

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.08.2021

DELIVERED ON : 27.08.2021

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

and

THE HON'BLE MS. JUSTICE R.N. MANJULA

Suo Motu (Crl.) Contempt Petition No.929 of 2020

High Court of Madras
Chennai 600 104

Petitioner

vs.

1 B. Sathish Kumar, Male, aged 37 years
S/o M. Baskar
No.4/35, Poompuhar Street
Nethaji Nagar
St. Thomas Mount
Chennai 600 016

2 U. Vasudevan, Male, aged 53 years
S/o late Uppili
No.25 Sri Sarva Mangala Nagar III Main Road
Chitlapakkam
Chennai 600 064

3 The Chairman
Bar Council of Tamil Nadu and Puducherry
High Court Campus
Parrys, Chennai 600 104

Respondents

(RR 2 & 3 impleaded as per order dated
10.12.2020 passed in this *Suo-Motu*
contempt petition)

Suo Motu Contempt Petition proceedings initiated as per order dated
12.10.2020 passed by this Court in W.P. No.14434 of 2020 in
R.O.C.No.3274/2020/OS.

For petitioner	: Mr. V. Vijay Shankar
For R1	: Ms. Shaikh Mehrunisa
For R2	: Mr. Rupert J. Barnabas for Mr. K. Perumal
For R3	: Mr. C.K. Chandrasekar

ORDER

P.N. PRAKASH, J.

For the sake of convenience, the *dramatis personae* in this case would be referred to by their respective names.

2 One Ms. R. Poornima, an officer of the cadre of District Judge, was functioning as Registrar (Vigilance) in the High Court. The Vigilance Department of the High Court works under the control of the Vigilance Committee comprising sitting Judges of the High Court under the overall supervision of the Hon'ble Chief Justice. Over the past few years, the Vigilance Committee has been taking serious action against several judicial officers and staff of doubtful integrity and character. As Registrar (Vigilance), the unenviable task of executing the directions of the Vigilance Committee fell upon Ms. Poornima. So, she was presumably a target of displeasure.

3 While so, Sathish Kumar, Advocate, the first respondent herein, filed W.P.No.14434 of 2020 in his name seeking a writ of *quo warranto* alleging that Ms.Poornima had not passed the Plus Two examination and was, therefore, not qualified to obtain a Law degree and as a sequel, lacks the qualification to be a District Judge. Not stopping there, extensive publicity to the case was given in the media even before it came up for admission in the Court. The counsel on record

for Sathish Kumar in the said writ petition were one Ashok Kumar, Advocate and U. Vasudevan, Advocate.

4 During the hearing of the said writ petition on 12.10.2020, a Division Bench of this Court headed by the Hon'ble Chief Justice (for clarity "the First Bench", since as many as four Division Benches, excluding the First Bench, have dealt with this contempt petition) gave a very long rope to Sathish Kumar, as could be seen from the observations made in paragraphs 13 and 35 of the order dated 12.10.2020, hoping that good sense would prevail upon him to withdraw the writ petition, as it was obvious to the Bench that wholly false allegations were made in the affidavit with regard to the educational qualifications of Ms. Poornima. However, the sober entreaties of the Bench evoked an adamant and defiant response from Sathish Kumar. Therefore, the First Bench dismissed the writ petition holding that Ms.Poornima had studied Plus Two in Bethlehem Girls Higher Secondary School, Ooty and had cleared the Higher Secondary course in April 1984 (*vide* paragraph 15 of the order dated 12.10.2020).

5 We notice that the First Bench imposed exemplary costs of Rs.5 lakhs, besides rendering a finding that there were *prima facie* materials for initiation of proceedings for criminal contempt. *Ex consequenti*, the First Bench directed the Registry to place the matter before the Division Bench dealing with criminal contempt matters *vide* paragraph 33 of the order dated 12.10.2020. That apart, the First Bench issued the following directions:

“36. For the above reasons, we find that it is necessary to protect the judiciary from such onslaught from advocates like the petitioner and, therefore, we direct that the petitioner Mr.B.Sathish Kumar shall not practice as a lawyer until further orders, or unless permitted by this Court in the criminal contempt proceedings that have been initiated by us. As directed by the Division Bench, the matter was considered by the High Court on the Administrative Side and an enquiry was conducted, based on which, a report was submitted to the Hon’ble Chief Justice, who, in turn, directed the matter to be placed before the Bench seized of the criminal contempt proceedings.

39. We, therefore, in the above background also direct the matter to be placed on the administrative side of the High Court for taking such appropriate measures as may be necessary in order to keep the administration free from any such impediments that are likely to cause damage to the system on account of unnecessary publicity or veiled efforts made by either insiders or outsiders to unsettle the administrative machinery of the High Court.”

6 As directed by the First Bench, the matter was considered by the High Court on the Administrative Side and an enquiry was conducted, based on which, a report was submitted to the Hon’ble Chief Justice, who, in turn, directed the enquiry report to be placed before the Bench which deals with criminal contempt cases, as per the roster.

7 Since this is a *suo motu* criminal contempt proceeding, the Registry engaged the services of one of their panel counsel, viz., Mr. V. Vijay Shankar, to compile the papers for the purpose of presenting the case before the Bench holding criminal contempt portfolio.

8 In October 2020, the criminal contempt portfolio was held by M.M.Sundresh and D. Krishnakumar, JJ. and the contempt proceedings was taken

on file as *Suo Motu* (Crl.) Contempt Petition No.929 of 2020. Statutory notice was issued to Sathish Kumar for his appearance.

9 On 28.10.2020, Sathish Kumar appeared before the said Division Bench with a counsel by name Mr. Bashyam Chari, who wanted to file vakalat for him and further stated that Sathish Kumar would file an affidavit expressing unconditional apology. Later, Ms.Shaikh Mehrunisa, Advocate, entered appearance on behalf of Sathish Kumar.

10 On 10.12.2020, Sathish Kumar appeared before the said Division Bench and filed an affidavit dated 12.11.2020 *inter alia* stating:

- only at the instance of his senior Vasudevan, he agreed to be the petitioner in W.P. No.14434 of 2020 and reposing implicit faith and trust in him, signed the affidavit in the said writ petition alleging that Ms. Poornima had not passed Plus Two;
- his senior Vasudevan told him that some District Judges had engaged him (Vasudevan) to file the case against Ms. Poornima;
- when things turned topsy-turvy in the First Bench, Vasudevan took him to Delhi on 13.10.2020 by flight to file an appeal in the Supreme Court through an advocate by name Deepak Anand and flight charges were borne by Vasudevan.

11 We do not want to advert to the other allegations that have been made by Sathish Kumar against Vasudevan in the affidavit dated 12.11.2020 as the said affidavit is part of the Court records. But, we take notice of the fact that Sathish Kumar has tendered unconditional apology in the said affidavit.

12 When the criminal contempt case came up before the Division Bench comprising M.M.Sundresh and D. Krishnakumar, JJ., the learned Judges went through the affidavit dated 12.11.2020 that was filed by Sathish Kumar and passed the following order on 10.12.2020:

“5. After going through the averments made in the affidavit filed by the contemnor and upon perusing the documents, we deem it appropriate to implead by a *suo motu* order, Mr.U.Vasudevan, having his office at No.25 Sri Sarva Mangala Nagar, III Main Road, Chitlapakkam, Chennai 600 064, as a party respondent in this proceedings. Inasmuch as the contemnor is said to have given a complaint to the Bar Council of Tamil Nadu, Chennai 600 104, we are further inclined to implead the said authority also as a party respondent.

6. Accordingly, Mr.U.Vasudevan, is ordered to be impleaded as respondent No.2 and also the Chairman Bar Council of Tamil Nadu, Chennai 600 104, as third respondent.

7. Notice to the impleaded respondents returnable by 5/1/2021.”

13 Thereafter, the roster changed and the Division Bench comprising one of us (PNPJ) and V.Sivagnanam, J. was assigned the criminal contempt portfolio.

14 When the matter was listed before the said Division Bench on 05.01.2021, Mr.K.Perumal, Advocate, entered appearance for Vasudevan and the copies of the typed set of papers, including the affidavit dated 12.11.2020 of Sathish Kumar, was served on him and the matter was adjourned to 15.02.2021 for the counter affidavit of Vasudevan.

15 On 15.02.2021, Vasudevan filed his counter affidavit of even date along with a typed set of papers denying the allegations made against him by Sathish Kumar and making counter allegations against him. Therefore, a copy of

Vasudevan's counter affidavit and typed set of papers was served on the counsel for Sathish Kumar for him to file his rejoinder, if any.

16 A rejoinder dated 24.02.2021 was filed on behalf of Sathish Kumar along with a typed set of papers, substantiating and reiterating his earlier contention that it was his senior Vasudevan who had made him a scapegoat.

17 As stated above, pursuant to the direction of the First Bench in paragraph 40 of the order dated 12.10.2020 in W.P. No.14434 of 2020, materials were placed before the Hon'ble Chief Justice by the Vigilance Section of the High Court on the Administrative Side. The Hon'ble Chief Justice directed that those materials also be placed before the Bench dealing with the criminal contempt cases and in those circumstances, on 26.02.2021, the following order came to be passed by the Division Bench in this *suo motu* criminal contempt proceeding:

“4. U.Vasudevan and B.Sathish Kumar, Advocates have filed their affidavits, wherein, they are trading charges against each other, one blaming the other for the misadventure in filing the Writ of *Quo Warranto*. While that being so, we carefully scrutinised the materials gathered by the vigilance detachment unit of the High Court and we are shocked to find that the matter is not as simple as what it appears to be.

5. We *prima facie* find the names of judicial officers, staff members, advocates *et al* having worked in tandem to destroy this institution from inside. Therefore, we cannot allow this matter to rest at ease. In order to ensure impartiality and transparency, we are ordering the transfer of this file from the office of the Registrar (Vigilance), since Ms.R.Poornima continues to hold the said post, to Mr.S.Ganapathisamy, Officer on Special Duty, Recruitment Cell, High Court, Madras, whom we now appoint as the Nodal Officer for this case.

6. We entrust the enquiry to Ms.G.Nagajothi, I.P.S., Deputy Commissioner of Police, Central Crime Branch-I, to enquire into the

entire circumstances under which the litigation in W.P.No.14434 of 2020 arose and the players and actors, who were behind this, be them judicial officers, staff members, advocates or anyone else.

7. The enquiry report of the Vigilance unit which is in our custody, is directed to be handed over to Mr.S.Ganapathisamy, for his perusal and forwarding the same to Ms.G.Nagajothi, I.P.S., for her enquiry.

8. Every organ of the State shall render its best assistance to Ms.G.Nagajothi, I.P.S., who shall have the powers of an Investigating Officer under Chapter-XII of Cr.P.C., sans arrest.

9.Ms.G.Nagajothi, I.P.S. shall directly report to Mr.S.Ganapathisamy and shall submit a report to this Court within two weeks.

10. The State Government shall not relieve Ms.G.Nagajothi, I.P.S. from her present duties, until the completion of the enquiry that has been entrusted to her by this Court.

11. Mr.S.Ganapathisamy and Ms.G.Nagajothi, I.P.S. are directed to complete the enquiry within a period of two weeks from the date of receipt of a copy of this order and submit the same in a sealed cover to this Court.

Post this Contempt Petition on 23.03.2021. Presence of the alleged contemnors before this Court is recorded and they shall also be present before this Court on 23.03.2021.”

18 Mr. S. Ganapathisamy and Ms. G. Nagajothi, I.P.S., completed their enquiry and submitted a report dated 27.04.2021 in a sealed cover to us. However, we did not share the contents of the report to anyone, but, heard the counsel for Sathish Kumar and Vasudevan on their pleadings and reserved orders on 28.04.2021. Thereafter, a detailed order was passed on 04.06.2021, in which, in paragraphs 4 to 6, it was stated as under:

“4 Upon a perusal of the enquiry report, we were shocked to find the active involvement of a serving judicial officer and the passive involvement of certain others in engineering the vexatious *quo warranto* litigation referred to above.

5 However, in the light of the action we propose to initiate against the person(s) named in the enquiry report, we deem it unnecessary to make the contents of the enquiry report public, at this juncture. We make it clear that we are not placing reliance on the enquiry report for deciding the instant contempt petition against Sathish Kumar and his senior Vasudevan and therefore, we are of the opinion that it is not necessary for us to supply them with a copy of the enquiry report.

6 We direct the Registrar General to place the enquiry report dated 27.04.2021 submitted by Mr.S.Ganapathisamy and Ms.G.Nagajothi, I.P.S., before the Hon'ble Chief Justice, for appropriate action against the officer(s) named therein.”

19 Vasudevan filed a petition for Special Leave to Appeal (Crl.) No.2816 – 2817 of 2021 in the Supreme Court challenging the order dated 12.10.2020 passed by the First Bench in W.P.No.14434 of 2020 and also the order dated 26.02.2021 passed by the Division Bench in this contempt petition. The special leave petition was dismissed on 09.04.2021, leaving the questions open to be pursued before this Court, observing that the proceedings before this Court were at the nascent stage.

20 Thus, without placing any reliance either on the materials collected by the High Court Vigilance or on the materials collected Mr. S. Ganapathisamy and Ms. G. Nagajothi, I.P.S., based on the available materials on record, the following charges were framed against Sathish Kumar and Vasudevan on 04.06.2021:

(a) That you, (1) B. Sathish Kumar, Advocate and (2) U. Vasudevan, Advocate, have acted in tandem to file W.P. No.14434 of 2020 in this Court on the strength of a false affidavit, sworn to by the first of you, alleging that

Ms.R.Poornima, District Judge, who was the Registrar (Vigilance), Madras High Court, was not qualified to hold the said post on the ground that she has not passed the Plus Two – Higher Secondary examination, being fully aware that the facts on record were otherwise, in that, she studied in Bethlehem Girls Higher Secondary School, Ooty and had passed the Plus Two examination in 1984, as recorded by the First Bench in paragraph 15 of the order dated 12.10.2020 passed in W.P. No.14434 of 2020, and have thereby impeded/obstructed and interfered with the administration of justice in the High Court, punishable under Section 2(c)(iii) read with Section 12 of the Contempt of Courts Act, 1971.

- (b) That you, (1) B. Sathish Kumar, Advocate and (2) U. Vasudevan, Advocate, by filing the aforesaid false affidavit and giving undue publicity to it, in the news media, as could be seen from the news article in the Times of India dated 09.10.2020 titled “HC Registrar not qualified to hold post, says *quo warranto* plea”, scandalized the High Court, and thereby brought the administration of justice into disrepute in the eye of the public and thereby punishable under Section 2(c)(i) read with Section 12(1) of the Contempt of Courts Act, 1971.
- (c) In the course of the same transaction referred to in charge (b) above, you (1) B. Sathish Kumar, Advocate and (2) U. Vasudevan, Advocate, have deliberately committed acts that were aimed at dislodging an important functionary of the High Court, viz., Ms.R.Poornima, then Registrar (Vigilance) and have thereby interfered with the administration of justice in the High Court, punishable under Section 2(c)(iii) read with Section 12(1) of the Contempt of Courts Act, 1971.”

21 The aforesaid charges were read out to Sathish Kumar and Vasudevan individually and when they were questioned, both pleaded 'not guilty'. Though they had already filed their affidavit, counter affidavit and rejoinder affidavit, we gave them further opportunity to file additional affidavits, if so advised and adjourned the case to 18.06.2021.

22 Sathish Kumar filed an additional affidavit dated 14.06.2021 seeking unconditional apology and prayed for mercy. Vasudevan filed an affidavit dated 17.06.2021 denying his involvement and raising certain other grounds, which will be dealt with at the appropriate place.

23 Mr. V. Vijay Shankar, one of the panel counsel for the High Court Registry, placed papers before us and did not advance arguments for the simple reason that this is a *suo motu* contempt proceedings and hence, the matter was between this Court and the alleged contemnors.

24 Heard Ms. Shaikh Mehrunisa, learned counsel for Sathish Kumar, Mr. Rupert J. Barnabas, learned counsel representing Mr. K. Perumal, learned counsel on record for Vasudevan and Mr. C.K. Chandrasekar, learned counsel for the Bar Council of Tamil Nadu and Puducherry.

25 We now propose to give a précis of the stand taken by Sathish Kumar and Vasudevan in their affidavits.

26 Sathish Kumar has taken a stand that he was after all a pawn in the hands of his senior Vasudevan and that it was Vasudevan who had used him to file the *quo warranto* petition. Sathish Kumar has filed a compact disc containing the

telephonic conversations between him and Vasudevan together with the transcript of the same. It is Sathish Kumar's assertion that after the First Bench dismissed W.P. No.14434 of 2020 on 12.10.2020 with exemplary costs, Vasudevan took him to Delhi on the next day *i.e.*, 13.10.2020, by air and made arrangement with an advocate by name Deepak Anand to prefer an appeal in the Supreme Court *vide* diary no.22677 of 2020 on 16.10.2020 and they both returned to Chennai on the same day by Vistara flight UK 835, seat nos.9-A and 9-B. It is Sathish Kumar's further assertion that Vasudevan advised him to take a stand in the contempt proceedings that all documents were given to him by a retired District Judge by name Thanendran and Vasudevan shared the photograph of the said Thanendran through WhatsApp on 24.10.2020.

27 Vasudevan's contentions raised in his affidavit dated 15.02.2021 are summarized as under:

- a) he had never practised in the High Court in his 18 years of legal career and was, all along, practising only in the subordinate Courts;
- b) Sathish Kumar was his junior only for a brief while from January 2016 to June 2016 and that he (Vasudevan) had no hand in the filing of the *quo warranto* petition;
- c) Sathish Kumar gathered all the materials from Thanendran, a retired District Judge, to file the *quo warranto* petition;
- d) he (Vasudevan) prepared the pleadings with the materials supplied by Sathish Kumar and lent his (Vasudevan's) name to be the counsel on record in the writ petition, but, engaged Mr. P. Vijendran, Advocate, to appear in the Court;

- e) the conversations recorded in the compact disc are subsequent to the order dated 12.10.2020 passed by the First Bench in W.P.No.14434 of 2020, but, in any event, such conversations are privileged ones as they were between the client and his counsel;
- f) since Sathish Kumar was in a state of depression, he (Vasudevan) gave a sum of Rs.5 lakhs on 30.12.2020 to Sathish Kumar for depositing in the Court for complying with the order of the First Bench in W.P.No.14434 of 2020; however, Sathish Kumar did not deposit the amount, but, started blackmailing him (Vasudevan) demanding more money; and
- g) he (Vasudevan) assisted Sathish Kumar in preferring an appeal before the Supreme Court and identified a lawyer who categorically advised Sathish Kumar to tender unconditional and unqualified apology to the High Court in the contempt petition, which was not agreeable to Sathish Kumar;

28 Controverting the above, Sathish Kumar produced voluminous documents to show that he was a junior under Vasudevan and that Vasudevan himself had given a certificate dated 25.05.2020, wherein, he has stated that Sathish Kumar has been working under him as his junior since 2017.

29 For his part, Vasudevan filed a copy of a receipt dated 29.10.2020 to show that Sathish Kumar had received Rs.5 lakhs for depositing the same in the Court. At this juncture, it may be interesting to extract, *ad verbum*, the receipt which is in vernacular, to demonstrate the falsity in the stands taken by both of them.

“29.10.2020

அனுப்புநர்

B.சதீஷ்குமார்

No.4/35 பூம்புகார் தெரு

நேதாஜி நகர்

புனித தோனியர் மலை

சென்னை 600 016

இன்று (29/10/2020) உயர்நீதிமன்றத்தில் கட்டவேண்டிய அபராத தொகையை 5,00,000/- (ஐந்து லட்சம்) தங்களிடம் இருந்து பெற்றுக்கொண்டேன்.

இப்படிக்கு,
ஓம்

29.10.2020”

Free English translation

“29.10.2020

From

B. Sathishkumar

No.4/35 Poombuhar Street

Nethaji Street

St. Thomas Mount

Chennai 600 016

I received from you today, a sum of Rs.5,00,000/- (Rupees five lakhs only), which is payable as fine in the High Court.”

Yours

Sd/-

29.10.2020”

30 Be it noted that Sathish Kumar, in his first counter affidavit dated 12.11.2020, had not whispered a word about the issuance of the receipt dated 29.10.2020. Only when Vasudevan, along with his counter affidavit dated 15.02.2021, submitted a copy of the receipt dated 29.10.2020, did Sathish Kumar take the stand in his rejoinder affidavit dated 24.02.2021 that Vasudevan had collected the receipt without making payment on the ground that unless the receipt

is shown to the judicial officers who were funding the project to malign Ms.Poornima, the sum of Rs.5 lakhs cannot be collected from them. In other words, according to Sathish Kumar, Vasudevan told him to give a receipt for Rs.5 lakhs with which he (Vasudevan) would go and collect the money from the judicial officers who engaged him for filing W.P. No.14434 of 2020.

31 Now, it may be apposite to give in the form of a tabular column, the mutually destructive stands taken by Sathish Kumar and Vasudevan:

S.No.	Sathish Kumar	Vasudevan	Documents
1	Sathish Kumar joined as junior under Vasudevan in 2017 till the dispute arose	Sathish Kumar was junior under Vasudevan from January 2016 to June 2016	Sathish Kumar has filed online case status papers containing the names of Vasudevan, Sathish Kumar and others as counsel.
2	Before enrolment, Vasudevan gave certificate of character	It is not denied	Sathish Kumar has produced a copy of certificate dated 29.09.2016 given by Vasudevan. Vasudevan stated that he knew Sathish Kumar for the past 10 years.
3	Cases were filed jointly in the name of Vasudevan and Sathish Kumar. Sathish Kumar filed a copy of notice standing in the name of R1, R2 and Karthikeyan and Kalaivanan in typed set of documents to show that R1, as junior, had access to all the documents.	Joint vakalath was filed only in two cases	Sathish Kumar has filed online case status papers containing the names of Vasudevan, Sathish Kumar and others as counsels.

4	Karthikeyan and are of Karthikeyan associates of Vasudevan	Sathish Kumar had joint office with C.K. Karthikeyan and Kalaivanan	Sathish Kumar has filed online case status papers containing the names of Vasudevan, Sathish Kumar and others as counsels.
5	--	Sathish Kumar approached Vasudevan for legal advice	--
6	Vasudevan gave the certificate because Sathish Kumar was his junior	Vasudevan gave certificate on 25.5.2020 to Sathish Kumar to get assistance from Government.	Sathish Kumar has produced a copy of the certificate dated 25.5.2020 in which he has been shown as junior of Vasudevan

S.No.	Sathish Kumar	Vasudevan	Documents
7	Sathish Kumar has denied this fact	Sathish Kumar himself brought all the documents from his own source for filing the W.P.No.14434/2020. Sathish Kumar stated that Thanendran sourced documents from his own different sources	--
8	Sathish Kumar has denied this fact	Vasudevan arranged a senior counsel Vijendran to assist the petitioner Sathish Kumar	--
9	--	The mobile conversation is post passing of the orders in writ petition	Mobile conversation transcript is produced. Page 17 penultimate para.
10	Sathish Kumar admitted this fact in his rejoinder	Sathish Kumar was helpful when Vasudevan's wife was hospitalized in March 2016	--
11	Vasudevan obtained receipt for Rs. 5 lakhs	Vasudevan gave Rs.5 lakhs to Sathish Kumar to	Vasudevan has filed a copy of receipt dated

	from Sathish Kumar stating that unless he gives a receipt, Vasudevan will not be able to get money from the Judicial Officer who engaged him for filing the writ petition. But Vasudevan neither paid the amount nor returned the receipt	deposit in the High Court towards the costs ordered in W.P. No.14434 of 2020.	29.10.2020
12	Sathish Kumar accompanied Vasudevan to Delhi to file an appeal	Vasudevan assisted Sathish Kumar to file an appeal. R2 arranged counsel for R1	Sathish Kumar has produced copy of flight tickets
13	Vasudevan got signatures from Sathish Kumar in vakalath to appear in the contempt proceedings	Vasudevan identified a lawyer for Sathish Kumar to defend the contempt proceedings. Sathish Kumar doubted the credentials of the lawyer. He gave consent for change of vakalath	Copy of SMS has been produced

S.No	Sathish Kumar	Vasudevan	Documents
14	The fact is denied. Vasudevan has not lodged any complaint as against the alleged blackmailing	Sathish Kumar blackmailed Vasudevan demanding unimaginable amount	--
15	Vasudevan stated that he prepared the writ petition on the instructions of Judicial Officers	R1 asked R2 to speak to Thanendran, District Judge. R2 downloaded the photo of Thanendran with curiosity. R2 sent the photo to R1/Sathish Kumar.	--
16	R1 signed the papers in the writ petition since Vasudevan assured to	R1 is an adult having 5 years of bar experience and he gave declaration in	--

	have proof. Vasudevan orally briefed the case.	the affidavit which was attested by an advocate.	
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32 Admittedly, Vasudevan was one of the counsel on record for Sathish Kumar in W.P.No.14434 of 2020. However, Vasudevan has taken a stand that he is not a practitioner in the High Court and as such, had not appeared in the High Court at all. Whereas, materials produced by Sathish Kumar depict otherwise. If really Vasudevan had had no High Court practice, he would not have labored to collate the materials that were allegedly given by Sathish Kumar, prepared the affidavit in the format that is required for the High Court, had it filed and numbered and had the case listed for hearing. He would have, instead, asked Sathish Kumar to approach a practitioner in the High Court for filing the writ petition. Likewise, the contention of Sathish Kumar that he implicitly trusted his senior Vasudevan and filed the writ petition cannot be countenanced, inasmuch as, Sathish Kumar is aged 37 years and was enrolled as an Advocate in 2016 and thus, was not a fresher from Law College when the *quo warranto* petition was filed in 2020. Thus, he cannot absolve himself of the liability by passing on the buck to his senior Vasudevan.

33 Next, both Sathish Kumar and Vasudevan accept that after the passing of the final orders in the writ petition on 12.10.2020, they took steps to prefer an appeal in the Supreme Court. According to Vasudevan, he gave a sum of Rs.5 lakhs to Sathish Kumar *vide* receipt dated 29.10.2020 for depositing the same in the High Court, but, Sathish Kumar did not deposit the same. If Vasudevan has had

no role in the filing of the writ petition, why should he give by cash, a huge sum of Rs.5 lakhs to Sathish Kumar? What prevented Vasudevan from making the deposit himself directly in the High Court Registry is a question for which there is no answer. The receipt dated 29.10.2020 extracted above smacks of legal illiteracy, in that, it does not contain the name of the lender, but, contains only the name of the lendee, viz., Sathish Kumar. In other words, it bears the name of only Sathish Kumar and not Vasudevan. This probablises the defence of Sathish Kumar that the receipt was obtained by Vasudevan to show to his handlers in the subordinate judiciary to collect the money.

34 In the light of the facts discussed above, it is now necessary for us to meet the arguments advanced by Mr. Rupert J. Barnabas, counsel for Vasudevan in *seriatim*.

- i. *Cause title is bald. Who is representing the High Court? Who has authorized Mr. V. Vijay Shankar to appear for the High Court, whether the Registrar General, the Chief Justice or the Full Court?*

This is a *suo motu* criminal contempt petition that has been registered pursuant to a judicial order that has been passed by the First Bench in paragraph no.33 of the order dated 12.10.2020 in W.P. No.14434 of 2020. Mr. Vijay Shankar is one of the panel counsel for the Registry and he was entrusted with the task of compiling the papers and also act as a bridge between this Court and the Registry. He is not in the position of a Public Prosecutor since contempt proceedings are essentially between the Court and the alleged contemnors.

- ii. *In the order dated 12.10.2020 passed by the First Bench in W.P.No.14434 of 2020, there is no mention of the name of Vasudevan and only the names of Vijendran and Ashok Kumar find a place; in the absence of initiating contempt action against Ashok Kumar, the action initiated against Vasudevan alone is bad in law.*

This argument is misconceived because contempt action against Vasudevan was not initiated for being a counsel on record for Sathish Kumar in the writ petition. We are conscious of the legal position that an advocate for a party cannot be hauled up for the sins of the party. We are also aware of the judgment of a Full Bench of this Court comprising Sri. Arthur J.H. Collins, Kt., C.J., Kernan, Muttusami Ayyar, Brandt and Parker JJ in **Sullivan vs. Norton**¹ in which the following famous passage from the judgment of the Queen's Bench Division in **Munster vs. Lamb**², has been quoted with approval:

“If any one needs to be free of all fear in the performance of his arduous duty, an advocate is that person.”

Vasudevan was not charged for fearlessly representing the case of Sathish Kumar but, for engineering a patently false case in tandem with Sathish Kumar to sling mud at a serving judicial officer and to embarrass the judiciary.

- iii. *Vasudevan was only impleaded as a respondent and not as an alleged contemnor and therefore, he cannot be hauled up for contempt.*

It is true that initially, by order dated 10.12.2020, Vasudevan was impleaded as a party respondent. After he filed his pleadings, this Court found *prima facie*

¹ 10 ILR Madras 28, reprinted in 2006 (1) CTC 134

² 11 Q.B.D. 588

materials against him and framed charges by order dated 04.06.2021 as that is a *sine qua non* for maintaining a criminal contempt proceedings. Therefore, Vasudevan willy-nilly fell within the meaning of the expression “alleged contemnor” after the charges were framed against him.

- iv. *The First Bench should have ordered notice to Ms. Poornima and should have asked for her response to the allegation instead of calling for the records from the file of the Registry and deciding the writ petition.*

This singular argument exposes the mental make-up of Vasudevan. In fact, from this argument, it is clear that Vasudevan had expected the First Bench to order notice to Ms. Poornima, but was disappointed when the First Bench called for the records pertaining to the educational qualifications of Ms. Poornima that were available in the Registry, perused them and after being satisfied that she had completed her Plus Two, dismissed the writ petition. This submission of Vasudevan, *proprio vigore*, shows his culpability.

- v. *This is not a suo motu contempt proceedings because the matter has been referred to by the First Bench to the Administrative Side of the High Court which has no authority to dabble in judicial matters.*

This is a frivolous argument, because, in paragraph 33 of the order dated 12.10.2020 passed by the First Bench in W.P. No.14434 of 2020, a judicial direction has been issued for drawing proceedings for criminal contempt and to place the matter before the Division Bench dealing with criminal contempt matters.

- vi. *Vasudevan should have been supplied with the materials gathered by the Vigilance Department and the materials that were gathered by the*

Enquiry Committee comprising Mr.S.Ganapathisamy and Ms.G.Nagajothi, I.P.S. This Court had exceeded in its jurisdiction in entrusting the enquiry with Mr. S. Ganapathisamy and Ms.G.Nagajothi, I.P.S. This is violative of Articles 14 and 21 of the Constitution of India.

a. We are afraid that this argument cannot be countenanced for the simple reason that the involvement of Vasudevan came to light only after Sathish Kumar filed his affidavit dated 12.11.2020 in the present contempt proceedings. This Court has made it explicitly clear that it has consciously excluded any reference to either the report submitted by the Vigilance Department to the Hon'ble Chief Justice on the Administrative Side or to the report submitted by the Enquiry Committee comprising Mr.S.Ganapathisamy and Ms. Nagajothi, I.P.S.

b. An extraordinary situation arose when we found that the Sathish Kumar - Vasudevan duo was not alone in this misadventure and that there were some insiders of the judiciary who were having some grievances against Ms.Poornima. The judicial institution has to be protected not only from the onslaught of outsiders, but also from those who are attempting to destroy it from within. We proposed to proceed against Sathish Kumar and Vasudevan based on the available records and as regards the others, we thought it fit to place the matter before the Hon'ble Chief Justice for appropriate action on the Administrative Side. Only if we had wanted to rely upon the materials gathered by the Vigilance Section and the enquiry report submitted by Mr. S. Ganapathisamy and Ms.G.Nagajothi, I.P.S., the copies of the same need be furnished to them in compliance of natural justice requirement. We have made it clear that no reliance

is being placed on these reports to decide this petition. Therefore, the complaint that there is violation of Articles 14 and 21 of the Constitution of India is misconceived.

vii. The High Court, in exercise of its contempt jurisdiction, cannot take cudgels on behalf of Ms. Poornima and it is for her to have filed a complaint for defamation, if she had been aggrieved by the averments in the writ petition. The office of the Registrar (Vigilance) is not a Court and therefore, the provisions of Section 2(c)(i) and (iii) will not stand attracted.

In our view, this is an argument which misses the wood for the trees. In this case, Sathish Kumar is an Advocate and Vasudevan is also an Advocate. They are essentially officers of the Court. Unlike ordinary citizens, they have additional responsibility and duty to refrain from doing anything that would cause damage to the institution, because, it is this institution which gives them an identity in the society. The preamble to the Bar Council of India Rules framed under Section 49(1)(c) of the Advocates Act, 1961, reads as under:

“An advocate shall, at all times, comfort himself in a manner befitting his status as an officer of the Court, a privileged member of the community; and a gentleman, bearing in mind that what may be lawful and a moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an advocate.....”

If the alleged contemnors were interested in maintaining the dignity of the institution, the least they could have done was to have given a representation to the Registrar General alleging that Ms. Poornima had not cleared Plus Two examination. This was not done. Instead, a petition seeking a writ of *quo warranto*

was filed and immediately thereafter, a news item was made to be published by them in the Times of India on 19.10.2020 titled “High Court Registrar not qualified to hold post, says *quo warranto* plea”. In the charges framed against the alleged contemnors, it is clearly stated that by their act, they have scandalized the High Court and thereby brought the administration of justice into disrepute in the eye of the public, inasmuch as, any common man who had read the news item would have got the impression that the High Court has appointed a person who has not passed even Plus Two as a District Judge. Here, Ms. Poornima’s reputation is not the subject matter of the contempt proceedings, but, the image of the High Court as an institution in the eye of the public.

viii. When Ms. Poornima joined as District Judge, she did not suspend her practice and only in November 2020, she gave an application to the Bar Council of Tamil Nadu and Puducherry for suspending practice, for which, she even paid fine. Why was there such an inordinate delay in Ms. Poornima giving an application to the Bar Council of Tamil Nadu and Puducherry for suspending her practice.

We are at a loss to understand as to how this question could be relevant to the charges that have been framed against the two alleged contemnors. Mr.Chandrasekar, learned counsel for the Bar Council submitted that under the Bar Council of India Rules, an advocate is required to suspend his practice if he were to take up an employment and that if there is delay in applying therefor, it can be done by paying a nominal amount as fine. He even cited an example of a retired Judge, who suspended his practice recently after paying fine. Be that as it

may, this was not a ground raised in W.P. No.14434 of 2020. That apart, Paragraph 43 in Section 4-A, Chapter II, Part VI of the Bar Council of India Rules says that if an advocate takes up full time service, he should suspend his practice within 90 days thereof; if he fails to do so, his name can be struck off from the rolls of the Bar Council. However, the proviso to the said paragraph states that it shall be open to the Committee to condone the delay on application being made in that behalf.

ix. *The publication of news item in the media is because the High Court permits free access to Pressmen and Intelligence Bureau officials into the Court premises and unless that is stopped, publication of such news items cannot be curtailed.*

There is a factual fallacy in this submission, in that, in W.P. No.14434 of 2020, the First Bench has categorically taken note of the fact that Sathish Kumar had admitted to publicizing the case as he believed that it was the right way to vindicate his own scores. The First Bench has observed thus:

"21. The petitioner fully realizing the consequences of such irreparable damage that can be caused to the sixth respondent, did not show any sense of responsibility or even remorse in spite of we having given him opportunities during the course of the hearing, and rather stuck to his firm stand of having rightly labelled the sixth respondent to be unqualified, and thereby holding a public office which she is otherwise not entitled to hold. Such cases are very rare and a writ of quo warranto is usually filed after ascertaining the correct status of the qualifications. The interpretation of a qualification may be a different issue, but not possessing the qualification at all is directly accusing the sixth respondent and indirectly the High Court as well of having secured employment through dubious methods. Such a sort of allegation has not only far-reaching effects in public and official life, but in private life as well, where it is not uncommon that with the spread of such news,

social media starts trolling on the basis of such falsehood. The stretch of damage which has by now been caused with the publication of the news at the instance of the petitioner not only would have created doubts, but in some corners hatred as well, that may continue for long and would also be a matter of awkward embarrassment in future for the sixth respondent to face this ordeal.

30. The petitioner has made the sixth respondent and the judicial administration of the High Court, *prima facie*, a victim of his present ideology or notions founded on falsehood. We would have exercised restraint, but during the course of the hearing of the petition, the attitude of the petitioner was more defiant than responsible. This is also evident by his endeavour to reach to the press, which he thinks was the right way to vindicate his own scores."

35 Now to the climax. Both Vasudevan and Sathish Kumar have referred to the name of one Thanendran, a retired District Judge, as one of the handlers in the judiciary who had engineered this devious plot. We called for the file and were startled to find that this Thanendran had died on 21.10.2020. In other words, after the order of the First Bench initiating contempt proceedings was passed on 12.10.2020, the duo found themselves in a very sticky wicket. They appear to have conveniently palmed off the grease of their litigative excesses on a dead man, who, obviously, could offer no counter to their allegations from the after-life. We notice that the name of Thanendran did not figure at all in the proceedings before the First Bench. It surfaced for the first time in the affidavit of Sathish Kumar which was filed in these proceedings on 12.11.2020, *i.e.*, nearly a month after the order passed by the First Bench and almost 20 days after the demise of the said Thanendran.

36 On a careful examination of the materials on record, we are fully satisfied that the alleged contemnors have acted in tandem and hatched a devious plot to manufacture the vexatious litigation in W.P.No.14434 of 2020, on the strength of patently false affidavit which was calculated to not only dislodge the then Registrar (Vigilance) from her post but also bring down the prestige of the High Court. In addition, the duo had caused the petition to be widely circulated in the press, even prior to the admission of the matter before this Court and had thus brought the administration of justice into disrepute in the eyes of the public, without realizing the fact that their conduct, as officers of the Court, would amount to recklessly hurling stones at the institution, thereby bringing the administration of justice into disrepute. In this connection, the following passages from the judgment of the Supreme Court in **Haridas Das vs. Usha Rani Banik & others**³ seem apposite.

“29. Considered in the light of the aforesaid position in law, a bare reading of the statements makes it clear that those amount to a scurrilous attack on the integrity, honesty and judicial competence and impartiality of Judges. It is offensive and intimidating. The contemnor by making such scandalising statements and invective remarks has interfered and seriously shaken the system of administration of justice by bringing it down to disrespect and disrepute. It impairs confidence of the people in the court. Once door is opened to this kind of allegations, aspersions and imputations, it may provide a handle to the disgruntled litigants to malign the Judges, leading to character assassination. A good name is better than good riches. Immediately comes to one's mind Shakespeare's Othello, Act II, Scene iii, 167:

“Good name in man and woman, dear my Lord is the immediate jewel of their souls; who steals my purse,

³ (2007) 14 SCC 1

steals trash; its something, nothing; 'T was mine, its his,
and has been slate to thousands; But he that filches from
me my good name,
Robs me of that which not enriches him
And makes me poor indeed.”

34. There can be no quarrel with the proposition that anyone who intends to tarnish the image of judiciary should not be allowed to go unpunished. By attacking the reputation of Judges, the ultimate victim is the institution. The day the consumers of justice lose faith in the institution that would be the darkest day for mankind. The importance of judiciary needs no reiteration.”

37 In view of the above discussion, we hold with no element of uncertainty that all the three charges framed on 04.06.2021 against Sathish Kumar and Vasudevan stand proved. They are, accordingly, held guilty of the charges framed against them under Section 2(c)(iii) of the Contempt of Courts Act, 1971 (2 counts) and Section 2(c)(i) read with Section 12(1), *ibid*.

38 Coming to the question of sentence, Sathish Kumar has stated that he is a Dalit; he hails from a poor family and he has to take care of a family comprising his parents, wife and three minor children; he has suffered enough pursuant to the order of the First Bench suspending him from practice and any further punishment would ruin him completely. We find that though he was defiant during the proceedings in W.P. No.14434 of 2020, he has completely mellowed down and the unconditional apology tendered by him appears genuine. That apart, he has been slapped with costs of Rs.5 lakhs in W.P. No.14434 of 2020 and he has been out of practice since 12.10.2020.

39 In view of the above, Sathish Kumar is directed to pay a fine of Rs.2,000/- for each charge (totally Rs.6,000/-), in default to undergo simple imprisonment for one week for each charge. In paragraph 36 of the order dated 12.10.2020 in W.P. No.14434 of 2020, the First Bench has directed that Sathish Kumar shall not practise as a lawyer until further orders or unless permitted by this Court in the criminal contempt proceedings that have been initiated by them. Hence, on payment of fine, Sathish Kumar is permitted to resume practice in the High Court.

40 Coming to the case of Vasudevan, we have noticed that he has remained defiant all along and has contended that he had no hand in the matter. However, as the discussion, *supra*, would reveal, it is crystal clear that it was the duo of Vasudevan and Sathish Kumar that had acted in tandem to recklessly engineer a false litigation with the sole object of damaging the judiciary. In this connection, we remind ourselves of the following observations of the Supreme Court in **K.D. Sharma v. SAIL and others**⁴, wherein, it was observed as under:

“39. If the primary object as highlighted in Kensington Income Tax Commrs.[R.v.General Commissioners for Purposes of Income Tax Acts For District of Kensington, ex p Princess Edmond De Polignac, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] is kept in mind, an applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process

⁴ (2008) 12 SCC 481

to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.”

(emphasis supplied)

41 Further, in the counter affidavit dated 15.02.2021, Vasudevan has tendered an apology, however, in the subsequent affidavit dated 17.06.2021 that has been filed by him after the charges were framed against him, there is absolutely no whisper of any apology. Even in the course of the arguments, there was no show of any remorse or penitence. As a senior, both in age as well in practice, he should have been a role model for Sathish Kumar and should have endeavoured to mould him. He should have inculcated ethics and morality in Sathish Kumar, instead of encouraging and taking him as a partner in this misadventure.

42 In such view of the matter, we sentence Vasudevan as follows:

Charge No.1	1 month simple imprisonment and fine of Rs.2,000/-, in default to undergo 1 week simple imprisonment
Charge No.2	1 month simple imprisonment and fine of Rs.2,000/-, in default to undergo 1 week simple imprisonment
Charge No.3	1 month simple imprisonment and fine of Rs.2,000/-, in default to undergo 1 week simple imprisonment

The aforesaid substantive sentences are ordered to run concurrently.

43 The Chief Metropolitan Magistrate, Chennai, is directed to take steps to secure U. Vasudevan, S/o Uppili (2nd contemnor) and commit him to prison for undergoing the aforesaid sentences.

44 Further, we direct that Vasudevan, S/o Uppili (Enrolment No.1140/2003), shall not practise in the Madras High Court for a period of one year from the date of this order. We are fortified in giving the said direction in the light of the law laid down by the Supreme Court in **R.K.Anand vs. Registrar, Delhi High Court**⁵, wherein, it has been held as under:

“240. It is already explained in *Ex. Capt. Harish Uppal [(2003) 2 SCC 45]* that a direction of this kind by the Court cannot be equated with punishment for professional misconduct. Further, the prohibition against appearance in courts does not affect the right of the lawyer concerned to carry on his legal practice in other ways as indicated in the decision. We respectfully submit that the decision in *Ex. Capt. Harish Uppal v. Union of India [(2003) 2 SCC 45]* places the issue in correct perspective and must be followed to answer the question at issue before us.”

This *Suo Motu* (Crl.) Contempt Petition is disposed of on the aforesaid terms.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

cad

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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⁵ (2009) 8 SCC 106

GS/06/09/2021

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- 3 The Inspector of Police
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- 4 The Public Prosecutor
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