



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL CONTEMPT PETITION REFERENCE NO.2/2019.

Smt.M.I. Arland,
District Judge-1 and Additional
Sessions Judge, Akola.

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PETITIONER.

VERSUS

1.Shri Madhusudan B. Sharma,
Advocate, resident of Asara Colony No.1,
Near Sant Tukaram Hospital,
Akola.

2.Shri Dinesh Rameshwarlal Khurania,
resident of Chaitanya Wadi, Lahan
Umari, Akola.

3.Shri Ajay Nilkanthrao Joshi,
resident of S-1, Sadguru Vihar,
beside TTN College, Keshav Nagar,
Akola.

4.Shri Shravan Kashid,
resident of Agashe Nagar, Gurukul
Colony, Near Anand Park Apartment,
Malkapur, Akola.

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RESPONDENTS.

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Mr. F.T. Mirza, Amicus Curiae.
Mr.A.S. Mardikar, Senior Advocate with Shri C.A. Joshi,
Advocate for Respondents.

**CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.**

DATE : JANUARY 09, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard learned Counsel present for the parties.

2. The learned District Judge-1 and Additional Sessions Judge, Akola has submitted a reference on 22.01.2019 under Section 15[2] of the Contempt of Courts Act, 1971 read with Contempt of Courts Rules, 1992 seeking an action for contempt against respondents, who are 4 lawyers, in terms of Section 2[c] read with Section 12 of the Contempt of Courts Act. At the relevant time the learned Judge was working at Akola in the capacity as District Judge and Additional Sessions Judge, Akola.

Rgd.

3. Respondents are practicing Advocates at District and Sessions Court at Akola. The contempt reference precisely narrates that the learned Judge was ceased with one Sessions Case in which she took certain steps to secure the presence of the accused. One of the contemnors/respondent (Advocate Sharma), had appeared in the matter, and as he did not got favourable order, he started making negative propaganda against the Judge amongst bar members. Advocate Sharma started wrong publicity and started making derogatory statements against the Judge. He has circulated letters, and started signature campaign of Advocates for boycotting the Court.

4. Particularly it is stated that Advocates have formed a whatsapp group namely "Akola Vakil Sangh Jindabad" of which all the contemnors/respondents are members. It is alleged that contemptuous and derogatory material has been uploaded on said whatsapp group which is scandalous or in nature of scandalizing or lowering the image of the Court. The learned Judge has issued show

Rgd.

cause notice, which was responded. Being unsatisfied, the learned Judge has made reference in terms of Section 15[2] of the Contempt of Courts Act.

5. Initially notice before admission was issued on which the contemnors/ respondents have appeared and filed reply dated 26.03.2019. However, prior to filing of said reply, respondents have tendered unconditional apology by filing a Pursis dated 11.03.2019. They urge to accept the unconditional apology, however, time was sought to make detail submission on factual aspects.

6. Since the matter pertains to the dignity and majesty of the Court of law, this Court has appointed Shri F.T. Mirza, Advocate as an Amicus to assist the Court. After hearing both sides and considering prima facie material, the contempt was admitted vide order dated 30.04.2019. Since the contemnors have given an undertaking to appear before the Court, warrant was not issued.

7. Shri Mardikar, the learned Senior Counsel appearing for

respondents utterly urged that time and again apologies have been tendered, and therefore, proceedings be dropped by taking a lenient view. He would submit that by the time the Judicial Officer has been transferred to another place. Sword of contempt was hanging since last 4 years on contemnors. It is submitted that respondents are practicing Advocate having bright prospects. They have deep repentance on their act, therefore genuine apology may kindly be accepted in all fairness. He relied on several decisions of Supreme Court as well as this Court to impress that when apology is sought bonafidely, the proceedings can be dropped by cautioning contemnors.

8. On the other hand Shri Mirza, learned Amicus relying on the decisions in case of (1) **L.D.Jaikwal .vrs. State of U.P. (1984) 3 SCC 405**, (2) **Bal Kishan Giri .vrs. State of U.P. (2014) 7 SCC 280**, (3) **Vishram Singh Raghubanshi .vrs. State of U.P. (2011) 7 SCC 776**, (4) **Arun Kumar yadav .vrs. State of U.P. (2013) 14 SCC 127** and (5) **Rakesh Tiwari .vrs. Alok Pande, Chief Judicial Magistrate (2019) 6 SCC 465**, would submit that the present proceeding has a

different flavour, as it is a contempt on the part of Advocates to lower down the authority of the Court itself. The allegations have been made with an intention to pressurize the Judicial Officer or to obtain favourable orders. He took us through the observations made in above decisions where on peculiar facts of those cases, the Courts have declined to take a lenient view on mere tender of apology.

9. During the pendency of the proceeding, respondents have again filed affidavits claiming unconditional apology on 29.04.2019, 27.09.2022 as well as on 07.12.2023. While admitting the matter, earlier two apologies were before the Court, however, it is expressed that whether the apology is bonafide, needs to be examined in the light of judicial precedents.

10. We have gone through the third apology dated 27.09.2022 individually filed by each respondents. It is stated that once again respondents tender unconditional apology for the events which occurred. They have given an undertaking that in future they

Rgd.

7

will remain cautious and will not indulge into activities amounting to contemptuous act. Again all contemnors / respondents have individually filed 4th apology on 07.12.2023. They have reiterated the apology and gave an undertaking that in future they would not commit any disrespectful act amounting to contempt.

11. Always the time when the apology is sought matters. It reveals that before admitting the reference, respondents have tendered first apology. It reflects that they have repentance and remorse about their act. No doubt, the higher Courts have to protect the majesty of District Courts, however, all the aspects needs to be taken into consideration. Respondents being officers of the Court, they are expected to maintain dignity of the Court and upkeep professional standards. Undeniably, from time to time till date 4 unconditional apologies have been tendered. The matter is pending from 2019 i.e. last 4 years. Certainly, respondents were under the cloud during the said period. All respondents are practicing Advocates having professional experience of number of years. They have realized their mistake and came before us by tendering

Rgd.

repeated apologies. We do not see any reason to suspect their bonafides.

13. In view of above, by issuing a word of caution that in future they should not indulge in such activities and shall abide by their undertaking of maintaining rectitude, we accept the apology and drop the contempt proceedings.

JUDGE

JUDGE