[2010] 6 S.C.R. 1073

RANVEER YADAV

v.

STATE OF BIHAR

(Criminal Appeal No. 188 of 2009)

MAY 12, 2010

[G.S. SINGHVI AND ASOK KUMAR GANGULY, JJ.]

Contempt of Courts Act, 1971 – ss. 12(1) explanation, 2(c)(ii), 19(1)(b) – Contempt of court – Apology in contempt proceeding – Held: It must be bonafide and to the satisfaction of the court – Apology must be offered at the earliest possible opportunity – Belated apology hardly shows contrition which is the essence of the purging of a contempt – Court may refuse to accept apology though not belated but is without real contrition and remorse and was merely tendered as a weapon of defence – On facts, conviction and sentence of main contemnor by High Court for disrupting the court proceedings which forced the judge to leave, justified – His act is a clear case of criminal contempt in the face of the court – In show cause notice main contemnor did not offer any apology rather tried to justify his act – Apology was offered in a subsequent show cause reply which was a belated apology – Supreme Court Rules, 1966 – Or. XXI r. 15 (1)(e).

BH, BM, PN and MD are accused in a Sessions trial case and the appellant was the witness in the case and was to be cross-examined. On the fateful day, all of them disrupted the proceedings by aggressively exchanging heated words and creating unpleasant scenes in court, forcing the judge to leave the room. The Additional Sessions Judge made a reference to High Court. The High Court treated the same as reference made under section 15(2) of the Contempt of Courts Act, 1971 and issued show cause notice to the contemnors. It held that the appellant was the main person responsible for the

A disruption, who acted in a motivated and high handed manner. The High Court convicted the appellant for the contempt of lower court. He was sentenced to a simple imprisonment for two months with fine of Rs. 2000/-. The High Court accepted the unqualified apology of the other B contemnors and let them off. Hence the appeal.

Dismissing the appeal, the Court

HELD: 1.1. In the facts of the case and on the materials on record, it is clear that the case of the C appellant that in the show-cause notice which was given to appellant, no different role has been attributed to him and he cannot be treated differently by the High Court in the matter of awarding punishment cannot be accepted as the appellant's case stands on a different footing. In D fact the appellant took the main role in causing disruption and there was no lack of opportunity on his part in answering the charges against him. The charges put against him must be read in a practical sense and cannot be read in a pedantic manner. All the constituents of the E charges were stated in the show-cause notice and the appellant understood the charges and gave the reply. Nowhere in the reply the appellant raised any difficulty in understanding the charges. It does not appear that any contention was raised by the appellant before the High F Court about any vagueness in the charges or about furnishing inadequate particulars in the charges. This argument of the counsel for the appellant only before this Court and that too without a proper factual basis cannot be entertained. [Para 19] [1081-F-H; 1082-A-B]

G 1.2. From the facts of the case it is clear that the offending acts of the appellant are specifically coming under section 2(c)(ii) of the Contempt of Courts Act, 1971. Due conduct of any judicial proceeding is a matter of high public importance as it is inextricably connected with rule

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of law on which is based the constitutional mode of governance in this country. That is why the framers of the Act preceded the expression interfere with the words "tends to" and it has been further emphasized by addition of word 'due' before "course of any judicial proceedings". The legislature does not waste words. Therefore, every word used in section 2(c)(ii) must be given its proper and natural meaning. Thus read, section 2(c)(ii) must be given a broad sweep so as to include within it even any attempt to interfere with the due course of a judicial proceeding. The word 'due' is very crucial in this context and must mean a natural and proper course of judicial proceeding. [Paras 21 and 22] [1082-F-H; 1083-A]

1.3. Section 2(c)(ii) has been enacted to protect apart from sanctity, the regularity and purity of a judicial proceeding. It is based on principles of high public policy. That is why contempt power is said to be an inherent attribute of a Superior Court of Record. This power has not been given to the subordinate judiciary, but in an appropriate case, subordinate judiciary can make a reference to the High Court under section 15 (2) of the Act. Thus, when High Court exercises its power on a reference under section 15(2) of the Act, it is virtually exercising the same as a guardian of the subordinate judiciary to protect its proceedings against an outrage and affront. In exercising such power, the High Court being a 'Court of Record' and the highest judicial authority in the State is discharging its jurisdiction '*in loco parentis*' over subordinate judiciary in that State. Therefore, there is something in the nature of High Court's power under section 15(2) of the Act which couples it with a duty. The duty is obviously to uphold the rule of law. But there is a rider. Contempt power has to be exercised with utmost caution and in an appropriate case and that is why High Court has been

A entrusted with it. [Paras 23 and 24] [1083-B-E; 1084-A]

1.4. The offending acts of the appellant constitute contempt in the face of Court. When contempt takes place in the face of the Court, peoples' faith in the administration of justice receives a severe jolt and
B precious judicial time is wasted. Therefore, the offending acts of the appellant certainly come within the ambit of interference with the due course of judicial proceeding and are a clear case of criminal contempt in the face of the Court. The High Court, in the impugned judgment was
C correct in holding the appellant guilty and also in punishing him with the sentence it has imposed. It appears in the show cause notice, which was given by the appellant, initially he did not offer any apology. Rather the appellant tried to justify. The apology was offered in
D a subsequent show cause reply. Therefore, it is a belated apology. [Paras 25 and 26] [1084-B-E]

1.5. Under Explanation to section 12(1) of the Act, the Court may reject an apology if the Court finds that it was
E not made bonafide. Under section 12, it has been made very clear that the apology must be to the satisfaction of the Court. Therefore, it is not incumbent upon the Court to accept the apology as soon as it is offered. Before an apology can be accepted, the Court must find that it is
F bonafide and is to the satisfaction of the Court. However, Court cannot reject an apology just because it is qualified and conditional provided the Court finds it is bonafide. [Para 27] [1084-E-G]

1.6. An apology in a contempt proceeding must be
G offered at the earliest possible opportunity. A belated apology hardly shows the 'contrition which is the essence of the purging of a contempt'. Apart from belated apology in many cases such apology is not accepted unless it is bonafide. Even if it is not belated where
H apology is without real contrition and remorse and was

merely tendered as a weapon of defence, the Court may refuse to accept it. [Paras 28, 30 and 33] [1084-G; 1085-B-C, F]

1.7. The judgment of the High Court is upheld. The appellant is to serve the sentence in terms of the High Court order. Notices issued on other respondents are discharged. [Para 34] [1085-G]

Debabrata Bandopadhyay and Ors. vs. The State of West Bengal and Anr. **AIR 1969 SC 189;** *Principal, Rajni Parekh Arts, K.B. Commerce and B.C.J. Science College, Khambhat and Anr. vs. Mahendra Ambalal Shah* **1986 (2) SCC 560;** *Secretary, Hailakandi Bar Association vs. State of Assam and Anr.* **(1996) 9 SCC 74;** *Chandra Shashi vs. Anil Kumar Verma* **(1995) 1 SCC 421, referred to.**

Case Law Reference:

AIR 1969 SC 189	**Referred to.**	**Para 29**
1986 (2) SCC 560	**Referred to.**	**Para 31**
(1996) 9 SCC 74	**Referred to.**	**Para 32**
(1995) 1 SCC 421	**Referred to.**	**Para 33**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 188 of 2009.

From the Judgment & Order dated 03.09.2008 of the High Court of judicature at Patna in Contempt Jurisdiction in Original CR Misc. (DB) No. 8 of 2008.

P.S. Mishra, Kumar Rajesh Singh, Sishir Pinaki, Thathagat H.Vardhan, Upendra Mishra, Dhruv Kr. Jha and Niranjana Singh for the Appellant.

Nagendra Rai, P.H. Parekh, Gopal Singh, Manish Kumar, Sameer Parekh, Ajay Kumar Jha, Somanadri Gour, Pallavi

A Srivastava (for Parekh & Co.) Shangtanu Sagar, Smarhar and T. Mahipal for the Respondent.

The Judgment of the Court was delivered by

B **GANGULY, J.** 1. This is a statutory appeal under Section 19(1)(b) of the Contempt of Courts Act, 1971 read with Order XXI Rule 15(1)(e) of the Supreme Court Rules, 1966 from the final judgment and sentence dated 3.9.2008 of the High Court of Patna in Original Cr. Misc.(DB) No. 8 of 2008.

C 2. The said Original Misc. (DB) No. 8 of 2008 was a reference through a communication dated 22.4.2008 by the 1st Additional Sessions Judge, Khagaria about an incident which happened in his Court on 13.2.2008. The High Court treated the same a reference made under Section 15(2) of the D Contempt of Courts Act, 1971 (hereinafter, "the Act") made by the 1st Additional Sessions Judge, Khagaria (hereinafter, "the Judge").

3. The reference by the Judge was made for the reason that during the course of the Sessions Trial No.46/93 on E 13.02.2008, five of the alleged contemnors were on one side and the sixth contemnor, the appellant Ranveer Yadav, on the other side, and all of them disrupted the proceedings by aggressively exchanging heated words and creating unpleasant scenes in Court. The decorum and dignity of the Court was so F much threatened that the Judge was forced to rise.

4. Out of the six contemnors, Bharat Yadav, Bimal Yadav, Ajay Yadav, Pandav Yadav and Madan Yadav are accused in the Sessions Trial No. 46/93. The appellant Ranveer Yadav, an G witness in the case and was due to be cross-examined on that day, i.e. 13.02.2008.

5. The High Court on the basis of such reference issued notice on 11.07.2008 to show cause why the alleged contemnors should not be held guilty of Criminal Contempt for H their acts set out in the reference.

6. In the joint affidavits filed by the first five contemnors, they tendered their apologies for creating the disturbance and stated that the main person responsible for the ruckus was the appellant, Ranveer Yadav. They stated the scene was created by him to delay his cross-examination.

7. The show cause submitted by Madan Yadav, who is 76 years old and is one of the accused in the Sessions Trial No. 46/93, is a crucial one. Madan Yadav stated that the appellant is the prime accused in a case of murder of Madan's son in 1998. In that case the appellant could be produced before the Trial Court for the purpose of framing charges only on the orders of the High Court. Madan further stated that he had been falsely implicated in the criminal case which was pending before the Court on the basis of a police complaint containing false allegations made by the brother of the appellant. The main reason for Madan's implication is to pressurize him to withdraw the earlier case relating to the murder of his son and which is pending against the appellant.

8. The High Court after noting these facts observed that the appellant, on many occasions came to the Trial Court with followers who helped him in creating a nuisance in Court. It also observed that several Additional Public Prosecutors had withdrawn themselves from criminal cases against the appellant in view of threats and intimidation they received from the appellant. On the date of incident, even the defence counsel was not spared as is apparent from the letter written by the defence counsel to the Presiding Officer.

9. The High Court found that appellant had also managed to postpone and delay his cross-examination on various occasions on the pretext of illness and non-appearance on the fixed dates.

10. It was also brought to the notice of the High Court that a case under Section 302 IPC in which the appellant was an accused had to be transferred to another district in view of

A threats and intimidation given out by the appellant.

11. In the show cause submitted by the appellant Ranveer Yadav, he tried to justify his behaviour on 13 02.2008 by stating that on 12.12.2007, in the Court he had been informed that there would be a compromise. But he got miffed when the B Additional Public Prosecutor made an appearance before the Court and he thought that the latter had appeared without the orders of the Public Prosecutor. On such justification of the appellant, High Court held that the appellant being a witness had nothing to do with the appearance of the public prosecutor C and held that the appellant's misbehaviour was not justified.

12. With regard to his failure to appear before the Court on 1.3.2008, the appellant stated that he was not provided the police protection which he had asked for.

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13. The High Court held that all the Contemnors were guilty of having committed criminal contempt and it relied on the letters of the two prosecution counsel as well as the defence counsel and came to the conclusion that the main person responsible for the disruption was the appellant who acted in E a motivated and high handed manner to interfere in the due conduct of the proceeding.

14. High Court further held that the main culprit for the disruption in Court was the appellant. While accepting the F unqualified apology of the other five contemnors and letting them off with admonition and severe warning, the appellant was sentenced to a simple imprisonment for two months with a fine of Rs.2,000/- and in default the appellant was to undergo a further imprisonment of one month.

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15. This Court while issuing notice in this appeal passed an order dated 28.8.2009 asking the other five contemnors to show cause why the order of the High Court accepting their unconditional apology and directing them to be let off be not set aside. In the meantime, a further stay on the arrest of the H

appellant was ordered extending the order whereby the appellant was given exemption from surrendering. A

16. The five contemnors who were let off by the High Court filed their joint counter affidavit on 28.01.2010. While tendering their unqualified apology, they have given the same explanation as given before the High Court that the main person responsible for the disruptions was the appellant. In Paras IV as well as V of the counter affidavit, they have stated that the appellant behaved in an audacious manner and abused the counsel for the both sides and refused to be examined. They have also made allegations that the appellant is a very well connected person and has a political background with criminal antecedents. B C

17. In this case learned counsel for the appellant sought to argue that in a contempt proceeding, the High Court cannot take a different stand by punishing the appellant and letting the other appellants go unpunished even after holding that they are guilty of contempt. D

18. Learned counsel also argued that in the show-cause notice which was given to the appellant, no different role has been attributed to him so he cannot be treated differently by the High Court in the matter of awarding punishment. E

19. This Court is unable to appreciate the above contention of the learned counsel for the appellant. In the facts of the case and on the materials on record, it is clear that the case of the appellant stands on a different footing. In fact the appellant took the main role in causing disruption and there has no lack of opportunity on his part in answering the charges against him. The charges put against him must be read in a practical sense and cannot be read in a pedantic manner. All the constituents of the charges were stated in the show-cause notice and the appellant has understood the charges and has given the reply. Nowhere in the reply the appellant has raised any difficulty in understanding the charges. It does not appear that any F G H

A contention was raised by the appellant before the High Court about any vagueness in the charges or about furnishing inadequate particulars in the charges. This argument of the learned counsel for the appellant only before this Court and that too without a proper factual basis cannot be entertained.

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20. Criminal contempt has been defined under Section 2(c) of the Act. The said definition is very wide. For a proper appreciation of the questions involved in this case the said definition is set out below:-

C "2(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-

D (i) scandalizes or tends to scandalize, 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

E (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;"

21. From the facts of the case it is clear that in this case F the offending acts of the appellant are specifically coming under Section 2(c)(ii). Due conduct of any judicial proceeding is a matter of high public importance as it is inextricably connected with rule of law on which is based the constitutional mode of governance in this country. That is why the framers of the Act G preceded the expression interfere with the words "tends to" and it has been further emphasized by addition of word 'due' before "course of any judicial proceedings".

22. We must remember that legislature does not waste words. Therefore, every word used in Section 2(c)(ii) must be H given its proper and natural meaning. Thus read, Section 2(c)(ii)

must be given a broad sweep so as to include within it even any attempt to interfere with the due course of a judicial proceeding. The word 'due' is very crucial in this context and must mean a natural and proper course of judicial proceeding.

23. This Court, therefore, holds that Section 2(c)(ii) has been enacted to protect apart from sanctity, the regularity and purity of a judicial proceeding. This, we repeat, is based on principles of high public policy. That is why contempt power is said to be an inherent attribute of a Superior Court of Record. This power has not been given to the subordinate judiciary, but in an appropriate case, subordinate judiciary can make a reference to the High Court under Section 15 (2) of the Act, as has been done in this case. Thus when High Court exercises its power on a reference under Section 15(2) of the Act, it is virtually exercising the same as a guardian of the subordinate judiciary to protect its proceedings against an outrage and affront. In exercising such power, the High Court being a 'Court of Record' and the highest judicial authority in the State is discharging its jurisdiction '*in loco parentis*' over subordinate judiciary in that State. Therefore, there is something in the nature of High Court's power under Section 15(2) of the Act which couples it with a duty. The duty is obviously to uphold the rule of law. Here we may remember the views of Lord Chancellor Earl Cairns, who gave the concept of power coupled with duty, the most graceful articulation and which I quote:

> "...But there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed to exercise that power when called upon to do so..."
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> [*Julius v. Lord Bishop of Oxford and another,* 5 A.C. 214 (H.L.) at 222-223]

A 24. These words resonate with a strange poignancy even today. But there is a rider. Contempt power has to be exercised with utmost caution and in an appropriate case and that is why High Court has been entrusted with it.

B 25. The offending acts of the appellant constitute contempt in the face of Court. When contempt takes place in the face of the Court, peoples' faith in the administration of justice receives a severe jolt and precious judicial time is wasted. Therefore, the offending acts of the appellant certainly come within the ambit of interference with the due course of judicial proceeding C and are a clear case of criminal contempt in the face of the Court.

26. The High Court, in the impugned judgment, therefore was correct in holding the appellant guilty and also in punishing D him with the sentence it has imposed. It appears in the show cause notice, which was given by the appellant, initially he did not offer any apology. Rather the appellant tried to justify. The apology was offered in a subsequent show cause reply. Therefore, it is a belated apology.

E 27. It may be noted that under Explanation to Section 12(1) of the Act, the Court may reject an apology if the Court finds that it was not made bonafide. Under Section 12 it has been made very clear that the apology must be to the satisfaction of the Court. Therefore, it is not incumbent upon the Court to F accept the apology as soon as it is offered. Before an apology can be accepted, the Court must find that it is bonafide and is to the satisfaction of the Court. However, Court cannot reject an apology just because it is qualified and conditional provided the Court finds it is bonafide.

G 28. An apology in a contempt proceeding must be offered at the earliest possible opportunity. A belated apology hardly shows the 'contrition which is the essence of the purging of a contempt'.

H 29. This Court in the case of *Debabrata Bandopadhyay*

and others vs. The State of West Bengal and another reported in AIR 1969 SC 189, observed "an apology must be offered and that too clearly and at the earliest opportunity. A person who offers a belated apology runs the risk that it may not be accepted for such an apology hardly shows the contrition which is the essence of the purging of a contempt" (See para 7 page 193 of the report).

30. Apart from belated apology in many cases such apology is not accepted unless it is bonafide.

31. Even in a case of civil contempt this Court held in the case of *Principal, Rajni Parekh Arts, K.B. Commerce and B.C.J. Science College, Khambhat and another vs. Mahendra Ambalal Shah* reported in 1986 (2) SCC 560 that an apology offered at a late stage would encourage the litigants to flout the orders of Courts with impunity and accordingly the Court refused to accept the apology (See para 7 page 566 of the report).

32. Equally in the case of *Secretary, Hailakandi Bar Association vs. State of Assam and another* reported in (1996) 9 SCC 74, this Court in a case of criminal contempt refused to accept an apology which was belated. The Court held that such belated apology cannot be accepted because it has not been given in good faith (See para 24 page 82).

33. Even if it is not belated where apology is without real contrition and remorse and was merely tendered as a weapon of defence, the Court may refuse to accept it. (See *Chandra Shashi vs. Anil Kumar Verma,* (1995) 1 SCC 421).

34. For the reasons aforesaid, the appeal fails, the judgment of the High Court is affirmed. The appellant is to serve the sentence in terms of the High Court order. Notices issued on other respondents, namely, Bharat Yadav, Bimal Yadav, Ajay Yadav, Pandav Yadav and Madan Yadav are discharged.

N.J. Appeal dismissed.