to his involvement. The Additional District Judge, Narsapur, himself referred to the utterances of the respondent/contemnor in his report dated 28.08.2014 addressed to this Court. Therefore, the material placed on record inexorably leads us to

the conclusion that the respondent/contemnor did, in fact, utter the words attributed to him. It is indeed disturbing to note that the respondent/ contemnor, a people's representative, has still not learnt the error in his ways. To compound it further, he filed an additional counter-affidavit, wherein he attempted to make much of the fact that during the preliminary enquiry, the Additional District Judge, Narsapur, did not put any pointed queries to him as to his utterances.

As already stated above, it appears that the judicial officer feared for his own safety and that of his family. Under such circumstances, we are not prepared to attach any importance to either the preliminary enquiry of the Additional District Judge, Narsapur, or his final conclusion therein that further proceedings should be dropped.

Sri K. Chidambaram, learned counsel, submitted that as the respondent/contemnor had tendered his unconditional apology further action was not warranted and that, in any event, he was not liable to be proceeded against. He relied on case law to support his submissions.

In ***SHRI BHARADAKANTA MISHRA V/s. REGISTRAR OF ORISSA HIGH COURT***^[2], a Constitution Bench observed that 'scandalizing' within the meaning of sub-clause (i) of Section 2(c) of the Act of 1971 must be in respect of the Court or the judge with reference to administration of justice. This observation is sought to be relied on in the context of the incident in question occurring outside the Court premises and having no relation to any judicial proceeding. However, 'administration of justice' must be given a wider meaning in proper perspective. Undermining the dignity and majesty of the Court would inevitably lower the authority of the judiciary in administering justice. There can be no dispute with the fact that the subject utterances, which were given wide publicity, clearly disparaged the Court as the respondent/contemnor practically took law into his own hands and claimed that the encroachers were under his protection and could not be touched without his permission. These statements were

made by him with utter recklessness, despite being informed of the presence of the judicial officer. We therefore find that this judgment is of no avail to the respondent/contemnor.

IN RE: S. MULGAOKAR^[3] is also of no avail to the respondent/contemnor as the issue that fell for consideration therein was with regard to criticism of the judiciary by the press. The case on hand not being one of mere criticism, this judgment is of no relevance.

The observations of the Supreme Court in **BRAHMA PRAKASH SHARMA V/s. THE STATE OF U.P.**^[4] and **VISHRAM SINGH RAGHUBANSHI V/s. STATE OF U.P.**^[5], relied upon by the learned counsel, also do not further his case as the Court merely pointed out therein that the power to punish for contempt should not be used for the vindication of a judge as a person but for proper administration of justice. That is precisely our endeavour.

Sri Vedula Srinivas, learned *amicus curiae*, placed reliance on **ARUNDHATI ROY, IN RE**^[6] to elaborate on the scope and content of the expression 'scandalize' and submitted that the object of the exercise would obviously not be to vindicate the judge personally but to protect the public against undermining of their accustomed confidence in the institution of the judiciary. Referring to the observations of the Supreme Court in **D.C.SAXENA V/s. HON'BLE THE CHIEF JUSTICE OF INDIA**^[7], learned *amicus curiae* stated that conduct of the contemnor which had the tendency or produced a tendency to lower the authority of the Court would also be contempt under Section 2(c) of the Act of 1971.

Learned *amicus curiae* also drew our attention to **HIRA LAL DIXIT V/s. STATE OF U.P.**^[8], wherein the Supreme Court observed that it was not necessary that there should be actual interference with the course of administration of justice and it would be enough if the offending act or publication tended in any way to so interfere. He also

referred to **DELHI JUDICIAL SERVICE ASSN. V/s. STATE OF GUJARAT**^[9], wherein it was held that the definition of criminal contempt is wide enough to include any act by a person which would tend to lower the authority of a Court, as the public have a major stake in effective and orderly administration of justice.

Learned *amicus curiae* also referred to **E.M.SANKARAN NAMBOODIRIPAD V/s. T.NARAYANAN NAMBIAR**^[10], wherein the Supreme Court observed that scandalizing the judges or the Court would occur, generally speaking, when the conduct of a person tended to bring the authority and administration of the law into disrespect and disregard and includes all acts which bring the Court into disrepute or disrespect or which offend its dignity, affront its majesty or challenge its authority.

Presently, the illegal encroachers of the roadside just outside the Court complex occupied the area once again at the behest of the respondent/contemnor, as is clear from his recorded statement dated 15.09.2014 during the course of preliminary enquiry, and when they were sought to be removed again, he rashly asserted in the presence of the Additional District Judge, Narsapur, that they could not be touched without his permission as they were his voters and were under his protection. He therefore chose to undermine the authority of the judicial officer present there and took law into his own hands. The repercussions of his utterances, be it the damaging publicity by the press and the media or the boycotting of Courts by protesting advocates, clearly demonstrate the actual adverse impact on the administration of justice.

Given the aforesaid facts and in the backdrop of the settled legal position, we find no difficulty in holding that the utterances of the respondent/contemnor scandalized the judicial officer and the authority of the Court.

We would have expected the respondent/contemnor to behave

responsibly in keeping with his status as a people's representative and be suitably penitent. However, such is not the case as is clear from his affidavits wherein he approbated and reprobated but also offered an apology. As pointed out by the Supreme Court in **VISHRAM SINGH RAGHUBANSHI⁵**, an apology can be accepted when it is given with a sense of genuine remorse and repentance and not as a calculated strategy to avoid punishment. An apology, as pointed out, should be a regretful acknowledgement for failure but not an explanation that no offence was intended coupled with the expression of regret for any that may have been given. As the apology in the present case is not *bonafide* and unequivocally falls in the latter category, we are compelled to reject the same.

We therefore hold the respondent/contemnor guilty of committing criminal contempt as defined in Section 2(c)(i) of the Act of 1971. Considering the totality of the circumstances, we impose upon him the punishment of paying a fine of Rs.1,000/-(Rupees one thousand only) to the Andhra Pradesh State Treasury within one month from the date of receipt of a copy of this order.

We place on record our appreciation for the toil and effort expended by Sri Vedula Srinivas, learned *amicus curiae*, who readily accepted our request and rendered us valuable assistance in dealing with this matter.

There shall be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

_____ **APRIL, 2015**

The contemnor is present.

After the judgment and sentence is pronounced, the contemnor submits through his learned counsel that he wants to tender an unconditional apology, although in the affidavit we have noticed that his earlier apology is not sincere. It was offered only as an alternative measure. The contention raised in the affidavit to defend his case was such that he tends towards justifying his action. An apology can be accepted when a particular person accepts his fault unconditionally first. Unless and until this is done, the apology cannot be said to be essentially sincere one. Since it is a case of first instance and considering that the contemnor is a member of the Legislative Assembly, we deem it appropriate to give him a chance to file an affidavit taking the appropriate stand in the matter so that the Court can re-consider the question of apology.

The matter is adjourned at his instance till 24.4.2015 and we stay the operation of the judgment and sentence till then.

K.J. SENGUPTA, CJ

SANJAY KUMAR,
J

15th April, 2015

Pnb

Today, an affidavit is filed by the contemnor, as per the chance given by this Court on 24.04.2015. We expected an affidavit containing a statement of accepting his fault and sense of remorse. However it is missing. Already this Court had held guilty the contemnor by imposition of punishment. The attitude of the contemnor is such that he does not want to accept our findings.

Therefore, the punishment proposed to be imposed by our order dated 15.04.2015, will be operative.

K.J.SENGUPTA, CJ

SANJAY KUMAR,J

27TH April, 2015.

GJ

Note: L.R. Copy to be marked.

B/o Svv

[\[1\]](#) 1997 (6) Andhra Law Times 420 (DB)

[\[2\]](#) AIR 1974 SC 710

[\[3\]](#) AIR 1978 SC 727

[\[4\]](#) AIR 1954 SC 10

[\[5\]](#) AIR 2011 SC 2275

[\[6\]](#) (2002) 3 SCC 343

[\[7\]](#) (1996) 5 SCC 216

[\[8\]](#) AIR 1954 SC 743

[\[9\]](#) (1991) 4 SCC 406

[\[10\]](#) AIR 1970 SC 2015