SURAZ INDIA TRUST

v.

UNION OF INDIA

Miscellaneous Application No.1630 of 2020 in

Writ Petition (C) No.880 of 2016

SEPTEMBER 29, 2021

[SANJAY KISHAN KAUL AND M. M. SUNDRESH, JJ.]

Contempt of Court – Contempt of Courts Act, 1971 – Constitution of India – Articles 129, 142 – Petitioner – Trust filed a large number of cases in Rajasthan and Delhi, canvassed in person by its Chairman – Mr. 'D' – 64 different proceedings in the 12 cases filed in the Supreme Court alone – Litigation initiated by the Trust was found to be frivolous – Direction issued to the Trust and Mr. 'D' to refrain from filing any cause in public interest before any Court in the country, exemplary costs of Rs.25 lakhs imposed on Mr. 'D' – Application filed by him for waiver of the costs, dismissed – Registry was directed to proceed for recovery of costs – Mr. 'D' inter alia *addressed letter to the Attorney General of India seeking consent to initiate criminal contempt proceedings against three judges including the then Chief Justice of India and also against certain Registry officers/officials – Continued to scandalise the Court and prevent it from taking action to ensure recovery of costs – Contempt notice issued to Mr.'D' – Bailable warrants issued – Apology filed – Held: So-called unconditional apology is again a recital of his alleged grievances in the earlier proceedings seeking to canvas that the proceedings for recovery of costs had actually come to an end which is not correct as it was his endeavour to seek modification of the order of costs – Contemnor has made a profession of filing public interest petitions of subjects he may not know much of and then scandalise the Court to grant him relief failing which he will continue to scandalise the Court – He is guilty of contempt of this Court – His actions to scandalise the Court cannot be countenanced – He continues with his contumacious behaviour – Apologies submitted are only endeavours to get out of the consequences again followed by another set of allegations, thus, a charade – Last apology can hardly be called an apology – There*

A *is no remorse on the part of the contemnor – It is a contempt on the face of the Court, however one more chance given to hear him on the question of final sentence.*

Directing the listing of the petition, the Court

B **HELD: 1.1 The *raison d'etre* of contempt jurisdiction is to maintain the dignity of the institution of judicial forums. It is not a vindictive exercise nor are inappropriate statements by themselves capable of lowering the dignity of a Judge. These are often ignored but where despite all latitude a perennial litigant seeks to justify his existence by throwing mud at all and sundry,**
C **the Court has to step in. [Para 1][1067-B-C]**

1.2 The so-called unconditional apology is again a recital of his alleged grievances in the earlier proceedings. It seeks to canvas that the proceedings for recovery of costs had actually come to an end, which was factually not so as it was his endeavour
D **to seek modification of the order of costs. The same was declined while permitting the Registry to take action for recovery. Since the recovery did not take place, the Registry had placed the matter before the Court. The Court has penned down all the details in the present judgment not only to record the conduct of Mr. 'D' as Chairman of the Trust prior to the order being passed**
E **in WP(C) No.880/2016, but continuously thereafter. In the submissions he sought to suggest that he was compelled to take this course of action to ensure that the proceedings he files in different courts are not interceded or terminated on account of his inability to pay costs. This can hardly be a course of action**
F **which is permissible. The State counsel referred to communications addressed by him to the State Government, once again, seeking to threaten the officers who had initiated disciplinary proceedings against him. But for the fact that Mr. 'D' appears in person and seeks to canvas his case with such clear understanding, it could possibly have given rise to the**
G **apprehension that he was not all there. It also appears that he is under constant legal advice beyond his abilities to address the Court by the very nature of pleadings he files. Insofar as Miscellaneous Application No.1630/2020 is concerned, nothing more has to be directed than what was already stated on**

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06.05.2021, i.e., the State Government should take steps to commence process of recovery of costs as 'arrears of land revenue' and the recovery amount be remitted to the beneficiary as per the order already passed in WP(C) No.880/2016 on 01.05.2017. In the direction passed by this Court on 01.05.2017 it was observed "failing deposit, the above costs shall be recoverable from Mr. Rajiv Daiya, its Chairman, through his personal proceeds, if necessary." In fact, if Mr. 'D' had just merely expressed his inability to pay the amount as per his affidavit, the matter could have been left at that, with, of course, the natural consequences as contained in the order dated 01.05.2017 which disabled him from filing public interest litigations. There cannot be a birthright to file public interest litigations and the level of assistance and the nature of causes as canvassed has already been adversely commented upon in the order dated 01.05.2017. M.A. No.1630/2020 is closed with the aforesaid order. [Paras 18, 20-23][1073-C-D, F-H; 1074-A-F]

1.3 There is no absolute licence when appearing in person to indulge in making aspersions as a tendency to scandalise the Court in relation to judicial matters. Motivated and calculated attempts to bring down the image of the judiciary in estimation of public and impair the administration of justice must bester themselves to uphold their dignity and the majesty of law. In the current context if seen, the grievance arises on account of the inability of the contemnor to file public interest petitions on account of costs being imposed, which he claims to be unable to pay and the consequences thereof of not being able to prosecute his petitions, which are large in number. The contemnor has apparently made a profession of filing public interest petitions of subjects of which he may not know much and then seeking to scandalise the Court to grant him relief failing which he will continue to scandalise the Court. [Para 29][1077-B-D]

Roshan Lal Ahuja, In Re: **(1993) 4 Suppl. SCC 446 – relied on.**

1.4 The power to punish for contempt is a constitutional power vested in this Court which cannot be abridged or taken

away even by legislative enactment. The notice issued on 09.07.2021 was a composite notice issued to proceed against him as well as to sentence him for his endeavour to scandalise the Court. The contemnor is clearly guilty of contempt of this Court. His actions to scandalise the Court cannot be countenanced. He continues with his contumacious behaviour. The apologies submitted by him are only endeavours to get out of the consequences again followed by another set of allegations, thus, a charade. The last apology can hardly be called an apology seeing the contents. There is no remorse on the part of the contemnor. It is a contempt on the face of the Court by the reason of the pleadings filed by him. This Court is not mandated in view of the aforesaid to give him a hearing on the issue of sentence but would still give him one more chance and, thus, consider it appropriate to list the petition to hear the contemnor on the question of final sentence. [Paras 31-34][1078-F-G; 1079-A-E]

In Re: Vijay Kurle & Ors. **(2020) SCC Online SC 407;** *Mathews Nedumpara, In Re,* **(2019) 19 SCC 454;** *Vishram Singh Raghubanshi v. State of U.P* **(2011) 7 SCC 776 : [2011] 8 SCR 105 – relied on.**

Case Law Reference

[2011] 8 SCR 105	**relied on**	**Para 33**

CIVIL ORIGINAL JURISDICTION: Miscellaneous Application No.1630 of 2020 in Writ Petition (C) No.880 of 2016.

(Under Article 32 of The Constitution of India)

Rajiv Daiya, Petitioner-in-person.

Ms. Aishwarya Bhati, ASG, Dr. Manish Singhvi, Sr. Adv., Ms. Ruchi Kohli, Mohd. Akhil, Sughosh Subramanyan, B. V. Balram Das, Sandeep Kumar Jha, Advs. for the Respondent.

The Judgment of the Court was delivered by

SANJAY KISHAN KAUL, J.

1. The *raison d'etre* of contempt jurisdiction is to maintain the dignity of the institution of judicial forums. It is not a vindictive exercise nor are inappropriate statements by themselves capable of lowering the dignity of a Judge. These are often ignored but where despite all latitude a perennial litigant seeks to justify his existence by throwing mud at all and sundry, the Court has to step in.

2. In order to understand the contours of the present dispute, nothing more is required than to turn to the judgment of this Court in WP(C) No.880/2016 dated 01.05.2017. This judgment is not an origination but in some sense a culmination. Mr. Rajiv Daiya, claims to be the spirit behind Suraz India Trust (for short 'Trust'), which has been filing a large number of cases both in Rajasthan and in Delhi. A perusal of the judgment dated 01.05.2017 would show that Mr. Daiya as Chairman of the Trust has been canvassing matters in person. These petitions are stated to be public interest litigations. A list of cases filed by him was prepared in the proceedings in WP(C) No.880/2016, numbering 12 before this Court alone. Further, as per the summary prepared by the Registry, there were 64 different proceedings in these 12 cases as mentioned in para 3 of the aforementioned judgment. The Court formed a *prima facie* view that the litigation initiated by the Trust was thoughtless and frivolous. Liberty was granted to Mr. Daiya to make a voluntary statement, if he considered it appropriate that Suraz India Trust will henceforth not file any petition urging a cause in public interest. Thereby, the Court made it clear to him that if he did so the matter would be closed and no further consequences would follow. In the alternative, he was asked to file a response to establish the *bona fides* of the Trust. Mr. Daiya wanted to prosecute the matter without filing a written response despite the opportunity. He claimed to have been dissatisfied by the Court, both on the administrative and judicial side, with their manner of dealing with his representations. Thereafter, he forwarded a disparaging communication to the residential offices of Hon'ble Judges. The endeavour, if one may say, was to browbeat the Registry at that time. He sought to make representations to the President of India and the Prime Minister too. In the text of grievances made by the Trust, disparaging remarks were contained therein not only with reference to

A the Judges of the Rajasthan High Court but also with reference to the Judges of this Court. The vilification extended to all levels of judicial officers in the State of Rajasthan as also the Chief Justice and other Judges of that Court. The Bench opined that extremely important matters are taken up for consideration on a daily basis and judicial time gets wasted because individuals not competent to assist the Court insist without
B due cause to be granted a prolonged hearing. A misconceived petition in that case was not only dismissed, but a direction was issued that the Trust shall henceforth refrain from filing any cause in public interest before any Court in this country and that it will equally apply to Mr. Rajiv Daiya. Exemplary costs of Rs. 25 lakhs were imposed on Mr. Rajiv
C Daiya, to be deposited with the Supreme Court Advocates-on-Record Welfare Trust within three months from the date of the order, failing which the costs would be recovered from Mr. Rajiv Daiya through his personal proceeds, if necessary. The matter was directed to be listed in case costs were not deposited.

D 3. The costs were not deposited and Mr. Daiya filed an application on 21.08.2017 seeking to submit unconditional apology with a prayer that the costs imposed on him of Rs. 25 lakhs be waived and that he be pardoned against charges of contempt. In MA No. 507 of 2017, Mr. Daiya requested the court to not enforce the judgment dated
E 01.05.2017 passed in WP(C) No. 880 of 2016 as he had moved for sanction of prosecution to the President of India. The Court, on 21.08.2017 ordered that the letter requesting sanction of prosecution written by Mr. Daiya to the President of India qua the Judges who presided over the Bench be placed on record. Thereafter on 05.12.2017, the application of Mr. Daiya was dismissed observing that the Bench was not inclined to
F modify the order and the Registry was directed to proceed as per law.

4. MA No. 1158 of 2017 was placed before this Court by the Registry as Mr. Daiya had failed to withdraw all pending cases filed by the Trust in accordance with paragraph 27 of the judgment dated 01.05.2017. Since costs were not deposited all applications and writ
G petitions filed by the Trust and Mr. Daiya were directed to be dismissed with the direction to the Registry not to accept any application or petition filed by either by the Trust or Mr. Daiya *vide* order dated 08.02.2018.

5. MA No.1630 of 2020 by way of an Office Report was placed before the Court on 29.09.2020 informing that the costs had not been
H deposited by the Trust. This aspect was also confirmed by the Secretary

of the Supreme Court AOR Welfare Trust since the costs had to be deposited with the said entity. That being the position on the said date an order was passed issuing notice to the Trust. Instead of responding to the same, Mr. Daiya sought from the Registry the note sheets on the basis of which the directions had been sought by the Registry *vide* e-mail dated 16.10.2020. This was followed by an e-mail dated 09.02.2021. In view of the peremptory nature of the order dated 08.02.2018 the said letter was sought to be circulated for directions to accept the applications at the filing counter. On 12.02.2021 the Court noted that there was no basis for demanding the note sheets. In view of the obdurate stand of Mr. Daiya and non-appearance in pursuance of the notices served, bailable warrants were directed to be issued for his production in the sum of Rs. 25,000/- with one surety of the like amount.

6. At that stage Mr. Daiya did a volte face and moved IA No.36444/2021 on 22.02.2021 seeking to submit an unconditional apology with an audit report showing his assets in compliance with the order dated 29.09.2020. The factum of this IA was placed on record by the Registry. The Court was informed that the same was not accepted on 22.02.2021, once again, because of the peremptory nature of the order.

7. Now there was another U-turn by Mr. Daiya, who addressed a letter dated 11.03.2021 to the Attorney General of India. In this letter, consent was sought to initiate proceedings for criminal contempt against the Assistant Registrar of the PIL Section, Section X and Section XVI-A and other officials for obstructing and interfering with administration of justice by not letting the matter of Mr. Daiya be decided on merits of the case. Simultaneously consent was also sought for filing contempt proceedings against the then Chief Justice of India Shri J.S. Khehar (since retired), Justice D.Y. Chandrachud and one of us (Sanjay Kishan Kaul, J.) as they were the three Judges party to the judgment passed on 01.05.2017 on the ground that the Judges were obstructing the meritorious decision making of various petitions under Article 32 of the Constitution of India. On 14.03.2021, Mr. Daiya sent a letter to the Registrar stating that he had filed an application for unconditional apology and producing details of assets in compliance with the order dated 29.09.2020, however, that the same be considered by a Bench comprising the Chief Justice of India. On 15.03.2021, the Bench directed Mr. Daiya to place on record his current sources of income, more so, as he had claimed that he was in a Government job. He was directed to give a complete list of his movable

A and immovable assets, if any. Further, since he was claiming to be in a Government job he should give his last salary slip which would show emoluments being received by him along with deductions being made.

8. On 23.03.2021 the Attorney General sent two letters to Mr. Daiya denying him initiation of contempt proceedings in respect of both
B the letters dated 11.03.2021. Mr. Daiya, however, addressed two letters dated 26.03.2021 and 27.03.2021 to the Attorney General with identical content, stating that he should be granted an opportunity to place the entire record before him. On 26.03.2021, an e-mail was addressed to the Assistant Registrar (PIL Section) stating that one of us (Sanjay Kishan Kaul, J.) should recuse himself as he had moved for sanction of
C prosecution before the President of India against him. The letter addressed to the President was also attached. This was in the context of the action he wanted to take against the Coram which passed the order dated 01.05.2017 as according to him it fulfilled the requirements of an offence under Section 219 of the Indian Penal Code (Public servant in judicial
D proceedings corruptly making reports, etc. contrary to law). On 27.03.2021, an e-mail was sent reminding the Attorney General of the letter sent earlier on 26.03.2021.

9. On 02.04.2021, Mr. Daiya addressed a letter to the Chief Justice of India requesting information to take *suo motu* cognizance of the criminal
E complaint against the Assistant Registrar and officers/officials of the PIL (Writ) Section.

10. In the aforesaid context when the matter was listed on 05.04.2021, Mr. Daiya sought to excuse himself from appearing before the Court on account of Covishield vaccination. He had not complied
F with the orders and was seeking to wriggle out of the proceedings by raising all kinds of objections, i.e., that the matter should not be heard by the Bench but by a bench headed by the Chief Justice of India. It was, thus, observed that this was not the prerogative of Mr. Daiya, and the Chief Justice had despite his letter continued to permit the same Bench to deal with the matter. Since Mr. Daiya was found to be bent upon
G violating the directions of the Court, the Court deemed it appropriate to issue notice of contempt to Mr. Daiya returnable on 12.04.2021. Incidentally, Mr. Daiya, despite the aforesaid request, was present in Court and accepted notice. On the issue of Government job, he stated that what he was referring to was the fact that he was a Stenographer
H in a legal office, but deployed with the State of Rajasthan. Notice was

thus issued to State of Rajasthan to verify the factum in view of non-cooperative attitude of Mr. Daiya. A

11. On 08.04.2021, Mr. Daiya filed a report with details of his movable and immovable assets. He claimed to have regularly taken loans for meeting various requirements, which were being deducted from his emoluments. In the liabilities he sought to put forth the expenses towards his daughter's study apart from the liability of marriage of his daughter. He submitted that he had no sufficient funds to make payment of the costs. B

12. In the next proceedings held on 12.04.2021, the State of Rajasthan was asked to give information about the employment of Mr. Daiya and whether the activities he was carrying on were permissible while being so engaged and drawing salary from the State. The request made for appointment of an Amicus for Mr. Daiya was declined as he had been appearing in person practically in all cases. C

13. On 03.05.2021, an affidavit was filed by the State of Rajasthan informing that Mr. Daiya was working in the office of the Government Advocate-cum-Additional Advocate General at Jodhpur, which was an office separate from the office of the Advocate General of the State. He had been issued show cause notice under relevant service rules applicable and had been suspended and transferred since his conduct before various courts as the Chairman of the Trust was in violation of the relevant service rules. Against this, Mr. Daiya had filed a writ petition before the Rajasthan High Court, being S.B. Civil Writ No.6864/2021. Thus, on 06.05.2021 in the proceedings it was noted that the State had moved for vacation of interim order and the State would take steps to commence the process for recovery of costs as 'arrears of land revenue'. D E F

14. On 10.05.2021, Mr. Daiya filed an application for recalling/review of the order dated 06.05.2021. It was claimed that he was not given a chance to be heard and that the proceedings for recovery were a nullity. It was his case that the dismissal of the recovery proceedings in MA No.507/2017 by a Bench of three Judges on 21.08.2017 was binding on the present Bench. He conveniently ignored that the said proceedings recorded only his submission with the direction to place an application that he had moved for sanction of prosecution before the President of India. The order passed in M.A. No.507/2017 on 05.12.2017 was to the effect that Mr. Daiya's prayer to modify the order was actually G H

declined and the Registry was directed to proceed as per law (for recovery of costs).

15. Once again on 08.07.2017, Mr. Daiya addressed a letter to the Registrar stating that he had filed a complaint with the President of India against one of us (Sanjay Kishan Kaul, J.), for conducting an inquiry under In-House procedure vide letter dated 07.06.2021. A reminder was sent on 08.07.2021 and once again, requesting that the matter be listed before a Bench of which one of us (Sanjay Kishan Kaul, J.) was not a member. He had also sought some RTI query.

16. On 09.07.2021 the attention of the Court was invited to the letter of Mr. Daiya. It was found that all kinds of pleadings were being made in an issue of what was simply of recovery of costs from the Trust/Mr. Daiya Letters were also written to scandalise the Court and prevent the Court from taking action to ensure recovery of costs. It was, thus, clearly an endeavour to browbeat the Court which the Court would not countenance. Contempt notice was issued to Mr. Daiya as to why he should not be proceeded against and sentenced for his endeavour to scandalise the Court returnable on the next date, i.e., 04.08.2021. Thereafter, Mr. Daiya sought adjournment as he had undergone some surgery and the State counsel was asked to verify when Mr. Daiya would be able to attend the Court proceedings as per medical advice. On 18.08.2021 it was noticed that as per the affidavit filed on behalf of the State of Rajasthan, affirmed on 16.08.2021, in pursuance of the medical advice, the contemnor had resumed his duties on 11.08.2021. His endeavour to seek adjournment by four months was found not acceptable. It was further noted that the contumacious conduct continued and that Mr. Daiya was under a misconception that by endeavouring to scandalise the Court he could get away with it. Bailable warrants in the sum of Rs.10,000/- with one surety of the like amount were issued directing his presence.

17. The petitioner filed a response to the contempt proceedings and on 06.09.2021 filed an application for impleading the Secretary, Law and Legal Affairs Department, Government of Rajasthan, Registrar, Supreme Court of India, one of us (Sanjay Kishan Kaul, J.) and B. Sunita Rao, Secretary of the Supreme Court AOR Welfare Trust. He also sought the placement of the complaint before the Chief Justice of India and, on 07.09.2021, he further sought adjournment by 4-5 months so as to enable response by the Chief Justice of India to his earlier letter

as reasoned orders were not being passed by the Bench. On 08.09.2021, in pursuance of the bailable warrants Mr. Daiya appeared and we heard him at some length along with learned Additional Solicitor General and learned counsel for the State. As had transpired earlier, in the end the petitioner stated that he wanted to tender an unqualified apology and sought to withdraw all what he had said. We told him that he was at liberty to file what he pleased within three days and we would take that into consideration while passing our orders and the judgment was reserved. Thereafter, an application was filed, being IA No.114626/2021 seeking to place what he calls an "unconditional apology" and further seeking review by IA No.114629/2021. It does not mention as to what review was being sought.

18. The so-called unconditional apology is again a recital of his alleged grievances in the earlier proceedings. It seeks to canvas that the proceedings for recovery of costs had actually come to an end, which was factually not so as it was his endeavour to seek modification of the order of costs. The same was declined while permitting the Registry to take action for recovery. Since the recovery did not take place, the Registry had placed the matter before the Court. Thereafter, he had made a grievance about the chargesheet served on him by the State Government in terms of his employment, an aspect with which we are not directly concerned with. He has mentioned that he seeks redressal of various grievances in various proceedings he has filed, claiming the applicability of the doctrine of impossibility in relation with payment of costs. He has referred to various petitions filed before the Rajasthan High Court.

19. On a careful reading of the aforesaid we can hardly categorise the same as an unconditional apology.

20. We have penned down all these details not only to record the conduct of Mr. Daiya as Chairman of the Trust prior to the order being passed in WP(C) No.880/2016, but continuously thereafter. In the submissions he sought to suggest that he was compelled to take this course of action to ensure that the proceedings he files in different courts are not interceded or terminated on account of his inability to pay costs. This can hardly be a course of action which is permissible. We would like to emphasise on the kind of actions Mr. Daiya has embarked upon in a simple issue of recovery of costs. In fact, the State counsel referred to communications addressed by him to the State Government, once again,

A seeking to threaten the officers who had initiated disciplinary proceedings against him. But for the fact that Mr. Daiya appears in person and seeks to canvas his case with such clear understanding, it could possibly have given rise to the apprehension that he was not all there. It also appears that he is under constant legal advice beyond his abilities to address the Court by the very nature of pleadings he files.

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21. Insofar as Miscellaneous Application No.1630/2020 is concerned, in our view, nothing more has to be directed than what was already been stated on 06.05.2021, i.e., the State Government should take steps to commence process of recovery of costs as 'arrears of land revenue' and the recovery amount be remitted to the beneficiary as

C per the order already passed in WP(C) No.880/2016 on 01.05.2017. Other than that, no further directions are required as the recovery would naturally depend on the available resources of both the Trust and Mr. Daiya. In the direction passed by this Court on 01.05.2017 it was observed "failing deposit, the above costs shall be recoverable from Mr. Rajiv

D Daiya, its Chairman, through his personal proceeds, if necessary."

22. In fact, if Mr. Daiya had just merely expressed his inability to pay the amount as per his affidavit, the matter could have been left at that, with, of course, the natural consequences as contained in the order dated 01.05.2017 which disabled him from filing public interest litigations.

E After all, there cannot be a birthright to file public interest litigations and the level of assistance and the nature of causes as canvassed has already been adversely commented upon in the order dated 01.05.2017.

23. M.A. No.1630/2020 is thus closed with the aforesaid order.

24. However, that unfortunately cannot be the end of the matter.

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25. Let us say at the inception that the easier path is to recuse or give up the matter instead of inviting so much trouble. But then that is not the course for which the Judges have taken oath. Sometimes the task is unenviable and difficult but it must be performed for the larger good of the institution. Such litigants cannot be permitted to have their

G way only because they can plead and write anything they feel like and keep on approbating by sometimes apologising and then again bringing forth those allegations. We have thus chosen the more difficult path.

26. Now turning to the conduct of Mr. Daiya, which is apparent from the judgment as aforesaid.

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27. We are enlightened in respect of the course of action we follow by judicial precedents. We would first like to turn to the judgment in ***Roshan Lal Ahuja, In Re:***[1]. Disparaging remarks and aspersions deliberately and repeatedly made against the Supreme Court and its Judges in memorandum of writ petition and in representation made before the President of India in connection with order of reduction in rank and subsequent dismissal from service of the contemnor was held to bring down the image of judiciary in the estimation of public and to bring administration of justice into disrepute. The contemnor was directed to suffer four months simple imprisonment and pay a fine of Rs.1,000/-.

28. Suffice to note that even in the said proceedings, after tendering apology, ostensibly on the ground that it was desired by the Judges, once again, the contemnor showed no redemption for his behaviour. The observations by Justice A.S. Anand (as he then was) in paras 11, 12 & 13 are as under:

> "11. The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure an order which they desire is on the increase and it is high time that serious note is taken of the same. No latitude can be given to a litigant to browbeat the court. Merely because a party chooses to appear in person, it does not give him a licence to indulge in making such aspersions as have the tendency to scandalise the court in relation to judicial matters.
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> 12. Ordinarily, courts of law do not initiate proceedings to commit a person for contempt of court where there is mere technical contempt or where the contemnor satisfies the court that he was truly repentant for his action. Judgments of the court are open to criticism. Judges and courts are not unduly sensitive or touchy to fair and reasonable criticism of their judgments. Fair comments, even if, put-spoken, but made without any malice or attempting to impair the administration of justice and made in good faith in proper language do not attract any punishment for contempt of court. Lord Denning in *Reg v. Commissioner of Police of the Metropolis, Ex parte Blackburn, 1968 (2) WLR 1204* made some pertinent observations in this regard. In the words of the Master of Rolls:

[1] 1993 Supp (4) SCC 446.

A Those who comment can deal faithfully with all that is done in a court of justice. They can say that we are mistaken, and our decisions erroneous, whether they are subject to appeal or not. All we would ask is that those who criticise us will remember that, from the nature of our office, we cannot reply to their criticism. We cannot enter into public controversy. Still less into political controversy.

However, when from the criticism a deliberate, motivated and calculated attempt is discernible to bring down the image of judiciary in the estimation of the public or to impair the administration of justice or tend to bring the administration of justice into disrepute the courts must bester themselves to uphold their dignity and the majesty of law. No litigant can be permitted to over step the limits of fair, bona fide and reasonable criticism of a judgment and bring the courts generally in disrepute or attribute motives to the Judges rendering the judgment. Perversity, calculated to undermine the judicial system and the prestige of the court, cannot be permitted for otherwise the very foundation of the judicial system is bound to be undermined and weakened and that would be bad not only for the preservation of Rule of Law but also for the independence of judiciary. Liberty of free expression is not to be confused with a licence to make unfounded, unwarranted and irresponsible aspersions against the Judges or the courts in relation to judicial matters. No system of justice can tolerate such an unbridled licence. Of course "Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men", but the members of the public have to abstain from imputing improper motives to those taking part in the administration of justice and exercise their right of free criticism without malice or in any way attempting to impair the administration of justice and refrain from making any comment which tends to scandalise the court in relation to judicial matters.

13. The contemnor in the present case let alone showing any remorse or regret has adopted an arrogant and contemptuous attitude. His conduct in circulating the 'note for directions' adds insult to injury. Of course, the dignity of the court is not so brittle as to be shattered by a stone thrown by a mad man, but, when the court finds that the contemnor has been reckless, persistent and

guilty of undermining the dignity of the court and his action is, motivated, deliberate and designed, the law of contempt of court must be activised."

29. The aforesaid shows that there is no absolute licence when appearing in person to indulge in making aspersions as a tendency to scandalise the Court in relation to judicial matters. Motivated and calculated attempts to bring down the image of the judiciary in estimation of public and impair the administration of justice must bester themselves to uphold their dignity and the majesty of law. In the current context if seen, the grievance arises on account of the inability of the contemnor to file public interest petitions on account of costs being imposed, which he claims to be unable to pay and the consequences thereof of not being able to prosecute his petitions, which are large in number. The contemnor has apparently made a profession of filing public interest petitions of subjects of which he may not know much and then seeking to scandalise the Court to grant him relief failing which he will continue to scandalise the Court.

30. In ***Re: Vijay Kurle & Ors.***[2] which arose in *suo motu* contempt petition after the conviction of Mr. Mathews Nedumpara, an advocate. In those proceedings, the Court while not finally sentencing him to imprisonment instead gave him a suspended sentence and barred him from practice for a specified period of time before this Court[3]. This resulted in another round on account of complaints against the Indian Bar Association and by some person claiming to be the National Secretary of Human Rights Security Council wherein they had sought to send contemptuous complaints to the President of India and the Chief Justice of India (a somewhat similar situation in the case at hand). Shri Nedumpara sought discharge on the ground that he did not really know those people. A Bench of this Court debated the powers of the Supreme Court in relation to dealing with the contempt in the light of Articles 129 and 142 of the Constitution of India read with in conjunction with the Contempt of Courts Act, 1971. The provisions read as under:

"9. Article 129 of the Constitution of India reads as follows:

"129. Supreme Court to be a court of record. The Supreme Court shall be a court of record and shall have all the powers

[2] 2020 SCC Online SC 407.
[3] Mathews Nedumpara, *In Re,* (2019) 19 SCC 454.

A of such a court including the power to punish for contempt of itself."

A bare reading of Article 129 clearly shows that this Court being a Court of Record shall have all the powers of such a Court of Record including the power to punish for contempt of itself. This is a constitutional B power which cannot be taken away or in any manner abridged by statute.

10. Article 142 of the Constitution of India reads as follows:

"142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such C order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so D made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, E the discovery or production of any documents, or the investigation or punishment of any contempt of itself."

31. In the context of the aforesaid it was opined that the comparison of the two provisions show that whereas the founding fathers felt that the powers under clause (2) of Article 142 could be subject to any law F made by the Parliament, there is no such restriction as far as Article 129 is concerned. The power to punish for contempt is a constitutional power vested in this Court which cannot be abridged or taken away even by legislative enactment. We have little doubt that what the contemnor has been endeavouring is to have his way or, alternatively, I will throw mud at all and sundry, whether it be the Court, its administrative G staff or the State Government so that people, apprehensive of this mud thrown, may back off.

We refuse to back off and are clear in our view that we must take it to its logical conclusion.

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32. We may note that the notice issued on 09.07.2021 was a composite notice issued to proceed against him as well as to sentence him for his endeavour to scandalise the Court.

33. We are of the view that the contemnor is clearly guilty of contempt of this Court. His actions to scandalise the Court cannot be countenanced. He continues with his contumacious behaviour. The apologies submitted by him are only endeavours to get out of the consequences again followed by another set of allegations, thus, a charade. The last apology can hardly be called an apology seeing the contents. This Court has held that an apology cannot be a defence, a justification can be accepted if it can be ignored without compromising the dignity of the Court (***Vishram Singh Raghubanshi v. State of U.P.***[4]). There is, as already stated, no remorse on the part of the contemnor which we find in the present case.

34. The only next question is whether he has a right to be heard on sentence in the background of the facts that the notice sent to him by our order is both to be proceeded against him on merits and on sentence for his endeavour to scandalise the Court. It is a contempt on the face of the Court by the reason of the pleadings filed by him. We are not mandated in view of the aforesaid to give him a hearing on the issue of sentence but would still give him one more chance and, thus, consider it appropriate to list the petition to hear the contemnor on the question of final sentence.

Divya Pandey Directions issued.

[4] (2011) 7 SCC 776.