

**Central Administrative Tribunal
Principal Bench, New Delhi**

Suo Motu Contempt Petition No.123/2018

Reserved on : 28.02.2018
Pronounced on : 22.03.2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

Court on its own motion

Shri Ajesh Luthra, Advocate

.... Contemnor

: O R D E R :

Justice Permod Kohli, Chairman:

As an advocate he (a barrister) is a minister of justice equally with the judge. (*Lord Denning M.R. Rondel v. Worsley. [1967] 1 Q.B. 443 at 502*).

2. This quote is equally true in the context of Indian judicial system. After the independence of country, the judicial mechanism adopted under the Indian Constitution is by and large based upon English judicial system, of course, with modifications according to needs of Indian society, its culture, social and economical requirements of its people. The existence of judicial system without the assistance and help of the legal profession is unthinkable. Under the provisions of Sections 29, 30 and 33 of the Advocates Act, 1961, an

Advocate who is enrolled as such with any Bar Council, is the only legally competent person to practice the profession of law in all Courts in the country including the Hon'ble Supreme Court of India and all the Tribunals, or Persons legally authorized to take evidence and wherever the appearance of the advocates is authorized by law. This right having been conferred upon the advocate, it definitely carries with it corresponding obligations.

3. An advocate has different roles. Firstly, he is an officer of the Court and he has a duty towards the Court as its officer to properly and fairly assist in the administration of justice. His second duty is towards his client to whom he should be sincere, honest and represent him to the best of his ability. His third duty is towards the society. As a member of the society and belonging to intelligentsia, he commands respect. Thus, his obligation is also towards the society to which he belongs. He is not supposed to indulge in any activity which may bring in disrepute his own image in society and that of the Institution he belongs to.

4. Legal profession is considered to be one of the noblest professions. This profession has been placed at a very high pedestal and perhaps may be the only profession which finds recognition under the constitutional provisions. Article 22 of the Constitution of India provides that a person who is to be detained in custody has a

right to consult and to be defended by a legal practitioner of his choice. Thus, as a member of legal profession, his conduct must be a blend of knowledge, ethics and good conduct/behaviour. One of his duties towards court under the rules framed under Section 49 (1) of the Bar Council of India Act is as under:-

“2. An Advocate shall maintain towards the courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.”

5. Keeping in view the status of an advocate primarily as an officer of the Court, it is most painful moment for a Judge or a Court to take upon its shoulders the most unpleasant duty to initiate contempt proceedings against him/her. The present case is one of such unpleasant situations wherein this Tribunal had to issue a contempt notice to one of its own officer who almost every day appears before us and plead for the cause of his clients. But then the question arises, whether the right of audience in a Court available to an Advocate is such a right that it is not to be regulated by any norm, ethics or principles. Can freedom of speech be used to undermine the dignity of the Court/Tribunal by any conduct or behavior of an advocate which is unwarranted, uncalled for and may attract the provisions of Contempt of Courts Act, 1971. Section 2 (c) of the Contempt of Courts Act defines a criminal contempt and reads as under:-

“2. Definitions. In this Act, unless the context otherwise requires,

- (c) criminal contempt means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which
 - (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
 - (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
 - (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.”

Where the conduct or action of an advocate falls within the purview of criminal contempt, what should be the duty of the Court? It is true that the court is not supposed to react, respond with malice or in a vindictive manner. Nonetheless, the Court has the onerous duty and constitutional obligation to maintain the majesty of law, protect the institutional dignity, dignity of the Judge presiding over the Bench and uphold the rule of law. Thus, the ultimate object and purport of institutional discipline is that all who belong to the institution and are entrusted with the job of administration of justice in whatever capacity, it is their obligation to maintain the dignity of the institution and not to indulge in any action or act which may have the demeaning effect on the institutional integrity, independence of the judiciary or may erode the faith of common man who has impeccable faith in the system.

6. The minimum requirement is that whenever public faith in the system established by law is sought to be undermined, the person responsible for such action attracts stern and firm action to protect the institutional integrity and its sovereignty. It is this principle which prompts or even persuades the court or a Judge to proceed against any person, individual or institution that tends to undermine the dignity of the institution.

7. The independence of judiciary is recognized as one of the basic structure of the constitution. This independence cannot be allowed to be marred, hampered, eroded or diminished by any means by any person howsoever high he or she is. It is very very difficult, rather painful job of a Judge to initiate proceedings for contempt against an advocate whose appearance in court is seen everyday or now and then, but the constitutional/statutory obligation has to be met whatever may be the unpleasant task.

8. The present case is one of such where this Tribunal had to initiate proceedings for contempt against a senior member of the Bar, Mr. Ajesh Luthra. The circumstances whereunder we have to perform this unpleasant duty have been reproduced in our order dated 26.02.2018 passed in MA No.4428/2017 in OA No.1212/2017. We hereby reproduce the said order:-

“We called the matter. Mr. Ajesh Luthra, learned counsel appeared for the applicant and Mr. H.K. Gangwani and Mr. Gyanendra Singh appeared for the respondents.

This matter was being finally heard. However, due to paucity of time, it does not seem to be possible to hear this matter finally.

We take up the applications for vacation of stay, in view of the facts that all promotions in the respondent - Ministry have been stalled.

At this stage, Mr. Ajesh Luthra became furious and told the Court that the Court cannot pass an order on the vacation applications and it would be injudicious and improper and against the judicial propriety. He further said that let the Court issue a contempt notice to him. The behaviour of the counsel is absolutely uncalled for and unwarranted. The Tribunal has jurisdiction to pass interim orders, keeping in view the facts and circumstances of each case. Merely because the matter cannot be heard finally that does not prohibit or prevent the Tribunal from considering the interim measure particularly, when there is an application for vacation of stay. Mr. Luthra pointing finger to the Court stated that he has decided to boycott this Court. Such behaviour of the counsel is totally deplorable. His body language and utterances in open Court have clearly defied and demeaned the dignity of this Court. It calls for issuance of notice for contempt. We decide to issue notice for contempt to him with further direction that he will not leave the Court without furnishing a personal bond to the tune of Rs.20,000/- to the Registrar of the Tribunal during the course of the day. A copy of this order be also sent to the Bar Council of Delhi for appropriate action against Mr. Luthra. A copy of this order be also furnished to Mr. Ajesh Luthra.

Registrar will register this order as a Contempt Petition to be listed on 28.02.2018. Mr. Luthra is directed to appear on 28.02.2018 and file his response to the Contempt notice.

9. On contempt notice being issued under the circumstances as narrated in the aforesaid order for the conduct and action of Mr. Ajesh Luthra, he was called upon to furnish a personal bond before the Registrar of the Tribunal and also to file his response to the

contempt notice by 28.02.2018. The contempt was registered as Suo Motu Contempt being CP No.123/2018. Shri Ajesh Luthra furnished his personal bond as per the directions.

10. We may notice here that after the contempt notice was issued to Mr. Luthra, the Executive Committee of the CAT Bar Association in their wisdom chose to pass a resolution for striking work on 27.02.2018 as a protest against initiation of contempt proceedings against Mr. Luthra. The Registrar of the Tribunal intimated about this decision of the Executive Committee to the Chairman. We may say here that the Executives of the Bar Association or for that matter even the General House of the Bar Association may be free to adopt any resolution but the Tribunal has its constitutional and statutory duty to be performed towards the litigant public. The Court held its sitting on 27.02.2018. To the dismay of those who adopted the resolution, the members of the legal profession who are primarily practicing in Principal Bench of CAT defied the call for boycott and the Court functioned as usual with full strength of appearing lawyers. This approach of the worthy members of the Bar was an indicator that the members of the Bar have great respect for honour and dignity of this institution and they did not fall prey to any misgivings of some of the members. Members of Bar deserve applaud for their concern for institution and courage to come forward for protection of the institution.

11. The contempt matter was listed on 28.02.2018, and when it was taken up, Mr. Luthra appeared before the Tribunal with Mr. A. K. Behera, Advocate who appeared on his behalf in response to the contempt notice. Mr. Luthra has filed the affidavit which reads as under:-

- “1. That at the outset, I state that I have got highest regard for this Hon’ble Tribunal and Chairman and Members who comprise this Hon’ble Tribunal.
2. That I further state that on 26.02.2018 in O.A. No.1212/2017, my action upto the point of requesting this Hon’ble Tribunal to complete the hearing in the part heard O.A. instead of hearing the MA for vacation of stay was based on my reasonable expectation as the OA was already part-heard on merits on 16.02.2018. But after this request, I exceeded my limit and duty as an advocate on the spur of the moment. I regret my such behavior and utterances unconditionally. I tender my unconditional apology for the said behavior and utterances.

PRAYER

In view of the facts and circumstances mentioned hereinabove, I pray that this Hon’ble Tribunal be pleased to drop the instant suo motu contempt proceedings and discharge the personal bond furnished by the respondent in this regard.”

Apart from filing the aforesaid affidavit, Mr. Luthra personally apologized before the Court. The Tribunal passed the following order:-

“Suo Motu Contempt

The contemnor is present in Court. He has filed affidavit tendering apology and has also apologised personally.

Heard.

Reserved for orders.

OA No.1212/2017

List on 23.03.2018.”

12. Mr. Luthra chose not to contest the notice nor he disputed the facts recorded in the order dated 26.02.2018. To the contrary, he has expressed regret for his behavior and utterances and tendered unconditional apology in his affidavit as also personally. Thus, the only question that arises for this Tribunal’s consideration is as to whether the unconditional apology tendered by Mr. Luthra, both in writing and orally, is to be accepted or he should be punished for his intemperate behavior in the Court.

13. Not only the duties of a Lawyer while representing the cause of his client have been defined under the Rules as quoted hereinabove, but how a lawyer or an Advocate should behave in a Court while pleading for his client, have drawn attention of the Courts, particularly of the highest Court of the Land, i.e., Hon’ble Supreme Court of India in number of cases. We may notice some of the observations made in the following cases:-

14. Considering the relationship between the members of legal profession and the Court in *R. K. Garg vs. State of Himachal Pradesh* (1981) 3 SCC 166, the Hon’ble Supreme Court has observed as under:-

“9. ... the Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar and their past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar. It is unquestionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a courtroom. But members of the Bar will do well to remember that such flagrant violations of professional ethics and cultured conduct will only result in the ultimate destruction of a system without which no democracy can survive.”

15. Regarding the legal profession and its duties, the Hon’ble Supreme Court in *Sanjiv Datta, Deputy Secretary, Ministry of Information and Broadcasting, New Delhi & Ors* (1995) 3 SCC 619 has held as under:-

“20. The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable members. Although the entry to the profession can be had by acquiring merely the qualification of technical competence, the honour as a professional has to be maintained by its members by their exemplary conduct both in and outside the court. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilised society. Both as a leading member of the intelligentsia of the society and as a responsible citizen, the lawyer has to conduct himself as a model for others both in his professional and in his private and public life. The society has a right to expect of him such ideal behaviour.”

16. A similar view has been reiterated by the Hon’ble Supreme Court in the case of *O. P. Sharma vs. High Court of Punjab and Haryana* (2011) 6 SCC 86. The same reads as under:-

“38. ... An advocate is expected to act with utmost sincerity and respect. In all professional functions, an advocate should be diligent and his conduct should also be diligent and should

conform to the requirements of the law by which an advocate plays a vital role in the preservation of society and justice system. An advocate is under an obligation to uphold the rule of law and ensure that the public justice system is enabled to function at its full potential. Any violation of the principles of professional ethics by an advocate is unfortunate and unacceptable. Ignoring even a minor violation/misconduct militates against the fundamental foundation of the public justice system."

17. In *Arun Kumar Yadav vs. State of UP* (2013) 14 SCC 127, the court has taken the following view:-

"14. In the case at hand, we are absolutely convinced that apology or for that matter the unconditional apology was neither prompt nor genuine. The concept of mercy and compassion is ordinarily attracted keeping in view the infirmities of man's nature and the fragile conduct but in a court of law, a counsel cannot always take shelter under the canopy of mercy, for the law has to reign supreme. The sanctity of law which is sustained through dignity of courts cannot be marred by errant behaviour by any counsel or litigant. Even a Judge is required to maintain the decorum and dignity of the court."

18. In the famous case of *Vinay Chandra Mishra* (1995) 2 SCC 584, the then President of the Bar Council of India against whom proceedings for contempt of court were initiated by the Hon'ble Supreme Court, the Hon'ble Justice P. B. Sawant speaking for the court observed as under:-

".....Brazenness is not outspokenness and arrogance is not fearlessness. Use of intemperate language is not assertion of right nor is a threat an argument. Humility is not servility and courtesy and politeness are not lack of dignity. Self-restraint and respectful attitude towards the court, presentation of correct facts and law with a balanced mind and without overstatement, suppression, distortion or embellishment are requisites of good advocacy. A lawyer has to be a gentleman

first. His most valuable asset is the respect and goodwill he enjoys among his colleagues and in the Court.”

19. In a recent case of *Mohit Chaudhary, Advocate*, in Suo Motu Contempt Petition (Crl.) No.5/2017 decided on 17.08.2017, the Hon’ble Supreme Court while initiating contempt proceedings for the conduct of the Advocate on Record, in para 1 observed as under :-

1. A Noble Profession. An Officer of the Court. An Advocate on-Record having the privilege conferred in that behalf under the Supreme Court Rules, 2013. And a painful task of the Court to look into the conduct of such an Advocate arrayed as a contemnor in the contempt proceedings.

20. Taking note of various judgments including that of *V. C. Mishra* (supra) and the representation of the Bar on behalf of the contemnor in the aforesaid case the Hon’ble Supreme Court has observed as under :-

“28. On examination of the legal principles an important issue emerges: what should be the end of what the contemnor had started but has culminated in an impassioned plea of Mr. K.K Venugopal, learned senior advocate supported by the representatives of the Bar present in Court, marking their appearance for the contemnor. We are inclined to give due consideration to such a plea, but are unable to persuade ourselves to let the contemnor go scot-free, without any consequences. We are thus not inclined to proceed further in the contempt jurisdiction except to caution the contemnor that this should be the first and the last time of such a misadventure. But the matter cannot rest only at that.

29. It was not an innocent act, an innocuous endeavor but a well thought out decision to tread an unfortunate path which the existing Advocate-on-Record was unwilling to do. The objective was only to assist the client by somehow seeking

shifting of the Bench. The allegations made against the Registry were false and there were innuendoes against the Court. The endeavor failed. Every action has to have an outcome. The contemnor thus must face some consequences of his conduct.

30. We are of the view that the privilege of being an Advocate-on-Record under the Rules has clearly been abused by the contemnor. The conduct was not becoming of an Advocate less than Advocate-on-record in the Supreme Court."

21. Referring to Supreme Court of India rules considering the objective, Hon'ble Court observed as under:-

"31.....The present case is clearly one where this Court is of the opinion that the conduct of the contemnor is unbecoming of an Advocate-on-Record. The pre-requisites of the proviso are met, by the reason of the Bench being constituted itself by the Chief Justice, and the contemnor being aware of the far more serious consequences, which could have flowed to him. The learned senior counsel representing the petitioner has thrown him at the mercy of the Court. We have substantively accepted the request but lesser consequences have been imposed on the contemnor.

32. We are thus of the view that the appropriate course of action would be that the contemnor is not permitted to practice as an Advocate-on-Record, for a period of one month from the date of the order. A painful task had to be performed and is performed.

33. We hope that both for the petitioner and other advocates who may consider the interest of the client paramount even to breach the ethical practice of the court, this would be a caution. We say no more."

22. *In Radha Mohan Lal vs. Rajasthan High Court (Jaipur Bench)*

(2003) 3 SCC 427, the Hon'ble Supreme Court observed that an Advocate is merely not an advocate for service of his client, but he is an officer of the court, and held as under:-

“12. An advocate is not merely an agent or servant of his client. He is an officer of the court. He owes a duty towards the court. There can be nothing more serious than an act of an advocate if it tends to impede, obstruct or prevent the administration of law or it destroys the confidence of the people in such administration. In *M.B. Sanghi, Advocate v. High Court of Punjab & Haryana* [(1991) 3 SCC 600 : 1991 SCC (Cri) 897] while deciding a criminal appeal filed by an advocate against an order of the High Court, this Court said: (SCC pp. 602-03, para 2)

“The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure the desired order is ever on the increase and it is high time it is nipped in the bud. And, when a member of the profession resorts to such cheap gimmicks with a view to browbeating the Judge into submission, it is all the more painful. When there is a deliberate attempt to scandalise which would shake the confidence of the litigating public in the system, the damage caused is not only to the reputation of the Judge concerned but also to the fair name of the judiciary. Veiled threats, abrasive behaviour, use of disrespectful language and at times blatant condemnatory attacks like the present one are often designedly employed with a view to taming a Judge into submission to secure a desired order. Such cases raise larger issues touching the independence of not only the Judge concerned but the entire institution. The foundation of our system which is based on the independence and impartiality of those who man it will be shaken if disparaging and derogatory remarks are made against the presiding judicial officers with impunity. It is high time that we realise that the much cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are an integral part of the system. An independent judiciary is of vital importance to any free society. Judicial independence was not achieved overnight. Since we have inherited this concept from the British, it would not be out of place to mention the struggle strong-willed Judges like Sir Edward Coke, Chief Justice of the Common Pleas, and many others had to put up with the Crown as well as Parliament at considerable personal risk. And when a member of the profession like the appellant who should know better so lightly trifles with the much-endearred concept of judicial independence to secure small gains it only betrays a lack of respect for

the martyrs of judicial independence and for the institution itself. Their sacrifice would go waste if we are not jealous to protect the fair name of the judiciary from unwarranted attacks on its independence.”

23. In *C. Ravichandran Iyer vs. Justice A. M. Bhattacharjee* (1995)

(5) SCC 457, considering the entire gamut of the conduct of Judges

and members of the Bar including the right of the Bar Council or Bar

Association to adopt resolutions, the Hon’ble Court thus observed as

under:-

“10. The diverse contentions give rise to the question whether any Bar Council or Bar Association has the right to pass resolution against the conduct of a Judge perceived to have committed misbehaviour and, if so, what is its effect on independence of the judiciary. With a view to appreciate the contentions in their proper perspective, it is necessary to have at the back of our mind the importance of the independence of the judiciary. In a democracy governed by rule of law under a written constitution, judiciary is sentinel on the *qui vive* to protect the fundamental rights and to poise even scales of justice between the citizens and the State or the States inter se. Rule of law and judicial review are basic features of the Constitution. As its integral constitutional structure, independence of the judiciary is an essential attribute of rule of law. In *S.P. Gupta v. Union of India* [1981 Supp SCC 87] (SCC p. 221, para 27) this Court held that if there is one principle which runs through the entire fabric of the Constitution it is the principle of the rule of law, and under the Constitution it is the judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the rule of law meaningful and effective. Judicial review is one of the most potent weapons in the armoury of law. The judiciary seeks to protect the citizen against violation of his constitutional or legal rights or misuse or abuse of power by the State or its officers. The judiciary stands between the citizen and the State as a bulwark against executive excesses and misuse or abuse of power by the executive. It is, therefore, absolutely essential that the judiciary must be free from executive pressure or influence which has been secured by making elaborate provisions in the Constitution with details. The independence of judiciary is not limited only to the

independence from the executive pressure or influence; it is a wider concept which takes within its sweep independence from any other pressure and prejudices. It has many dimensions, viz., fearlessness of other power centres, economic or political, and freedom from prejudices acquired and nourished by the class to which the judges belong. (Emphasis Supplied)

“27. The Advocates Act, 1961 gave autonomy to a Bar Council of a State or Bar Council of India and Section 6(1) empowers them to make such action deemed necessary to set their house in order, to prevent fall in professional conduct and to punish the incorrigible as not befitting the noble profession apart from admission of the advocates on its roll. Section 6(1)(c) and rules made in that behalf, Sections 9, 35, 36, 36-B and 37 enjoin it to entertain and determine cases of misconduct against advocates on its roll. The members of the judiciary are drawn primarily and invariably from the Bar at different levels. The high moral, ethical and professional standards among the members of the Bar are preconditions even for high ethical standards of the Bench. Degeneration thereof inevitably has its eruption and tends to reflect the other side of the coin. The Bar Council, therefore, is enjoined by the Advocates Act to maintain high moral, ethical and professional standards which of late is far from satisfactory. Their power under the Act ends *thereat* and extends no further. Article 121 of the Constitution prohibits discussion by the members of Parliament of the conduct of any Judge of the Supreme Court or of High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as provided under Article 124(4) and (5) and in the manner laid down under the Act, the Rules and the rules of business of Parliament consistent therewith. By necessary implication, no other forum or fora or platform is available for discussion of the conduct of a Judge in the discharge of his duties as a Judge of the Supreme Court or the High Court, much less a Bar Council or group of practising advocates. They are prohibited to discuss the conduct of a Judge in the discharge of his duties or to pass any resolution in that behalf.”

24. In a latest case of *Suo Motu* contempt against a sitting Judge of the High Court, Hon’ble Shri Justice C. S. Karnan (2017) 7 SCC 1, the

Constitution Bench of the Apex Court has made following observations:-

“63. The authority to punish for contempt of court has always been exercised by the judiciary from times immemorial [In one of the earliest legal pronouncements dealing with the subject, Justice Wilmot in *R. v. Almon*, 1765 Wilmot's Notes 243 : 97 ER 94 explained the philosophy behind the power to punish for contempt of court. The passage now a classic exposition runs as follows: (ER p. 100)“... and whenever men's allegiance to the laws is so fundamentally shaken, it is the most fatal and most dangerous obstruction of justice, and, in my opinion, calls out for a more rapid and immediate redress than any other obstruction whatsoever; not for the sake of the Judges, as private individuals, but because they are the channels by which the King's justice is conveyed to the people.”] . The justification for the existence of that is not to afford protection to individual Judges [“14. ... the law of contempt is not made for the protection of Judges who may be sensitive to the winds of public opinion. Judges are supposed to be men of fortitude, able to thrive in a hardy climate.” [Douglas, J., *Craig v. Harney*, 1947 SCC OnLine US SC 79, para 14 : 91 L Ed 1546 : 331 US 367 at p. 376 (1947)]] but to inspire confidence in the sanctity and efficacy of the judiciary [“...The object of the discipline enforced by the Court in case of contempt of court is not to vindicate the dignity of the court or the person of the Judge, but to prevent undue interference with the administration of justice.” [Bowen, L.J. – *Helmore v. Smith* (2), (1886) 35 Ch D 449 at p. 455 (CA)] , though they do not and should not flow from the power to punish for contempt. They should rest on more surer foundations. The foundations are—the trust and confidence of the people that the judiciary is fearless and impartial.” (Emphasis Supplied)

25. Sometimes, misconception about the strength of a party's case also lead to such unpleasant and unfortunate incidents. Justice is not what is perceived by one party or the other. There are always three sides of the story. The petitioner's view, the respondent's view and the truth. It is the duty of the Court or Tribunal to find out the truth

on the basis of the facts before it and the law applicable. Many a times, it is also found that the party acquires perception about the merits of his case, may be on the advise of the counsel or otherwise. It is the duty of the counsel to fairly advise to a party before he finally takes up the brief. Earning money is not the sole purpose or object of the legal profession. Rendering true service to the litigant is the fundamental duty of the members of the legal profession.

26. One has a right to criticize the judgment but not the Judge. It is not always necessary that the decision of a Court or Tribunal may be correct. That being so, many a times the judgments are set aside by the superior courts but the only yardstick to measure whether the judgment is right or wrong is the conscious and *bona fide* decision of a Judge. It may be legally wrong or legally correct, but then the remedy is available under law and the judgment or order cannot be questioned by abusing the judge or having confrontation with the court on some perceived views. The Judge has to decide the case on the basis of his understanding of law, appreciation of the facts before it and, of course, the assistance that may be provided by the counsel for the parties. The decision has to be respected notwithstanding the right of a party to assail it before the higher court.

27. The purport and object of the law of contempt is not to protect or to insulate an individual Judge or protect him from all sorts of

allegations, including the misdemeanour of the Judge himself. A Judge can also be liable for contempt, if his conduct is not fair, but he is always prone to the allegation of one or the other party as a Judge has to decide a case against one or the other party. A Judge is always in a vulnerable situation but the faith of the people in the institution of judiciary makes him strong if the Judge acts honestly and fairly and hears the parties. The instrument of contempt cannot be used by the Court to protect the individual Judge. The contempt law itself is to uphold the majesty of law and the dignity of the court and eventually to achieve the rule of law. A Judge even while dealing with the contempt of its own court that too a criminal contempt where the act of a contemnor amounts to criminal contempt should never be reactionary or vindictive, whatever may be the provocation. This of course is with a caveat that the contemnor realizes his mistake and expresses remorse.

28. In the instant case, we have a senior member of the Bar who is unfortunately contemnor before the court. This makes us uncomfortable. The incident has to be termed as unfortunate but then the law must prevail. Even though, the behavior of the contemnor was uncalled for at the time of incident, nonetheless, he tendered his apology on the first available opportunity, i.e., at the time of filing his response to the contempt notice. The affidavit reveals that he has tendered unconditional apology. Mr. Luthra

personally also apologized in the court when he appeared. There seems to be a remorse. Thus, where such remorse is from the core of the heart and to maintain dignity of the profession, which has bestowed lot upon the legal practitioners, we accept the unconditional apology which is tendered with remorse, with the hope that Mr. Luthra will maintain the dignity of this institution of which he is an integral part. The Rule is discharged.

29. In our order dated 26.02.2018, we had also directed the copy of this order to be sent to Delhi Bar Council for appropriate action against Mr. Luthra. We deem it appropriate not to take the issue any further and we also recall our order of sending the same to Delhi Bar Council for appropriate action against Mr. Luthra. We close these proceedings in the larger interest of the institution of judiciary to which the entire legal fraternity belongs. The personal bond of Rs.20,000/- furnished by Mr. Luthra to the Registrar of this Tribunal is also discharged.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/