

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CONTEMPT CASE NO. 2609 OF 2017

Date: 24.08.2018

Between:

A Bachaiah @ Buchaiah
Aged 65 years S/o Chennaiah
Occ: Retired Government Servant,
R/o H No 4-2-98/2, Ramaiah Bowli
Gandhi Road, High School
Near I Town Police Station,
Mahbubnagar town and district

.....Petitioners

and

Sri K Siva Kumar Naidu, I A S
The Joint Collector & Additional Dist. Magistrate,
Mahabubnagar

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO**CONTEMPT CASE NO. 2609 OF 2017****ORAL ORDER:**

This Contempt case is filed alleging violation of the directions issued by this Court in WPMP No. 35991 of 2017 in WP No. 28924 of 2017 dated 29.8.2017 and sending the petitioner to civil prison for a period of two months and 29 days vide proceedings Appeal Case No.D3/1259/2015 dated 16.09.2017.

2. Briefly noted the facts are as under:

3. Petitioner claims as owner of land to an extent of Ac.2.35 guntas in Survey No. 349 and Ac.2.06 guntas in Survey No. 350 of Mahbubnagar. He applied for conversion of the agricultural land for non-agricultural purposes under A.P. Agricultural Land (Conversion for Non- Agricultural Purposes) Act, 2006. The Revenue Divisional Officer, Mahbubnagar, being competent authority granted order for conversion as prayed for. Petitioner obtained order of regularisation of unapproved lay-out from Mahbubnagar Municipality and obtained approval of building permission for construction of 'Kalyana Mandapam' in the subject property from the Deputy Director of Town and Country Planning. While so, and as petitioner was in the process of undertaking construction, appeal was preferred before the Joint Collector, Mahbubnagar against the order of Revenue Divisional Officer under The Telangana State Agricultural land (Conversion for Non Agricultural Purpose) Act, 2016 (for short referred to as NALA Act). Said appeal was considered by the Joint Collector/contemnor and by order dated 1.7.2017 granted stay of construction of building.

4. This order was challenged by petitioner in WP No. 28924 of 2017. This Court in WPMP No. 35991 of 2017 in WP No. 28924 of 2017 dated 29.8.2017 passed the following order:

“Petitioner challenged the order of the Joint Collector and Additional District Magistrate, Mahabubnagar dated 1.7.2017 passed in pending appeal preferred by the aggrieved party, granting permission for conversion of agricultural and for non agricultural purpose of the petitioner. By this order, the appellate authority granted stay of construction of building in respect of the subject lands till further orders.

Prima facie, there is no such provision under the A P Rights in Land and Pattadar Passbooks Act, 1971 (for short, the Act) to deal with the constructions made and issue for consideration under the Act is only of conversion and/or opposing such conversion. As can be seen from provision under Section 6 of the Act, prima facie, even such civil construction can be made without applying for conversion in given circumstances. Balance of convenience is in favour of the petitioner. There shall be interim stay as prayed for.”

5. According to petitioner on 30.8.2017, petitioner informed the Joint Collector that he has already filed writ petition before High Court and High Court granted stay. Copy of the order was also marked to the Tahsildar D-Section by way of Registered Post Acknowledgment Due. Copy of the order was also communicated to the contemnor by the High Court Registry.

6. On 16.9.2017 Joint Collector passed orders in purported exercise of powers under Order XXXIX Rule 2-A of Civil Procedure Code, 1908 directing Circle Inspector, Rural Police Station, Mahabubnagar to send petitioner herein to civil prison for a period of two months 29 days holding that he has violated the orders passed by him on 1.7.2017 and went on undertaking construction contrary to his orders.

7. In this Contempt Case, petitioner alleges deliberate and wilful violation of the directions of this Court offending his life and personal liberty by illegally sending him to civil imprisonment, seeking enforcement of the order already stayed by this Court.

Therefore, the contemnor is liable to be punished under Contempt of Courts Act, 1971.

8. Counter affidavit was filed contending that the order of this Court was received on 22.9.2017 only when representation was made enclosing the copy of the order. This contention of the respondent was denied by the petitioner. Learned counsel for petitioner asserted that order was communicated to Joint Collector much before 16.9.2017.

9. When the contempt case came up for admission after notice was served on the Joint Collector, this Court directed to produce Inward Register concerning the period after the order of this Court dated 29.8.2017 till 16.09.2017 and record concerning the proceedings against which WP No. 28924 of 2017 was filed. Registry of High Court was also directed to place on record, the date of despatch of the order dated 29.8.2017 and service of order.

10. The Inward Register and other record was produced. On perusing the Inward Register, Court having *prima facie* found that there was disobedience, admitted contempt case and issued notice in Form-I.

11. At this stage, the contemnor sought to shift the burden on the Junior Assistant who was dealing with the Inward Section at the relevant point of time. It was contended that concerned Junior Assistant did not send the inward communication to the Joint Collector and action was initiated against him. On further consideration of the matter, it turned out that in fact communication was sent to D-Section and the

Tahsildar and the concerned Office Superintendent/Administrative Officer acknowledged the same. Faced with this reality contemnor sought to contend that the Office Superintendent/ Administrative Officer did not place the matter before the Joint Collector.

12. The issue requires consideration having regard to the fact that much later to the stay granted by this Court on an order passed by contemnor, the contemnor sends the petitioner to prison and petitioner was in imprisonment for several days, directly affecting his life and personal liberty, without any justification.

13. It is appropriate to note at this stage that learned Special Government Pleader sought to contend that though the orders of this Court were received by the office of the Joint Collector, they were not placed before him and therefore the Joint Collector was not aware of the orders of the Court when he took decision to send the petitioner to civil imprisonment. He would submit that appropriate action was initiated against the concerned employees responsible for not informing of the order of this Court. He would submit that the action of the contemnor was not deliberate and wilful.

14. Learned Special Government Pleader emphasised that an Officer can be punished under the Contempt of Courts Act, unless he has violated the directions of the Court deliberately and wilfully with full knowledge of the order of the Court and scope and content of the order, whereas, in the case on hand, Joint Collector was not aware of the order of the Court when he sent the petitioner to imprisonment and his action was *bona fide*. Contemnor

expressed his apology for the lapses committed by his subordinates and seeks discharge from the contempt proceedings.

15. 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. Section 2(b) of the Contempt of Courts Act, 1971 defines 'civil contempt' to mean wilful disobedience of any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a Court.

16. Constitutional Courts have laid down principles on when to exercise contempt jurisdiction. It is emphasised that there can be no laxity, as otherwise orders of court would be the subject of mockery (**Anil Ratan Sarkar v. Hirak Ghosh**¹; **Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai**²). Disobedience of orders of the Court strikes at the very root of the rule of law on which the judicial system rests.

16.1 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 (**Jagarlmudivi Chandramouli v. K.Appa Rao**³). The power, to punish for

¹ 2002(4) SCC 21

² (2008) 14 SCC 561

³ 1967(1) An.W.R.129

contempt, is exercised to prevent perversion of the course of justice. (**Kapildeo Prasad Sah v. State of Bihar**⁴).

16.2 Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. 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.**,⁵).

16.3 If a party, who is fully in the know of the order of the Court or is conscious and aware of the consequences and implications of the order of the Court, acts in violation thereof, it must be held that disobedience is wilful. To establish contempt of court, it is sufficient to prove that the conduct was wilful, and that the contemnor knew of all the facts which made it a breach of the order.

16.4 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 Rajnikant Dhulabhai** (supra)].

⁴ (1999) 7 SCC 569

⁵ (1988) 4 SCC 592

16.5. It behoves *the court to act with as great circumspection* 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. 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 v. High Court of Delhi**⁶.

16.6 To hold a person guilty of civil contempt 'wilful disobedience' is an indispensable requirement. Whether the conduct of contemnor is deliberate and wilful can be considered by assessing the material on record and attendant circumstances.

17. Guided by the above principles, the submissions of learned Special Government Pleader that violation was not deliberate and willful are considered. To test the submissions of learned special government pleader, the record of the file relating to the order challenged in the writ petition and the inward register is minutely examined.

18. On perusal of the Inward Register, it was noticed that letter sent by the petitioner enclosing copy of the order was received in the office of the Joint Collector on 31.8.2017 and an entry to this extent was made against Serial Nos. 8 and 9 at page 285 of the Inward Register. Serial No. 9 deals with outgoing

⁶(2012) 4 SCC 307

correspondence sending letter to D-Section and to the Tahsildar on the same day. On 11.9.2017 an entry was made at serial No.42 at page 309 referring to this writ petition and marking of copy to the Joint Collector. Thus, it is seen from the record that order of this Court was within the knowledge of the Joint Collector, much prior to 16.9.2017.

19. As fairly submitted by learned Special Government Pleader appearing for contemnor, D-Section is directly under the control of the Joint Collector and D-Section assists the Joint Collector in processing the files to be dealt with by the Joint Collector and is headed by Office Superintendent/Administrative Officer. Ordinarily any communication received by D-Section is placed before the Joint Collector for his consideration. Though, the contemnor sought to shift the blame, initially on the Junior Assistant of Inward section and later the Office Superintendent/Administrative Officer of D-Section, no plausible explanation is given as to how the correspondence could not be placed before the Joint Collector, more so, when it relates to the order of the Court on a matter pending before him and in which he sends petitioner to imprisonment.

20. On perusal of record of appeal pending before Joint Collector it is seen that case was listed on 26.8.2017 and was adjourned to 07.10.2017. On that date it was adjourned to 28.10.2017. There are further adjournments after that date also. It is appropriate to note, after 26.8.2017 and before next date fixed this court granted interim stay of the operation of the order dated 1.7.2017. The order dated 16.9.2017 is made in the same appeal

case. As per the docket proceedings, the appeal was not listed on 16.9.2017. Nowhere it is explained as to how the matter was taken up and holding that petitioner violated his orders dated 1.7.2017 directed the police to take the petitioner into custody. Note No.1 signed by Md. Rahman dated 7.10.2017 would disclose that the original file as well as supplementary file was with the Joint Collector. It is beyond comprehension as to how the order of this Court did not form part of the original record when said order was already sent to D-Section.

21. From page no 677 of the file contains the docket sheet of revision under section 9. It is seen from the docket proceedings dated 1.7.2017, Joint Commissioner recorded that advocate Neeli Narasappa filed vakalat on behalf of revision petitioner and case was reserved for orders. After 1.7.2017 the next date of hearing was shown as 20.01.2018.

22. The original files do not contain any record as to how the Joint Collector came to know of the violation of his orders and how he has passed orders on 16.9.2017 when no hearing took place on the said date. Note file does not deal with the issue of violation of his orders. There is no mention in the order as to who complained and whether he put the petitioner on notice on alleged violation.

23. According to the contemnor he received information about orders passed by the court dated 29.8.2017 on 22.9.2017. In the petition filed by A.Muralikrishna son of Bucchaiah dated 22.9.2017 he has stated that the court granted stay and that he has also sent notice to the Joint Collector on 30.8.2017. He also

informed that WP 32522 of 2017 was filed challenging the orders dated 16.9.2017 and court granted suspension of the said order on 21.9.2017. It appears that he was released only on 28.9.2017. There is no whisper in the affidavit of the contemnor as to why he has not taken steps to recall his earlier order at least on 22.09.2017 when he claims that he came to know of the order of the Court dated 29.08.2017 on that date. He kept quiet and petitioner was in detention till 28.9.2017. The record also would disclose that correspondence was going on in the D-Section on the very issue but strangely the Joint Collector observes that he was not aware of the orders passed by the Court. Thus, contemnor lacks bonafides and his actions point out intentional disobedience.

24. In **Kalyaneshwari v. Union of India and others**⁷, Supreme Court held as under:

“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.***”

25. At this stage, the observations made by the Division Bench of this Court in C.C.No.1974 of 2016 are apt to be noted. The Division Bench extensively reviewed the law on the jurisdiction

⁷ (2012) 12 SCC 599

of writ Court in contempt of Court proceedings. The observations made there in and reasons assigned in support of the decision would apply to the facts of this case. Division Bench observed:

“If a party who is fully in the know of the order of the Court, or is conscious and aware of the consequences and implications of the undertaking furnished by him to the Court, ignores it or acts in violation thereof, it must be held that disobedience is wilful. It may not be possible to prove the actual intention behind the act or omission. A Court can approach the question only objectively, and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act. (**N.S. Kanwar-1995 CrI.L.J 1261 P&H HC DB**). To establish contempt of court, it is sufficient to prove that the conduct was wilful and that the contemnor knew of all the facts which made it a breach of the order. It is not necessary to prove that he appreciated that it did breach the order. (**St. Helen's Ltd. v. Transport & General Workers' Union; Adam Phones Ltd v. Goldschmidt-1994 4 All ER 486**).

While the jurisdiction exercised in cases of contempt is quasi-criminal in nature and the court must be satisfied, on the material before it, that contempt of court was in fact committed, such satisfaction may be derived from the circumstances of the case. (**Ram Autar Shukla v. Arvind Shukla-1995 Supp (2) SCC 130; Bank of India v. Vijay Transport- (2000) 8 SCC 512**). For the purposes of judging 'civil contempt', intention or *mens rea* is not relevant. The question is only whether the breach was on account of wilful disobedience i.e, whether it was not casual or accidental and unintentional. (**V.C. Govindaswami Mudali v. B.Subba Reddy- 1986 (2) ALT 131**).

26. It is incomprehensible that the Joint Collector was in the dark of the order of this Court; that his subordinates did not appraise him of the order; but original file was circulated to him; and contemnor takes decision to punish the petitioner on the allegation of violating his order. This court is not informed of any administrative authority resorting to such course, assuming such power is available, and send a person to imprisonment on the allegation of violation of his order. However, the Court is not expressing any opinion on correctness of such order. However, the course adopted by him is extraordinary and unprecedented. Moreover, no procedural safeguards were observed before affecting right to life and personal liberty. There was no material to show

how file was routed to him to pass orders to punish petitioner. On the crucial day case was not listed before him.

27. All these aspects point out that contemnor was taking the law into his hands and intended to wield his long arm to teach a lesson to petitioner. In the process, he transgressed into judicial path and obstructed stream of justice. His conduct is blameworthy, wilful and deliberate. His actions are palpable. Further, to cover up his misdemeanour he sought to shift blame on his subordinates and as an eye wash ensured disciplinary action was initiated against them. Thus, contemnor is guilty of contempt of the orders of this Court dated 29.8.2017 in WPMP No. 35991 of 2017 in WP No. 28924 of 2017 and is liable to be punished.

28. In the facts of this case, as noted above, whether offering apology is *bona fide* to purge the petitioner from contempt is next considered.

29. 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 fides*, a conduct which abuses, and makes a mockery of, the judicial process of the Court must be dealt with iron hand (**Bal Kishan Giri v. State of U.P.**,⁸). An apology can neither be a defence nor a justification for an act which tantamount 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

⁸(2014) 7 SCC 280

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)].

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**⁹, 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

⁹ (2014) 14 SCC 446

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. On this issue the Division Bench in CC No. 1974 of 2016 reviewed entire case law. Division Bench observed as under:

“The next question which necessitates examination is whether the apology tendered by the respondent-contemnor merits acceptance. It is no doubt true that the respondent-contemnor has sought pardon, and has tendered his unconditional apology. 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., -(2014) 7 SCC 280**). 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**).

An apology tendered is not to be accepted as a matter of course, and the court is competent to reject the apology and impose the punishment recording reasons therefor. (**Bal Kishan Giri**). If the apology is found to be without real contrition and remorse, and to have been tendered merely as a weapon of defence, the court may refuse to accept it. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment, it ceases to be an apology and becomes an act of a cringing coward. (**Bal Kishan Giri; Debabrata Bandhopadhyaya v. State of W.B.; Mulk Raj v. State of Punjab- AIR 1972 SC1197, Hailakandi Bar Assn. v. State of Assam-AIR 1996 SC 1925, C. Elumalai v. A.G.L. Irudayaraj-AIR 1009 SC 2214 and Ranveer Yadav v. State of Bihar-(2010)11 SCC 493**). A mere statement of apology by the contemnor before the court would hardly amount to his purging himself of contempt. The Court must be satisfied of the genuineness of the apology. If the court is so satisfied, and on this basis accepts the apology as genuine, it should pass an order holding that the contemnor has purged himself of contempt. (**Pravin C. Shah v. K.A. Mohd. Ali-(2001) 8 SCC 650**).

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An apology is not intended to operate as a universal panacea. (**M.Y. Shareef v. Judges of Nagpur High Court- AIR 1995 SC 19; Pravin C. Shah; T.N. Godavarman Thirumulpad (102) v. Ashok Khot(2006) 5 SCC 1**). It is not a weapon of defence forged to purge the guilty of the offence, but is intended to be evidence of real contrition, the consciousness of a wrong done, of an injury inflicted, and the earnest desire to make such reparation as lies in the wrongdoer’s power. (**Delhi Development Authority v. Skipper**

Construction-(1995) 5 SCC 507). Only then is it of any avail in a court of justice. Unless that is done, not only is the tendered apology robbed of all grace but it also ceases to be a full and frank admission of a wrong done, which it is intended to be. (**Hiren Bose, Re-AIR 1969 Cal 1; Patel Rajnikant Dhulabhai-(2008) 14 SCC 561**). The apology tendered by the contemnor, to be accepted by the Court, should be a product of remorse. (**M.C. Mehta v. Union of India-(2003) 5 SCC 376**). Public interest demands that when a person has interfered with the judicial process, the judicial decision should not be pre-empted or circumvented merely by a conditional or an unconditional apology. While it is open to the Court, in an appropriate case, to accept an unconditional apology based on the factual position, dropping the proceeding of contumacious acts deliberately done, after accepting the apology offered, would be a premium for the flagrant abuse of the judicial process. (**Ram Autar Shukla- 1995 Supp (2) SCC 130**).

In **L.D. Jaikwal v. State of U.P- (1984) 3 SCC 405.**, the Supreme Court observed:-

“.....We are sorry to say we cannot subscribe to the “slap—say sorry—and forget” school of thought in administration of contempt jurisprudence. Saying “sorry” does not make the person taking the slap smart less upon the said hypocritical word being uttered. Apology shall not be paper apology and expression of sorrow should come from the heart and not from the pen. For it is one thing to “say” sorry—it is another to “feel” sorry.....” (emphasis supplied).

33. In the facts of this case also, it is seen that apology offered is not sincere and *bona fide*. It is clear from facts on record that it is made only to escape the consequence of deliberate and willful disobedience of the order of the Court. Contemnor did not accept his mistake and expressed apology at the first opportunity offered to him. Initially, he denied receiving copy of the order of the Court. This Court called for relevant record and after pursuing the record, Court noticed that intimation of court passing order was received by the office of Joint Collector much prior to 16-09-2017. On perusal of record court came to prima facie opinion that contemnor violated the orders of the Court and issued notice in Form-I. At this stage, the contemnor sought to blame Junior Assistant dealing with Inward section. On verification of record when it was noticed that Junior Assistant of inward section forwarded the correspondence to D-section, he sought to shift the blame on Office Superintendent/Administrative Officer of

“D” Section. At this stage, contemnor sought to own the responsibility by contending that due to lapses of his subordinates he was in the dark about order of the Court. He has not shown his *bona fides* in rectifying his mistakes even after, as per his own admission, he received intimation of order of the Court on 22.9.2017. Petitioner was continued in prison till 29.9.2017. The conduct of contemnor as noted above cannot be ignored while considering his apology. Thus, it does not amount to full and frank admission of wrong done. It is a paper apology made without any sincerity, it is hallowed. As noted by Division Bench, the observations of Supreme Court in **Ram Autar Shukla** (cited supra) dropping the proceedings of contumacious act deliberately done after accepting apology offered would be a permission for flagrant abuse of judicial process. Observations of Supreme Court in **L.D.Jaikwal, ‘slap- say sorry-forget cannot be accepted’** aptly apply to this case. Thus, apology offered by contemnor is rejected.

34. By his conduct respondent-contemnor has interfered with the administration of justice, made mockery of the order of this Court. Wilfully and deliberately he has taken decision to send petitioner to prison in utter violation of the orders of this Court. It is an affront to the majesty of law. Such flagrant violation must be dealt with sternly.

35. Considering the gravity of his offence, Contemnor is held guilty of contempt, his apology is rejected and is imposed sentence of imprisonment with fine. Respondent-contemnor shall be detained in civil prison for a period of thirty days and shall in addition pay a fine of 2,000/- (Rupees two thousand only) within four weeks from today.

36. As required under Rule 32(1) of the Contempt of Court Rules, 1980, the respondent-contemnor shall be entitled to subsistence allowance, in accordance with his status, during the period of detention in civil prison. The subsistence allowance for the respondent-contemnor is fixed at 500/- per day. However, as these consequences are invited by the conduct of official of the respondent Government, the state of Telangana, represented by its Principal Secretary, Revenue Department shall bear the costs of the subsistence allowance payable to the respondent-contemnor.

37. Due to illegal acts of contemnor petitioner was in imprisonment for about 12 days and his right to life and liberty was affected. Therefore, the petitioner is entitled to costs of 50,000/- to be paid by the state of Telangana, represented by its Principal Secretary, Revenue Department within four weeks from the date of receipt of copy of the order. However, it is open for the State of Telangana to recover the said amount from the respondent-contemnor.

38. The Contempt Case is, accordingly, disposed of.

JUSTICE P.NAVEEN RAO

After pronouncement of Order in open Court, learned Special Government Pleader prayed to suspend the order to enable contemnor to prefer appeal. Having regard to said request, sentence of imprisonment alone is suspended for a period of three (03) weeks.

JUSTICE P.NAVEEN RAO

Date: 24.08.2018
TvK/ kkm

HONOURABLE SRI JUSTICE P.NAVEEN RAO



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