

IN THE HIGH COURT OF JUDICATURE AT PATNA
Or. Criminal Miscellaneous (DB) No.4 of 2015

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The Chief Judicial Magistrate, Purnea Petitioner/s

Versus

State of Bihar & Anr Respondent/s

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with

Or. Criminal Miscellaneous (DB) No.5 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PURNIA

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The Chief Judicial Magistrate, Purnea Petitioner/s

Versus

State of Bihar & Anr Respondent/s

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with

Or. Criminal Miscellaneous (DB) No.6 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PURNIA

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The Chief Judicial Magistrate, Purnea Petitioner/s

Versus

State of Bihar & Anr Respondent/s

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Appearance :
(In OCR. MISC (DB) No.4 of 2015)
For the Petitioner/s : Mr. Kumar Praveen, Advocate
For the Respondent/s : Mr. Ajit Ranjan Kumar, Advocate
(In OCR. MISC (DB) No.5 of 2015)
For the Petitioner/s : Mr. Kumar Praveen, Advocate
For the Respondent/s : Mr. Ajit Ranjan Kumar, Advocate
(In OCR. MISC (DB) No.6 of 2015)
For the Petitioner/s : Mr. Kumar Praveen, Advocate
For the Respondent/s : Mr. Ajit Ranjan Kumar, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER
(Per: HONOURABLE JUSTICE CHAKRADHARI
SHARAN SINGH)

references made by Md. Ajazuddin, learned Chief Judicial Magistrate, Purnea, to this Court for taking cognizance and initiating criminal contempt proceedings against Nagendra Prasad Jaypuriyar and Damodar Prasad Sinha (hereinafter referred to **as the Contemnors**).

2. This Court, on the basis of the contents of references made by learned Chief Judicial Magistrate, Purnea, having found that *prima facie* case of criminal contempt of Court were made out against the contemnors issued show cause notices to them and pursuant thereto, they have entered appearance and have filed their show cause replies.

3. Original Criminal Miscellaneous No. 04 of 2015 arises out of the reference made by learned Chief Judicial Magistrate, through his letter No. 443, dated 23.07.2014 addressed to the Registrar General, of this Court alleging therein that the contemnor, Nagendra Prasad Jaypuriyar, filed the Complaint Case No. 1448 of 2014 in the Court of learned Chief Judicial Magistrate, Purnea, against Shri Sanjay Kumar, the then learned Sessions Judge, Purnea, since he (contemnor) was aggrieved by an order, dated 27.03.2014, passed by learned Sessions Judge, Purnea, in Criminal Revision No. 492 of 2014. The contents of the Complaint Petition have been quoted in the reference letter, dated 21.07.2014. The language used against the learned Sessions

Judge, Purnea, in the Complaint Petition, apparently amounts to scandalizing the Court and clearly meant to lower down the authority and dignity of the Court of the learned Sessions Judge. By way of illustration, two paragraphs of the Complaint Petition, wherein learned Sessions Judge has been made an accused, are being quoted hereinbelow:-

"3. That intending suppression of such the accused bogusly and impatiently discussed of trial held and acquitted, when the matter is of discharge on 10.8.2011 the accused being Sessions Judge must have instinct to go through the glimps of such memo not attached."

5. That the matter is appearing that Gopal Paswan had managed case of his father Pavittar Paswan of setting fire i.e. CA 14 of 1991 before Special Judicial Magistrate, Purnia, so by this complainant and others which was committed to the Court of Session vide S. T. No. 539/98 mentally troubled for 20 years complainant had got issued pleader's notice to Gopal Pawan but the accused being Sessions Judge as the lower Court treated that no reply to Notice is not cheating when this is definitely. The accused being Sessions Judge passed laboured order, to save Gopal Paswan, hence he committed offence U/sec.221 of the Indian Penal Code. The defeating attitude of this accused, compelled the complainant to lodge this complaint for proper course in view of law."

4. On notice having been issued, the said Nagendra



Prasad Jaypuriyar filed his show cause reply stating therein that the Complaint Petition, in question, was filed on the advice tendered and draft prepared by Mr. Damodar Prasad Sinha (contemnor), an Advocate, practicing in Purnea, Civil Court. He, accordingly, while tendering *unqualified apology*, has submitted, in his show cause, that he had no any intention to scandalize the Court or, in any other matter, lower down the Court's dignity.

5. Considering the said stand taken by Opposite Party No.2, namely, Nagendra Prasad Jaypuriyar, on the direction of this Court, dated 18.09.2015, the said Damodar Prasad Sinha was added as Opposite party No.3, who has appeared in this proceeding.

6. On the basis of another communication made by Md. Ajazuddin, learned Chief Judicial Magistrate, Purnea, dated 11.07.2014, addressed to the Registrar General of this Court, making similar reference for initiating criminal contempt proceeding against said Nagendra Prasad Jaypuriyar, Original Criminal Miscellaneous No. 5 of 2015 was registered. Nagendra Prasad Jaypuriyar had got instituted another Complaint Case No. 1198 of 2014, in which also he had made the then learned Sessions Judge, Purnea, Shri Sanjay Kumar, as an accused, being aggrieved by an order, dated 18.10.2013, passed in Criminal Revision No. 417 of



2013, by the said learned Sessions Judge. Relevant portion of the said Complaint Case has been quoted in the said communication, dated 11.07.2014, which we have perused and there is no inkling of doubt that the language used, and allegations made, against Shri Sanjay Kumar, learned Sessions Judge, in the said Complaint Petition, are derogatory, contemptuous and scandalous. In his reply, the contemnor, Nagendra Prasad Jaypuriyar, tendered *unqualified apology* and took the same plea that the Complaint Petition was drafted by his same learned lawyer, Damodar Prasad Sinha. He admitted that choice of words, in drafting in the complaint, was improper and it was certainly a mistake on his part. In Original Cr. Misc. No. 5 of 2015 also, Damodar Prasad Sinha was directed to be impleaded as Opposite party No.3.

7. Original Cr. Misc. No. 6 of 2015 arises out of yet another reference made by Md. Ajazuddin, learned Chief Judicial Magistrate, Purnea, through a communication, dated 17.07.2015, addressed to the Registrar General of this Court for initiating criminal contempt proceeding against Shri Damdar Prasad Sinha, Advocate, who had filed a Complaint Case, in his Court, against Shri Pradeep Kumar Sharma, learned Adhoc Additional District Judge, VIII, Purnea, and others, being aggrieved by an order, passed by the said



learned Adhoc Additional District Judge, in Sessions Case No. 477 of 2012. The contemnor, Damodar Prasad Sinha, was a conducting Advocate in Sessions Trial No. 477 of 2012. On perusal of the complaint, it is easily noticeable that the contents are contemptuous, which amount to scandalizing the Court of learned Adhoc Additional District Judge, VIII, Purnea.

8. What is common, in all the three proceedings, is that Mr. Damodar Prasad Sinha, Advocate, has either filed the Complaint Petition on behalf of a private party or he himself has filed Complaint Case against learned Sessions Judge/learned Adhoc Additional District Judge, VIII, containing contemptuous and scandalous allegations and, in all such cases, he seems to be aggrieved by the orders passed by the Judicial Officers adverse to his or his client's interest. The said Damodar Prasad Sinha, in his reply, to the show cause notices has, in paragraph 10, tendered *unqualified apology* for the actions/acts committed by him. However, from the averments made in the said reply, it appears that he has attempted to justify his conduct.

9. In our considered view, the conduct of Damodar Prasad Sinha (the contemnor) has no valid justification at all as explained in the show cause reply. The said show cause, filed on behalf of Damodar Prasad Sinha, in Original Cr. Misc.



No. 6 of 2015 is hereby rejected. The *unqualified apology* tendered by him does not appear to be genuine and the same is rather mischievous. The *unconditional apology*, as tendered by Damodar Prasad Sinha, the contemnor, in fact, has been used as a weapon of defence, which is not acceptable to this Court. We, accordingly, reject the show cause reply filed on behalf of Damodar Prasad Sinha. The most unfortunate part of the entire episode is that Shri Damodar Prasad Sinha is a practicing lawyer and he has committed brazen, gross criminal contempt of Court in connection with discharge of his functions as an Advocate. Shri Damodar Prasad Sinha himself became a complainant, in a Complaint Case, filed against learned Adhoc Additional District Judge, VIII, Purnea, being aggrieved by certain orders passed in a case, wherein he was a conducting lawyer. The acts and deeds of Shri Damodar Prasad Sinha amount to gross professional misconduct, apart from gross criminal contempt of Court.

10. The fact that Damodar Prasad Sinha played crucial role, in filing of the three Complaint Cases against Judicial Officers, is evident from the fact that he is a party to all the three cases either as an Advocate or in his individual capacity.

11. In the facts and circumstances as noted above, we hold Shri Damodar Prasad Sinha guilty of gross contempt

of the Courts of learned Sessions Judge, Purnea, and learned Adhoc Additional District Judge, VIII, Purnea.

12. On the question of sentence, we may point out that from appearance of Damodar Prasad Sinha, we have noticed that he is an old and fragile man and he appeared to be suffering from some neurological problem also. Taking a compassionate view, we sentence him to imprisonment for a day to be served by him by remaining present in the Court till the rise of the Court.

13. So far as contemnor Nagendra Prasad Jaypruriyar is concerned, whereas his explanation that he acted merely on the advice of his lawyer leading to filing of Complaint Cases, containing scandalous allegations against Judicial Officers, is not acceptable to this Court, we accept the *unconditional apology* tendered by him since the said apology is not qualified nor the allegations made in the Complaint Petitions have been attempted to be justified. Contempt proceedings against contemnor Nagendra Prasad Jaypuriyar, are, accordingly, dropped.

14. All the contempt proceedings stand disposed of accordingly.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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