RAJESH KUMAR SINGH

v.

HIGH COURT OF JUDICATURE OF MADHYA PRADESH, BENCH GWALIOR

MAY 31, 2007

[R.V. RAVEENDRAN AND LOKESHWAR SINGH PANTA, JJ.]

Contempt of Courts Act, 1971: Section 19;

Contempt—Use of an unwarranted language by a police officer in a Court of Judicial Magistrate—Complaint to Inspector General of Police and reference to High Court—I.G. directing inquiry and disciplinary action against erring police officer—Conducting of inquiry and recording of statements of witnesses by Inquiry Officer—In the Contempt proceedings against the Police Officer, holding the Police Officer guilty, High Court directed issuance of show cause notices to Inspector General of Police and the Inquiry Officer for Contempt of Court—Accepting the explanation and unconditional apology, High Court dropping the contempt proceeding against Inspector General of Police but found the Inquiry Officer guilty of the contempt, accordingly sentencing him imprisonment for seven days and also fine—On appeal, Held: After noticing the alleged misbehaviour, Magistrate did not take any action against the delinquent Police Officer under s.228, IPC nor u/s 345 Cr.P.C. but preferred a complaint to Inspector General of Police—In pursuance of such complaint; the Appellant, a Sub-Divisional Police Office was entrusted with the task of conducting inquiry against the delinquent—Thus, Inquiry Officer conducted inquiry and recorded statement of witnesses in respect of conduct of the delinquent and not in regard to the conduct of the Judge—Since, no contempt proceedings pending before the High Court when the inquiry was conducted by the Inquiry Officer, no permission from the Court before holding such an inquiry warranted—There is no material to show that the Statements of Witnesses were recorded with any ulterior motive of helping the delinquent to create a false defence—Since the Inquiry Officer was not party to the contempt proceedings against the Police Officer, no finding of fact could have been recorded against him—Moreover, the High Court had completely ignored his explanation and unconditional apology tendered by him though admitting the same in respect of the Inspector General of Police

by dropping the proceedings against him—In fact, inquiry was conducted by the appellant bonafidely in pursuance of the instructions of Superior and not with the intention to scandalize the Court nor any attempt was made to sit over the order sheet of the Magistrate as found by High Court—In the facts and circumstances of the case the finding of guilt against the Inquiry Officer totally unwarranted—IPC—s.228—Code of Criminal Procedure, 1973—s.345.

Power of High Court to punish for contempt—Exercise of—Held: It should not be exercised routinely/mechanically but with circumspection and restraint—Purpose of granting such power to the court is to ensure that the faith and confidence of the public in administration not eroded—Care should be taken to ensure that there is no scope for complaint of ostentatious exercise of such power.

The High Court of Madhya Pradesh had initiated contempt proceedings against a Police Officer on a reference by one Judicial Magistrate in regard to a false report submitted by him in his Court. Later, another reference was made by another Magistrate in regard to another incident in which the same police officer had allegedly used an unwarranted language in his Court. The High Court disposed of the contempt proceedings against the errant police officer holding him guilty in respect of both incidents and imposed punishment of three months' simple imprisonment. The High Court further directed issuance of notices to the Inspector General of Police and the appellant, the Inquiry Officer to show cause as to why they should not be punished for contempt of court, for having enquired into the conduct of a Judge, without the permission of the High Court and recording the statement made by the witnesses in favour of the errant police officer, thereby contradicting the record made by the Magistrate in the order sheet. In response to the Show Cause Notice, IG of Police submitted his explanation tendering an unconditional apology. The High Court accepted the explanation of IG of Police and dropped the proceedings against him. The appellant also filed a similar explanation and also tendered an unconditional apology but the same was not accepted by the High Court. The High Court framed charges against the appellant and after considering the replies, held the charges proved against him and accordingly sentenced him to simple imprisonment of seven days and also imposed fine. Hence, the present appeal.

Allowing the appeal, the Court

HELD: 1.1. When the police officer allegedly misbehaved in court, it

was open to the Magistrate to initiate action for prosecuting him under section 228 of IPC or punish him under section 345 Cr.P.C read with section 228 IPC. If the Magistrate was of the view that the contempt committed did not fall under section 228 IPC, then he could have made a reference to the High Court for taking action under section 10 of the Act. He did not take any action under section 228 IPC nor under section 345 Cr.P.C. read with section 228 IPC. Even before making a reference to the High Court for initiating action for contempt, he sent a complaint to the Inspector General of Police, requiring action against the errant police officer. The action that was required was, obviously departmental disciplinary action. The Inspector General of Police, acting on the said request, directed the Superintendent of Police to held an inquiry and take disciplinary action against the errant police officer. The Superintendent of Police, in turn, forwarded the complaint and the directive of the I.G. of Police to the appellant, a Sub Divisional Police Officer with an instruction to look into the matter and send a detailed report. It is only in pursuance of such directive from his superiors, the appellant held a preliminary inquiry in respect of the conduct of the errant police officer. The inquiry was not in regard to the conduct of the Judge. As the inquiry was against the police officer, the appellant had to give an opportunity to him, to make his statement. He also had to record the statements of persons, whom he stated were present at the time of the incident. The inquiry by him was a prelude to the disciplinary action against the delinquent. In fact, after the recording of the statements of several witnesses, the appellant submitted a report holding the officer guilty of having used unwarranted language in court and recommending punishment. It cannot, therefore, be said, that recording the statements of the delinquent, and several other persons the request of the delinquent in the course of the preliminary inquiry, amounts to holding an inquiry in regard to the conduct of a Judge. [Para 11] [879-A-C; 880-A-C]

1.2. When appellant held the preliminary inquiry, no contempt proceedings had been initiated by the High Court, in regard to the incident in question. There was also no other proceedings pending before the Magistrate or any other court in regard to the said incident. Therefore, the question of seeking or obtaining the permission of High Court or other court, for holding such inquiry, did not arise. Unless the inquiry by the appellant was a parallel proceeding with reference to a matter pending in court and unless such parallel proceeding interfered with or, intended to interfere with the pending court proceeding, there is no interference with administration of justice.

[Para 12] [880-C, D, E]

Security and Finance (P) Ltd. v. *Dattatraya Raghav Agge,* AIR (1970)

A SC 720, relied on.

1.3. Appellant, the Inquiry Officer, neither attributed any improper motive to the Judge nor abused the Judge. The High Court concluded that the inquiry and report by the appellant was intended to help the delinquent because the appellant recorded the statements of only persons who contradicted the B report of the Magistrate, but did not examine the Magistrate or his Deposition Writer or Reader of the Court. He stated that he was only holding a preliminary inquiry as directed by his official superiors; that the statements of the Deposition Writer and Reader of the Court as also the order-sheet wherein the Magistrate had recorded what transpired in the Court were C already available on record and, therefore, he did not record their statements again in the enquiry. Thus, the appellant has given a feasible and reasonable explanation for not recording the statements of the Magistrate, or his Court Reader and Deposition Writer. [Para 13] [881-A-D]

1.4. Even if the delinquent or the witnesses named by him stated D something false, the appellant who recorded their statements in the course of preliminary inquiry cannot be held liable or responsible for such statements, unless there is material to show that he was part of a conspiracy to create false evidence. There is nothing to show such conspiracy. It is nobody's case that he wrongly recorded the statements of the witnesses to benefit the delinquent. The inquiry by him was in pursuance of the complaint by the E Magistrate demanding action against him and the direction of the Inspector General of Police to hold an inquiry in connection with disciplinary action against the delinquent. The Appellant submitted a report holding him had used unwarranted language in court and that he should be punished. It cannot, therefore, be said that appellant recorded the statements of witnesses with an F ulterior motive of helping the delinquent to create a false defence. Therefore, the High Court's assumption that the entire inquiry by the appellant was with a view to help the delinquent in regard to the contempt proceeding pending in regard to the incident in question is obviously erroneous.

[Paras 14 and 17] [881-E, F, G; 883-E]

G 1.5. In fact no finding could have been record by the High Court in the Contempt Petition against appellant, as he was not a party to that proceeding. The observations in the order were made in the context of initiating *suo moto* contempt proceedings against the appellant and the IG of Police. The appellant was entitled to show cause against the initiation of contempt proceedings. He, in fact, produced documents to show that the statements of witnesses were H

recorded, in a preliminary inquiry directed by the IG of Police, on the complaint of the Magistrate. The explanation has been completely ignored or overlooked by the High Court. [Para 15] [882-D, E, F]. A

1.6. It is no doubt true that the complaint of the Magistrate and the directive of IG required 'action', and did not specifically direct an 'inquiry'. But the "subject" portion of IG's letter specifically states "regarding B conducting inquiry and taking disciplinary action against the delinquent. Therefore, the report submitted by the appellant has to be treated as one made *bonafide* in pursuance of the instructions of the official superiors directing him to hold a preliminary inquiry. It was not intended to scandalize the court. Nor was there any attempt by him to sit (in judgment) over the order sheet of C the Magistrate in his Inquiry report. [Para 16] [883-A, B]

2.1 The power to punish for contempt is not intended to be invoked or exercised routinely or mechanically, but with circumspection and restraint. Courts should not readily infer an intention to scandalize courts or lowering the authority of court unless such an intention is clearly established. Nor D should they exercise power to punish for contempt where mere question of propriety is involved. [Para 18] [883-E, F]

Rizwan-ul-Hasan v. *The State of Uttar Pradesh* [1953] SCR 581, relied on.

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2.2. A perception that is slowly gaining ground among public is that sometimes, some Judges are showing over sensitiveness with a tendency to treat even technical violations or unintended acts as contempt. It is possible that it is done to uphold the majesty of courts, and to command respect. But Judges, like everyone else, will have to earn respect. They cannot demand respect by demonstration of 'power'. [Para 18] [883-G; 884-A] F

2.3. The purpose of the power to punish for criminal contempt is to ensure that the faith and confidence of the public in administration of justice is not eroded. Such power, vested in the High Courts, carries with it great responsibility. Care should be taken to ensure that there is no room for G complaints of ostentatious exercise of power. Exercise of such power, results in eroding the confidence of the public, rather than creating trust and faith in the judiciary. Be that as it may. [Para 18] [884-B-C]

3. In the present case, there is no material to show that the appellant acted with any ulterior motive. But for the complaint and request by the H

A **Magistrate that action should be taken against errant police constable and the directions issued by the I.G. and Superintendent of Police to hold an inquiry, the appellant would not have held the inquiry. Any such preliminary inquiry warrants recording of statements. Any *bona fide* act in the course of discharge of duties and complying with the directions of the superior officers, should not land the Inquiry officer in a contempt proceedings. Though, common** B **contempt proceedings were initiated against the IG of Police and the appellant, the High Court dropped the proceedings against the IG of Police who directed the inquiry, but chose to proceed against the appellant who merely complied with the directions of the IG of Police. It even ignored the declaration of *bonafides* and unconditional apology. The finding of guilt by the High Court** C **is totally unwarranted. [Para 19] [884-D, E, F]**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 321 of 2001.

From the Judgment & Order dated 2.3.2001 of the High Court of Judicature D of Madhya Pradesh, Jabalour, Bench at Gwalior, in Contempt Petition (Criminal) No. 5 of 2000.

M.C. Dhingra, Gaurav Dhingra and Sanjay Singh for the Appellant.

The Judgment of the Court was delivered by

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R.V. RAVEENDRAN, J. 1. The Appellant was the Sub-Divisional Officer (Police), Dabra, Gwalior District, during 1998-1999. He has filed this appeal under Section 19 of the Contempt of Courts Act, 1971 (for short "the Act"), being aggrieved by the order dated 2.3.2001 of the Madhya Pradesh High Court in Contempt Petition (Criminal) No.5 of 2000, punishing him with simple F imprisonment for seven days and fine of Rs.2,000/-.

Factual Background

2. Shri Pradeep Mittal, Judicial Magistrate, First Class, Dabra, sent a Report dated 1.11.1999 to the Inspector General of Police, Gwalior Circle, G alleging that one Chander Bhan Singh Raghuvanshi, Station Officer, Picchhor came inside his court Hall and threatened him by stating "you have not done good by initiating contempt proceedings against me before High Court. I am back in Picchhor Police Station and I will see you"; and "I have set many Magistrates right and I will see you also". The learned Magistrate complained that it was unbecoming of a police officer to threaten a Judicial Officer in court H

and interrupt the court proceedings and the misbehaviour warranted stern action. The learned Magistrate enclosed a copy of the order-sheet dated 1.11.1999 (recording the incident) and statements of two witnesses to the incident (Deposition Writer and Reader of the court).

3. Shri N.K. Tripathi, I.G. of Police, sent the complaint to the Superintendent of Police, Gwalior under cover of letter dated 10.11.1999 with a direction to take necessary action. The subject of the letter stated "Regarding conducting an inquiry and taking disciplinary action against Raghuvanshi". The Superintendent of Police (Sri Pradeep Runwaal) in turn forwarded the I.G.'s letter along with the Magistrate's complaint and its enclosures, to the appellant herein who was at that time the Sub-Divisional Officer (Police), Dabra, under cover of letter dated 17.11.1999, with a direction to personally look into the matter and send a detailed report ("Vistrit Teep").

4. As per the said directions, the appellant conducted an inquiry. He recorded the statements of Raghuvanshi and several witnesses cited by the said Raghuvanshi, namely M.P. Sharma (President, Bar Association, Dabra), Mahendra Kumar (a litigant), Bal Kishan and Jagdish (Police Constables), Suresh Kumar (Asst. Prosecution Officer), B. S. Thakur, Jaswant Singh Parihaar and Mahesh Dubey (Advocates) who stated that they were present at the time of the incident in court on 1.11.1999 as also Rajendra Prasad Sharma (constable who had accompanied Raghuvanshi). All these witnesses stated that there was no unbecoming conduct or misbehaviour on the part of Raghuvanshi and that he had shown respect to the learned Magistrate. The appellant submitted a report dated 27.11.1999, in regard to his inquiry, to the Superintendent of Police, recording a finding that the documents and statements disclosed that Raghuvanshi had used unwarranted language in Court which was improper and recommended punishment.

5. Long prior to the incident on 1.11.1999, the High Court had initiated contempt proceedings (Contempt Petition No.2 of 1999) against Raghuvanshi on an earlier reference by Sri Pradeep Mittal, Judicial Magistrate First Class, Dabra, in regard to a false report submitted by Raghuvanshi to his court in April, 1998. The second reference made by the learned Magistrate in regard to the incident of 1.11.1999, was also placed before the High Court, in the pending contempt proceedings. The High Court took note of the second reference on 12.1.2000 and issued a show cause notice to Raghuvanshi. In response to it, Raghuvanshi submitted his reply stating that he had not misbehaved with the Judge. In support of his defence, he produced the

A Inquiry Report dated 27.11.1999 submitted by the appellant to the Superintendent of Police along with the statements of the witnesses examined in the inquiry. The High Court disposed of the contempt proceedings against Raghuvanshi by order dated 22/29.5.2000 holding him guilty in respect of both incidents and imposed a punishment of three months' simple imprisonment. In regard to the second reference, the High Court held that B Raghuvanshi had not only misbehaved with the Judge on 1.11.1999, but had also raised a false defence by alleging that the learned Magistrate had acted with malice against him. In the course of the said order the High Court dealt with the report dated 27.11.1999 of the appellant (which was produced by Raghuvanshi) thus:

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> "According to the respondent (Raghuvanshi), the Presiding Officer on account of malice had initiated the contempt proceedings. According to him, he had gone to the Court of Mr. Mittal in connection with some Court work, Shri Mittal asked him as to why he did enter in the court without being called whereupon he stated that he come there D on account of some official work. In support of this submission he has relied upon Annexure-R/6. A perusal of Annexure-R/6 would show that he was not required to appear as a witness in the court of Shri Mittal. According to him, at the time of the alleged meeting number of lawyers were present in the court. According to him, Shri MP Sharma, Virendra Thakur, S.P. Sharma, J.S. Parihar, Mahesh Dubey and E number of litigants were present in the court. According to him, the Presiding Officer Shri Mittal had sent a copy of the complaint to the Inspector General of Police, who in his turn directed for departmental enquiry. In the said enquiry statements of number of witnesses were recorded. He has produced those statements at Annexure-R/8 F collectively. He has relied upon the statements of as many as 12 persons which were recorded on 24.11.1999, 26.11.1999 and 27.11.1999. These 12 statements do not contain the statements of the complainant Shri Mittal. Not even a single document has been produced in the Court to show that the Inspector General of Police ever authorized the S.D.O.(P) to record the statements of the witnesses. Nobody knows G as to how said S.D.O.(P) came to know about the names of the witnesses. If these statements were recorded in the departmental enquiry then copy of the charge-sheet or such relevant documents could be filed. If these statements were recorded in a preliminary enquiry such an order could be produced in the Court to show that H these statements were recorded in the preliminary enquiry."

While disposing of the contempt proceedings against Raghuvanshi, the High Court in its order dated 22/29.5.2000, directed notices to be issued to the Inspector General of Police, Gwalior and the appellant, to show cause why they should not be punished for contempt of court, for having enquired into the conduct of a Judge, without the permission of the High Court

6. In compliance with the said direction, contempt proceedings were initiated against the appellant and Shri N.K. Tripathi (I.G. Police), in Contempt Petition No.5 of 2000 and show cause notices dated 3.7.2000 were issued to them. Shri N.K. Tripathi, IG of Police, filed a statement submitting that on receiving the complaint dated 1.11.1999 from the learned Magistrate against Raghuvanshi, he merely wrote to the S.P., Gwalior to enquire into the matter and take disciplinary action against Raghuvanshi; that there was no intention to hold any inquiry into the conduct of the Judge; and that after the inquiry against Raghuvanshi, and the report submitted by the appellant, a penalty of Rs.500/- was imposed on Raghuvanshi for misbehaviour. He asserted that he did not create any false or forged document as alleged in the show cause notice dated 3.7.2000. He also submitted an unconditional apology. The High Court accepted the said explanation of Sri N. K. Tripathi, IG of Police and dropped the proceedings against him, by the following order dated 3.11.2000:

> "As regards notice to N.K. Tripathi, we have perused the record. From his reply, he has not directed any enquiry against the conduct of the Judge. N.K. Tripathi has only directed to take action within a period of 15 days and intimate the action to the Court. He has not directed an enquiry. Therefore, no *prima facie* case is made out against N.K. Tripathi and notice to N.K. Tripathi is discharged".

7. The appellant also filed a reply similar to the reply filed by I.G. of Police, with an unconditional apology. The High Court did not, however, accept the appellant's explanation and apology. It framed the following charges against the appellant on 10.11.2000, which according to the High Court amounted to contempt of court:

(i) that he inquired into the conduct of a Judge and submitted the report scandalizing the court in order to protect the erring official (Raghuvanshi) who misbehaved in the court.

(ii) that with an intention to lower the dignity of the court, he sat (in appeal) over the order-sheet dated 1.11.1999 of the Judicial Magistrate and recorded a separate finding.

A (iii) that with an intention to scandalize the court and to lower the dignity of the court, he recorded statements against the Judicial Officer without any authority of law with an oblique motive.

8. The appellant filed replies/explanations dated 28.7.2000, 10.11.2000 and 30.11.2000 to the show cause notice and the charges, which are summarized B below:

(a) The learned Magistrate had lodged a complaint dated 1.11.1999 against Raghuvanshi with the IG of Police, who forwarded it to the Superintendent of Police for inquiry and necessary disciplinary action who, in turn, sent it to him with a direction C to hold an inquiry and submit a detailed report. Accordingly, he enquired into the conduct of Raghuvanshi and found him guilty of misbehaving in Court and recommended his punishment. Holding an inquiry and submitting a report as directed by his superior officers does not amount to contempt. He did not hold any inquiry in regard to the conduct of the Judicial Officer. D

(b) As the inquiry was against Raghuvanshi, he was bound to give due opportunity to Raghuvanshi before deciding upon departmental action. The statements of several witnesses were recorded as per the request of Raghuvanshi. When he recorded the statements of various persons and submitted his report E dated 27.11.1999, no other proceedings were pending against Raghuvanshi in regard to the incident dated 1.11.1999. Therefore, there was no question of taking any permission from court, for holding the inquiry.

(c) He did not create any false or forged document. He acted bonafide. F Neither the act of holding an inquiry nor the act of recording the statements of witnesses was with the intention of scandalizing or lowering the authority of any Court or interfering with the due course of any judicial proceeding or interfering or obstructing the administration of justice.

G The High Court by the impugned order dated 2.3.2001 rejected the explanation and held that all three charges were proved and imposed the punishment of seven days' simple imprisonment and fine of Rs.2,000/-. The said order is under challenge in this appeal.

H *Whether the appellant is guilty of contempt?*

9. The question whether Raghuvanshi committed contempt of court on 1.11.1999 was decided by the High Court by its order dated 22/29.5.2000 in Contempt Petition No. 2 of 1999. We are not concerned with the acts of Raghuvanshi or the decision against him. The question before us is whether the appellant committed contempt by his following acts : (a) holding an inquiry in regard to the incident dated 1.11.1999 and recording the statements of several witnesses (who stated that they were present at the time of the incident) in the course of such inquiry, without the permission of the High Court; and (b) recording the statements made by the witnesses that Raghuvanshi had not misbehaved with the learned Magistrate, thereby contradicting the record made by the learned Magistrate as to what transpired (in the order-sheet dated 1.11.1999 of a suit which he was hearing).

10. The High Court has held that holding an inquiry in respect of the conduct of Raghuvanshi on 1.11.1999 amounted to holding an inquiry into the conduct of the learned Magistrate and that was not permissible without the permission of the High court. The High Court has also held that recording the evidence of several witnesses by appellant, to the effect that Raghuvanshi did not misbehave with the Judge (which contradicted the learned Magistrate who had reported that Raghuvanshi had misbehaved with him), was with the ulterior intention of helping Raghuvanshi to create a defence of malice on the part of Magistrate. The High Court concluded that these acts amounted to scandalizing the court and interfering with the administration of justice.

11. When Raghuvanshi misbehaved in court, it was open to the learned Magistrate to initiate action for prosecuting Raghuvanshi under section 228 of IPC, or punish him under section 345 Cr.P.C read with section 228 IPC. If the learned Magistrate was of the view that the contempt committed did not fall under section 228 IPC, then he could have made a reference to the High Court for taking action under section 10 of the Act. The learned Magistrate did not take any action under section 228 IPC nor under section 345 Cr.P.C. read with section 228 IPC. Even before making a reference to the High Court for initiating action for contempt, the learned Magistrate sent a complaint to the Inspector General of Police on 1.11.1999 itself, requiring action against Raghuvanshi. The action that was required was, obviously departmental disciplinary action. The Inspector General of Police, acting on the said request, directed the Superintendent of Police to hold an inquiry and take disciplinary action against Raghuvanshi. The Superintendent of Police, in turn, forwarded the complaint dated 1.11.1999 of the Magistrate and the directive of the I.G. of Police dated 10.11.1999 to the appellant, with an

A instruction to look into the matter and send a detailed report. It is only in pursuance of such directive from his superiors, the appellant held a preliminary inquiry in respect of the conduct of Raghuvanshi. The inquiry was not in regard to the conduct of the Judge. As the inquiry was against Raghuvanshi, the appellant had to give an opportunity to him, to make his statement. He also had to record the statements of persons, whom Raghuvanshi stated were B present at the time of the incident. The inquiry by the appellant was a prelude to the disciplinary action against Raghuvanshi. In fact, after the recording of the statements of several witnesses, the appellant submitted a report holding Raghuvanshi guilty of having used unwarranted language in court and recommending punishment. It cannot, therefore, be said, that recording C the statements of Raghuvanshi, and several other persons the request of Raghuvanshi, in the course of the preliminary inquiry, amounts to holding an inquiry in regard to the conduct of a Judge.

12. When appellant held the preliminary inquiry, no contempt proceedings had been initiated by the High Court, in regard to the incident D of 1.11.1999. There was also no other proceedings pending before the learned Magistrate or any other court in regard to the incident dated 1.11.1999. Therefore, the question of seeking or obtaining the permission of High Court or other court, for holding such inquiry, did not arise. Unless the inquiry by the appellant was a parallel proceeding with reference to a matter pending in court and unless such parallel proceeding interfered with or, intended to E interfere with the pending court proceeding, there is no interference with administration of justice. We may in this context refer to the decision of this Court in *Security and Finance (P) Ltd.* v. *Dattatraya Raghav Agge,* AIR (1970) SC 720. This Court held that an authority holding an inquiry in good faith in exercise of the powers vested in it by a statute is not guilty of F contempt of Court, merely because a parallel enquiry is imminent or pending before a Court. This Court pointed out that to constitute the offence of Contempt of Court, there must be involved some act calculated to bring a Court or a Judge of the Court into contempt or to lower his authority or something calculated to obstruct or interfere with the due course of justice on the lawful process of the Court. Applying the said principle, the act of G appellant holding the preliminary inquiry, cannot be considered to be contempt of court.

13. Let us next examine whether recording the statements of some persons, amounted to scandalizing the court, if those statements were contrary H to the report of the incident contained in the order-sheet dated 1.11.1999.

Attributing improper motive to a Judge or scurrilous abuse of a Judge will amount to scandalizing the court. Raghuvanshi was found to be guilty of such conduct and he was punished. The appellant neither attributed any improper motive to the Judge, nor abused the Judge. The High Court concluded that the inquiry and report by the appellant was intended to help Raghuvanshi, because the appellant recorded the statements of only persons who contradicted the report of the learned Magistrate, but did not examine the learned Magistrate or his Deposition Writer or Reader of the court. The appellant has given a feasible and reasonable explanation for not recording the statements of the learned Magistrate, or his Court Reader and Deposition Writer. He has stated that he was only holding a preliminary inquiry as directed by his official superiors; that the statements of the Deposition Writer and Reader of the court as also the order-sheet wherein the learned Magistrate had recorded what transpired on 1.11.1999, were already available on record and therefore, he did not record their statements again, in the inquiry. In fact, the very first para of the Inquiry Report dated 27.11.1999 states that he had perused the letter dated 1.11.1999 of Sri Pradip Mittal, JFMC, Dabra, the order sheet and the statements of Deposition Writer and Reader recorded by the Magistrate.

14. The High Court has next found fault with the appellant for recording the statements of witnesses, which contradicted what was recorded by the learned Magistrate in the order-sheet, and has concluded that this must have been done to help Raghuvanshi to create a defence in the contempt proceedings. Even if Raghuvanshi or the witnesses named by him stated something false, the appellant who recorded their statements in the course of preliminary inquiry cannot be held liable or responsible for such statements, unless there is material to show that Appellant was part of a conspiracy to create false evidence. There is nothing to show such conspiracy. It is nobody's case that he wrongly recorded the statements of the witnesses to benefit Raghuvanshi. The inquiry by appellant was in pursuance of the complaint by the learned Magistrate demanding action against Raghuvanshi and the direction of the Inspector General of Police to hold an inquiry in connection with disciplinary action against Raghuvanshi. The Appellant submitted a report holding Raghuvanshi had used unwarranted language in court and that he should be punished. It cannot, therefore, be said that appellant recorded the statements of witnesses with an ulterior motive of helping Raghuvanshi to create a false defence.

15. The High Court's conclusion that appellant prepared the report to

A support the defence of Raghuvanshi by recording the statements of some witnesses against the learned Magistrate is in fact based on an assumption that the order dated 22/29.5.2000 in Contempt Petition No. 2 of 1999, while directing initiation of contempt action, had recorded such a finding. This is evident from the following observation of the High Court in the impugned judgment:

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> "In Contempt Petition No. 2 of 1999, allegations levied against Chandra Bhan Singh Raghuvanshi were found proved and it was also recorded that the then Sub-Divisional Officer (Police), Dabra, without any authority of law has recorded the statements of persons in a manner to give handle to said Chandra Bhan Singh Raghuvanshi, to make allegation of malice against the Presiding Officer."

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But we find that the order dated 22/29.5.2000 does not contain a finding that Appellant had "without any authority of law recorded the statements of persons in a manner to give handle to Raghuvanshi to make allegations of malice against the Presiding Officer". All that the order dated 22/29.5.2000 stated was that no document had been produced to show that IG of Police had authorized the SDO (P) to record the statements, and if the statements had been recorded in pursuance of any order, such order could be produced in court (in the proposed contempt proceedings) to show that the statements were recorded in the preliminary enquiry. In fact no finding could have been recorded in the order dated 22/29.5.2000 against appellant, as he was not a party to that proceeding. The observations in the order dated 22/29.5.2000 were made in the context of initiating *suo moto* contempt proceedings against the appellant and the IG of Police. The appellant was entitled to show cause against the initiation of contempt proceedings. The appellant in fact produced documents to show that the statements of witnesses were recorded, in a preliminary inquiry directed by the IG of Police, on the complaint of the Magistrate. The explanation that he held the inquiry and recorded the statements on the directions of the IG of Police conveyed by the Superintendent of Police and that the statements of witnesses were recorded at the instance of and on the request of Raghuvanshi has been completely ignored or overlooked by the High Court.

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16. The police department had issued a circular dated 14.9.1999 (read with para 36 of MP Police Regulations) which required that whenever any complaint was received against police, a report should be sent at the earliest after holding necessary inquiry into such complaints. The letter of the IG of Police and the Superintendent of Police also make it clear that the appellant

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was required to hold an inquiry in connection with initiating a disciplinary action against the Raghuvanshi. It is no doubt true that the complaint dated 1.11.1999 of the Magistrate and the directive of IG dated 10.11.1999 required 'action', and did not specifically direct an 'inquiry'. But the "subject" portion of IG's letter dated 10.11.1999 specifically states "regarding conducting inquiry and taking disciplinary action against Sub-Inspector C.B.S. Raghuvanshi". Therefore, the report submitted by the appellant has to be treated as one made bona fide in pursuance of the instructions of the official superiors directing him to hold a preliminary inquiry. It was not intended to scandalize the court. Nor was there any attempt by the appellant to sit (in judgment) over the order sheet dated 1.11.1999 of the learned Magistrate in his Inquiry report dated 27.11.1999.

17. It is also necessary to notice that the High Court proceeded on an erroneous impression that contempt proceedings against Raghuvanshi in regard to the incident of 1.11.1999 were pending when appellant held the inquiry in November, 1999 and submitted his report dated 27.11.1999, and therefore such inquiry by the appellant must have been with the intention of helping Raghuvanshi to prepare a defence in the Contempt Proceedings. Contempt Petition No.2 of 1999 which was pending in November, 1999 did not relate to the incident of 1.11.1999 at all, but related to a false report given by Raghuvanshi in April, 1998, which had nothing to do with the incident on 1.11.1999. In the said contempt proceedings relating to the false report given in 1998, the High Court took cognizance of the second reference made by the Magistrate in regard to the incident of 1.11.1999, only on 12.1.2000. Therefore, the High Court's assumption that the entire inquiry by the appellant was with a view to help Raghuvanshi in regard to the contempt proceeding pending in regard to the said incident on 1.11.1999 is obviously erroneous.

18. This Court has repeatedly cautioned that the power to punish for contempt is not intended to be invoked or exercised routinely or mechanically, but with circumspection and restraint. Courts should not readily infer an intention to scandalize courts or lowering the authority of court unless such intention is clearly established. Nor should they exercise power to punish for contempt where mere question of propriety is involved. In *Rizwan-ul-Hasan* v. *The State of Uttar Pradesh,* [1953] SCR 581, this Court reiterated the well-settled principle that jurisdiction in contempt is not to be invoked unless there is real prejudice which can be regarded as a substantial interference with the due course of justice. Of late, a perception that is slowly gaining ground among public is that sometimes, some Judges are showing oversensitiveness with a tendency to treat even technical violations or unintended acts as contempt. It is possible that it is done to uphold the majesty of courts, and to command respect. But Judges, like everyone else, will have to earn respect.

A They cannot demand respect by demonstration of 'power'. Nearly two centuries ago, Justice John Marshall, the Chief Justice of American Supreme Court warned that the power of Judiciary lies, not in deciding cases, nor in imposing sentences, nor in punishing for contempt, but in the trust, confidence and faith of the common man. The purpose of the power to punish for criminal B contempt is to ensure that the faith and confidence of the public in administration of justice is not eroded. Such power, vested in the High Courts, carries with it great responsibility. Care should be taken to ensure that there is no room for complaints of ostentatious exercise of power. Three acts, which are often cited as examples of exercise of such power are : (i) punishing persons for unintended acts or technical violations, by treating them as C contempt of court; (ii) frequent summoning of Government officers to court (to sermonize or to take them to task for perceived violations); and (iii) making avoidable adverse comments and observations against persons who are not parties. It should be remembered that exercise of such power, results in eroding the confidence of the public, rather than creating trust and faith in the judiciary. Be that as it may. D

19. There is no material to show that the appellant acted with any ulterior motive. But for the complaint and request by the learned Magistrate that action should be taken against Raghuvanshi and the directions issued by the I.G. and Superintendent of Police to hold an inquiry, the appellant E would not have held the inquiry. Any such preliminary inquiry warrants recording of statements. Any bona fide act in the course of discharge of duties and complying with the directions of the superior officers, should not land the Inquiry officer in a contempt proceedings. Though, common contempt proceedings were initiated against the IG of Police and the appellant, the High Court dropped the proceedings against the IG of Police who directed the F inquiry, but chose to proceed against the appellant who merely complied with the directions of the IG of Police. It even ignored the declaration of bonafides and unconditional apology. The finding of guilt is totally unwarranted.

20. We, therefore, hold that the appellant is not guilty of contempt of court. Consequently, we allow this appeal and set aside the order of the High Court dated 2.3.2001 in contempt petition No.5 of 2000 and acquit and exonerate the appellant of all charges.

S.K.S. Appeal allowed.