

IN RE : MR. NAND LAL BALWANI

FEBRUARY 26, 1999

[DR. A.S. ANAND, CJ., AND M. SRINIVASAN AND
N. SANTOSH HEGDE, JJ.]

Contempt of Court Act, 1971 : Section 14

Contempt—Advocate—Intemperate behaviour in Court—Shouted slogans in the open Court and thereafter hurled shoe towards the Court—Affidavit in defence stating that he had been persecuted by the police agencies—Held, action of Advocate, both by his words and deeds, in the presence of Court amounts to gross criminal contempt of Court—His action was aimed at intimidating the Court and causing interference in judicial proceedings—Action of Advocate held most reprehensible amounting to gross criminal contempt of Court—Sentence of simple imprisonment of four months and fine of Rs. 2000 imposed—Unqualified apology tendered by contemnor held not bona fide and accordingly rejected.

ORIGINAL JURISDICTION : Suo moto contempt.

In Re : Mr. Nand Lal Balwani,
S/o. Late Sunder Das,
R/o D.9/2, P & T. Colony,
Santa Cruz (East) Bombay.

In-person for the Contemnor for the Respondent.

The following Order of the Court was delivered :

This morning while the Court proceedings were going on, Mr. Nand Lal Balwani, who claims to be an Advocate enrolled with the Bombay Bar Association since 1995, and had apparently no case on the Board of this Bench, shouted slogans in the open Court and thereafter hurled his shoe towards the Court thereby interrupting the Court proceedings. He was informed that his action was aimed at intimidating the Court and causing interference in conduct of judicial proceedings and amounted to gross contempt of this Court. He was informed of the charge and asked if he had anything to say in his defence. At his request, time was given to him

A to file an affidavit in response to the charge. The affidavit has been filed.

B Mr. Nand Lal Balwani is present before us and accepts that the charge has been read out to him and he has understood the same. He states that he has filed this affidavit in which he has admitted his intemperate behaviour in the Court this morning. The contemnor was asked if he had anything further to say in his defence and he stated that he did not have anything further to say in his defence but that he had filed an interim affidavit and would like to file a detailed affidavit giving details of how he had been persecuted by the police agencies so far. We do not consider it necessary to examine him any further on that aspect since C insofar as the charge of Contempt of Court is concerned, he has nothing further to say.

D Section 14 of the Contempt of Courts Act 1971 provides that when it appears to the Supreme Court or the High Court upon its own view, that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and, at any time before the rising of the Court, inform him about the charges and afford him an opportunity to make his defence. An order of punishment of discharge can thereafter be made.

E The action of the contemnor, both by his words and deeds, in the presence of the Court amounts to gross criminal Contempt of Court. His action was aimed at intimidating the Court and causing interference in judicial proceedings. It is unfortunate and we feel rather concerned that a person belonging to the Bar should have behaved in this manner. Law does not give a lawyer, unsatisfied with the result of any litigation, licence to permit himself the liberty of causing disrespect to the Court or attempting, F in any manner, to lower the dignity of the Courts. A lawyer does not enjoy any special immunity under the Contempt of Courts Act where he is found to have committed a gross Contempt of Court. Courts cannot be intimidated to seek favourable orders. The action of the respondent is most reprehensible and has the tendency to interfere with the administration of G justice and undermine the dignity of the Court and the majesty of law. From the manner in which the contemnor has behaved a deliberate, motivated and calculated attempt to impair the administration of justice is discernible.

H From the affidavit, filed by the contemnor, he appears to be ag-

grieved of alleged suffering at "the hands of all police agencies". This was, however, no way to ventilate his grievances against the police agencies. As a lawyer, he should have known better. It is most unbefitting for an Advocate to act in the manner in which the contemnor acted. No system of justice can tolerate such type of behaviour. In the established facts and circumstances of the case, the contemnor has committed gross criminal contempt and we hold him guilty as such.

In the affidavit the contemnor has tendered unqualified apology. He states :

"I tender an unqualified apology for my intemperate behaviour in the Court this morning. I have been through a horroing time and have been very disturbed in the matter of the present litigations.

I have no intention of causing any disrespect to this Hon'ble Court in any manner lowering the dignity of this Hon'ble Court.

I once again tender my unqualified apology. I say that during the period that I have been practicing as a lawyer I never caused of any disrespect to the legal system."

The apology tendered by the contemnor does not appear to us to be at all *bona fide* and genuine in view of his attitude exhibited in Court during his questioning and seems to have been made only to escape punishment. He does not appear to be repentent at all. We, therefore, do not accept the apology.

Keeping in view the seriousness of the offence committed by the contemnor it is necessary to impose deterrent punishment on him so that it serves as an example to others and no one indulges in repetition of such acts. We, therefore, sentence him to suffer simple imprisonment for four months and to pay a fine of Rs. 2,000 and in default of payment of fine, to further undergo simple imprisonment for two months.

The contemnor is present in Court. He shall be taken in custody forthwith to serve the sentence.

T.N.A.

Petition disposed of.