



#J-1 & J-2

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Pronounced On: 28.07.2023

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+ CONT.CAS. (CRL) 2/2006, CRL.M.A.Nos.2075/2006, CRL. M.A. 2076/2006, CRL. M.A. 2077/2006, CRL. M.A. 2078/2006, CRL. M.A.2839/2006, CRL. M.A.2847/2006, CRL. M.A.3887/2006, CRL. M.A.4061/2006, CRL. M.A.4062/2006, CRL. M.A. 5607/2006, CRL. M.A.5778/2006, CRL. M.A.11461/2006 and CRL. M.A.9030/2007

**RE: TO CONSIDER SUO MOTU
CONTEMPT OF COURT**

.... Petitioner

versus

**PROCEEDINGS AGAINST THE TIS HAZARI
COURT LAWYERS**

.... Respondents/Contemnors

AND

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+ CONT.CAS. (CRL) 8/2006 & CRL.MA. 3515/2006

DR. H.B. MISHRA

.... Petitioner

versus

STATE & ORS.

.... Respondents/Contemnors



Advocates who appeared in this case:

For the Petitioners: Mr. Sidharth Luthra, Senior Advocate as *Amicus Curiae* along with Ms. Shubhangi Jain, Mr. Yash Giri, Mr. Raju and Mr. Adityaa, Advocates

**For the Respondents
/Contemnors:**

- 1) Mr. Rajiv Khosla, Contemnor/Respondent No.1 in-person.
- 2) Mr. Jagdeep Singh Bakshi, Senior Advocate along with Mr. Praveen K. Sharma, Advocate with Mr. Sanjeev Nasir, Contemnor/Respondent No. 2 in-person.
- 3) Mr. N. Hariharan, Senior Advocate along with Mr. Prateek Bhalla, Mr. Rahul Sambher, Ms. Adeeb Ahmed, Mohd. Qasim Ms. Punya Rekha Angara, Advocates for Mr. Jaiveer Singh Chauhan Contemnor/Respondent No.3 in-person.
- 4) Mr. A.K. Gupta, Contemnor/Respondent No.4 in-person.
- 5) Mr. Dharmavir, Contemnor/Respondent No.7 in-person.
- 6) Mr. Inder Singh Saroha, Contemnor/Respondent No.8 in-person.
- 7) Mr. Sudhir Kumar Singh, Contemnor/Respondent No.9 in-person.
- 8) Mr. Sunil Sherawat, Contemnor/Respondent No.12 in-person.
- 9) Mr. Vikas Arya, Contemnor/Respondent No.17 in-person.
- 10) Mr. G.S. Sandhu, Contemnor/Respondent No.21 in-person.
- 11) Mr. Anil Kumar Chauhan, Contemnor/Respondent No.22 in-person.
- 12) Mr. Madan Lal Gupta, Contemnor/Respondent No.24 in-person.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

SIDDHARTH MRIDUL, J

1. The present criminal contempt proceeding emanates from the incident that occurred on the 24.02.2006 at the Tis Hazari Courts, in addition to earlier incidents stated to have taken place commencing from the 02.01.2006 at the Tis Hazari and the Rohini Courts, where advocates went on strike, opposing the establishment of the Rohini Court complex. On 24.02.2006, a comprehensive report was forwarded to this Court by the then District &



Sessions Judge, Mr. S.N. Dhingra, highlighting the need for initiating *suo motu* contempt of the Court proceedings against the errant advocates, which included numerous supporting documents, as well as reports from other Judges and officials functioning at the Tis Hazari Courts. In view of the shared nature of the facts and issues involved, both of these petitions were adjudicated collectively and are being disposed of by way of this common order.

2. A conspectus of the facts giving the background of the aforesaid incidents relevant for the adjudication of the subject proceedings are encapsulated herein below:

- i. On the 27.02.2006, this Court, acting *suo motu*, took cognizance of the alleged incident and determined that *qua* 25 individuals there existed the elements of *prima facie* case of being liable for initiation of criminal contempt proceedings. Consequently, Show Cause Notices were issued to these 25 individuals, requiring them to provide a justification as to why they should not be penalized for committing the offense of criminal contempt of court, based on the allegations outlined in various reports and other supporting material submitted before this Court. Furthermore, on the same day, an interim order was passed, imposing restrictions on the alleged



Contemnors, prohibiting them from approaching within a distance of 500 meters from the premises of the Court compound of Delhi High Court or any Subordinate Courts falling under its jurisdiction, including Courts/Tribunals under its supervisory jurisdiction.

- ii. On the 29.03.2006, Respondent Nos.3, 4, 6, 7, 8, 10, 14, 15, 16, 17, 18, 20, 21, and 22 filed their responses to the Show Cause Notice and some of them also requested for the relaxation of the interim order passed on the 27.02.2006. They explicitly asserted that they were not accountable for the acts of vandalism and provided a solemn undertaking that they shall refrain from engaging in any acts of vandalism, obstructing the ingress or egress of advocates attending the court proceedings, or disrupting the functioning of Court. Taking into account the aforementioned undertaking, this Court, on 29.03.2006, decided to suspend the direction issued *vide* order dated 27.02.2006, specifically pertaining to the abovementioned respondents; *vide* order dated 18.04.2006, the interim restraint order dated 27.02.2006 was also suspended *qua* Respondent no. 23 based on the Affidavit filed by him.
- iii. Subsequently, the interim restraint order dated 27.02.2006, was modified by the Hon'ble Supreme Court of India *vide* order dated



15.06.2006, passed in Special Leave to Appeal (Crl.) No. 2914/2006. The modification stipulated that the petitioners would be allowed to carry out their professional duties pertaining to Courts and Tribunals, but they must refrain from engaging in any activity that the High Court has objected to.

- iv. It is noteworthy to highlight that, FIR No.74/2006, under Sections 147/149/186/353/332/427/188/120-B of the Indian Penal Code, 1860 [hereinafter referred as “**IPC**”] and Sections 3 and 4 of the Prevention of Damage of Public Property Act was registered with Police Station, Subzi Mandi on 24.02.2006 and subsequent to it the chargesheet was filed on 25.02.2006 with respect to the alleged incident.
- v. During the period from March, 2006 to September, 2006, a total of 13 Contemnors/Respondents were either discharged or removed from the present criminal contempt proceedings. The details of the alleged Contemnors who have been discharged or dropped from the present proceedings are as follows:-

- **Rajesh (Respondent No. 5)**, Date of Discharge: (11.07.2006):
“Identity not traceable”;



- **Girish Malhotra (Respondent No. 6)**, Date of Discharge: (27.07.2006): *“Except being mentioned in the report of Ld. District & Sessions Judge dated 10.01.2006, no documentary or other evidence connecting him to the alleged events.”*;
- **Jatan Singh (Respondent No. 10)**, Date of Discharge: (27.07.2006): *“No allegation or involvement in the alleged incident”*;
- **Shubra (Respondent No. 11)**, Date of Discharge: (30.05.2006): *“Identity not traceable”*;
- **Dharamvir Singh Saroha (Respondent No. 13)**, Date of Discharge: (16.05.2006): *“On the basis of the affidavit of the SHO, Subzi Mandi PS”*;
- **Raj Singh (Respondent No. 14)**, Date of Discharge: (13.09.2006): *“No definite material on the basis of which he can be found guilty of contempt”*;
- **Yogender Singh (Respondent No. 15)**, Date of Discharge: (16.05.2006): *“Dropped on the basis of the affidavit filed by him that it is a case of misplaced identity and he is not Jogendra Singh”*;



- **Rajender Singh Rana (Respondent No. 16)**, Date of Discharge: (27.07.2006): *“On the basis of the affidavit and arguments advanced on his behalf that there are no allegations against him”*;
- **Nitin Ahlawat (Respondent No. 18)**, Date of Discharge: (27.07.2006): *“No involvement in the alleged incidents”*;
- **O.P. Saini (Respondent No. 19)**, Date of Discharge: (18.04.2006): *“In view of report of Mr. Ranbir Singh, SHO of PS Subzi Mandi”*;
- **Dalip Rana (Respondent No.20)**, Date of Discharge: (13.09.2006): *“On the basis of the affidavit dated 24.02.2006 as well as other advocates in support”*;
- **Jitender Kumar Chauhan (Respondent No.23)**, Date of Discharge: (27.07.2006): *“Except for statement of witness at pg. 165A, name not reflected anywhere else nor seen in video coverage”*;
- **Satinder Kumar Gautam (Respondent No.25)**, Date of Discharge: (18.04.2006): *“In view of report of Mr. Ranbir Singh, SHO of PS Subzi Mandi”*;



vi. Further, on 10.10.2006, subsequent to the oral submissions made on behalf of Respondents Nos. 4, 7, 8, 9, 12, 21, and 22; seeking their discharge in the ongoing legal proceedings, the judgment was reserved. However, due to reconstitution of the Bench, the verdict was not pronounced and orders dated 10.10.2006 was recalled on 06.12.2006. At present, the following Respondents/Contemnors are the noticees in the present criminal contempt proceedings:-

- Respondent No.1:- Rajiv Khosla
- Respondent No. 2:- Sanjiv Nasiar
- Respondent No. 3:- Jaiveer Singh Chauhan
- Respondent No. 4:- A.K. Gupta
- Respondent No. 7:- Dharamvir
- Respondent No.8:- Inder Singh Saroha
- Respondent No. 9:- Sudhir Kumar Singh
- Respondent No.12:- Sunil Sherawat
- Respondent No.17:- Vikas Arya
- Respondent No. 21:- G.S. Sandhu
- Respondent No.22:- Anil Kumar Chauhan
- Respondent No.24:- Madan Lal Gupta



3. Mr. Sidharth Luthra, learned Senior Counsel, the *Amicus Curiae* would submit that:-

- a) The power of the High Court to take cognizance *qua* its Subordinate Court and to punish for the latter's contempt, emanates from Article 215 of the Constitution of India; and that the power so to do is also prescribed under Section 15(2) of the Contempt of Court Act, 1971, (hereinafter referred to as "the said Act"). Sections 15, 17, and 18 of the said Act outline the fundamental procedure that, the High Court must adhere to when acknowledging instances of criminal contempt against its Subordinate Courts. As per Section 23 of the said Act, the High Court possesses the authority to establish regulations that align harmoniously with the provisions of the said Act. Consequently, the High Court—as it has already implemented—is entitled to adopt an abridged course of action whereby the respondents, at their own volition, file affidavits expounding their defense.
- b) It is pertinent to note that contempt proceedings are *sui generis* and distinct in nature, and the strict application of Code of Criminal Procedure, 1973 (Cr.P.C) and the Indian Evidence Act, 1872 is not necessarily applicable. In such cases, the Courts have the sole



responsibility to adhere to the principles of natural justice and follow a procedure that is fair and impartial. Therefore, while adjudicating a proceeding for criminal contempt, the High Court has the authority to adopt a summary proceeding of its own accord, in the interest of administering justice.

- c) Mr. Luthra, learned *Amicus Curiae* further submitted that the array of material and evidence presented on record against the alleged Contemnors encompasses the following: (i) Reports authored by Mr. S.N. Dhingra, the then District and Sessions Judge; (ii) Complaints lodged by the Judges of the District Court, Legal Professionals, and Journalists, who were purportedly present during the incidents; (iii) The charge-sheet, dated 25.02.2006, filed in FIR No. 74/2006, dated 24.02.2006, along with statements recorded under Section 161 Cr.P.C. by the Judges, Court Personnel, and Police Officers; and (iv) Visual recordings and compact discs capturing the events of the said incident. These materials stand as significant components of the evidentiary foundation against the alleged Contemnors.
- d) The learned *Amicus Curiae* further submitted and unequivocally emphasized that, although the video footage does not establish a



direct link between the damage inflicted upon the court rooms and the advocates or the alleged Contemnors, it is equally evident that the advocates were engaged in protests. However, there is no clear visual evidence to suggest that they were responsible for the destruction of Court property. The advocates can be observed shouting slogans against the Chief Justice of India and Chief Justice of the Delhi High Court; and certain posters displayed during the protest appear to question the intention of the Judges in relation to the decision to establish the Rohini Courts. Furthermore, it is noteworthy that an unidentified individual present on the stage can be observed making allegations of corruption against a sitting Supreme Court judge.

- e) Additionally, the press release issued by the Delhi Bar Association on 03.01.2006, also raises suspicion and influentially casts doubt on the alleged motives underlying the establishment of the Rohini Courts. Moreover, Respondent No.2, who is seen leading the march and actively participating in the protest, can be heard shouting slogans and providing a statement to the press regarding the true intentions of the Judges in relation to the bifurcation of the Tis Hazari Court.



- f) It was further submitted by the learned *Amicus Curiae* that, one of the primary objection raised in certain affidavits on behalf of the alleged Contemnors/Respondents; is with respect to the ongoing parallel criminal legal proceedings underway in relation with the alleged incident under the I.P.C in FIR No.74/2006, dated 24.02.2006, registered at Police Station Subzi Mandi; as well as under the Contempt of Court Act, 1971 asserting that the same cannot be sustained in view of the provision of Section 10 of the said Act.
- g) It is pertinent to highlight that the abovementioned FIR has been lodged under Sections 147/148/186/188/353/332/427/120-B IPC as well as Sections 3 and 4 of the Prevention of Damage of Public Property Act. These sections encompass offenses that are distinct from the provisions contained in the said Act. Therefore, the Court has appropriately exercised its jurisdiction in taking *suo motu* cognizance of the alleged incident, as these offenses fall outside the realm of Contempt of Court.

4. In order to buttress his exhaustive submissions, Mr. Sidharth Luthra, learned *Amicus Curiae*, has placed reliance on the following decisions:-



- (i) **Sukhdev Singh vs Teja Singh** reported as AIR 1954 SC 186;
- (ii) **C. K. Daphtary and Others Vs. O.P. Gupta and ors** reported as (1971) 1 SCC 626;
- (iii) **Arun Paswan v. State of Bihar** reported as (2004) 5 SCC 53;
- (iv) **Bathina Ramakrishna Reddy v. State of Madras** reported as (1952) 1 SCC 154;
- (v) **State of MP v. Revashankar** reported as 1959 SCR 1367;
- (vi) **Emperor v. Ladli Prasad Zutshi** reported as ILR 1931 All 724;
- (vii) **Kripashankar Mishra v. Anupsingh Bedi** reported as 1953 SCC Online MP 168;
- (viii) **Nand Kumar Sinha v. Emperor** reported as 1936 SCC Online Pat 256;
- (ix) **Khatri (IV) v. State of Bihar** reported as (1981) 2 SCC 493;
- (x) **Ravindra Nath Sharma v. Smt. Nirmal Sharma** reported as 128 DRJ 1985 (9);
- (xi) **Delhi Judicial Service Assn. vs State of Gujarat & Ors.** reported as (1991) 4 SCC 406;
- (xii) **Daroga Singh & ors. v. BK Pandey**, reported as (2004) 5 SCC 26.

5. Mr. Rajiv Khosla the alleged Contemnor/Respondent No.1, appeared in person and opened his submission while asserting that there is no direct evidence implicating him in the alleged incident and the Show Cause Notice does not contain any specific allegations against him. Furthermore, he argued that it was unfairly left to the alleged Contemnors to gather relevant material from various documents and videos of the alleged incident in order to respond to the purported allegations. It is important to note Mr. Khosla would urge



that, these allegations led to the registration of a serious criminal case, including charges of damaging Court property; and has simultaneously resulted into initiation of the present criminal contempt proceedings.

6. It was further submitted that he refutes the allegations of having committed the purported acts, affirming a deep reverence for the judiciary and the judicial institution. It is noteworthy to emphasize that despite the presence of operational CCTV cameras, complete footage capturing the alleged incident has not been placed on the record, while the clippings on record fail to establish the alleged Contemnor's involvement in the alleged incident. Further insofar as the accusations of damage of public property and obstruction of administration of justice are concerned; the alleged Contemnor submits that there exists no evidence, either in the form of articles or goods confiscated by the police or any governing body; that would demonstrate any form of damage to public property. This assertion is rooted in the fact that the protests were conducted in a peaceful manner, and the Members of the Bar willingly refrained from attending the proceedings of Court on the fateful day.

7. It was further submitted that the material on the record did not provide any justification for the inability to seize the damaged articles. Moreover, there was no evaluation of the worth of the damaged goods, nor were any invoices or receipts presented to substantiate the claims of repairs or



purchases in the Charge Sheet. Subsequently, these facets also serve as an indicator of the falsehood of the entire case and the manufacturing of evidence in the CD/Video recording of the purported incident.

8. Lastly, it was urged that the rule of parity be considered to equate the alleged Contemnor with other Contemnors, whose cases have either been dismissed or discharged because all those who are similarly situated must be afforded the same advantage. Therefore, if this Court has accepted the veracity of the accounts of the discharged Contemnors', relying on identical facts and circumstances, then the veracity affirmed in the affidavits of the present alleged Contemnors and others should be treated on a similar footing.

9. Mr. Jaideep Singh Bakshi, learned Senior Counsel appearing on behalf of alleged Contemnor/Respondent No.2, Mr. Sanjeev Nasiar, submits that the alleged Contemnor is an esteemed and distinguished individual associated with the Delhi Bar Association, having held positions such as Additional Secretary (Civil) and thereafter, Hony. Secretary of the Delhi Bar Association and that the said individual holds great reverence for the principles of justice and the Hon'ble Judiciary.

10. It was further submitted that there is no provision laid down by this Hon'ble Court under the Delhi High Court Rules, which establishes the prescribed manner for conducting Criminal Contempt Proceedings and in the



absence of such a Rule, the charges against the respondents are curtailed under the offence of Contempt of Court. It is further submitted that the respondent, in relation to the charge of criminal contempt, has the right to cross-examine the witnesses, in order to establish his innocence and there should have been a clear and explicit procedure which would have explained/informed him about his rights prior to the commencement of the present proceedings. However, neither the alleged Contemnors nor any other individuals accused of contempt were informed about the procedural framework that would govern the present proceedings.

11. It is further submitted that the purported occurrences of damage and destruction of public property, as asserted by the then District Judge, did not in fact occur as asseverated by the latter. Moreover, it is argued that the statements of Judges are contradictory, lacking supporting sworn affidavits, and reliant on unreliable testimonies and hearsay evidence. In certain instances, these accounts even appear to be inconsistent with one another because a newspaper article dated 25.02.2006 indicates that the incident was instigated by outsiders and litigants, and the statements of the other Judges and Court Staff recorded under Section 161 Cr.P.C made reference to a ‘mob’ rather than ‘advocates’.



12. It is further submitted that the alleged Contemnor consistently endeavoured to lead the agitation, demonstration and protest in a peaceful and respectful manner and that the alleged Contemnor urged the Members of the Delhi Bar Association to engage in a peaceful protests, right from the inception of the agitation and demonstrations, which is evident from various notices, circulars, and appeals issued periodically. It is further asserted that the alleged Contemnor was the foremost individual to condemn the incident of 24.02.2006, and the appeal made by the alleged Contemnor is annexed to the reply of the Show Cause Notice dated 28.03.2006.

13. Mr. N. Hariharan, learned Senior Counsel appearing on behalf of the alleged Contemnor/Respondent No.3, Mr. Jaiveer Singh, submitted that the initiation of the present proceedings against Mr. Jaiveer Singh is unwarranted, as the material being alleged against him, which serves as the basis for these proceedings, is already the subject matter of FIR No.74/2006 dated 24.02.2006 registered at Police Station Subzi Mandi.

14. Furthermore, it is contended that as per the provisions of Section 10 of the said Act, there exists a specific prohibition on the High Court while taking cognizance in relation to a Court subordinate to it, where such contempt is an offence punishable under the IPC. Considering that the said penal action has



already been initiated against the said respondent, he cannot concurrently be proceeded against, under the provisions of the said Act.

15. It is additionally submitted that the alleged Contemnor denies any involvement in the alleged incidents that occurred between 02.01.2006 and 24.02.2006. Moreover, the alleged Contemnor has consistently supported and assisted in the harmonious administration of justice. He has consistently demonstrated due respect and reverence towards the judicial officers, and no complaints have ever been raised against his conduct by any judicial officer.

16. The other alleged Contemnors/Respondents in unison submitted that they have great respect for the judiciary and the judicial institution and that the alleged Contemnors were not involved in the aforesaid incident. Their submissions briefly encapsulated are as follows:-

- Mr. A.K. Gupta, the alleged Contemnor/Respondent No. 4, in his reply dated 07.03.2006 has made a preliminary submission stating that the present criminal contempt is not maintainable and cannot be pursued simultaneously with the parallel proceedings under FIR No.74/2006. The alleged Contemnor has expressed an unconditional and unquantified apology before this Court, emphasizing that he himself was a victim of the disruptive mob. It is further submitted that the alleged



incident between the alleged Contemnor and Ruchir Gupta occurred outside the Court premises after the presiding Judge had retired to his Chambers. Furthermore, it is argued that the alleged Contemnor was present before the Karkardooma Court on 24.02.2006, and court orders supporting his claim are placed on record.

- Mr. Dharamvir, the alleged Contemnor/Respondent No. 7, submits that his name only appears in relation to the incident that occurred on 01.02.2006 and not in connection with any other incident. Furthermore, the alleged Contemnor emphasizes that he does not appear in any of the videos pertaining to the alleged incident. Additionally, it is stated that on 24.02.2006, the alleged Contemnor was present before the Deputy Registration Officer, Ganaur, Haryana for executing a Sale Deed in his favour. It is further submitted that there is a Political rivalry between Delhi Bar Association and Mr. S.P. Sharma which led to Mr. S.P. Sharma lodging a report against Delhi Bar Association Members, including the present alleged Contemnor.



- Mr. Inder Singh Saroha, the alleged Contemnor/Respondent No.8, submitted that his name does not appear in the subject FIR or in any of the reports submitted by the Judicial Officers and also that he does not appear in any of the videos pertaining to the alleged incident. Additionally, it is stated that he was not present in Court at the time when the alleged incident occurred on 01.02.2006 and his name is conspicuous by its absence in the allegations pertaining to the incident that took place on 24.02.2006. It is submitted that the case of the Respondent is similar to that of Raj Singh and Rajender Singh Rana and the proceedings against them have already been dropped by this Court *vide* order dated 27.07.2006. The respondent submits that there exists a political animosity between him and Mr. S.P. Sharma and after an investigation into the complaint filed by Mr. S.P. Sharma, the Police have not found any substance against the alleged Contemnor.
- Mr. Sudhir Kumar Singh, the alleged Contemnor/Respondent No.9 submitted that there is no specific allegation made against him in the report authored by the then District Judge. Furthermore, he argued that on 01.02.2006, he was present in



Manipur and on 24.02.2006, he was in Bhagalpur attending the proceedings at the Bhagalpur District Court. Additionally, it was asserted that Mr. S.P. Sharma, the former General Secretary of the Rohini Court Bar Association, is the alleged Contemnor's political rival.

- Mr. Sunil Shehrawat, the alleged Contemnor/Respondent No. 12, submitted that the report prepared by the then District Judge does not ascribe any role to him. It is asserted that the respondent's presence in the video is only momentary and that his name does not appear in the chargesheet. The respondent claims that he had visited the Court to seek information regarding a personal case, and to support this assertion, the order dated 06.01.2006 and the *Vakalatnama* executed for the same have been placed on record on his behalf.
- Mr. Vikas Arya, the alleged Contemnor/Respondent No.17, put forth an argument stating that he was not present on 24.02.2006, as he was in the Ghaziabad District attending a meeting of a housing society, where he held the position of Vice-President and the minutes of the abovementioned meeting have been placed on record. Additionally, it is



contended that there is no visual evidence of the alleged Contemnor's presence, and none of the statements made by Advocates, Court Staff, or the Hon'ble Judges attribute any wrongdoing to the alleged Contemnor. It is further submitted that the alleged Contemnor's responsibilities, in his capacity as the Treasurer of the Delhi Bar Association, were limited to maintaining accounts and did not involve field work or participating in any form of protest or agitation.

- Mr. G.S. Sandhu, the alleged Contemnor/Respondent No.21 categorically denies any involvement in the incidents that had occurred between 02.01.2006 and 24.02.2006. It is asserted that there exists no substantive evidence on record to implicate him, apart from the chargesheet filed in the subject FIR. Furthermore, it is contended that the alleged Contemnor is neither visible in any of the videos nor the photographs of the alleged incident. The submission put forth is that the respondent was preoccupied with the treatment of his ailing father, who was suffering from mass lesions and had taken him to one Dr. S.K. Agarwal for treatment. It is argued that the role ascribed to him is *para materia* to Dalip Rana, Jitender Kumar



and Nitin Ahlawat, who have since been discharged from the present contempt proceedings.

- Mr. Anil Kumar Chauhan, the alleged Contemnor/Respondent No.22 submits that he was not present in the Tis Hazari Court Complex on 24.02.2006 and that he had taken his wife to the doctor. It is further submitted that the alleged Contemnor was not named by any Judicial Officer, Court Staff or Advocate. The alleged Contemnor was solely implicated by constables Umesh Kumar and Vijender in their statements recorded under Section 161 of the Cr.P.C., which the Contemnor alleges to be false and fabricated.
- Mr. Madan Lal Gupta, the alleged Contemnor/respondent No. 24, submits, that the protest was peaceful and the alleged Contemnor did not engaged in any acts of vandalism or disturbance. Furthermore, after the convening of the General Body meeting of the Delhi Bar Association on 24.02.2006, the alleged Contemnor had left from Tis Hazari Court due to the ill health of his father.



17. We have had the benefit of hearing Mr. Siddharth Luthra, learned *Amicus Curiae*, as well as learned counsel appearing on behalf of the alleged Contemnors at length and having perused the material on record. We have also analysed the video recordings and photographs with regard to the alleged incident, duly produced before us.

18. Legal practitioners are the vanguard safeguarding the sanctity of the Constitution of India and more than anyone else; necessitate protection in the capacity of whistleblowers within the Court. Contempt of Court serves to shield the institution and prevent unwarranted interference in the administration of justice. Diluting the dignity of the institution or undermining the authority vested in the judiciary constitutes a crucial aspect and such actions surpass the limits of legitimate criticism of a judicial decision and venture into an entirely different realm. While permissible criticism of a judgment is acceptable, there exists a boundary beyond when it transforms into abusive, irrational, and personally targeted attacks on Judges; thereby compromising the overall integrity of the institution. Lord Denning, the former Master of Rolls in Britain, expressed his stance on the law of contempt in 1968, stating:..."*Let me say at once that we will never use this jurisdiction as a means to uphold our own dignity nor we will use it to suppress those who speak against us. We do not fear criticism, nor do we resent it. For there is*



something far more important at stake. It is no less than freedom of speech itself.”

19. In the present day, it is acknowledged that the roots of Contempt of Courts in India can be traced back to English law; however, India has developed this concept independently and has a historical connection to it. In England, the Supreme Courts of Record have long possessed the authority to penalize those who scandalize the Courts or Judges. This authority was initially recognized by the judicial committee of the Privy Council, which stated that the offense of Contempt of Court and the powers of the Indian High Courts to punish it are equivalent to those of the Supreme Court in England. The first Indian legislation on the law of contempt, known as the Contempt of Courts Act, was enacted in 1926. Subsequently, the Contempt of Courts Act of 1971 came into force on 24.12.1971, with the aim of defining and restricting the powers of certain Courts in punishing under the provisions of Contempt of Court, as well as regulating the associated procedures. This implies that, the jurisdiction of the Courts, in matters of contempt, serves the purpose of upholding the dignity of the existing judicial system. The relevant sections of the said Act are extracted herein below for the sake of facility:-

“Section 2. Definitions.—In this Act, unless the context otherwise requires,—



- (a) “contempt of court” means civil contempt or criminal contempt;
- (b) “civil contempt” means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;
- (c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which—
- (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
- (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;
- (d) “High Court” means the High Court for a State or a Union territory, and includes the court of the Judicial Commissioner in any Union territory.”

“Section 10. Power of High Court to punish contempt of subordinate courts.- Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempt of courts subordinate to it as it has and exercises in respect of contempt of itself:

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (45 of 1860).”

Section 15. Cognizance of criminal contempt in other cases.

- (1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by—
- (a) the Advocate-General, or
- (b) any other person, with the consent in writing to the Advocate-General, or
- (c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by



notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.

(2) In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.”

Section 23. Power of Supreme Court and High Courts to make rules.—

The Supreme Court or, as the case may be, any High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.”

20. The definition of contempt is specified in Section 2 (a) of the said Act, which states that “*Contempt of Court*” refers to either civil contempt or criminal contempt. “*Civil Contempt*” as per Section 2 (b), pertains to the intentional refusal to comply with any judgment, decree, direction, order, writ, or other legal process of a Court, or the intentional violation of an undertaking given to the Court. On the other hand, “*criminal contempt*” defined under Section 2 (c), encompasses the publication (whether through spoken or written words, signs, visible representation, or other means) of any matter or the commission of any act that: scandalizes or tends to scandalize, or lowers or tends to lower the authority of any Court; prejudices, interferes with, or tends to interfere with the proper course of any judicial proceeding; or obstructs or



tends to obstruct the administration of justice in any other manner. Axiomatically, any intentional refusal to comply with a Court order to perform or abstain from performing an act is regarded as civil contempt. Civil contempt arises when the Court's authority is invoked or exercised to ensure compliance with its orders.

21. Conversely, criminal contempt is of a criminal nature. It encompasses acts such as wilful disobedience to Judges in Court, disrespectful behaviour towards Judges in open Court, defamation of Judges or Courts, interference with the judicial process, or any act that has the potential to prejudice the course of justice. A person is found guilty of criminal contempt when their conduct tends to bring disrespect to the authority and administration of the law or interferes with or prejudices litigants during the legal proceedings.

22. A bare perusal of Section 10 of the said Act specifically empowers the High Courts to punish the acts of contempt in the Subordinate Courts, subject to the proviso thereto. Similarly, Section 15(2) says even in the case of criminal contempt of Subordinate Court, proceedings for contempt are to be initiated by the High Court on a reference made to it by the Subordinate Court or on a motion made by the Advocate-General (or Law officer in cases of Union Territory). As emphasized earlier, this Court, took *suo motu* cognizance of the alleged matter, upon receiving numerous complaints from legal



practitioners and a report dated 24.02.2006 authored by the then District & Sessions Judge.

23. With regard to the procedural aspects concerning the cases falling within the ambit of criminal contempt, we find ourselves in agreement with the submissions made by the learned *Amicus curiae*, that the proceedings in criminal contempt possess a distinctive nature and are not subject to strict compliance with the Cr.P.C. and the Evidence Act. A proceeding under the said Act primarily adheres to the principles of natural justice, thereby allowing the Courts to establish its own procedure, provided that such procedure remains equitable and unbiased towards all concerned parties. This principle has also been validated by the Hon'ble Apex Court in the case of *Sahdeo Vs State of U.P. and Ors.* reported as **2010 (3) SCC 705**. The relevant and germane exposition of the law is extracted herein below for the sake of facility:-

“17. The Constitution Bench of this Court in *State of Bihar v. Sonabati Kumari* [AIR 1961 SC 221] , held that the provisions of Contempt of Courts Act, 1971 (for short “the 1971 Act”) deal with the wilful defiance of the order **passed by the court. Order of punishment be not passed if the court is satisfied that the party was, in fact, under a misapprehension as to the scope of the order or there was an unintentional wrong for the reason that the order was ambiguous and reasonably capable of more than one interpretation or the party never intended to disobey the order but conducted himself in accordance with the interpretation of the order.**



18. In *Sukhdev Singh v. Teja Singh* [AIR 1954 SC 186 : 1954 Cri LJ 460] this Court placing reliance upon the judgment of the Privy Council in *Andre Paul Terence Ambard v. Attorney General of Trinidad and Tabago* [AIR 1936 PC 141] , held that the proceedings under the Contempt of Courts Act are quasi-criminal in nature and orders passed in those proceedings are to be treated as orders passed in criminal cases.

19. In *S. Abdul Karim v. M.K. Prakash* [(1976) 1 SCC 975 : 1976 SCC (Cri) 217 : AIR 1976 SC 859] , *Chhotu Ram v. Urvashi Gulati* [(2001) 7 SCC 530 : 2001 SCC (L&S) 1196] , *Anil Ratan Sarkar v. Hirak Ghosh* [(2002) 4 SCC 21 : AIR 2002 SC 1405] , *Daroga Singh v. B.K. Pandey* [(2004) 5 SCC 26 : 2004 SCC (Cri) 1521] and *All India Anna Dravida Munnetra Kazhagam v. L.K. Tripathi* [(2009) 5 SCC 417 : (2009) 2 SCC (Cri) 673 : AIR 2009 SC 1314] , this Court held that burden and standard of proof in contempt proceedings, being quasi-criminal in nature, is the standard of proof required in criminal proceedings, for the reason that contempt proceedings are quasi-criminal in nature.

20. Similarly, in *Mrityunjay Das v. Sayed Hasibur Rahaman* [(2001) 3 SCC 739 : (2006) 1 SCC (Cri) 296 : AIR 2001 SC 1293] this Court placing reliance upon a large number of its earlier judgments, including *V.G. Nigam v. Kedar Nath Gupta* [(1992) 4 SCC 697 : 1993 SCC (L&S) 202 : (1993) 23 ATC 400 : AIR 1992 SC 2153] and *Murray & Co. v. Ashok Kumar Newatia* [(2000) 2 SCC 367 : 2000 SCC (Cri) 473 : AIR 2000 SC 833] , held that jurisdiction of contempt has been conferred on the Court to punish an offender for his contemptuous conduct or obstruction to the majesty of law, but in the case of quasi-criminal in nature, charges have to be proved beyond reasonable doubt and the alleged contemnor becomes entitled to the benefit of doubt. It would be very hazardous to impose sentence in contempt proceedings on some probabilities

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24. In *R.K. Anand v. Delhi High Court* [(2009) 8 SCC 106] this Court while dealing with the same issue held as under : (SCC p. 157, paras 140-41)

“140. ... Now, it is one thing to say that the *standard* [Ed. : The words “standard” and “manner” have been emphasised in original.] of proof in a contempt proceeding is *no less rigorous than a criminal trial but it is something entirely different to insist that the manner* [Ed. : The words “standard” and “manner” have been emphasised in original.] of proof for the two proceedings must also be the same.

141. It is now well settled and so also the High Court has held that the proceeding of contempt of court is *sui generis*. In other words, it is not strictly controlled by the provisions of CrPC and the Evidence Act. What, however, applies to a proceeding of contempt of court are the *principles of natural justice* and those principles apply to the contempt proceeding with greater rigour than any other proceeding. This means that the court must follow a procedure that is fair and objective; that should cause no prejudice to the person facing the charge of contempt of court and that should allow him/her the fullest opportunity to defend himself/herself.”

(emphasis added)

25. This Court in *Vinay Chandra Mishra, In re* [(1995) 2 SCC 584] has observed that a contempt amounts to an offence but it is an offence *sui generis* and hence for such an offence, the procedure adopted both under the common law and the statute law has always been summary. The Court held that in spite of the fact that it is a summary procedure, **there must be an opportunity to the alleged contemnor of meeting the charge. The degree of precision with which the charge may be stated depends upon the circumstances. So long as the gist of the specific allegation is made clear or otherwise the contemnor is aware of the specific allegation, it is not always necessary to formulate the charge. So long as the contemnor's interest is adequately safeguarded by giving him an opportunity of being heard in his defence, even summary procedure in the case of contempt cannot be found fault with.**



26. In *Daroga Singh* [(2004) 5 SCC 26 : 2004 SCC (Cri) 1521] this Court observed that in case the alleged contemnor feels that there is a necessity to cross-examine the witnesses i.e. the deponents of affidavits filed against him, the alleged contemnor must be given an opportunity to cross-examine the said witnesses provided it is so asked by him. This Court observed that in contempt proceedings, a summary procedure is to be adopted for the reason that the matter is to be disposed of most expeditiously and it is for this reason that in spite of the fact that proceedings are quasi-criminal in nature, the procedure under CrPC or the Evidence Act is not made applicable.

27. In view of the above, the law can be summarised that the High Court has a power to initiate the contempt proceedings suo motu for ensuring the compliance with the orders passed by the Court. However, contempt proceedings being quasi-criminal in nature, the same standard of proof is required in the same manner as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights which are provided in the criminal jurisprudence, including the benefit of doubt. There must be a clear-cut case of obstruction of administration of justice by a party intentionally to bring the matter within the ambit of the said provision. The alleged contemnor is to be informed as to what is the charge, he has to meet. Thus, specific charge has to be framed in precision. The alleged contemnor may ask the Court to permit him to cross-examine the witnesses i.e. the deponents of affidavits, who have deposed against him. In spite of the fact that contempt proceedings are quasi-criminal in nature, provisions of the Code of Criminal Procedure, 1973 (hereinafter called "CrPC") and the Evidence Act are not attracted for the reason that proceedings have to be concluded expeditiously. Thus, the trial has to be concluded as early as possible. The case should not rest only on surmises and conjectures. There must be clear and reliable evidence to substantiate the allegations against the alleged contemnor. The proceedings must be concluded giving strict adherence to the statutory rules framed for the purpose."



24. The alleged Contemnors/Respondents have raised a common objection qua the *suo motu* cognizance taken by this Court with respect to the alleged incident, asserting that simultaneous criminal prosecution under provisions of the IPC in FIR No.74/2006, dated 24.02.2006, registered at Police Station Subzi Mandi, and the present proceedings under the said Act, are unsustainable in light of the exception outlined in Section 10 of the said Act. According to this provision, no High Court shall take cognizance of a contempt alleged to have been committed in respect of a Court subordinate to it, if such contempt constitutes an offense punishable under the IPC.

25. At this outset, it is essential to highlight that the learned *Amicus Curiae* has pointed out that the proceedings under the IPC are distinct from the present contempt proceedings. Moreover, it has been urged that the abovementioned FIR has been registered under Sections 147/149/186/353/332/427/120-B IPC and Sections 3 and 4 of the Prevention of Damage of Public Property Act, which pertains to offenses unrelated to Contempt of Court. Consequently, this Court has appropriately exercised its jurisdiction in initiating *suo motu* cognizance of the alleged incident, as these offenses fall outside the realm of Contempt of Court.

26. It is of utmost relevance to highlight that the jurisdiction of the High Court to acknowledge and address matters pertaining to its Subordinate Court,



as well as its authority to penalize for acts of contempt, is derived from Article 215 of the Constitution of India, which is hereby reproduced verbatim for reference:

“Article 215. High Courts to be courts of record Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.”

27. The Hon’ble Supreme Court of India in **S.K. Sarkar v. Vinay Chandra Misra** reported as (1981) 1 SCC 436, after due consideration of the provisions of Articles 129 and 215 of the Constitution of India, concerning the jurisdiction of the High Court to take action against Contempt of Court, has observed as follows: -

“14. Article 215 of the Constitution provides: “Every High Court shall be a Court of record and shall have all the powers of such a court including the power to punish for contempt of itself.” Entry 14 of List III of the Seventh Schedule is to this effect: “Contempt of court, but not including contempt of the Supreme Court.” A provision analogous to Article 215 is Article 129 which preserves to the Supreme Court all the powers of a Court of record including the power to punish for contempt of itself. Entry 77 of List I of the Seventh Schedule is relatable to Article 129.

15. Articles 129 and 215 preserve all the powers of the Supreme Court and the High Court, respectively, as a Court of record which include the power to punish the contempt of itself. As pointed out by this Court in Mohd. Ikram Hussain v. State of U.P. [AIR 1964 SC 1625 : (1964) 5 SCR 86 : (1964) 2 Cri LJ 590] there are no curbs on the power of the High Court to punish for contempt of itself except those contained in the Contempt of Courts Act. Articles 129 and



215 do not define as to what constitutes contempt of court. Parliament has, by virtue of the aforesaid entries in List I and List III of the Seventh Schedule, power to define and limit the powers of the courts in punishing contempt of court and to regulate their procedure in relation thereto. Indeed, this is what is stated in the preamble of the Act of 1971.

16. Section 2(c) of the Act defines “criminal contempt”. Section 9 emphasises that “nothing contained in this Act shall be construed as implying that any disobedience, breach, publication or other act is punishable as contempt of court which would not be so punishable apart from this Act”. Section 10 runs as under:

“Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself.”

Then, there is a proviso which is not material for our purpose. The provision in Section 10 is but a replica of Section 3 of the 1952 Act. The phrase “courts subordinate to it” used in Section 10 is wide enough to include all courts which are *judicially* subordinate to the High Court, even though administrative control over them under Article 235 of the Constitution does not vest in the High Court. Under Article 227 of the Constitution the High Court has the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. The Court of Revenue Board, therefore, in the instant case, is a court “subordinate to the High Court” within the contemplation of Section 10 of the Act.

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18. A comparison between the two sub-sections would show that whereas in Sub-section (1) **one of the three alternative modes for taking cognizance, mentioned is "on its own motion", no such mode is expressly provided in Sub-section (2).** The only two modes of taking cognizance by the High Court mentioned in Sub-section (2) are : (i) on a reference made to it by a subordinate court; or (ii) on a motion made by the Advocate-



General, or in relation to a Union Territory by the notified Law Officer. **Does the omission in Section 15(2) of the mode of taking suo motu cognizance indicate a legislative intention to debar the High Court from taking cognizance in that mode of any criminal contempt of a subordinate court? If this question is answered in the affirmative, then, such a construction of Sub-section (2) will be inconsistent with Section 10 which makes the powers of the High Court to punish for contempt of a subordinate court, coextensive and congruent with its power to punish for its own contempt, not only in regard to quantum or pre-requisites for punishment, but also in the matter of procedure and practice. Such a construction which will bring Section 15(2) in conflict with Section 10, has to be avoided, and the other interpretation which will be in harmony with Section 10 is to be accepted. Harmoniously construed, Sub-section (2) of Section 15 does not deprive the High Court of the power of taking cognizance of criminal contempt of a subordinate court, on its own motion, also.** If the intention of the Legislature was to take away the power of the High Court to take suo motu cognizance of such contempt, there was no difficulty in saying so in unequivocal language, or by wording the subsection in a negative form. **We have, therefore, no hesitation in holding in agreement with the High Court, that Sub-section (2) of Section 15, properly construed, does not restrict the power of the High Court to take cognizance of and punish contempt of a subordinate court, on its own motion.**

19. It is, however, to be noted that Section 15 does not specify the basis or the **source of information on which the High Court can act on its own motion. If the High Court acts on information derived from its own sources, such as from a perusal of the records of a subordinate court or on reading a report in a newspaper or hearing a public speech, without there being any reference from the subordinate court or the Advocate-General, it can be said to have taken cognizance on its own motion.** But if the High Court is directly moved by a petition by a private person feeling aggrieved, not being the Advocate-General, can the High Court refuse to entertain the same on the ground that it has been made without the consent in writing of the Advocate-General? It appears to us that the High Court has, in such a situation, a discretion to refuse to entertain



the petition, or to take cognizance on its own motion on the basis of the information supplied to it in that petition. **If the petitioner is a responsible member of the legal profession, it may act suo motu, more so, if the petitioner-advocate, as in the instant case, prays that the court should act suo motu. The whole object of prescribing these procedural modes of taking cognizance in Section 15 is to safeguard the valuable time of the High Court or the Supreme Court from being wasted by frivolous complaints of contempt of court. If the High Court is prima facie satisfied that the information received by it regarding the commission of contempt of a subordinate court is not frivolous, and the contempt alleged is not merely technical or trivial, it may, in its discretion, act suo motu and commence the proceedings against the contemnor.** However, this mode of taking suo motu cognizance of contempt of a subordinate court, should be resorted to sparingly where the contempt concerned is of a grave and serious nature. Frequent use of this suo motu power on the information furnished by an incompetent petition, may render these procedural safeguards provided in Subsection (2), otiose. In such cases, the High Court may be well advised to avail of the advice and assistance of the Advocate-General before initiating proceedings. The advice and opinion, in this connection, expressed by the Sanyal Committee is a pertinent reminder.

"In the case of criminal contempt, not being contempt committed in the face of the court, we are of the opinion that it would lighten the burden of the court, without in any way interfering with the sanctity of the administration of justice, if action is taken on a motion by some other agency. Such a course of action would give considerable assurance to the individual charged and the public at large. Indeed, some High Courts have already made rules for the association of the Advocate-General in some categories of cases at least...the Advocate-General may, also, move the Court not only on his own motion but also at the instance of the court concerned.....

20. In the peculiar circumstances of the instant case, we do not think that the High Court has acted improperly or illegally in taking suo motu cognizance, on the petition of the respondent advocate."



28. Further the Hon'ble Supreme Court of India in the case of **Daroga Singh v. BK Pandey** reported as (2004) 5 SCC 26 stated that, the proviso to Section 10 of the Act excludes the jurisdiction of High Court only in cases where the acts alleged to constitute contempt of a Subordinate Court are punishable as contempt under the specific provisions of IPC, but not where these acts merely amount to offences of other description for which punishment has been provided for in the IPC. The relevant portion of the judgment is extracted herein below for the sake of facility:-

“18. Learned counsel appearing for the appellants in different appeals, apart from the merits in individual appeals, which we shall deal with later, have raised some common points challenging the correctness of the impugned judgment. The same are:

(i) the alleged contempt is that of a court subordinate to the High Court and the allegations made constitute an offence under Section 228 IPC, and therefore the jurisdiction of the High Court to take cognisance of such a case is expressly barred under the proviso to Section 10 of the Act;

(ii) that the High Court cannot take suo motu notice of the contempt of a court subordinate to it. The procedure given in the High Court Rules and orders for initiation of proceedings for contempt of a subordinate court having not been followed, the entire proceedings are vitiated and liable to be quashed;

(iii) the standard of proof required in the criminal contempt is the same as in a criminal charge and therefore the charge of criminal contempt has to be proved by holding a trial as in a criminal case. The appellants could not be convicted on the basis of evidence by way of affidavits only. The witnesses should



have been examined in court and in any case the appellants should have been given an opportunity to cross-examine the persons who had deposed against them on affidavits to verify the version of the incident as according to them there were conflicting versions of the incident;
 (iv) reasonable and adequate opportunity was not afforded to the appellants either to defend themselves or put forward their case; and
 (v) affidavits of independent witnesses which were on record have not been dealt with by the High Court.

19. Answer to the first point would depend upon the interpretation to be put on Section 10 of the Act. Section 10 which deals with the power of the High Court to punish for the contempt of subordinate courts reads:

“10. Power of High Court to punish contempts of subordinate courts.—Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself:

Provided that no High Court shall take cognisance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Penal Code, 1860.”

20. According to the learned counsel appearing for the appellants, the proviso to Section 10 means that if the act by which a party is alleged to have committed contempt of a subordinate court constitutes offence of any description whatsoever punishable under the Penal Code, 1860, the High Court is precluded from taking cognisance of it. According to them, in the present case the allegations made amount to an offence under Section 228 of the Penal Code, 1860 and consequently the jurisdiction of the High Court is barred.

21. We do not find any force in this submission. The point raised is concluded against the appellants by a judgment of the Constitution Bench of this Court in *Bathina Ramakrishna Reddy v. State of Madras* [(1952) 1 SCC 154 : AIR 1952 SC 149 : 1952 SCR 425 : 1952 Cri LJ 832] . In that case, sub-section (3) of Section 2 of the Contempt of Courts Act, 1926



which is similar to the proviso to Section 10 of the Act was under consideration. Section 2(3) of the Contempt of Courts Act, 1926 provided that no High Court shall take cognisance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Penal Code, 1860. Interpreting this section, it was held that sub-section (3) excluded the jurisdiction of the High Court to take cognisance of a contempt alleged to have been committed in respect of a court subordinate to it only in cases where the acts alleged to constitute contempt are punishable as contempt under specific provisions of the Penal Code, 1860, but not where these acts merely amount to offences of other description for which punishment has been provided in the Penal Code, 1860.

22. This judgment was analysed and followed by a Bench of three Judges of this Court in *State of M.P. v. Revashankar* [AIR 1959 SC 102 : 1959 SCR 1367 : 1959 Cri LJ 251]

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23. These two judgments have been followed recently in *Arun Paswan, SI v. State of Bihar* [(2003) 10 Scale 658 : (2004) 5 SCC 53]

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28. The second contention raised on behalf of the appellants is that the High Court cannot on its own motion take action for criminal contempt of a subordinate court. According to the learned counsel, the High Court can take cognisance of a criminal contempt under Section 15(2) of the Act of a subordinate court only on a reference made to it by the subordinate court or on a motion made by the Advocate General. Since the procedure as laid down in the High Court Rules and orders had not been followed the very initiation of proceedings for contempt was vitiated and therefore liable to be quashed. We do not find any force in this submission as well. This point also stands concluded against the appellants by a decision of this Court in *S.K. Sarkar v. Vinay Chandra Misra* [(1981) 1



SCC 436 : 1981 SCC (Cri) 175] . In this case an advocate filed a petition before the High Court under the Contempt of Courts Act alleging that the appellant therein as a member of the Revenue Board made certain contemptuous remarks viz. *“nalayak gadhe saale ko jail bhijwa dunga; kis idiot ne advocate bana diya hai”* and acted in a manner which amounted to criminal contempt of the Court of Revenue Board, in which he (the advocate) was the counsel for one of the parties. **The advocate requested the High Court to take suo motu action under the Contempt of Courts Act against the member of the Revenue Board or pass such orders as it deemed fit. The question for determination was whether the High Court was competent to take cognisance of contempt of a subordinate court when it was moved by a private petitioner and not in accordance with either of the two motions mentioned in Section 15(2). Analysing Section 15(2) of the Act and reading it in harmony with Section 10 of the Act it was held: (SCC pp. 441-43, paras 16-18).....**

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29. We respectfully agree with the view taken in this judgment and hold that the High Court could initiate proceedings on its own motion under the Contempt of Courts Act against the appellants. On the facts of this case apart from the report sent by the Vth Additional District and Sessions Judge of the incident, Young Lawyers' Association had also filed a writ petition. **The Presidents of the three Bar Associations and the Advocate General were present and heard before initiating the proceedings for criminal contempt. It has been noted by the High Court that “all the three Presidents of the High Court Associations and the Advocate General arrived at the conclusion that a prima facie case of criminal contempt was made out against the contemnors”. This shows that the Advocate General of the State was also of the opinion that prima facie a case for initiation of proceedings for criminal contempt was made out and he was a consenting party to the initiation of the proceedings.”**



29. Further, in the matter of **Re: Vijay Kurle & Ors.** reported as **2020 SCC Online SC 407**, the Hon'ble Supreme Court of India had observed that it is indeed permissible for any citizen of the nation to express criticism towards judgments pronounced by any Court, including this Court. Nevertheless, it is impermissible for any party to impute motives to a Judge, question the integrity of the Judge, or cast doubts upon the Judge's competence. Judges form an integral part of the mechanism for dispensing justice and Judges exhibit reluctance to invoke contempt laws in instances of personal attacks directed at them. However, if there is a concerted assault by Members of the Bar, who claim affiliation with an organization that enjoys substantial support, then the Court cannot turn a blind-eye to the slanderous and scandalous allegations put forth.

30. At this juncture it is considered relevant to point out that recently in the judgment of **Prashant Bhushan, In re (Contempt Matter)**, reported as **(2021) 1 SCC 745**, the Hon'ble Supreme Court of India observed that in instances of *suo motu* cognizance, seeking consent from any party, including the learned Attorney General, is not a prerequisite and observed the same in particular paragraph 18 thereof, which is extracted hereinbelow for the sake of facility:-



“18. From the perusal of various judgments of this Court, including those of the Constitution Benches, it could be seen, that the source of power of this Court for proceeding for an action of contempt is under Article 129. **It has further been held, that power of this Court to initiate contempt is not in any manner limited by the provisions of the Contempt of Courts Act, 1971. It has been held, that the Court is vested with the constitutional powers to deal with the contempt and Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated. It has been held, that insofar as suo motu petitions are concerned, the Court can very well initiate the proceedings suo motu on the basis of information received by it. The only requirement is that the procedure as prescribed in the judgment of *P.N. Duda* [*P.N. Duda v. P. Shiv Shanker*, (1988) 3 SCC 167 : 1988 SCC (Cri) 589] has to be followed. In the present case, the same has undoubtedly been followed. It is also equally settled, that as far as the suo motu petitions are concerned, there is no requirement for taking consent of anybody, including the learned Attorney General because the Court is exercising its inherent powers to issue notice for contempt. It is equally well settled, that once the Court takes cognizance, the matter is purely between the Court and the contemnor. The only requirement is that, the procedure followed is required to be just and fair and in accordance with the principles of natural justice. In the present case, the notice issued to the alleged contemnors clearly mentions the tweets on the basis of which the Court is proceeding suo motu. The alleged Contemnor 1 has also clearly understood the basis on which the Court is proceeding against him as is evident from the elaborate affidavit-in-reply filed by him.”**

31. On a conspectus of the judgments of the Hon’ble Supreme Court of India extracted hereinabove and on a conjoint and harmonious interpretation of the provisions of the said Act, considered in the backdrop of the facts antecedent and attendant hereinbefore, we are axiomatically of the considered



view that this Court had appropriately exercised its *suo motu* jurisdiction with respect to the occurrence of the purported incident that transpired in the District Courts of Delhi.

32. At the outset, it is pertinent to emphasize that, since the present proceedings are initiated against advocates, there is an additional requirement for stringent proof that this Court must fulfil. While addressing the facts and incidents of the present criminal contempt proceeding, and particularly considering the evidence produced before this Court, we have meticulously examined the reports submitted by Mr. S.N. Dhingra (the then District & Session Judge), complaints lodged by various other Judges of the District Court, their Court Staff, Advocates, Media Personnel, as well as the statements recorded under Section 161 Cr.P.C., in conjunction with the Charge-Sheet dated 25.02.2006. Furthermore, we have duly considered the video CDs, Circulars, and press releases, including the press release issued by the Delhi Bar Association and the comprehensive Lockout Circulars issued by the Delhi Bar Association. This Court has exercised prudence in incorporating all the aforementioned evidence and has appraised the same in accordance with the principles enunciated by the Hon'ble Supreme Court of India in its catena of judgments.



33. In the present criminal contempt proceedings, this Court has received multiple reports of advocates staging protests at Tis Hazari Courts and Rohini Courts. Further, the arguments put forth by the learned *Amicus Curiae* find resonance with the fact that District Judges have recorded in their judicial orders that the alleged Contemnors and other Advocates have disrupted proceedings, including manhandling fellow advocates. It is well-established in law that a judicial order is a public document, and its authenticity is presumed, consequent thereto we have also examined the video footage purportedly capturing the alleged incident. A careful perusal of the video footage affirms that there is no evidence linking the damage caused to the court rooms with the protest by the Advocates/alleged Contemnors. Moreover, these actions cannot be directly attributed to the alleged Contemnors. Consequently, the material including the subject videos fail to provide any direct evidence connecting the damage allegedly caused to court rooms with the Advocates' protest. Furthermore, the videos do not furnish any evidence of Advocates manhandling their colleagues, obstructing the Administration of Justice, or supporting any other allegations made against the alleged Contemnors in the present proceedings. Hence, there exists no substantial evidence to establish obstruction of justice, acts of manhandling, or destruction of property.



Therefore, it cannot be conclusively established that the act of protesting interfered with the administration of justice.

34. Further it is relevant to highlight that the present contempt proceedings are pending adjudication since 2006; and the Sword of Damocles' has been hanging for the past 17 years, on the alleged Contemnors/Respondents. Additionally, during the course of the present proceedings all the alleged Contemnors/Respondents have also expressed their deep remorse and have stated that they have utmost respect for the institution of judiciary and that it was never their intention to cause any distress or to do anything that could be construed as undermining the majesty and dignity of the Court of Law.

35. Before we part with the order, we express our deepest gratitude to Mr. Sidharth Luthra, learned Senior Advocate, for having rendered his invaluable assistance as the *Amicus Curiae* before this Court in the present criminal contempt proceedings.

36. Hence, in view of the foregoing discussion and having accorded our thoughtful consideration to the facts and circumstances, antecedent and attendant, as elaborated hereinbefore, we discharge the Show Cause Notices issued to the remaining alleged Contemnors/Respondents in the present criminal contempt proceedings. Resultantly, the notice to show cause as to



why criminal contempt be not drawn against the alleged Contemnors/Respondents, are hereby discharged.

37. No further directions are called for. Both the criminal contempt proceedings are disposed of accordingly. Pending applications, if any, also stands disposed of.

38. A copy of this Judgment be uploaded on the website of this Court *forthwith*.

**SIDDHARTH MRIDUL
(JUDGE)**

**RAJNISH BHATNAGAR
(JUDGE)**

**ANOOP KUMAR MENDIRATTA
(JUDGE)**

JULY 28, 2023
*dn/ac/da**