

Court on its own motion Vs Ashok Kumar Kapoor, Contemner

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 28, 1997

Acts Referred: Contempt of Courts Act, 1971 " Section 2

Criminal Procedure Code, 1973 (CrPC) " Section 406, 407, 408, 409, 410

Penal Code, 1860 (IPC) " Section 120B, 34, 392, 393, 406

Citation: (1998) CriLJ 806 : (1997) 4 RCR(Criminal) 307 : (1997) 3 RCR(Criminal) 307

Hon'ble Judges: V.K. Bali, J; P.K. Jain, J

Bench: Division Bench

Advocate: R.S. Mittal and Arti Gupta, for the Appellant; Ashok Kumar Kapoor, for the Respondent

Judgement

V.K. Bali, J.

R. S. Mittal, S. Advocate with Mrs. Arti Gupta, for Petitioner; Ashok Kumar Kapoor, Contemner in person. The contemner

herein Mr. Ashok Kumar Kapoor is a lawyer practising in District Courts at Ludhiana. Learned Single Bench of this Court (R. S. Mongia, J.)

issued notice of motion to the contemner to show cause as to why proceedings under the Contempt of Courts Act, 1971 be not initiated against

him on the basis of letter written by Mrs. Rekha Mittal, the then Additional Senior Sub Judge, Ludhiana. A copy of the complaint of Mrs. Rekha

Mittal, which was addressed to the District & Sessions Judge, Ludhiana, was sent to him along with the notice. This order was passed by the

learned Single Judge on August 11, 1994.

2. Mrs. Rekha Mittal brought to the notice of the District & Sessions Judge vide her communication dated May 2, 1994 that a complaint

captioned as "Ashok Kapoor v. Kulwant Singh" was received by way of transfer by her from the Court of the Chief Judicial Magistrate, Ludhiana

and was pending before her for recording preliminary evidence. The statement of complainant, Mr. Ashok Kapoor, who is a practising lawyer in

Ludhiana, was recorded on April 19, 1994 but along with the complaint he had appended a list of four witnesses. Mr. Ashok Kumar Kapoor

Advocate submitted before the Court that he was not liable to deposit the TADA of the witnesses mentioned at Sr. Nos. 1 to 4 whom were in

Ludhiana and the whom he wanted to examine for the time being. Vide order dated April 30, 1994 the Court asked the purpose for which the

witnesses mentioned at Sr. Nos. 1 to 4 were sought to be summoned. When that order was passed by the Court, Mr. Ashok Kumar Kapoor

asked as to why the Court wanted him to get wasted one paper by asking the purpose. He spoke so many words which were difficult to explain in

writing, though Smt. Rekha Mittal further mentioned that she would like to mention certain words / comments made by Mr. Ashok Kapoor in the

open Court in the presence of the staff and some other persons who were present in the Court at that time. He, in utter disregard of the decorum

of the Court and in a contemptuous manner, said that there was pressure upon the Court from the respondent party and why did not the Court

disclose the same. He further said that why the Court wants that he should open his pen and start litigation against the Court for asking him to

explain the purpose of summoning these witnesses. It was further mentioned in the communication, referred to above, that the complaint had been

made under Sections 392/393/477-A/120-B read with Section 34 of the Indian Penal Code on account of alleged threat having been given to the

complainant to withdraw Court cases filed by him in the Consumer Forum. She further mentioned that finding no nexus between the allegations of

the complainant and summoning of an official from the Income Tax Department, the Court desired the complainant to give in writing the purpose

for summoning the witnesses. But the complainant, just to overawe and threaten the Court, made the comments, mentioned above, so that the

Court may not pass an order asking for the purpose of summoning the witnesses.

Smt. Rekha Mittal further mentioned that the complainant was in the habit of threatening every judicial officer to get some order in his favour which

could not be appreciated by any Court. She also stated that the facts that she had mentioned could be verified from her Reader and Steno and

some other persons, who were present in the Court and whose names could be disclosed by her, if so desired. On the aforesaid facts, she prayed

that necessary action be taken against Mr. Ashok Kapoor, who is member of the Bar, for his misconduct and misbehaviour with the Court.

3. Pursuant to the notice issued by learned Single Bench of this Court, Mr. Ashok Kapoor appeared and prayed for time to file reply to the show

cause notice. The matter was adjourned to September 30, 1994 for reply and arguments. Mr. R. S. Mittal, a Senior Advocate of this Court, was

requested to assist the Court in the matter. The office was directed to hand over a copy of complaint as also the last order dated August 11, 1994

to Mr. Mittal. On September 30, 1994, reply was filed and the case was adjourned for arguments to October 25, 1994. On October 27, 1994

during the course of arguments, the respondent, who was present in person, stated that he had filed certain complaints against Mrs. Rekha Mittal

to the District Judge, Ludhiana, copies whereof he annexed as Annexures B and C with the reply. The Registry was directed to write a letter to the

District Judge, Ludhiana, to send original complaints, allegedly filed by Mr. Ashok Kapoor, along with the orders, if any, passed thereon. On

November 25, 1994 the matter was adjourned as the office report revealed that the original complaints had not been received so far, by this Court.

On January 13, 1995 the respondent did not appear and, therefore, bailable warrants were issued to secure his presence. During the Course of

arguments, learned Single Judge deemed it necessary to examine Steno and Reader of the Court of Mrs. Rekha Mittal. They were accordingly

summoned to appear in the Court on March 25, 1995. Meanwhile, Mrs. Rekha Mittal addressed a communication dated March 24, 1995 to the

learned Single Judge of this Court (R. S. Mongia, J.) endeavouring to bring certain more facts with regard to misconduct of the contemner after

service of the contempt notice upon him. She brought to the notice of the Court a complaint filed by Mr. Ashok Kumar Kapoor, Advocate,

against her, Praveen Kumar, Steno and Kuber Raj, Reader, under Sections 500/406 read with Section 34, IPC. It is filing of this complaint that

was sought to be brought to the notice of this Court. Learned Single Judge treated the communication as petition u/s 482 Cr. P. C. Notice of this

petition was given to Mr. Ashok Kapoor as to why the same should not be quashed. Mr. Kapoor accepted notice. Learned Single Judge, while

issuing notice on March 25, 1995, was of the prima facie view that the same was nothing but an attempt to scandalise the Court and misuse the

process of the Court. The proceedings in the criminal complaint, vide same order, were stayed.

4. At this stage, it shall be necessary to notice the reply given by Mr. Ashok Kapoor in response to the contempt notice issued to him. He filed the

reply aforesaid and supported the contents thereof by an affidavit dated September 19, 1994. He averred that the reference handed down by Mrs.

Rekha Mittal, out of which this contempt petition had arisen, did not disclose the truth. It contains lies, concoctions and is not short of forgeries on

the ground that the reference discloses post dated occurrence in an anti dated letter of Mrs. Rekha Mittal. In order to illustrate the matter, he

averred that the letter out of which the contempt petition arises was registered with her register No. 215 dated May 2, 1994 and with the District

Judge vide his register No. 586 dated May 2, 1994. The concluding lines of the reference of Smt. Rekha Mittal were then reproduced which read

as under:-

I am separately moving to the C.J.M., Ludhiana, for the transfer of the case to some other Court of competent jurisdiction.

Mr. Kapoor further averred that it was sufficient proof of his assertion, referred to above, inasmuch as the occurrence which took place on May

28, 1994, could not be subject-matter of letter dated May 2, 1994. From this fact, he further averred that it was proved that Mrs. Rekha Mittal

had not disclosed the truth before this Court and was thereby guilty of contempt of her own Court, District Court and High Court as per the

provisions of the Contempt of Courts Act, 1971. He further stated that mens rea was on the part of Smt. Rekha Mittal to harass him. From the

months of February to May, 1994 he occasionally appeared in the Court of Smt. Rekha Mittal in a succession case "Swarna Devi v. G.P.",

Ashok Kumar Kapoor v. Kulwant Singh". She was never punctual to her seat. He orally as well as in writing, vide his letter dated March 17,

1994, informed the District Judge, Ludhiana, Shri Nanak Chand Khichi. The learned District Judge told him that her comments had been asked for

Mr. Kapoor further averred that Mrs. Rekha Mittal used to take an hour's recess break and this matter was also brought to the notice of the

learned District Judge vide letter dated March 21, 1994. He further averred that these two complaints against Smt. Rekha Mittal were the sole

reason for making a false reference against him. He reiterated his stand that the misconduct attributed to him in the case "Ashok Kapoor v.

Kulwant Singh" was nothing but contained lies, concoctions and forgeries on the part of Mrs. Rekha Mittal. She, for the first time, made a request

to the Chief Judicial Magistrate, for transfer of the case on May 28, 1994. He drew her attention that she had no power to require the transfer of

the case as per provisions of Sections 406 to 410, Cr. P. C. as the Judicial Magistrate suo motu has no power to seek transfer of a criminal case.

Rather, the power lies with the respective parties to seek transfer of a case or the Court of Chief Judicial Magistrate possesses such power to

transfer a criminal case on his own motion. Smt. Rekha Mittal with her injudicious approach and without appreciating the tenor of Sections 406 to

410, Cr. P. C., made a reference to the learned CJM vide order dated May 28, 1994 for the transfer of the case but the CJM, vide order dated

June 1, 1994, sent back the case to the Court of Mrs. Rekha Mittal, who again on June 11, 1994, in utter disregard of the orders of the CJM,

Ludhiana, and also offending the provisions of Section 406 to 410, Cr. P. C., directed the respondent to appear before the learned District &

Sessions Judge, Ludhiana on July 15, 1994. Mr. Kapoor further averred that in his complaint "Ashok Kapoor v. Kulwant Singh" influential

persons were arrayed as accused and Smt. Rekha Mittal seemed not to try them for the reasons best known to her and, therefore, she had

handed-down this false reference giving rise to the present contempt. He denied having shown any disrespect to the chair and person of Smt.

Rekha Mittal. He also denied having made remarks on the asking of Mrs. Rekha Mittal that the respondent is to waste one paper. He also denied

that he, either in his speech or gesture, interfered in the due course of her judicial conduct in presence of the staff and some other persons in the

Court. He further denied that in utter disregard of the decorum of the Court and in a contemptuous manner he said that there was pressure on the

Court from the respondent party. He also denied having said that he should open his pen and start litigating against the Court. In paragraph 6 he

stated that Smt. Rekha Mittal was guilty of contempt of Court of the following grounds :-

(a) For her not disclosing true facts to learned District & Sessions Judge vide his letter No. 215 dated 21 -5-94 and has scandalised due process

of law, of her own court, District and Session Judge and also of this Hon"ble Court as per provisions of Contempt of Courts Act, 1971.

(b) For her not adhering to order dated 1-6-94 of learned CJM wherein learned CJM declined her request to transfer the case of ""Ashok Kumar

Kapoor v. Kulwant Singh"" and again referring the matter to District & Sessions Judge, for the transfer of case ""Ashok Kumar Kapoor v. Kulwant

Singh"" in utter disregard to the provisions of Sections 406 to 410, Cr. P. C.

(c) For her not being punctual to her seat in early hours 6f the day and also after recess.

(d) For her unnecessarily"" harassing the respondent in the case of "Ashok Kumar Kapoor v. Kulwant Singh", Swaran Kanta v. General Public,

insofar as the respondent being an advocate was constituent of the Court of Smt. Rekha Mittal.

In the last para he stated that in the background of the facts given by him, he with higher degree of respect had been maintaining the respect, dignity

and integrity of each and every Court and would continue to do the same.

5. It appears that inasmuch as the contemptuous conduct, subject-matter of reference by Mrs. Rekha Mittal was denied by Mr. Ashok Kumar

Kapoor, necessity arose to record the statements of Steno and Reader of the Court of Mrs. Rekha Mittal. They were accordingly examined as

CW-1 and CW-2. Whereas, Parveen Kumar is the Steno Kuber Raj is the Reader attached to the Court of Mrs. Rekha Mittal. Parveen Kumar

stated that on April 30, 1994 when the case titled as "Ashok Kumar Kapoor v. Kulwant Singh" came up for hearing in the Court of Mrs. Rekha

Mittal, the Court had passed an order asking the purpose for which the witnesses mentioned at Sr. Nos. 1 to 4 in the list of witnesses were sought

to be summoned by the complainant. When this order was announced, Mr. Ashok Kumar Kapoor, who was present in the Court, told the Court

as to why it wanted him to get one paper wasted by asking the purpose for summoning the witnesses at Sr. Nos. 1 to 4 in the list. He also said that

the Court had been pressurised by the respondent party. He, however, did not remember any other thing that might have been spoken by Mr.

Ashok Kapoor against the Presiding Officer. However, when a specific question was put to him by Mr. R. S. Mittal that Ashok Kapoor has also

said in the Court in a contemptuous manner on that date as to why the Court wants him to open his pen and start writing against the Court for

asking him to explain the purpose for summoning the witnesses, he admitted the same. He also stated that whenever Mr. Kapoor appeared in the

Court of Mrs. Rekha Mittal, his attitude towards her was contemptuous. He explained in his cross-examination the general behaviour of the

respondent towards the Court and the manner in which he used to stand in the Court and behave. He also stated that Mr. Kapoor was not

maintaining decorum of the Court. However, he stated that whenever respondent appeared in the Court of Mrs. Rekha Mittal, he was dressed up

properly. He also stated that he did not remember as to at what exact time the case was called. He also stated that no talk had taken place

between him and Mrs. Rekha Mittal regarding the evidence that he had to give in this Court. He denied the suggestion that respondent had not

behaved in a contemptuous manner with the Presiding Officer and that whatever he had stated in the examination in chief was not stated by the

respondent in the Court of Mrs. Rekha Mittal. Kuber Raj, who was examined as CW-2, stated that from the very first day Mrs. Rekha Mittal

took over as Addl. Senior sub Judge, Ludhiana, he was attached to her Court as a Reader. The complaint filed by Mr. Ashok Kumar Kapoor

titled as "Ashok Kumar Kapoor v. Kulwant Singh" came up for preliminary hearing in the Court of Mrs. Rekha Mittal on April 19, 1994 when

statement of the complainant was recorded. On April 30, 1994 an order was passed by Mrs. Rekha Mittal asking the purpose for which the

witnesses at Sr. Nos. 1 to 4 in the list of witnesses were sought to be summoned by the complainant. When this order was pronounced, Mr.

Ashok Kumar Kapoor, who was present in the Court, said as to why the Court's time was being wasted and why did the Court want to waste

one paper by asking him the purpose and he started shouting in a high pitched voice. He further stated that Shri Kapoor was trying to put pressure

on the Court that the order should be passed in a particular fashion. He also stated that Mr. Kapoor did not maintain proper decorum of the

Court. When a specific question was put. to him by Mr. R. S. Mittal, Senior Advocate, assisting the Court, that Mr. Kapoor had also said in the

Court as to why Mrs. Rekha Mittal wanted him (Shri Kapoor) to open his pen and start litigation against the Court for asking him to explain the

purpose of summoning the witnesses, he admitted the same. He further stated that Mr. Ashok Kapoor started speaking in a loud voice that the

order should have been passed in this manner or that manner. The attitude of Mr. Kapoor towards the Court was contemptuous. He further stated

that Mr. Kapoor had been appearing as a lawyer in the discharge of his professional work in the Court of Mrs. Rekha Mittal, 7 to 8 times every

month and almost every time when Shri Kapoor appeared in the Court of Mrs. Rekha Mittal, he was in an angry mood. When cross-examined by

Mr. Kapoor he stated that the behaviour of Mr. Kapoor in the Court of Mrs. Rekha Mittal had been quite different than his attitude and behaviour

today in the Court. He did not remember if on March 24, 1994 the case title as Raghu Nath v. Subhash Chander etc. in which Mr. Ashok Kapoor

might be the Advocate for the complainant, was transferred to another Court by Mrs. Rekha Mittal in his absence. However, he admitted that Mr.

Kapoor had come to the Court of Mrs. Rekha Mittal on March 24, 1994. He also did not remember if Shri Kapoor asked Mrs. Rekha Mittal as

to what orders had been passed by her in the said case. He too stated that he had no talks with Mrs. Rekha Mittal regarding the evidence that he

was to give in this case. He did not remember the exact time of Mr. Kapoor's appearance before lunch and after lunch in the Court. He also stated

that Shri Kapoor had not been behaving properly even after April 30, 1994 and that whenever he appeared prior to April 30, 1994 he had been

addressing the Court in a loud pitch. He denied the suggestion that he was deposing falsely and in fact nothing happened as had been stated by him

in his examination-in-chief.

6. It appears from the records of the case that Mr. Kapoor filed a complaint against Mrs. Rekha Mittal before the District Consumers Dispute

Redressal Forum, Ludhiana making allegations in a case pertaining to one Swarni Devi. The learned single Judge had taken suo motu cognizance of

the matter and issued notice to Mr. Ashok Kapoor as to how the complaint before the Consumer Forum was maintainable against the judicial

officer. Vide detailed order dated November 2, 1995 the complaint and proceedings thereof were quashed.

7. Insofar as respondent is concerned, he made an application on March 27, 1995 for summoning Shri M. L. Singhal, District & Sessions Judge,

Ludhiana, Mrs. Rekha Mittal and one Shri Shamsher Singh, Sweeper working in the office of Senior Sub Judge, Ludhiana. Vide order dated July

12, 1995 the learned single Judge came to the conclusion that no case was made out to summon Mr. M. L. Singhal or Mrs. Rekha Mittal. Learned

Single Judge also held that the evidence sought to be adduced by Shri Kapoor by examining Shamsher Singh, Sweeper, was wholly irrelevant to

these proceedings. His application was, thus, dismissed. Mr. Kapoor, however, stated that his written statement in the form of affidavit be read as

his evidence and vide same order, i.e. order dated July 12, 1995, Learned single Judge mentioned that his written statement in the form of affidavit

shall be read into evidence. Meanwhile, it may be mentioned here, the matter had been referred to the Division Bench as the learned single Judge

was of the opinion and rightly so that under the provisions of the Contempt of Court Act, 1971 criminal contempt could only be heard by a DB.

The case thereafter seems to have been adjourned from time to time and was taken up for hearing on January 18, 1996, Mr. Kapoor did not

appear on that day and, therefore, his presence was ordered to be secured by issuing bailable warrants. On yet another date, when the matter

came up for hearing before the Division Bench headed by H. S. Bedi, J. respondent did not appear and once again his presence had to be secured

by issuing bailable warrants.

8. Before we might come to the core issue, i.e., as to whether in the facts and circumstances as are available before us, the respondent has

committed contempt of Court as envisaged under the provisions of the Contempt of Courts Act, 1971, we may only mention in passing that a letter

was received in the Chief Justice Secretariat, dated November 4, 1994 with the caption "'Mrs. Rekha Mittal Sub Judge First Class, Ludhiana, the

most corrupt Judicial Officer having illicit relations with high ranking officers/enquiry required'". This letter appears to have been written by the

respondent-Ashok Kumar Kapoor. In the body of letter, it was mentioned that the officer concerned, i.e., Mrs. Rekha Mittal is the most corrupt

lady having illicit relations with Sessions Judge, Ludhiana, S. P. City, DCs (IT) and with President, District Consumers Dispute Redressal Forum,

Ludhiana. It was also mentioned that in his (Kapoor's) personal case he had made complaints against this lady before the President, District

Consumer Disputes Redressal Forum, Ludhiana but she refused to take summons. There are other things also mentioned in the letter but there is

no necessity to give all the contents of the letter. Suffice it to say that when the District & Sessions Judge (Vig.), Punjab, to whom the letter

aforesaid was marked for disposal, had asked Mr. Kapoor to support the contents of the letter aforesaid by an affidavit, he, vide letter dated

January 6, 1995 denied having written the same. We called for the original letter written by Mr. Ashok Kapoor from the office records to compare

his signatures with that of his admitted signatures which are available on the written statement filed in this Court and are of the prima facie view that

the letter, referred to above, has been written by Mr. Kapoor. We will deal with this letter to an extent it requires to be done at the relevant time.

9. "Criminal Contempt" has been defined in Section 2(c) of the Contempt of Courts Act, 1971 to mean the publication (whether by words, spoken

or written, or by signs, or by visible representations, 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 proceedings; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice in any other manner.

10. The judiciary in this country from highest to lowest level is discharging the duties of the nature where teeming millions in the country look

forward to it to impart justice. The judiciary, particularly at a lower level, is working tirelessly in a very trying circumstances. Braving hard

conditions and without caring of the load of work they have to carry and take it to its logical end, their meagre salaries, hardly any facilities either at

home or their chambers, they are going on and on. They have, perhaps, never raised their voice for any greater facilities leave aside luxuries. All,

perhaps, they want is that their reputation as dedicated, competent and honest judicial officers, is not tarnished. This is precisely what the people

also expect from the judicial officers. That they should be the men of high integrity and decide without fear or favour is the urge of every citizen.

Maligning the reputation of a judicial officer and brow beating him into submissions to get a desired order certainly scandalises the Court and has

the result of shaking the confidence of litigating public in the very system. If such a measure is adopted by a member of the legal profession, it

becomes all the more painful. The Apex Court in *M.B. Sanghi, Adv. Vs. High Court of Punjab and Haryana and others*, , observed as follows:-

(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 brow

beating 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 concerned Judge but also to the fair name of the judiciary.

Veiled threats, abrasive behaviour, use of disrespectful language and at times blatant condemnatory attacks 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

concerned Judge but the entire Institution. The foundation of judicial 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 it is realised

that the much cherished judicial independence has to be protected not only from the executive or legislature but also from those who are an integral

part of the system. An independent judiciary is of vital importance to any free society.

11. In the case aforesaid a practising lawyer of Judge's declining to grant an ad interim injunction had made an attack on the Judge which was

disparaging in character and derogatory to the Judge's dignity. In yet another decision in *In re: Vinay Chandra Mishra* (the alleged contemner), ,

while dealing with the behaviour of a lawyer amounting to contempt, the Supreme Court observed as follows :-

(i) Normally, no Judge takes action for in facie curiae contempt against the lawyer unless he is impelled to do so. It is not the heat generated in the

arguments but the language used, the tone and the manner in which it is expressed and the intention behind using it which determine whether it was

calculated to insult, show disrespect to overbear and overawe the Court and to threaten and obstruct the course of justice.

(ii) No one expects a lawyer to be subservient to the Court while presenting his case and not to put forward his arguments merely because the

Court is against him. In fact, that is the moment when he is expected to put forth his best effort to persuade the Court. However, if in spite of it, the

lawyer finds that the Court is against him, he is not expected to be discourteous to the Court to fling hot words or epithets or use disrespectful,

derogatory or threatening language or exhibit temper which has the effect of overbearing the Court. Cases are won and lost in the Court daily. One

or the other side is bound to lose. The remedy of the losing lawyer or the litigant is to prefer an appeal against the decision and not to indulge in a

running battle of words with the Court. That is the least that is expected of a lawyer. Silence on some occasions is also an argument. The lawyer is

not entitled to indulge in unbecoming conduct either by showing his temper or using unbecoming language.

(iii) Brazenness is not outspokenness and arrogance is not fearlessness. Use of intemperate language is not assertion of right nor is a threat to 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.

(iv) The rule of law is the foundation of the democratic society. The judiciary is the guardian of the rule of law. Hence judiciary is not only the third

pillar, but the Central pillar of the democratic State. In a democracy like ours, where there is a written Constitution which is above all individuals

and institutions and where the power of judicial review is vested in the superior courts, the judiciary has a special and additional duty to perform,

viz. to oversee that all individuals and institutions including the executive and the legislative act within the framework of not only the law but also the

fundamental law of the land. This duty is apart from the function of adjudicating the disputes between the parties which is essential to peaceful and

orderly development of the society. If the judiciary is to perform its duties and functions effectively and true to the spirit with which they are

sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all costs, Otherwise, the very corner stone of

our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. It is for this purpose that the

Courts are entrusted with extraordinary power of punishing those who indulge in acts whether inside or outside the Courts, which tend the

undermine their authority and bring them in disrepute and disrespect by scandalising them and obstructing them from discharging their duties

without fear or favour. When the Court exercises this power, it does not do so to vindicate the dignity and honour of the individual judge who is

personally attacked or scandalised, but to uphold the majesty of the law and of the administration of justice. The foundation of the judiciary is the

trust and the confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend

to create disaffection and disrespect for the authority of the Court by creating distrust in its working, the edifice of the judicial system gets eroded.

We have carefully gone through the records of the case and heard Mr. R. S. Mittal, Senior Advocate assisted by Mrs. Aarti Gupta, Advocate,

learned counsel assisting the Court as also Mr. Ashok Kumar Kapoor, who has obviously pleaded his case in person. It could not be denied

during the course of arguments that the behaviour of the lawyer and the language used by him, subject matter of reference before us, certainly

amounts to criminal contempt as defined in Section 2(c) of the Act of 1971. The respondent has however joined an issue and has claimed that he

did not either utter the words attributed to him or had not shown the kind of conduct as has been imputed to him. We have no doubt in our mind

that the respondent, being totally convinced that if he has to own the words and conduct attributed to him, he will have no escape route, has chosen

to deny the allegations. He has, however, miserably failed in his attempt to do so. We have absolutely no doubt in our mind that a judicial officer,

who made the reference, had no reasons whatsoever to level false allegations against the respondent. The day she was confronted with the

situation that was created by the respondent, she promptly addressed a letter to the District & Sessions Judge. To the reference made by her

giving in detail the words that have been used by the contemner, Mr. Ashok Kapoor and the attitude that he had adopted in the Court on the

relevant day, sufficient corroboration is coming from the statements of CW-1 and CW-2. From their cross-examination, nothing relevant at all

could be elicited that might even remotely show that the facts contained in the reference order made by Mrs. Rekha Mittal and that was routed

through the District & Sessions Judge, were incorrect. The respondent, but for denying having used the language attributed to him, has hardly

stated anything in reply that may deserve to be dealt with. The reply, on the other hand, is suggestive of the facts as detailed by Mrs. Rekha Mittal

in her reference order. In that regard, contents of para 5 of his reply may be noticed. He has categorically stated therein that in the case "Ashok

Kumar Kapoor v. Kulwant Singh " influential persons were arrayed as accused and Mrs. Rekha Mittal seems not to try them for the reasons best

known to her. He, however, went on to say that the reference was false. Further, the fact that on April 30, 1994 there were other persons present

in the Court as well besides the Reader and Steno, has not been denied by the respondent. It may be reiterated that in the reference made by Mrs.

Rekha Mittal it has been mentioned that Ashok Kapoor had used the words/comments in the open Court in the presence of the staff and some

other persons, who were present at that time. The respondent did not gather courage to examine even one person from out of those who were

present in the Court. The incident of April 30, 1994 must have sparked off in the District Courts immediately. The lawyers in the District Courts

must have come to know about the incident and the aftermath thereof, i.e., reference made by Mrs. Rekha Mittal. The respondent was unable to

bring even a single witness from the District Courts, inclusive of his colleagues, to support his contention that he had not made the remarks or used

the contemptuous words as have been attributed to him. From the facts and circumstances that have been fully detailed above, we hold Mr. Ashok

Kapoor contemner herin guilty of contempt.

12. Before we might, however, deal with the sentence that should be adequate in the over all scenario of this case, it would be relevant to mention

that the respondent, after arguing his case and repeatedly saying that he had committed no contempt and in fact Mrs. Rekha Mittal had committed

the contempt of her own Court and not only that she should be punished under the Contempt of Courts Act but also be prosecuted and even the

learned single Judge, who initially dealt with this case, should also be prosecuted, he simply stated that if he had yet committed a contempt, he

would like to tender apology. While tendering apology, the respondent was, perhaps, labouring under the impression that whatever be the

circumstances and even if the Court holds a person guilty of contempt, it is his right to earn an apology and that the Court is left with no choice

whatsoever but for to accept the same. We may, thus, emphasise that while tendering apology, he was at no stage really or actually sorry for what

he had said or done. It is settled law that the apology tendered by a contemner deserves to be rejected when the same does not show real

contriteness. Not only that the respondent herein has committed contempt but he has purged the same by repeatedly seeking prosecution not only

of Mrs. Rekha Mittal but even of the learned single Judge. As mentioned above, the apology tendered by him was not from his heart but from his

tongue only and that too with no other purpose but for to get away with the impending punishment. If there is one case wherein apology tendered

by a contemner should be straightway rejected perhaps the present is the one. We, thus, reject the apology tendered by him.

13. Even though the contemner deserves deterrent punishment, yet considering the fact that he is a lawyer and in fact, an officer of the Court, we

deal with him leniently and sentence him to undergo simple imprisonment for a period of three months and pay a fine of Rs. 2000/-. In default of

payment of fine, he shall further undergo simple imprisonment for 15 days.

14. A copy of this order be given to the respondent free of costs under the signatures of the Reader of the Court today itself.

15. Since appeal against the original order of contempt lies as a matter of right, we suspended the sentence imposed upon the respondent for a

period of fifteen days enabling him to file an appeal; if he might so like. The Addl. Registrar (J) to ensure compliance of this order.

16. We would also like to mention here that the contents of letter dated November 4, 1994, reference whereof has been given above, are highly

contemptuous. Even though respondent had denied having written the said letter, we have already expressed our opinion after comparing his

signatures on the letter aforesaid with his admitted signatures, even though prima facie, that it is the respondent who has written the letter aforesaid.

We take suo motu notice of this letter as well and issue notice to the respondent to show cause as to why proceedings under the Contempt of

Courts Act, 1971 be not initiated against him. Notice be given to the respondent in the Court. He may however give reply to the same after four

months. This matter be not put up before this Bench and Hon"ble the Chief Justice of this Court is requested to put up this matter before some

other Bench.