

Gulshan Bajwa
v.
Registrar, High Court of Delhi & Anr.

(Criminal Appeal No. 577 of 2007)

30 January 2024

[Vikram Nath and Pamidighantam Sri Narasimha, JJ.]

Issue for Consideration

High Court exercising suo motu contempt jurisdiction against the appellant for repeatedly disobeying the orders of the court, and for casting aspersions and threatening the Judges hearing the matters, and thereafter, holding him guilty of criminal contempt and sentencing him, if calls for interference

Headnotes

Contempt of Courts Act, 1971 – Appellant-practising advocate and former army personnel threatened lady counsel appearing for the opposite side after seeking adjournment in the matter, repeatedly disobeyed orders, repeatedly failed to appear before the court despite attempts made to secure his presence and casted aspersions and threatened the Judges hearing the matters – Suo motu contempt jurisdiction exercised by the High Court – Appellant held guilty of criminal contempt and awarded a punishment of simple imprisonment of 3 months along with a fine of Rs. 2000, in each contempt proceeding – Interference with:

Held: Appellant's conduct before the High Court and even before this Court, amounts to undermining the system of the law and interfering with the course of justice administration – High Court observed a pattern in the behaviour of the appellant – He has had a habit of misbehaving with a Bench which is not agreeing with him – Misbehaviour goes to the extent of casting aspersions and threatening the Judges hearing the matters – High Court rightly held that there is need to maintain the dignity and reputation of judicial officers and to protect them from motivated, libellous and unfounded allegations which interfere with the administration of justice – Also, the High Court rightly rejected the apology tendered by the appellant since it was not bonafide and lacked in sincerity, apart from being belated and a mere 'lip service' – Furthermore, the appellant was trying to resort to forum shopping by asking this

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Court to refer the matter to a judge who had issued notice in a connected matter – Appellant failed to see that notice in the lead matter was issued more than a decade and half ago – In view thereof, the finding of conviction against the appellant warrants no interference – However, considering his age and his medical ailments, the sentence imposed is modified from imprisonment for three months till the rising of the court. [Paras 17-18, 21, 22, 23]

Judicial independence – Protection of:

Held: Judicial independence ought to be protected from acts maligning the reputation of judicial officers – There is need to maintain the dignity of the Court and majesty of law. [Para 17]

Contempt of court – Apology tendered, when can be accepted:

Held: Apology must evidence remorse with respect to the contemptuous acts and is not to be used as a weapon to purge the guilty of their offence – An apology lacking in sincerity and not evidencing contriteness, cannot be accepted. [Para 22]

Case Law Cited

M.B. Sanghi, Advocate v. High Court of Punjab & Haryana, [1991 \(3\) SCR 312](#) : (1991) 3 SCC 600; Pritam Pal v. High Court of M.P., Jabalpur, [\[1992\] 1 SCR 864](#) : 1993 Supp (1) SCC 529; Ajay Kumar Pandey, Advocate, In Re, [1998 \(2\) Suppl. SCR 87](#) : (1998) 7 SCC 248 – relied on.

M. Y. Shareef v. Hon'ble Judges of High Court of Nagpur, [\(1955\) 1 SCR 757](#) ; Omesh Saigal and State v. R.K. Dalmia, [1968 SCC OnLine Del 179](#); L. D. Jaikwal v. State of U.P., [1984 \(3\) SCR 833](#) : (1984) 3 SCC 405 – referred to.

List of Acts

Contempt of Courts Act, 1971.

List Keywords

Contempt of Court; Suo motu contempt jurisdiction; Criminal contempt; Civil imprisonment; Adjournment; Casting aspersions and threatening the Judges hearing the matters; Bailable warrents; Non-Bailable warrents; Judicial independence; Maligning the reputation of judicial officers; Libellous and motivated allegations

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against the Court and its Judges; Administration of justice; Dignity and reputation of judicial officers; Apology; Forum shopping; Service of notice; Bias; Misbehaviour; Modification of sentence.

Case Arising From

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.577 of 2007.

From the Judgment and Order dated 19.10.2006 of the High Court of Delhi at New Delhi in CC Nos.16 and 17 of 2006.

With

M.A. 256 of 2017 In Contempt Petition (C) No.64 of 2007 With SLP (Crl.) No.9689 of 2018 With Diary No.44408 of 2018.

Appearances for Parties

Petitioner-in-person

Kanhaiya Singhal, Prasanna, Mrs. Vani Singhal, Ajay Kumar, Udit Bakshi, Anmol Sharma, Teeksh Singhal, Ujwal Ghai, Chirag M. Shroff, Ardhendumauli Kumar Prasad, Gopal Singh Chauhan, Deepak Goel, Advs. for the Respondents.

Judgment / Order of the Supreme Court**Order**

1. The Criminal Appeal No. 577/2007 arises out of the common judgment and order of the High Court of Delhi (“**High Court**”) dated 19.10.2006 in Criminal Contempt Case Nos. 16 of 2006 and 17 of 2006.
2. By virtue of the impugned order, the High Court exercising its *suo motu* contempt jurisdiction, convicted the sole appellant herein, a practising advocate and a former army personnel, under the Contempt of Courts Act, 1971 (“**Act**”) and sentenced him to civil imprisonment of three months which was to run concurrently and a fine of Rs. 2,000, each in both the contempt cases.
3. **Facts in the lead matter:** On 17.08.2006, in a writ petition before the High Court, the appellant, appearing as counsel, sought an adjournment. After granting an adjournment, the Court noticed the appellant’s conduct relating to giving threats to the lady counsel

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who was appearing for the other side. Thereafter, the High Court passed an order directing him to explain his conduct. The order is reproduced herein for ready reference:-

“Learned Counsel for the petitioner states that he wishes to file some applications and requests for adjournment. Request is allowed.

At this stage, after the request for filing the applications was allowed, learned Counsel appearing for the petitioner while going back passed a comment on the lady Advocate opposing him in the case and appearing for the respondents. She brought it to the notice of the Court and we requested the Counsel appearing for the petitioner to come back, which he did.

Learned Counsel for the petitioner made a threatening remark to her, saying that now she be prepared for the consequences. Shri Dipak Bhattacharya (Advocate), who was also present in the Court duly confirmed that he overheard this remark being made to the lady Advocate appearing for the respondents.

We find this attitude of the Counsel appearing for the petitioner to be undesirable and needs to be deprecated and dealt with in accordance with law. It is unfair for any Counsel to give any threats to the Counsel appearing on the other side, as all of them appear as officers of the Court and assist the Court or their respective clients. However, before we direct any further action or issue notice for contempt, learned Counsel for the petitioner made a request and the case is directed to be listed for tomorrow.

List on 18.8.2006.”

4. On 18.08.2006, when the matter was called out, the appellant failed to appear. Therefore, the Bench adjourned the matter to 21.08.2006. In fact, a counsel standing in the courtroom at that time undertook to personally inform the appellant about the next date of hearing. Surprisingly, the appellant had filed an application seeking transfer of the said writ petition to a different bench of the High Court, even though he failed to physically appear in the matter. Later in the day, a counsel appearing on behalf the appellant made a request for an

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adjournment on the ground that the appellant was unwell. That said, the standing counsel for the Union of India, who was also present in the same court at that time, informed the Bench that the appellant was seen in the court premises earlier in the day. Nonetheless, in the interest of justice, the Bench adjourned the matter to 21.08.2006.

5. Thereafter, even on 21.08.2006, the appellant failed to appear. However, he had filed applications in the same matter making reckless and unsubstantiated allegations against the judges of the High Court. Clearly, by failing to appear and filing baseless allegations, the appellant had disobeyed the orders of the Court. In fact, it also came to the knowledge of the High Court that the appellant herein has frequently filed transfer applications on behalf of his clients, without their knowledge. Therefore, by its order dated 21.08.2006, a Division Bench of the High Court issued a notice to the appellant asking him to show cause as to why proceedings under the Act should not be initiated against him (Suo Motu Contempt Case No. 16 of 2006).
6. Around the same time, another Division Bench of the Court had also initiated *suo motu* contempt action against the appellant after noticing that he had filed an application in a writ petition, where he had made certain improper allegations against the Judges. Even in this contempt proceeding as well as the writ petition, the appellant failed to appear. However, he was filing applications day-after-day making reckless allegations against the Judges. While issuing a show-cause notice on 08.08.2006 (Suo Motu Contempt Case No. 17 of 2006), the High Court noted as follows:

“We have looked into the statement made in the application, which is registered as CM No. 9695/2006. Having gone through the same, we direct for issuance of a notice to the petitioner to show cause why appropriate action under the provisions of the Contempt of Courts Act or otherwise shall not be initiated against him. Notice shall be issued to the petitioner by the registry of this Court without process fee and shall be served by the Process Serving Agency of this Court, returnable on 3rd October, 2006.”

7. Both the *suo motu* contempt proceedings were tagged and listed for 22.08.2006. However, neither on that date nor on subsequent dates did the appellant appear.

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8. Multiple ways were adopted to secure the presence of the appellant, without any avail. The appellant was not to be found on the addresses mentioned and hence, service of notice under the Act could not be completed. As a last resort, the High Court issued bailable warrants against the appellant. Upon failure to secure the appellant's presence even then, non-bailable warrants were issued. The said warrants could also not be executed since the appellant was not available on any of the addresses mentioned.
9. After numerous attempts, the High Court directed the Deputy Commissioner of Police, New Delhi, to be present in Court. Upon his appearance in Court, the Deputy Commissioner of Police, New Delhi was directed to ensure the presence of the appellant in Court. Soon thereafter, on 18.09.2006, he was produced in Court. On the same day, while the Appellant was released upon furnishing a personal bond, he was arrested by the Police of Uttarakhand in furtherance of another non-bailable warrant issued by a Family Court in a case filed by the appellant's wife for execution of a decree. The High Court noted that even during this time, the appellant failed to appear before the Court, instead, he was filing applications challenging the jurisdiction of the Court in issuing such warrants.
10. This is a long-drawn case in which the appellant has been committing successive acts of contempt. There are about seven instances which the High Court has taken into account, where the conduct of the appellant came under scrutiny in different proceedings. In all those cases, the egregious act of contempt of the appellant was recorded. These instances in short are as follows:
 - (i) In a case concerning his dismissal from service, the matter got carried up to this Court. While dismissing a review petition filed by him, this Court noted the allegations and insinuations made by the appellant against the conduct of the judges of this Court. While referring the matter to the Bar Council, this Court observed as under

"We have carefully perused the review petition as well as the documents annexed therewith, but we find no merit in the review petition and the same is accordingly dismissed.

Having regard to the allegations and insinuations contained in the review petition, there is justification for action under the Contempt of Courts Act, against the petitioner. However,

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considering his background as is apparent from the record of the case and the apparent frustration caused to the petitioner as a result of his losing his appeal before this Court, we do not propose to initiate any action under the said Act, since the respondent has preferred the review petition in-person.

However, we notice that the petitioner is an Advocate and is practising as an Advocate-on-Record in this Court. The conduct of the petitioner in filing a review petition containing such baseless allegations and insinuations reflecting on the conduct of Judges of this Court does call for closer scrutiny, as to whether his conduct does no credit to the noble profession to which he belongs. However, since that matter is not within our jurisdiction and it is only the Bar Council of India which is empowered to take appropriate action, we refer this matter to the Bar Council of India for such action as it may consider appropriate.”

- (ii) In *Suo Motu* Contempt Case No. 16 of 2006, the appellant had filed transfer petitions seeking transfer of the underlying matter as well as the *suo motu* contempt proceeding before a different bench of the High Court. Admittedly, he had filed the transfer petition on grounds which were devoid of the writ petitioner's knowledge. The transfer petitions filed by the appellant in this matter, along with the various other matters, were firstly placed before the then Acting Chief Justice of the High Court, and pursuant to his order dated 24.08.2006, the matter was listed before the same Bench which issued notice in *Suo Motu* Contempt Case No. 16 of 2006 on 21.08.2006. It has to be stated here that the original writ petitioner in this writ petition was personally present in the Court on 29.08.2006 and stated that he had not read the content of the transfer petition nor did he sign the transfer petition.
- (iii) In a different writ petition before High Court, in which the appellant was appearing as a counsel, he had filed an application wherein he made allegations against the Judges of the High Court as well as this Court. He also alleged that the transfer petitions were never placed before the then Acting Chief Justice of the High Court, thus, causing injustice.

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(iv) In W.P. No. 245 of 1986 before the High Court, the appellant had filed a written submission, where he had made the following statement (we have deliberately redacted the names of the Hon'ble Judges of this Court and that of the High Court to maintain the decorum of these proceedings. The details are however, available in the order impugned before us):

'The following Hon'ble Judges declined to hear the personal matters of the petitioner— (1) ... (2) ... (3) ... (4) ... (5) ...

In addition, from time-to-time, the following Hon'ble Judges also declined to hear the petitioner's personal matters— (6) ... (7) ... (8) ... (9) ... (10) ... (11) ... (12) ... (13) ... The said refusal stemmed partly from the death of Hon'ble Mr. Justice ... 's son and the death of Hon'ble Mr. Justice ... as a result of the written curse ('shrap') made by the humble petitioner; Hon'ble Mr. Justice ... 's son, too, died, and Hon'ble Mr. Justice ... has been paralysed for life.'

(v) Further, in W.P. No. 5183 of 2005 before the High Court, the appellant had filed a written submission, where he had made the following statement (we have deliberately redacted the names of the Hon'ble Judges of this Court and that of the High Court to maintain the decorum of these proceedings. The details are however, available in the order impugned before us):

"Apparently, it is the ego of the judicial office and the accompanying powers—which can be used or mischievously abused/misused, which is making him ill-treat the Hon'ble Members of the Bar and to act in a whimsical, vengeant and harassing manner towards me, in particular. But the learned Judge overlooks the fact that he is not the Lord Almighty and there are Members of the Bar who are close to the real Lord Almighty—for example, I wrote to the then Hon'ble Chief Justice of India and therein cursed that the way justice had been delayed, there will be delay in medical aid and one son of Mr. Justice ... shall die; his son died within 4 days. Again, I wrote to His Lordship that Mr. Justice ... shall die—he died within 7 days. Similarly, Mr. Justice died, Mr. ... (retired Judge) has been paralysed for life, Mr. Justice ... is also suffering with medical problems, etc. Since then at least 13 Hon'ble Judges have declined to hear my personal matters—including Mr. Chief Justice ..."

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(vi) In CM 9695 of 2006 in WP (C) No. 9244 of 2006 before the High Court, the appellant had filed a written submission, where he had made the following statement (we have deliberately redacted the names of the Hon'ble Judges of this Court and that of the High Court to maintain the decorum of these proceedings. The details are however, available in the order impugned before us):

“3. That several Universal Legal Maxims/Principles/Premises—which are followed by all the civilised Nations, have been given a go-by in several legal cases (including the instant case) and the same is palpably apparent on the face of the record. Hence, the humble Applicant hereby curses that one son/child of each of the individuals who passed the motivated orders shall die prematurely—and so shall it happen soon. Bismillah!

In this regard, it is pertinent to mention that it is on the written record of the Hon'ble Supreme Court that the applicant herein had stated in writing that one son of the then Mr. Justice ... would die—he died within 4 days, that the then Mr. Justice ... would die—he, too, died within 7 days. And the then Mr. Justice ...'s son also died, Mr. ... (retired Judge) has been paralysed. Moreover, ACM ... (the individual, who had tried to harass the humble Applicant) was not only himself paralysed, but his daughter also committed suicide and his son died in an air-crash. It is pertinent to mention that blatant and motivated abuse of their powers by certain public officials has occasioned miscarriage of justice against the ex-servicemen/servicemen, and their said acts are an open instigation to the ex-servicemen/servicemen to abuse their powers, too in any case, this is a reason enough for lowering the morale of the Armed Forces personnel who may even refuse to fight against the intruders to save the lives of such corrupted individuals. Hence a copy of this Application is being sent to the Supreme Commander of the Armed Forces.”

(vii) Lastly, the High Court noted that in a matter where the appellant was appearing before a Division Bench of the High Court, the appellant sought an adjournment in the matter and requested listing the matter a day after the next day owing to an out-

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station matter. While granting an adjournment, the Bench listed the matter for the next day. The next day when the matter was called for hearing, it was again adjourned. It is the claim of the appellant that the same was done out of vengeance since one of the Judges on the Bench had a pre-existing tiff with the appellant.

Findings of the High Court:

11. While analysing the conduct of the appellant, the High Court summarised his contemptuous acts in the following words:

“(a) Use of undesirable language as afore-noticed with an intention to malign the Court and to lower the dignity of the Court. The intention is obvious i.e. transferring of the cases in which he is the petitioner himself or Counsel for the petitioner unless you are willing to pass favourable orders only in those cases, failing which the threats were extended to the various Courts with dire consequences resulting from the curse written or otherwise of the said person. This amounts to apparent interference with the administration of justice and extending undesirable threats to the Courts.

(b) Wild allegations are made in the transfer petitions filed by the said person without getting them signed from the petitioner concerned and in fact even without bringing it to the notice of the client as to what application was filed, obviously with an intention to hamper the administration of justice and making allegations in other cases, wherein he was not a petitioner, to browbeat the Courts and filing applications even without the knowledge and contents of the application being known to the petitioners in those cases.

(c) Extending threats in presence of the Court to Ms. Rekha Palli, Advocate for the respondents of facing dire consequences in the case filed by the petitioner. This was done in presence of the Court and the threats extended were even overheard by a senior member of the Bar Mr. Deepak Bhattacharya (Refer to order dated 17th August, 2006).”

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12. The High Court categorically noted that the appellant has *prima facie* committed criminal contempt of court and the magnanimity shown to him has resulted in doing acts and omissions of graver nature, thus, treating the tolerance as weakness of administration of justice. The High Court held that the acts are intentional, malicious and have persisted over a long period and are now clearly interfering with the administration of justice and lowering the dignity of the Court.
13. Having recounted the above-referred incidents, the High Court through its judgment and order dated 19.10.2006 found the appellant guilty of criminal contempt and awarded a punishment of simple imprisonment of 3 months along with a fine of Rs. 2000, in each contempt proceeding. It is basing this conviction and sentence that the appellant has filed the instant appeal.

Proceedings before this Court:

14. While admitting the appeal, this Court by order dated 16.04.2007, granted a stay of the impugned order dated 19.10.2006. Thereafter, the record of proceedings are replete with requests for adjournments, and finally, by order dated 01.08.2023, one of us, vacated the interim order and directed that the case will be heard without any further adjournments. Thus, we heard the appellant and have also permitted him to file written submissions. The written submissions were filed.

Submissions before this Court:

15. The appellant made the following submissions: (i) notice in one of the connected matters was issued by a Judge who is still a member of this Court. Therefore, it is the submission of the appellant that these matters should be heard by a bench presided over by that particular Judge; (ii) none of the connected matters are related to the contempt petition. Therefore, they must be de-tagged and be heard separately; (iii) the Court Martial proceedings which were relied upon by the High Court are not relevant to the present proceedings; (iv) the matters before the High Court, in which the appellant was appearing as a counsel, were being adjourned without a pass-over being granted on the first call; (v) the threat given to the lady advocate was nothing but elderly advice; (vi) no show cause notice in the contempt proceedings was served on him; (vii) all the transfer petitions and the underlying matters were transferred to one single bench without following the rules framed by the High Court relating

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to assignment of matters; (viii) the Judges who heard his case and issued notice under the Act were biased against him; and (ix) the appellant challenged all other proceedings initiated against him on the ground that the authorities conducting such proceedings were biased against him.

16. We have also heard the learned counsel for the Respondent. It was their submission that the order impugned herein has been rendered after a detailed consideration of the material placed before them. It was submitted that the appellant had appeared before the Court pursuant to service of show cause notice under the Act, and the submission that there was no proper service of notice is not correct. It has also been contended that till date, the appellant has never apologised for his actions. In fact, even before this Court, he has been writing letters making reckless allegations against Judges and the Judiciary.

Analysis:

17. At the outset, we note that the order impugned herein is a detailed one, which considers and answers each and every aspect of the matter. While imposing the punishment, the High Court relied on a decision of this Court to highlight that judicial independence ought to be protected from acts maligning the reputation of judicial officers¹. Further, the High Court also reiterated the finding of this Court, wherein it was highlighted that a contemnor ought to be punished with imprisonment for making libellous and motivated allegations against the Court and its Judges which interfere with the administration of justice². Furthermore, the High Court highlighted the importance of protecting and upholding the dignity of the Court and the majesty of the law as also observed previously by this Court³. We are in complete agreement with the decision of the High Court on the need to maintain the dignity and reputation of judicial officers and to protect them from motivated, libellous and unfounded allegations. We are also of the opinion that the High Court was correct in not accepting the apology tendered by the appellant since it was not *bonafide* and lacked in sincerity, apart from being belated and a mere 'lip service'.

1 M.B. Sanghi, Advocate v. High Court of Punjab & Haryana, 1991 (3) SCR 312 : (1991) 3 SCC 600.

2 Pritam Pal v. High Court of M.P., Jabalpur, 1993 Supp (1) SCC 529.

3 Ajay Kumar Pandey, Advocate, In Re, 1998 (2) Suppl. SCR 87 : (1998) 7 SCC 248.

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18. The submissions made before us are also not appealing. Even here, the appellant is trying to resort to forum shopping by asking us to refer the matter to a judge who had issued notice in a connected matter. The appellant has failed to see that notice in the lead matter was issued more than a decade and half ago. While the appellant seeks to de-tag the court martial proceedings as if they are unconnected to the egregious act of contempt, we note that those proceedings were not of a client of the appellant, in fact, the appellant himself was subjected to court martial proceedings, and he was in fact appearing as a party-in-person. We do not see two different lives here. The appellant contemnor is the petitioner in the court-martial proceedings.
19. It is also incorrect to say that there was no service of notice on the appellant. The appellant had in fact appeared before the Court after issuance of notice under the Act. Making an assertion that there was no service of the notice is factually wrong. The appellant, while making an allegation of bias should have supplemented it with cogent material, which he has failed to do. This again, is an irresponsible statement.
20. With respect to the other arguments made by the appellant before us, we are of the view that the High Court has elaborately dealt with the same and they require no interference or indulgence by us.
21. The appellant's conduct before the High Court and for that matter, even before this Court, amounts to undermining the system of the law and interfering with the course of justice administration. The High Court observed a pattern in the behaviour of the appellant. He has had a habit of misbehaving with a Bench which is not agreeing with him. The misbehaviour goes to the extent of casting aspersions and threatening the Judges hearing the matters.
22. We are of the opinion that the High Court correctly rejected the apology. An apology must evidence remorse with respect to the contemptuous acts and is not to be used as a weapon to purge the guilty of their offence⁴. Further, an apology lacking in sincerity and not evidencing contriteness, cannot be accepted⁵.

4 *M.Y. Shareef v. Hon'ble Judges of High Court of Nagpur*, (1955) 1 SCR 757.

5 *Omesh Saigal and State v. R.K. Dalmia*, 1968 SCC OnLine Del 179 and *L. D. Jaikwal v. State of U.P.*, 1984 (3) SCR 833 : (1984) 3 SCC 405.

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23. Having considered the order impugned before us in detail and having perused the way the appellant has conducted the proceedings before this Court, and after giving our anxious consideration, we are of the opinion that the finding of conviction against the appellant warrants no interference. However, considering the age of the appellant and taking note of his submission that he is suffering from certain medical ailments, we modify the sentence imposed by the High Court from imprisonment for three months till the rising of the court.
24. The three other connected matters being (a) M.A. 256/2017 in Contempt Petition (C) No. 64/2007, (b) SLP (Crl.) No. 9689/2018, and (c) Diary No. 44408/2018 are not related to the present criminal appeal and, therefore, we de-tag them and direct them to be listed for hearing separately.
25. In view of the above, Criminal Appeal No. 577/2007 arising out of SLP (Crl.) No. 1756 of 2007 against Final Common Judgment and Order dated 19.10.2006 passed by the High Court of Delhi in Criminal Contempt Cases Nos. 16 & 17 of 2006, is dismissed, subject to the above modification of the sentence till the rising of the Court.
26. Pending applications, if any, are disposed of.
27. No order as to costs.

Headnotes prepared by: Nidhi Jain Result of the case: Appeal dismissed.