

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

CONTEMPT CASE NO.2179 2016

Date: 15.09.2017

Between:

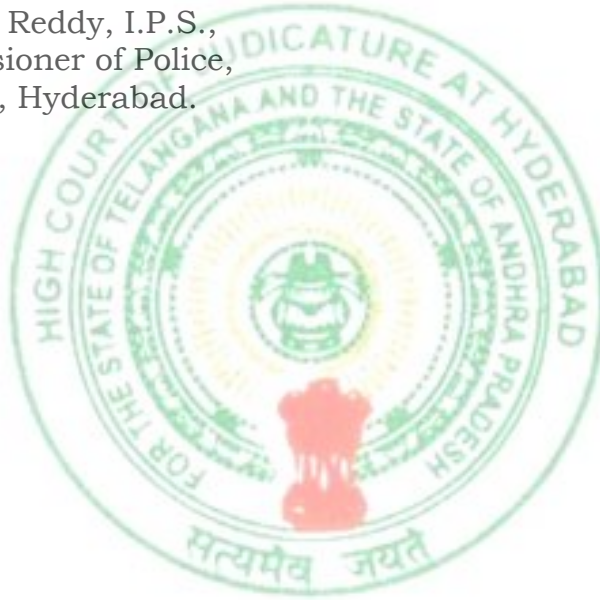
Dr Eunice Lalnunmawii Chawngthu,
10 Shanthi Nivas Apartments, Banjara Hills,
MLA Colony, Hyderabad.

.... Petitioner

and

Mr Mahinder Reddy, I.P.S.,
The Commissioner of Police,
Basheerbagh, Hyderabad.

.... Respondent



The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

CONTEMPT CASE NO.2179 2016

JUDGMENT: *(Per Hon'ble Sri Justice P.Naveen Rao)*

Petitioner filed W.P.No.3304 of 2016 praying to issue writ of mandamus directing the Central Bureau of Investigation (CBI) to thoroughly investigate the complaint 39/Compt/CP Camp 2016 submitted to the Government of Telangana on 16.01.2016. Petitioner filed W.P.M.P.No.4212 of 2016 praying to grant interim order directing the Commissioner of Police to ensure the protection and safety of the petitioner as she enters and resides in flat no.10 of Santhi Nivas Apartments, Banjara Hills, MLA Colony, Hyderabad. Petitioner filed W.P.M.P.No.4376 of 2016 to grant interim direction directing the Commissioner of Police to hand over and deliver the property of the petitioner illegally robbed and looted by all the accused to the petitioner at Flat No.10, Shanthi Nivas Apartments, Banjara Hills, MLA Colony, Hyderabad.

2. Learned single Judge of this Court, by order dated 21.03.2016 dismissed both miscellaneous petitions. Aggrieved thereby, petitioner filed Writ Appeal Nos.291 and 292 of 2016 challenging, respectively, the common order in W.P.M.P.Nos.4212 and 4376 of 2016. The Division Bench of this Court, by order dated 28.04.2016, disposed of the said appeals. The order of the Division Bench reads as under:

“We dispose of these appeals with the following observations:

“It is open to the petitioner to make an application/ representation to the Commissioner of Police, Hyderabad for appropriate relief. We request the Commissioner of Police to look into her representation personally and entrust her case either to Station House Officer, Banjara Hills Police Station or any other responsible officer as he deems fit and proper, to find out whether any criminal case is made out by her against any person and that whether she requires police protection, and take appropriate action within a period of one week from the date of her application.

Insofar as her prayer for putting her back in the disputed premises is concerned, it is open for her to take appropriate remedy.”

3. Alleging that respondent violated the directions of the Division Bench of this Court, petitioner filed this contempt case.

4. Heard party-in-person and learned Advocate General for the respondent.

5. Party-in-person would submit that in terms of the directions issued by the Division Bench, she submitted representation dated 03.06.2016 pointing out several aspects concerning the ill-treatment meted out to her by the residents of Santhi Nivas Apartments, Banjara Hills, forcibly taking away her belongings in the said apartment, snatched her mobile phone, abusing personally, threatened her with dire consequences, held her captive, tortured and humiliated her, took away her Car out of the apartment building, they even refused to give food, that some of the residents also made racist comments. It was also contended that with great difficulty she escaped from the clutches of those persons, went to Banjara Hills Police Station and gave written complaint. The Station House Officer forced her to undergo medical examination without ensuring presence of female constable or Women Home Guard, took her back to Banjara Hills Police Station and detained there against her wishes. In the morning, after the Station House Officer left the Police Station, she escaped from the police station and directly went to the Office of Commissioner of Police at about 11.00 a.m., but she finally met him at 4 p.m., wherein she gave written complaint. She gave several other details of what all transpired on several days at various places.

6. Party-in-person submitted that the complaint given by her required thorough investigation and taking appropriate action expeditiously. The Commissioner failed to investigate, but only enquired. She pointed out that Commissioner failed to understand the difference between the investigation and the enquiry. When petitioner requested to investigate into the serious allegations made by her, the Commissioner ought to have investigated, but not enquired. She made elaborate submissions on the difference between the investigation and the enquiry.

7. She further contended that as complaint was given by the petitioner on 03.06.2016, as per the directions of Division Bench, the Commissioner of Police was required to act upon said complaint within one week thereafter by conducting due investigation and taking further action. The directions of this Court also required grant of police protection as there was grave threat to her life and personal liberty. The Commissioner of Police took his own time and has not informed the result of the investigation into the complaint given by the petitioner. On account of inordinate delay, grave prejudice is caused to her. Delay in investigation is detrimental to the very purpose of investigation. As she was thrown out of the apartment, she was shelter less. She was not allowed to have access to her own belongings and there was no money left with her and, therefore, her life and liberty was in grave danger requiring speedy action as directed by the Court.

8. According to party-in-person, the delay in attending to the grievance of petitioner was deliberate and willful and intended to protect the accused persons. By pointing out the averments in paragraphs 2 and 3 of the counter-affidavit, she would submit that

averments are silent on the reasons of making representation/complaint by the petitioner, consequent to the directions of the Division Bench of this Court and also shows lack of seriousness in attending to the grievances ventilated by the petitioner and total disregard and scant respect to the directions issued by this Court. Thus, it is a deliberate and willful disobedience by the respondent contemnor and is liable for punishment.

9. By referring to the apology by the respondent in the counter-affidavit and additional counter-affidavit, she would submit that very fact that the respondent has offered apology would mean that respondent accepts that he has violated the directions of this Court. By referring to the definition of 'apology' as defined in 'Oxford' dictionary, she would submit that it would mean 'regrettable acknowledgment'. Since respondent offered apology that itself is sufficient to hold him guilty and punish him under the provisions of Contempt of Courts Act. She would further submit that apology cannot be by way of defence. In support of the said contention, she placed reliance on the decision of Orissa High Court in the case of **State v. R.N.Patra**¹. She would further submit that conduct of the respondent would amount to violation of directions of the Court and in view of the apology given by the respondent, the conduct of respondent contemnor on the face of it amounts to criminal contempt and, therefore, respondent is liable for graver punishment. In support of said contention, she placed reliance on the decision of Allahabad High Court in the case of **Vijai Pratap Singh v. Ajit Prasad and other**².

¹ 1976 CrLJ 440=MANU/OR/0139/1975

² AIR 1966 Allahabad 305

10. Learned Advocate-General representing the respondent submitted that soon after receipt of complaint given by the petitioner, as per the directions of the Division Bench of this Court, the Commissioner entrusted the matter to Mrs Swathi Lakra, Additional Commissioner of Police, Crimes & SIT, on 07.06.2016. Mrs Swathi Lakra, in turn, directed the Assistant Commissioner of Police Smt. Kavitha to investigate and to file a report. The Assistant Commissioner of Police conducted detailed investigation into the various aspects as reflected in the complaint of the petitioner and submitted her report to the Additional Commissioner of Police on 15.07.2016 enclosing the copy of the report. The Additional Commissioner of Police submitted her report to the Commissioner on 16.07.2016. Thorough enquiry was conducted. Every aspect of her complaint was looked into and on going through the record and verification of several complaints by petitioner and complaints against her, it was reported that no further action is required. On due consideration of said report, by his endorsement dated 20.07.2016, the Commissioner recorded in the file 'to lodge complaint'. He would therefore submit that by 20.07.2016 entire process was completed. Learned Advocate General would submit that as no action was required the issue was closed by lodging the complaint and party was not informed of the decision taken by the Commissioner. However, he would hasten to add that even assuming that the decision ought to have been communicated as there was no direction to communicate the same does not amount to violation of directions of the Court much less willful and deliberate disobedience warranting initiation of the proceedings under the Contempt of Courts Act.

11. He would further submit that in the complaint dated 03.06.2016, petitioner raised several issues. The record would disclose that there were crimes registered on the complaints of the petitioner and the crimes were also registered against the petitioner on the complaint made by several persons. In order to examine the merits of complaints, a detailed verification of the record was necessary and, therefore, lot of time was consumed. Having regard to the several issues raised by the petitioner in her complaint, it cannot be said that delay in submission of the report and taking a decision thereon was deliberate and willful. The grievance of the petitioner was thoroughly examined and having found that no further action was required having regard to the various other crimes already registered and investigation was done, no further action was ordered. The issue of grant of police protection was also considered and having regard to the assessment of Additional Commissioner of Police, the prayer of the petitioner to grant police protection was not acceded to.

12. Learned Advocate General submitted that the delay in taking a decision and completion of enquiry into the complaint given by the petitioner was not deliberate and willful and caused in the above stated circumstances. In this context, learned Advocate General also pointed out that petitioner herself has not expressed urgency in approaching the Commissioner as directed by the Division Bench. Though writ appeals are disposed of on 28.04.2016, she took time till 03.06.2016 to file complaint and she cannot blame the Commissioner of Police for not acting immediately thereafter by only relying on the time fixed by the

Court, more so when she raised several issues which required detailed enquiry and assessment.

13. Learned Advocate General submitted that though the respondent has acted in due diligence to comply with the directions by entrusting the matter to the Additional Commissioner of Police within the short time after receiving the report and acted thereon after the report is submitted to him, since there was some delay, though not deliberate and willful, he prayed to accept the apology for such delay and to exonerate him from the allegations. In the peculiar facts and circumstances of the case, what is stated by the respondent does not amount to acknowledgement of violation of the directions of the Court. He would further submit that with reference to invoking the powers under the Contempt of Courts Act, it is for the Hon'ble Court to consider whether the action of the respondent in not complying or delay in complying with the directions issued by the Court is willful and deliberate. Even in the case of alleged violation of the directions issued, it is for the Hon'ble Court to accept the apology and to close the contempt. In that context only apology was offered.

14. In reply, party-in-person submitted that insofar as the directions of the Division Bench are concerned, there was no time limit fixed on the petitioner to submit representation, whereas the Court fixed time of one week to act on the representation of the petitioner whenever made. According to party-in-person, at that point of time, nobody came to her rescue. She had struggled to have a shelter, cloths and food. She needed to collect information to incorporate the same in her representation and all this consumed lot of time. She being a person victimised and harassed,

there was no deliberate delay on her part, but caused in those circumstances. However, as direction of Division Bench of this Court was to investigate into the complaint made by the petitioner within one week and said investigation was not completed within the time fixed by the Court from the date of receipt of the complaint, respondent violated the direction of the Court. She further contended that in terms of the direction by this Court, the Commissioner should investigate or entrust such investigation to a responsible officer. In terms thereof when Commissioner entrusted the matter to Mrs. Swathi Lakra, she ought to have investigated and she could not have further delegated the issue of investigation to a subordinate officer. Thus, entire exercise is in violation of the directions of the Court and, therefore, there is no compliance of the orders of this Court. She pointed out that in terms of the directions of this Court, the outcome of the investigation ought to have been informed to the petitioner and not communicating the same would also amounting to violate the directions of the Court. She further submitted that since she is a woman belonging to Tribal Community and alone, there has been harassment and victimization and for her safety and security protection is required and the same ought to have been granted. The entire matter is treated by the Commissioner in a very casual manner without taking serious note of the grave allegations made by the petitioner. By his conduct, respondent committed contempt of orders and, therefore, is liable to be punished.

15. The basic facts are not in dispute. Writ appeals were disposed on 28.04.2016 granting liberty to the petitioner to file complaint before the Commissioner of Police. The Commissioner of

Police was directed to entrust the application/representation submitted by the petitioner to any responsible officer to find out whether any criminal case is made out by her against any person and whether she requires police protection and to take appropriate action within a period of one week from the date of her application. She submitted her application dated 03.06.2016. On receipt of application, Commissioner entrusted the matter to Mrs. Swathi Lakra, I.P.S., Additional Commissioner of Police, to find out whether any criminal case is made out by the petitioner. Mrs. Swathi Lakra in turn entrusted the matter to the Assistant Commissioner of Police and after obtaining report from the Assistant Commissioner of Police, dated 15.07.2017, in turn she submitted her report to the Commissioner of Police on 16.07.2017. On 20.07.2017, the Commissioner of Police considered the same and endorsed 'to lodge complaint'.

16. In the facts of this case, as noted above, whether delay in looking into the grievance of the petitioner and taking a decision and not communicating the result of enquiry and not accepting request to provide police protection would amount to violation of directions of the Court and whether such violation is deliberate and wilful. Further question that would arise is expressing apology itself would amount to accepting of guilt?

17. Disobedience of orders of the Court strikes at the very root of the rule of law on which the judicial system rests. If the judiciary is to perform its duties, function effectively, and remain true to the spirit with which they are entrusted with certain sacred duties, the dignity and authority of the Court should be respected and

protected. (**Maninderjit Singh Bitta v. Union of India**³; **T.N.Godavarman Thirumulpad (102) v. Ashok Khot**⁴). Rule of law is the foundation of democratic society and the judiciary is its guardian. The Contempt of Courts Act secures confidence of the people in the administration of justice. If an order, passed by a competent court, is clear and unambiguous, disobedience or breach of such an order would amount to contempt of court. There can be no laxity, as otherwise orders of court would be the subject of mockery. (**Anil Ratan Sarkar v. Hiral Ghosh**⁵; **Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai**⁶). Every one, howsoever high he may be, is bound to implement orders of Court. Those who disregard orders of courts do so at their own peril for no one is above the law. (**Court on its own motion v. N.S. Kanwar**⁷).

18. Disobedience of an order of court, whether prohibitive or mandatory, whether made *ex parte* or upon hearing both parties, or interim or perpetual, amounts to contempt if it is calculated or tends to interfere with the administration of justice, or brings it into disrespect or disregard (**Jagarmudi Chandramouli v. K.Appa Rao**⁸). Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. (**Director of Education, Uttaranchal v. Ved Prakash Joshi**⁹; **Union of India v. Subedar Devassy PV**¹⁰; **Prithawi Nath Ram v.**

³ (2012) 1 SCC 273

⁴ (2006) 5 SCC 1

⁵ 2002(4) SCC 21

⁶ (2008) 14 SCC 561

⁷ 1995 Cri.L.J.1261 (Punjab & Haryana HC DB)

⁸ 1967(1) An.W.R.129

⁹ 2005(6) SCC 98

¹⁰ 2006(1) SCC 613

State of Jharkhand¹¹). The power, to punish for contempt, is exercised to prevent perversion of the course of justice. (**Kapildeo Prasad Sah v. State of Bihar**¹²).

19. Any interference with the course of justice, or any obstruction caused in the path of those seeking justice, is an affront to the majesty of law and the conduct of interference/obstruction is punishable as contempt of court. If the act complained of causes hindrance in the discharge of, or tends to obstruct or interfere with, the due course of justice, the conduct complained of constitutes contempt of court, (**Ram Autar Shukla v. Arvind Shukla**¹³), and the power of contempt can be exercised to uphold the dignity of the court and protect its proper functioning. (**ITAT v. V.K. Agarwal**¹⁴). Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (**Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay (P) Ltd.**,¹⁵).

20. The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court (or an undertaking given to a court); (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court (or breach of undertaking given to a court); and (iii) such disobedience of the judgment, decree, direction, order, writ or other process of a court (or breach of undertaking) must be wilful. [**Patel**

¹¹ (2004) 7 SCC 261)

¹² (1999) 7 SCC 569

¹³ 1995 Supp (2) SCC 130

¹⁴ (1999) 1 SCC 16

¹⁵ (1988) 4 SCC 592

Rajnikant Dhulabhai (supra)]. Civil contempt arises where the power of the Court is invoked and exercised to enforce obedience to the orders of the court. (**Delhi Development Authority v. Skipper Construction**¹⁶).

21. Courts are called upon to exercise their contempt jurisdiction with twin objects in mind. Firstly, to punish those who have disobeyed or not carried out the orders of the court i.e. for their past conduct. Secondly, to pass such orders, including imprisonment, by use of the contempt jurisdiction, to ensure compliance with its orders in future. [**Maninderjit Singh Bitta** (supra)]. The purpose, for which contempt proceedings are initiated, is to ensure compliance with the order passed by the court, and to punish the contemnor for his audacity in challenging the majesty of the law. (**Kanwar Singh Saini v. High Court of Delhi**¹⁷). Where there has been wilful disobedience of an order of the Court, and a measure of contumacy on the part of the defendants, then “**civil contempt**”, what is called “**contempt in procedure**”, bears a two fold character, implying as between the parties to the proceedings merely a right to exercise and a liability to submit to a form of civil execution, but as between the party in default and the State, a penal or disciplinary jurisdiction to be exercised by the Court in the public interest. (**Jennison v. Baker**¹⁸).

22. In examining the question whether there is contempt of court, the court is both the accuser as well as the judge of the accusation. It behoves *the court to act with as great circumspection*

¹⁶ (1995) 3 SCC 507

¹⁷(2012) 4 SCC 307

¹⁸ 1972(1) All.E.R 997

as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for *when the lapse is deliberate* and in disregard of one's duty and in defiance of authority. *To take action in an unclear case is to make the law of contempt do duty for other measures and is not to be encouraged.*

[**Debabrata Bandhopadhyaya v. State of W.B.**¹⁹; **Kanwar Singh Saini** (supra)]. There must be a clear-cut case of intentional obstruction of administration of justice, to bring the matter within the ambit of the provisions of the Contempt of Courts Act. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt. [**Kanwar Singh Saini** (supra)].

23. Mere disobedience of an order is not enough to hold a person guilty of civil contempt. The element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act. Contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order. The Court should not proceed on assumptions, as the Contempt of Courts Act places emphasis on the existence of the ingredient of wilful disobedience, before a person can hauled up for the charge of contempt of a civil nature. (**Dinesh Kumar Gupta v. United India Insurance Co. Ltd.**,²⁰). "Wilful means an act or omission which is done voluntarily and with the specific intent to

¹⁹AIR 1969 SC 189

²⁰(2010) 12 SCC 770

do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say, with the purpose of either disobeying or disregarding the law. [**Patel Rajnikant Dhulabhai** (supra); **Ashok Paper Kamgar Union v. Dharam Godha**²¹].

24. A proceeding for civil contempt would not be available to proceed against a party, who acts in good faith without any motive to defeat or defy the order of the Court, for contempt of court. [**Dinesh Kumar Gupta** (supra)]. Unintentional disobedience would not suffice. Even if the disobedience is established, absence of wilful disobedience on the part of the contemnor will not justify his being held guilty. Casual or accidental or unintentional acts of disobedience, which negate any suggestion of contumacy, would not render the contemnor liable for punishment. [**Dinesh Kumar Gupta** (supra); **Ahmed Ali v. Supdt., District Jail**²²; **B.K. Kar v. High Court of Orissa**²³; **State of Bihar v. Rani Sonabati Kumari**²⁴ and **N. Baksi v. O.K. Ghosh**²⁵].

25. Guided by the above principles, a brief recapitulation of facts is necessary to assess whether respondent has violated the directions issued by this court and if so whether such conduct is willful and deliberate. At this stage itself it is to be noted that within the time granted by the court no decision was taken.

26. After the disposal of Writ Appeals, petitioner made her application/complaint dated 3.6.2016. Soon after receipt of complaint, respondent entrusted the matter to Mrs. Swati Lakra,

²¹(2003) 11 SCC 1

²²AIR 1987 SC 1491

²³AIR 1961 SC 1367

²⁴AIR 1954 Pat 513

²⁵AIR 1957 Pat 528

IPS, Additional Commissioner of Police. She in turn authorized the Assistant Commissioner of Police to examine the claims of petitioner. She has conducted detailed enquiry and submitted her report on 15.7.2016. Based on said report Mrs. Swati Lakra submitted her report to the respondent on 16.7.2016 and on due consideration of the matter the complaint was lodged on 20.7.2016. A bare perusal of complaint of petitioner would show she has raised several issues. It appears several crimes are registered on the complaints filed by the petitioner against others and at the instance of others crimes are registered against her. All the issues raised require detailed consideration and assessment. Thus, the delay caused in taking decision on the representation submitted by petitioner cannot be said as deliberate and willful. The explanation offered by the respondent for the time taken to complete the enquiry and to take a decision cannot be said as lame excuse nor can be said as intending to subvert the directions issued by the Court. It can not also be said that the conduct of respondent would amount to passive disobedience.

27. The Division Bench directed the Commissioner to look into her representation and to find out whether any criminal case is made out by her against any person. Thus, what was directed was to look into the representation and to find out whether any criminal case is made out. Court has not directed to investigate. Thus, even if what was requested by party-in-person was to 'investigate' and no investigation was conducted that is not the scope of enquiry in this case as no such direction was issued by the Division Bench and therefore not undertaking investigation does not amount to violating the directions of this Court. As

contempt proceedings or quasi-criminal and what is required to be seen is whether there is deliberate and willful disobedience of the order of the Court. Therefore, the Court cannot proceed against respondent on the ground that he ought to have conducted investigation instead of 'enquiry' when no such direction was issued.

28. The party-in-person strenuously contended that as respondent expressed apology it would amount to acceptance of guilt and is therefore liable to be punished.

29. This necessitates examination whether the apology tendered by the respondent-contemnor would amount to acceptance of guilt. Section 12(1) of the Contempt of Courts Act, and the Explanation thereto, enables the Court to remit the punishment awarded for committing contempt of court on an apology being made to the satisfaction of the Court. While an apology should not be rejected if the accused makes it *bona fide* a conduct which abuses, and makes a mockery of, the judicial process of the Court must be dealt with an iron hand. (**Bal Kishan Giri v. State of U.P.**,²⁶). An apology can neither be a defence nor a justification for an act which tantamounts to contempt of Court. An apology can be accepted in cases where the conduct, for which the apology is given, is such that it can be "ignored without compromising the dignity of the court", or it is intended to be evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow, there is no remorse, no regret, no repentance, or if it is only a device to escape the rigour of the law. Such an apology is merely a "paper apology". [**Bal Kishan Giri** (supra)].

²⁶(2014) 7 SCC 280

30. In **Bal Kishan Giri** (supra), Supreme Court held as under:

“16. Sub-section (1) of Section 12 of the Act and the Explanation attached thereto enables the court to remit the punishment awarded for committing the contempt of court on an apology being made to the satisfaction of the court. However, an apology should not be rejected merely on the ground that it is qualified or tendered at a belated stage if the accused makes it *bona fide*. A conduct which abuses and makes a mockery of the judicial process of the court is to be dealt with iron hands and no person can tinker with it to prevent, prejudice, obstruct or interfere with the administration of justice. There can be cases where the wisdom of rendering an apology dawns upon only at a later stage. Undoubtedly, an apology cannot be a defence, a justification, or an appropriate punishment for an act which tantamounts to contempt of court. An apology can be accepted in case where the conduct for which the apology is given is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be the evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow; there is no remorse; no regret; no repentance, or if it is only a device to escape the rigour of the law. Such an apology can merely be termed as “paper apology”.

31. In **Gupta, T.C. v. Bimal Kumar Dutta and others**²⁷, Supreme Court held as under:

“10. A contempt action being in the nature of quasi-criminal proceeding the degree of satisfaction that must be reached by the court to hold a person guilty of commission of contempt would be akin to what is required to prove a criminal charge, namely, proof beyond reasonable doubt. The order of the court in respect of which violation is alleged must, therefore, be clear, unambiguous and unequivocal and defiance thereof must be apparent on the very face of the action with which a contemnor is charged. An interpretation of the terms of court's order in respect of which disobedience is alleged would not be appropriate while dealing with a charge of contempt.

11. In an earlier part of the present order, we have noticed the unqualified and unconditional apology tendered by the appellant before the High Court in the event his explanations were to be found unacceptable. The Explanation to Section 12 of the Contempt of Courts Act, 1971, makes it clear that an apology tendered by a contemnor should not be rejected merely on the ground that it is qualified or conditional so long it is made *bona fide*. In his reply, the appellant, after offering his explanations, had tendered his unconditional and unqualified apology in the event the explanations did not commend for acceptance of the High Court.

12. In the decision rendered in *O.P. Sharma v. High Court of P&H* [(2011) 6 SCC 86 : (2011) 3 SCC (Civ) 218 : (2011) 2 SCC (Cri) 821 : (2011) 2 SCC (L&S) 11] , this Court has already held that in view of the Explanation to Section 12 of the Contempt of Courts Act an apology ought not to be rejected only on the ground that it is qualified so long as it is made *bona fide*. In the present case there is nothing on record to suggest that the unqualified and unconditional apology tendered by the appellant in his reply before the High Court was actuated by reasons that are not *bona fide*.”

32. In **Kalyaneshwari v. Union of India and others**²⁸, Supreme Court held as under:

²⁷ (2014) 14 SCC 446

“11. *Black's Law Dictionary* (8th Edn., 1999) defines “contempt” as, “conduct that defies the authority or dignity of a court or legislature”. It also adds that “because such conduct interferes with the administration of justice, it is punishable”.

12. This special jurisdiction has to be unquestionably invoked when the offending acts are intentional by the contemnor at the cost of eroding the system of administration of justice which practise is necessarily required to be deprecated at the very initial stage.

(13) to (22) xxxxxxxx

23. It is a settled principle of law that contempt is a matter primarily between the court and the contemnor. The court has to take into consideration the behaviour of the contemnor, the attendant circumstances and their impact upon the justice delivery system. If the conduct of the contemnor is such that it hampers the justice delivery system as well as lowers the dignity of the courts, then the courts are expected to take somewhat stringent view to prevent further institutional damage and to protect the faith of the public in the justice delivery system.”

33. With reference to the allegations of contempt committed by the respondent and the apology offered by the respondent, it is appropriate to note the averments of the respondent in the counter affidavit. The relevant averments read as under:

“11. Basing on the enquiry report, no further action is needed on the representation of the petitioner herein and there is no life threat to her as alleged viewed from any angle. I humbly submit that even though, a detailed enquiry was conducted as per the directions of this Hon’ble Court, some delay has caused in completing the full-fledged enquiry into the matter and the delay is occurred only in gathering information from all sides and the said delay is neither wilful nor deliberate.

(12) xxxxxxxx

“13. I humbly state and submit that I being the public servant have got highest regard and respect towards the judiciary and the judicial pronouncements. I did not commit any wilful or deliberate contempt as alleged in the affidavit. However, I sincerely tender my unconditional apology to this Hon’ble Court.”

34. The respondent also filed additional affidavit deposited on 01.06.2017. In paragraph 10 of the said additional affidavit, he states as under:

“10. It is submitted, in the event, if this Hon’ble Court comes to a conclusion that I have committed any contempt in implementation of the order dt.28.4.2016, passed in WA 292/2016, I am tendering my unconditional apologies and I request this Hon’ble Court may be pleased to accept the same.”

35. As noted from the precedent decisions merely because contemnor offered apology Court need not purge him. It is

²⁸ (2012) 12 SCC 599

ultimately for the Court to accept the apology or reject having regard to the facts of a given case, *bona fide* in offering such apology and time when such apology is offered. Section 12(1) of the Act enables the Court to remit the punishment and to accept the apology. Having regard to statutory scheme and to uphold the majesty of the Court, in contempt cases respondents invariably offer apology. The statements of respondent extracted in paragraphs 33 & 34 above have to be seen in the back ground of the issue as analyzed above. The respondent has only expressed apology, more as an abundant caution and giving due regard to the majesty of the Court. Mere expression of apology cannot be seen as acceptance of guilt. Therefore, merely because respondent offered apology, in the facts of this case, it cannot be said that the respondent accepted that he has violated the directions of this Court wilfully and deliberately and, therefore, liable for punishment. The apology has to be seen with reference to delay in taking decision as directed by the Court. We are satisfied with the reasons assigned by respondent for the delay in taking decision and the apology expressed by respondent as *bona fide* and is a sincere apology.

36. In the facts of this case, the two decisions relied by party-in-person do not come to her rescue.

37. In the above analysis of facts and law, we are of the considered opinion that the action of respondent does not amount to wilful and deliberate disobedience. Court accepts the apology offered by respondent for the delay in taking decision and is accordingly discharged.

38. Petitioner filed memo dated 23.03.2017 (USR No.1505 of 2017), levelling allegation against Sri H.Venugopal, Government Pleader for Home, State of Telangana, contending that learned Government Pleader and Commissioner dwelt into her personal life, deliberately and wilfully, only to tarnish her image. Further, petitioner filed Memo dated 02.06.2017 (USR No.2238 of 2017) and Memo dated 08.06.2017 (USR No.2391 of 2017) levelling allegations against Sri H.Venugopal, Government Pleader for Home, State of Telangana, contending that few minutes before case was heard, he served copy of additional affidavit without full enclosures and same would amount to unethical and unbecoming of Government Pleader. However, all the documents were served on the petitioner/party-in-person and she made elaborate submissions. The respondent is represented by learned Advocate General (Telangana), therefore, this Court is not inclined to go into the merits of the allegations levelled and accordingly, the said memos are closed.

39. Before parting with the case, it is necessary to note that in the counter-affidavit, respondent explained in detail the enquiry conducted into various aspects mentioned in the representation and dealt with each of the crimes registered on the complaints given by the petitioner and complaints given by others against petitioner. This Court is not expressing any opinion on the nature of the findings recorded in the report submitted by the Assistant Commissioner of Police, which is made part of the report of the Additional Commissioner of Police that was considered by the Commissioner on 20.07.2016. It is for the petitioner to work out

her remedies as available in law, if so advised, against any of those findings.

40. Contempt Case is accordingly closed. Miscellaneous petitions if any pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(P.NAVEEN RAO, J)

Date: 15.09.2017
Kkm



**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO**



CONTEMPT CASE NO.2179 2016

Date: 15.09.2017

Kkm