

(2015) 9 ADJ 356 : (2016) 1 CCR 121

Allahabad High Court

Case No: Contempt Application (Criminal) Nos. 7 of 2006, 26 and 27 of 2010

R.A. Singh

APPELLANT

Vs

Rakesh Agarwal

RESPONDENT

Date of Decision: Sept. 21, 2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) - Order 9 Rule 5#Constitution of India, 1950 - Article 12, 13, 14, 19, 20#Contempt of Courts Act, 1971 - Section 10, 12, 13, 13(b), 15#Criminal Procedure Code, 1973 (CrPC) - Section 156(3), 195, 240, 340, 341#Penal Code, 1860 (IPC) - Section 118, 119, 166, 167, 176

Citation: (2015) 9 ADJ 356 : (2016) 1 CCR 121

Hon'ble Judges: Sudhir Agarwal and B.K. Srivastava-II, JJ.

Bench: Division Bench

Advocate: Sudhir Mehrotra, for the Appellant; Saurabh, for the Respondent

Judgement

Sudhir Agarwal, J.

All these three Contempt Applications (Criminal) have been registered against same person Shri Rakesh Agarwal,

Advocate, practicing in District Judgeship, Bareilly (hereinafter referred to as ""Contemnor"" and, hence, all these three contempt matters were

heard together and are being decided by this common judgment.

2. Shri R.A. Singh, Additional District & Sessions Judge, Bareilly, made a Reference dated 10th November, 2005 stating that Contemnor is a

party in a large number of civil and criminal cases, revisions and appeals pending in different Courts of Bareilly Judgeship. Contemnor appears in

person, moves applications and petitions personally and argues cases personally. Seven cases were received on transfer from Court of Sessions

Judge, Bareilly, which are;

- I). Criminal Revision No. 334/2005, Rakesh Agarwal Vs. State of U.P.
- II). Criminal Revision No. 451/2004, Mukesh Porwal Vs. State of U.P.
- III). Criminal Revision No. 338/2004, Pankaj Singhal Vs. State of U.P.
- IV). Criminal Misc. Case No. 01/2005, Mukesh Porwal Vs. State of U.P.
- V). Criminal Misc. Case No. 02/2005, Pankaj Singhal Vs. State of U.P.
- VI). Criminal Misc. Case No. 03/2005, Pankaj Singhal Vs. State of U.P.
- VII). Criminal Misc. Case No. 04/2005, Pankaj Singhal Vs. State of U.P.

3. Criminal Revision No. 334/2005 "Rakesh Agarwal Vs. State of U.P. was fixed for hearing before Referring Judge on 6th August, 2005. Shri

Ajay Pal Singh, Advocate appeared on behalf of one Dr. A.K. Chauhan and filed his Vakalatnama. He also moved an application for summoning

record of Criminal Revision No. 337/2005 "Rakesh Agarwal Vs. State of U.P." decided on 04.07.2005. This application was allowed and record

was directed to be requisitioned fixing 16th August, 2005 for disposal of Criminal Revision No. 334/2005. On passing of order dated 16th

August, 2005, Contemnor said that Shri Ajay Pal Singh, Advocate had no locus standi to appear, file Vakalatnama or move application. Criminal

Revision No. 334/2005 was filed against order dated 31st March, 2005 passed by Shri Chandra Bhushan Singh, the then Chief Judicial

Magistrate, Bareilly on an application moved by Contemnor under Section 156(3) Cr.P.C. against Dr. A.K. Chauhan. In Criminal Revision No.

334/2005 revisionist-Contemnor levelled serious, contumacious and scandalizing allegations against Shri Chandra Bhushan Singh, the then Chief

Judicial Magistrate, Bareilly. Some of the allegations contained in memo of revision are as under:

..... Learned Lower Court has completely lost its free independent and impartial character and is working as a department of Police and instead of

controlling the police, is being controlled by the Police and has become only the ""Yes Person"" of the Police

~½... The integrity, competence and behavior of the Learned Lower Court and Police is extremely doubtful

~½....The learned Lower Court has illegally called the Police Report to disturb, delay and destroy the proceedings and corrupted itself with the corruptest and collusive Police Report

.... the Learned Chief Judicial Magistrates, have either accepted or attempted to obtain or agreed to accept some gratification for themselves or

any other person, in consideration of their concealing an offence or of their screening the named accused from legal punishment for any offence or

of their not proceeding against any person for the purpose of bringing them to Legal Punishment.

~½...The Learned Lower Court has illegally issued copies of the complaint to the named accused, and thereby corrupted the proceedings of their

Hon"ble Court.

~½...The Learned Lower Court has illegally allowed the counsel of the named accused to participate in the proceedings against all the provisions

of CR.PC and thereby corrupted its proceedings and thereby illegally benefited the accused.

~½...The Learned Lower Court has informed the named accused regarding the pendency of the above mentioned complaint in the CJM"s Court

through Police and thereby illegally invited them to the Court.

~½...The Learned Lower Court has very illegally admitted in evidence several papers and letters from the named accused, in collusion and

conspiracy by the Police of P.S. Kotwali, Bareilly

~½....The Learned Lower Court has illegally allowed the Counsel of the accused to address it and introduce fully false, fabricated and concocted

materials and facts and thereby corrupted itself and the proceedings and therefore the impugned judgment is a nullity.

.....The Learned Lower Court and SHO Kotwali both are commanded by Corrupt Motive They are compounding an offence by

some Agreement to not to bring the named Criminals to Justice and making Profit out of a Public

..... the impugned judgment is bad in law due to the prejudicial and victimising behavior of the Presiding Officer of the Learned Lower Court and

therefore liable to be set aside.

4. The Reference Court has further said that on 6th August, 2005, in open Court, Contemnor was told that personal allegations cannot be levelled

against any Presiding Officer in a memo of revision or appeal. Thereupon, Contemnor moved an application on 16th August, 2005, arraying

Presiding Officer of Reference Court Shri R.A. Singh himself as opposite party No. 1, Shri Ajay Pal Singh Chauhan, Advocate, Shri Roop Ram

Rathore, Advocate, Ms. Sheela Pal, Advocate and Dr. A.K. Chauhan as opposite party Nos. 2 to 5 under Section 340 and 395 Cr.P.C., alleging

that all opposite parties, including Shri R.A. Singh, Additional District & Sessions Judge have committed offence under Sections 118 , 119 , 166 ,

167 , 192 , 193 , 217 , 218 and 219 IPC. Extract of allegations contained in said application dated 16th August, 2005 are reproduced as under:-

In the above mentioned case, on 6th August 2005, the Opposite Party No. 1 in collusion and conspiracy with Opposite Parties No. 2, 3, and 4

and Opposite Parties 2, 3, and 4 in collusion and conspiracy with Opposite Party No. 5, all the Opposite Parties appeared in the above Court

Room at about 11"O Clock in the morning and Opposite Parties No. 2 to 5 moved before Opposite Party No. 1, and application in writing, along

with VEKALATNMA duly signed by O.P. No. 5 in favour of O.P. No. 2, 3 and 4 and thereby caused certain circumstances to exist, made

False, Entries in the Record of the Court and also made Documents containing False Statements, intending that such Circumstance, False Entries

and False Statements may appear in the above Judicial Proceedings and that such Circumstance, False Entries and False Statements so appearing

in evidence may cause O.P. No. 1, who in such Proceeding is to form an opinion upon the evidence, to entertain and erroneous opinion, touching

some points material to the result of such proceedings and the O.P. No. 1 illegally allowed such application and VEKALATNAMA, despite

strong opposition by the undersigned applicant and thereby committed offences U/S. 118 , 119 , 166 , 167 , 192 , 193 , 217 , 218 , 219 OF

IPC.

The Opposite Party No. 1 corruptly and maliciously pronounced in some stage of the above Judicial Proceedings his decision on 06.08.2005,

which he knows to be contrary to Law, by illegally allowing the application and ""VEKALATNAMA"" of the Opposite Parties and permitting the

Representation of the accused in the pre-trial inquiry.

5. On 16th August, 2005, Shri R.A., Singh, Additional District and Sessions Judge was on leave and application dated 16th August, 2005, came

up before Shri R.H. Zaidi in capacity of Link Officer. He directed said application along with office report to be produced before concerned

Presiding Officer. Shri R.A. Singh then passed following order on 22nd August, 2005.

22-08-05

20.8.05 and 21.8.05 being holidays, case was put up today.

As per Munsarim report on application no sufficient court fee was affixed thereon, instead only stamp of Rs. 2/-, as summoning fee, was affixed. It

was also reported that application under Section 340 Cr.P.C. has been filed, impleading Presiding Officer itself as a party, whereas this Court has

no jurisdiction to hear instant case.

In the light of Munsarim"s report, the application is rejected summarily. The instant application be made a part of record of Revision No. 334/05

so that appropriate action may be taken against revisionist Shri Rakesh Agarwal under Contempt of Courts Act.

22-08-05

Additional Sessions Judge

Court No. 10, Bareilly

(English translation by Court)

6. It is complained that entire attempt on the part of Contemnor was to threaten Courts whenever passed orders not favourable to him. The

language used by him is clearly threatening, contumacious, scandalizing, tending to lower down authority of the Court.

7. The Reference was examined by the Committee on Administrative Side. It formed an opinion that the allegations contained in Reference

amounts to ""criminal contempt"". It recommended the matter for appropriate action on 17th January, 2006, which was approved by Hon"ble the

Chief Justice on 18th January, 2006 and that is how it came up before a Division Bench on 20th February, 2006.

8. The Court issued notice on 05.07.2006 to Contemnor for his appearance and show cause, why he be not punished for contempt of Court.

Several counsels initially appeared on behalf of Contemnor on one or other dates, but gradually, all withdrew their authority and ultimately

Contemnor appeared in person to argue this matter.

9. Initially, Contemnor filed a counter affidavit dated 24.08.2006, stating that he was posted as Law Officer in State Bank of India. He is a

bachelor and has ailing and aged mother Smt. Chunni Devi Agarwal. All younger brothers and sisters are married, living separately having their

own establishments. Mother was living with Contemnor, undergoing medical treatment by Dr. A.K. Chauhan. Due to criminal negligence of Dr.

A.K. Chauhan and his junior doctor, mother of Contemnor expired on 19.08.2004. He reported this incident to police, but FIR was not

registered. Contemnor then filed an application under Section 156(3) CrPC. The application was rejected. Thereagainst, Revision No. 334 of

2005 was filed before District & Sessions Judge, Bareilly. The revision was transferred to 10th Additional District & Sessions Judge, Bareilly

before whom three lawyers filed their Vakalatnama, appeared on behalf of Dr. A.K. Chauhan and moved an application for summoning file of a

decided case. The Additional District Judge allowed said application despite objection taken by Contemnor, relying on a Full Bench decision

reported in 2000 ACC 342 Ranjeet Singh Vs. State of U.P. and M/s. Devidayal Rolling Mills Vs. Prakash Chiman Lal Parikh and others, , and

directed the case to be listed on 10.08.2005. On 16.08.2005, 10th Additional Sessions Judge, was on leave and the matter was transferred to

Court of 11th Additional District Judge, before whom Contemnor moved an application under Section 340 and 395 Cr.P.C., which was rejected

on 22.08.2005. Contemnor then filed an application on 03.09.2005 before District & Sessions Judge, Bareilly under Section 195 , 340 and 395

Cr.P.C. read with Articles 12 , 13 and 14 of the Constitution. The present contempt is an outcome of said application about which he has further

stated in paragraphs M, N, O, P, Q, R, and S. It is said that Contemnor never misbehaved, uttered a word or gesture which is against dignity of

the Court. He is a law abiding citizen and never adopts course of law, which is against the norms. In paragraphs 6, 7, 8, 11 and 13 he has further

stated as under:

6. That in reply to contents of para No. 4 of the reference made by the Xth Addl. District And Session Judge, it is submitted that grounds taken in

the revision deals with legal questions and it is not contemptuous or scandalous. It is further submitted that at that time the A.D.J. Did not say

anything and now after about 6 months allegations have been made.

7. That in reply to contents of para No. 5 of the reference made by Xth Addl. District And Sessions Judge, it is submitted that if a litigant has got

doubt about the bonafide of the Presiding Officer, he has right to approach the higher court and this will not come within the purview of Contempt

or scandalous matter.

8. That in reply to contents of para No. 6 of the reference made by Xth Addl. District And Sessions Judge, it is submitted that on 16.08.2005 as

the Presiding Officer Sri R.A. Singh was on leave, therefore the application u/s. 340 and 395 Cr.P.C. was directed to be put up alongwith the

report of Munsrim, before the court. This is not to scandalize but to mention circumstance of the case. This will not come within the purview of

Contempt. It is further submitted that deponent has highest regard for this Hon'ble High Court as well as the courts below. Deponent himself is an

Advocate and was Law Officer in the past. He is well aware of the contempt of Court Act.

11. That in reply to contents of para No. 10 of the reference made by Xth Addl. District And Session Judge, it is submitted that no criminal

contempt is made out on the ground that an application u/s. 340 , 395 Cr.P.C. has been filed.

13. That the contents of para No. 12 of the reference made by the Xth A.D.S.J. Are emphatically denied. The deponent has never misbehaved

and has never used any unparliamentary language and has always maintained dignity of the court. Contesting a case and moving of applications in a

lawful manner does not come within the purview of Contempt.

10. Contemnor also filed a supplementary counter affidavit sworn on 05.12.2006, which we do not find of any substance.

11. The Court was not satisfied with the explanation that the act of Contemnor in making serious allegations against the integrity and conduct of the

Presiding Officer of the Court are not contemptuous. Consequently, the Court charged the Contemnor vide order dated 6th April, 2015 as under:

That you Rakesh Agrawal, Advocate, in filing an application under Section 340 and 395 Cr.P.C., arising out of Criminal Revision No. 334 of

2005 (Rakesh Agrawal Vs. State of U.P.) filed on 16.01.2005 used un-parliamentary language in the said application, arrayed judicial officers as

party to the proceedings and has leveled uncalled for expressions in the said application by stating therein ""The opposite party No. 1 (Judicial

Officer) in collusion and conspiracy with opposite party Nos. 2, 3 and 4, corruptly and maliciously pronounced in some stage of above judicial

proceedings, his decision on 06.08.2005 which he knows to be contrary to law. In view of aforesaid, by words written, you have not only

scandalized the Court but also lowered down authority of Court. Thus, you have committed criminal contempt defined under Section 2(C) of

Contempt of Court Act, 1971 (hereinafter referred to as ""Act, 1971"") punishable under Section 12 of Act 1971.

12. Contemnor filed an affidavit sworn on 04.05.2015, referring to Section 13(b) of Act, 1971. He pleaded justification by way of truth with

reference to Section 219 Indian Penal Code. He has referred to an application made under Section 340 and 395 Cr.P.C., arising out of Criminal

Revision No. 334 of 2005, admitting therein that he has impleaded certain Judicial Officers besides some Advocates as party. Order passed on

said application on 16.08.2005 was inappropriate and driven by malicious motives of opposite parties. It will be useful to reproduce own

statement made by Contemnor in paragraphs 10, 11, 12 and 13 in the said affidavit dated 04.05.2015:

10. That the opposite party No. 1 in the afore mentioned application being a public servant has shown an act of mischief by its order dated

16.08.2005, wherein he illegally allowed the opposite party No. 2, 3, 4 and 5 to file the Vakalatnama along with an application in the already

ongoing proceedings in the Criminal Revision No. 334 of 2005 filed by the deponent, despite strong opposition by the deponent. This act of the

opposite party No. 1 (judicial officer), is sheer violation of the procedure laid in the Criminal Procedure Code and an act which smacks of the

malicious motive. Hence, this act of the judicial officer justifies that the order dated 16.08.2005 pronounced in the alleged application is a corrupt

and a malicious order against the deponent.

11. That in furtherance of filing the vakalatnama, the opposite party No. 2, 3, 4 and 5 also made false entries in the record of the court and also

filed documents containing false statements and entries. On which opposite party No. 1 based his opinion and passed the erroneous order dated

16.08.2005, without considering the documents placed on record by the deponent in the alleged application which he knows contrary to law.

12. That the allegation of contempt on the deponent is wrong, contrary to the one of the cardinal principle of natural justice.

13. That the charge framed against the deponent cannot suffice merely because he took the courage to raise his voice against the corrupt practices

taken by the opposite party No. 1 in the criminal proceedings.

Second Contempt No. 26 of 2010

13. Now we proceed to second contempt application. It is pursuant to Reference dated 21st September, 2010 made by Shri Pramod Kumar

Srivastava, Special Judge (SC/ST Act), Bareilly. He states that on 20th July, 2010 Contemnor presented a memorandum of revision. Therein, he

impleaded five Judicial Officers, namely, Shri Sabhajeet Yadav, Judicial Magistrate-I, Mrs. Poonam, Judicial Magistrate-I, Mrs. Noori Ansar, Ex-

Judicial Magistrate-I, Mrs. Jyoti Singh, Link Officer of Judicial Magistrate-I and Shri R.A. Kaushik, Additional Sessions Judge (A.C.), Bareilly.

These Officers were impleaded as opposite party Nos. 3 to 7. Allegations made against these officers are contained in paragraphs 4, 5, 6 and 9,

which read as under:

4. THAT despite the above noted crystallized and uncontroversial legal position, the O.P. No. 3, 4, 5, 6 and 7, flatly refused to carry out the

Judgment and Order of this Hon"ble Court dated 04.03.2008, by their several orders, which are on record and to cover up and conceal their

CRIMINAL MIS-CONDUCT"" and ""CRIMINAL DESIGN"" perpetually, taken cognizance of the Offence U/s. 176 of I.P.C. vide their order

dated 06.05.2008 in serious contravention of all the provisions of Criminal Law and thereby committed several offences of I.P.C. and contempt of

this Hon"ble Court.

5. THAT the above noted Order dated 06.05.2008 is the Foundation Order, passed by O.P. No. 3 and all other O.Ps from 4 to 7 are madely

and blindly relying on this order and passed several drunk orders, which all are based on the foundation order, which itself is drunk and thereby

committed and committing several offences of I.P.C. as well as, contempt of this Hon"ble Court.

6. THAT the Applicant filed Criminal Revision No. 137/2008 against the Foundation Order dated 06.05.2008, which was also willfully dismissed

by O.P. No. 7, who thereby further committed an Offence under I.P.C. and contempt of this Hon"ble Court.

9. THAT all the O.Ps from 1 to 7 by their serious of acts and Omissions, as referred to above, have committed several offences U/S. 219 /218

/217 /213 /214 /166 /167 /119 /193 /406 in collusion and conspiracy with each other and thereby benefited the accused O.P. No. 1 and 2 illegally

and are still continuing their Criminal Transactions. By the same acts and omission, they are committing most gross acts of ""Civil"" and ""Criminal

Contempt"" of this Hon"ble Court and brought the Honour, Dignity, Grace, Glory and Majesty of this Hon"ble Court to bottom"".

14. The Judicial Officers are those who have passed orders from time to time on merits of matter, but those were unfavourable to Contemnor.

15. Pursuant to aforesaid Reference, notice was issued to Contemnor on 13.01.2011, giving him opportunity to show-cause as to why he should

not be punished under the Act, 1971 for using contemptuous language. Contemnor raised preliminary objection that charge has not been framed

within one year and, therefore, proceedings are barred by Section 20 of Act, 1971, but objection was rejected by Court's order dated

11.09.2012. Ultimately, Court charged Contemnor on 02.12.2013 as under:

That you on 20.07.2010 presented a memorandum revision against a order passed in your personal case, in the Court of Sri Pramod Kumar

Srivastava-I, Special Judge (SC & ST Prev. of Atrocities Act), Bareilly. This memorandum of the revision was placed before him while he was

functioning as Incharge District & Sessions Judge, Bareilly. In which you impleaded five judicial officers as opposite party Nos. 3 to 7, in their

personal names and capacity of their judicial work. The relevant portion of the said memo of the revision are quoted as under:-

In paragraph 5: ""That the above noted order dated 6.5.2008 is the Foundation Order, passed by O.P. No. 3 and all other O.Ps. From 4 to 7 are

madly and blindly relying on this order and passed several drunk orders, which are all based on the foundation order, which itself is drunk and

thereby committed and committing several offences of I.P.C. as well as contempt of this Hon"ble Court.

In Paragraph 6: ""That the applicant filed Criminal Revision No. 1371/2008 against the Foundation Order dated 6.5.2008, which was also willfully

dismissed by O.P. No. 7, who thereby further committed an offence under I.P.C. and contempt of the Hon"ble Court.

In paragraph 9: ""That all the O.Ps. From 1 to 7 by their series of acts and omissions, as referred to above, have committed several offences u/s.

219 /218 /217 /213 /214 /166 /167 /119 /193 /406 in collusion and conspiracy with each other and thereby benefited the accused O.P. No. 1

and 2 illegally and are still continuing their Criminal Transactions. By the same acts and omissions they are committing most gross acts of "Civil"

and "Criminal Contempt" of the Hon"ble Court and brought the Honour Dignity, Grace, Glory and majesty of this Hon"ble Court to bottom.

16. A supplementary affidavit sworn on 07.07.2014 was filed, placing on record copies of certain orders. It is said that Chief Judicial Magistrate,

Bareilly vide order dated 04.08.2008 directed Judicial Magistrate-I to initiate proceedings against Shiva Raghuvanshi and Ramadhar Singh under

Section 417 IPC. The Contemnor being complainant filed Miscellaneous Appeal No. 117 of 2008, but was rejected by Special Judge (SC/ST

Act), Bareilly vide order dated 03.10.2009. Judicial Magistrate-I Bareilly, ignoring aforesaid orders, passed order dated 06.05.2008, summoning

accused persons under Section 176 IPC instead of 417 IPC. Contemnor under ignorance of technicalities of legal proceedings moved an

application under Section 195 /340 Cr.P.C. and Section 15(2) of Act, 1971 before Chief Judicial Magistrate, which is subject matter of present

contempt. This application was rejected by Chief Judicial Magistrate surreptitiously on 22.07.2010. Thereafter, Contemnor filed an appeal under

Section 341 Cr.P.C., which was rejected on 01.12.2010. In fact, Contemnor was harassed and got paralysed due to tension and depression as

also his poor economic condition.

17. Contemnor filed Recall Application No. 277420 of 2013, seeking recall of Court's order dated 24.08.2012, which was rejected on

11.10.2013. In the said application also maintaining his rhythm of making reckless and contemptuous comments against Court and the Institution,

in paragraph 7 he said as under:

7. That the contempt of court Act is a legacy of British Imperialism and was enacted to protect the majesty of law and dignity of court of law but

in practice it is being utilized to protect the ego of the presiding Officers of the court which is nothing but an indication of the tyranny by the rulers

over the ruled and as such no procedure had been laid down for trial of the contempt cases whereas persons guilty of involvement in the heinous

crime are being tried and dealt with in accordance with the procedure laid down in the code of Criminal procedure.

(emphasis added)

18. Against charge, Contemnor filed a statement of defence dated 10.04.2014 along with his affidavit sworn on the same date. It would be

appropriate to reproduce his own statement made in paragraphs 4, 5, 6, 11 and 13.

4. That the foundation stone of this contempt proceeding was kept on 07.07.2009, when all the judicial officers of District Bareilly obtained from

working and the deponent made a complaint of this omission to this Hon"ble Court and in lieu thereof a notice dated 24.08.2009 was issued

against the deponent to the Bar Association Bareilly by the then District Judge.

5. That in the aforesaid circumstances all the judicial officers in District Bareilly Judgeship felt annoyed with the deponent and taking shelter of a

previous contempt proceeding No. 2 of 2006 in which the deponent was exonerated of the contempt charges vide order dated 12.04.2007

passed by this Hon"ble Court, initiated a fresh contempt proceeding by way of Reference No. 26 of 2010 by accumulating material from various

cases through Sri Pramod Kumar Srivastava, Special Judge, SC/ST (Prevention of Atrocities) Act, Bareilly who was neither the District Judge on

21.09.2010 nor his contempt is alleged to have been committed nor he had any jurisdiction to refer to this Hon"ble Court as the District Judge

took over the charge on 21.09.2010.

6. That Sri Pramod Kumar Srivastava, aforesaid was enthusiastic to secure punishment to the deponent, that he made the reference even with

regard to cases which were barred by time and the matters related to the year 2000 were also included in the present reference to give colour to

the proceeding and to aggravate the offence alleged to have been committed by the deponent.

11. That the non-application of mind and malice of making the reference is apparent from the fact that in para 13 of the present reference No.

26/2010 allegation of contempt is levelled on the basis of Annexure No. 11 which is a Review Application and the same allegation, reference No.

27/10 has also been made to this Hon"ble Court which is in clear violation of Rule against double jeopardy contemplated under Article 20 of the

Constitution of India.

13. That it is also essential to bring to the notice of this Hon"ble Court that the deponent is neither a hardened criminal nor a terrorist but a civilized

citizen of the country and unfortunately certain pleadings were unhappily worded for which the matter should have been referred to the Bar Council

for committing misconduct; but a harsh step of initiating contempt proceeding should have not been taken.

19. Besides, he has raised issue of limitation as also that since initial notice was not followed by charge, therefore, the entire proceedings are illegal

and violative of Rules 5 and 6 of Chapter XXXV-E of Rules, 1952.

20. Contemnor filed Application No. 267558 dated 07.09.2012 requesting for dropping of contempt proceedings and relying on Rules 5 and 6 of

Chapter XXXV-E of Rules, 1952 as also Section 20 of Act, 1971, prayed for rejection of the proceedings. It was rejected on 11.09.2012.

Recall Application No. 212620 of 2013 was filed by Contemnor, seeking recall of Court's order dated 11.09.2012, but it was also rejected.

21. A supplementary statement of defence dated 09.12.2014 has also been filed wherein copies of Subordinate Court's orders dated

24.08.2009, 06.05.2008, 13.08.2008, 22.07.2010, 02.08.2010 and 01.12.2010 have been filed. It is reiterated that Chief Judicial Magistrate

vide order dated 04.03.2008 summoned Shiva Raghuvanshi and Ramadhar Singh under Section 417 IPC on an application moved by Contemnor

under Section 240 Cr.P.C. The matter was then transferred to Judicial Magistrate-I, who passed order, summoning aforesaid accused under

Section 176 IPC. Thereagainst, Contemnor filed Revision No. 137 of 2008, which was dismissed on 13.08.2008 by Additional Sessions

Judge/Special Judge, Anti-Corruption, Bareilly. Contemnor moved an application dated 20.07.2010, which was rejected by Chief Judicial

Magistrate on 22.07.2010, whereagainst he filed an appeal which was dismissed on 01.12.2010. Shri P.K. Srivastava, the then Additional District

Judge out of mala fide made Reference and it should be rejected.

Contempt No. 27 of 2010

22. This Criminal Contempt has arisen from a Reference dated 22.09.2010 made by Shri Suresh Chandra Jain, Additional District Judge/Special

Judge, E.C. Act, Bareilly, therein it is pointed out that Civil Revision No. 17 of 2010 Pt. Asha Sharma Vs. Virendra Kumar and others was

decided by Shri Ashwani Kumar, Additional District Judge, Court No. 1, Bareilly vide order dated 12.04.2010. Contemnor moved review

application dated 22.05.2010 wherein he levelled serious and scandalous allegations against Shri Ashwani Kumar, Additional District Judge, Court

No. 1. The allegations contained in Grounds 6, 10 and 14 are reproduced as under:

6. Because the impugned order is corrupt and malicious and constitutes an act of fraud, by the P.O. of this Court.

10. Because of impugned order constitutes Robbery in the Broad Day light of the rights of the Reviewer and her three daughters and shocks the

feeling of common man of ordinary prudence. Their remained least difference in the behavior of the P.O. of this court and the hard core criminal of

heinous crimes. Hence, the impugned order is liable to be dismissed/recall.

14. Because the impugned order is the direct outcome of the complete dishonesty of the P.O. of this court, who everly whighed against the

Scale of justice to cause loss and injury to the Reviewer.

23. The Court issued notice to Contemnor on 12.01.2011, requiring him to show-cause, why he should not be punished under the Act, 1971.

Contemnor did not file any reply and ultimately the Court charged him vide order dated 24.08.2012 as under:

You Rakesh Agarwal, Advocate may show cause why you should not be tried and punished for having committed criminal contempt of the Court

of Sri Ashwani Kumar, Addl. District Judge, Bareilly (as defined under the Contempt of Court Act, 1947) by making the following allegations in

paragraphs 5, 6, 10 and 14 of the review application dated 22.5.2010 registered as Misc. Case No. 136 of 2010:

5. Because the impugned order is a perfect illustration of total abuse of the process of this Hon"ble Court by the P.O. of this Court.

6. Because the impugned order is corrupt and malicious and constitutes an act of fraud, by the P.O. of this Court.

10. Because of impugned order constitutes Robbery in the Broad Day Light of the rights of the Reviewer and her three daughters and shocks the

feeling of common man of ordinary prudence. Their remained least difference in the behaviour of the P.O. of this court and the hard core criminal

of heinous crimes. Hence, the impugned order is liable to be dismissed/recalled.

14. Because the impugned order is the direct outcome of the complete dishonesty of the P.O. of this Court, who unevenly weighed against the

Scale of justice to cause loss and injury to the Reviewer.

24. Contemnor filed a supplementary affidavit sworn on 31.01.2012, stating that subject matter of this contempt is covered by Contempt No. 26

of 2010. He also filed a Miscellaneous Application No. 274389 of 2012 for dropping of charge. He referred to Rules 5 and 6 of Chapter XXXV-

E of Rules, 1952 and again relied on decision of apex Court in Sahdeo @ Sahdeo Singh Vs. State of U.P. and Others, . It is contended that unless

notice is accompanied with charge, a person cannot be punished for committing contempt. It is further contended that immediately on framing of

charge, notice ought to have been issued and notice dated 13.01.2011 is not a statutory and mandatory notice contemplated under the Rules. He

then relied on Section 20 of Act, 1971 and said that on the date on which charge was framed and notice was issued, it was barred by limitation.

25. Besides, he also filed a statement of defence dated 14.09.2012, stating that he was enrolled as an Advocate with U.P. Bar Council on

13.03.1981, bearing Enrolment No U.P. 930/1981. He practiced about 4 years in Civil Court, Bareilly and remained associated with Chambers

of Shri Chandra Prakash Agrawal and Shri Yogendra Kumar Gupta, Advocates. He could not develop his own independent practice and

continued as junior to aforesaid Advocates. He was mainly engaged in preparing for competition. He was selected and appointed as Law Officer

in the State Bank of India in year 1985 where he joined service. Thereafter, he was suspended on 16.07.2001 and ultimately removed from

service vide order dated 18.06.2005. After removal from service, Contemnor went into deep depression, distress and mental agony, causing

several ailments i.e. diabetes and paralysis. Contemnor was not able to afford proper treatment due to financial crisis. He was mentally upset for

years together and during this period of disturbance, this unfortunate incident occurred. Contemnor has no source of livelihood after removal,

hence, resumed law practice in 2007. He could not learn art of drafting and presenting case properly before the Court. He was engaged in a

partition suit between real brothers and he represented defendant Nos. 1 and 2 in the said suit. On death of defendant No. 1, Contemnor moved

an application under Order 9 Rule 5 CPC for dismissal of suit against proposed heirs of defendant No. 1, since plaintiff had failed to take

necessary steps within the prescribed time. The application was rejected on 18.01.2009 whereagainst Contemnor filed Revision No. 17 of 2009,

which was dismissed on 12.04.2010 by Additional District Judge, Court No. 1, Bareilly. Against this order dated 12.04.2010, Contemnor filed

review application on 22.05.2010. This was the first review application ever drafted by him in his entire life span. He did not consult any Senior

Lawyer. The review application contained crude words, which have been used unknowingly and unwillingly without contemplating consequences.

Presiding Officer hearing review, on 03.07.2010, directed Contemnor to file an affidavit of his client whether review application was drafted on her

instructions or not. Contemnor immediately tendered apology vide letter dated 03.07.2010 (Annexure No. 2 to the statement of defence).

However, the Reference has been made. Contemnor always pays great respect and keeps dignity of the Court in high esteem. Drafting of review

application is due to lack of experience. He, therefore, tenders apology. Proceeding further, in paragraph-29 of statement of defence, Contemnor

has said that even if the language used in review application amounted defamation of Court, it is an offence punishable under Indian Penal Code,

hence, cognizance under Act, 1971 cannot be taken. Contemnor has not interfered with due course of justice, and again he submits that the

proceedings are barred by limitation.

26. Contemnor has collectively filed statement of defence dated 14.05.2015 in all the three cases. In a traditional way, he has first tendered

unconditional apology in paragraph 3 thereof, stating that all incidents are most unfortunate and unwarranted, took place due to innocence and

limited knowledge of Contemnor about technical aspect of legal profession and use of inappropriate language in pleadings. Having said so, it is

contended that whatever has been said is a "truth" and is available as defence under Section 13(b) of Act, 1971. It is repeated that he is

postgraduate in three subjects i.e. Commerce, Economics and Political Science besides Law Graduate. He was Law Officer of State Bank of

India for more than 15 years between 1985 to 2005. His law abidingness has always created great problems for himself and has caused four

contempts, including three in question. Initially in Criminal Contempt No. 02 of 2006 Court's order dated 12.04.2007 required him to tender

apology to District Judge, which he complied with. All the different contempts have been recorded out of a single incident happened repeatedly.

Contemnor has been falsely implicated in all these References. Shri P.K. Srivastava, Special Judge, is not a Subordinate Court of this Court within

the meaning of Section 10 of Act, 1971. He was not discharging and executing jurisdiction of his Court. Shri P.K. Srivastava himself committed

contempt of other Courts by usurping their authority to make Reference against Contemnor. Shri P.K. Srivastava is not an eye witness of facts,

incidents and circumstances disclosed in third Reference. It is in fact a private complaint of Shri P.K. Srivastava. There is no evidence against

Contemnor in any of the Contempt References. Then in paragraph 14, 15, 16, 17, 18 and 19 of statement of defence dated 14.05.2015, the

Contemnor has said as under:-

14. That on 06.08.2005 when the deponent was attending the court of the ADJ-10, deponent neatly observed from the body language of the

Presiding Officer of the Court as well as others who were made opposite parties in the application and were present in Court, that they had

conspired with each other and series of all further acts confirmed this. In such circumstances the deponent drafted and filed the application dated

16.8.2005 by borrowing the statutory language from section 219 of IPC quoted below for ready reference:

S. 219. Whoever, being a public servant corruptly or maliciously makes or pronounces in any stage of judicial proceeding any report, order,

verdict or decision which he knows to be contrary to law shall be punished with imprisonment of either description for a term which may extend to

7 years or with fine or with both.

15. That the language used in the charge does not accurately matched with the language used in last but second para of the application dated

16.8.2005. Some words of this sentence have been left and other words which are not included in the sentence have been added in the charge.

16. That the deponent filed this application in good faith in the court of the ADJ-11 who was the link officer of ADJ-10 who was absent on

16.08.2005. The application was truthful and justified and at that time the deponent believed to be bound by law. The deponent also believed to

be justified by law in moving it. It was filed without any criminal intention or knowledge and in the doing of a lawful act in a lawful manner by a

lawful means for a lawful purpose and with proper fair and caution and it was also bona fide.

17. On 16.08.2005 ADJ-11 refused to entertain the aforesaid application and by routine order directed it to be put up to the PO on 20.08.2005.

On 22.08.2005, ADJ-10 dismissed it in the light of Munsarim report and also directed that action be initiated against the deponent under the

Contempt of Courts Act without hearing the deponent.

18. That on 03.09.2005 a fresh application was filed by the deponent before the District Judge alleging even facts and injudicious behavior of

ADJ-10, ADJ-11 and their staff, followed by other applications dated 26.09.2005 and 27.09.2005 respectively containing further injudicious

behavior of ADJ-10 and his staff. These three applications are contained in the First Reference as Annexure-1, 2 & 3 respectively and were

dismissed by him vide orders dated 05.11.2005, due to personal annoyance of the District Judge caused by the filing of application dated

03.11.2005 by the deponent which is Annexure-6 of the First Reference, which was also dismissed along with them on 05.11.2005.

19. That from the above it is established beyond doubt that neither ADJ-11 and ADJ-10 nor the District Judge complied their judicial duty to

entertain and pass necessary orders on the abovenoted applications of the deponent. On the contrary in order to trust the legal and constitutional

voice of the deponent they sent First and Second References.

27. It is further said that the language of documents filed in the Court, which are subject matter of Reference, at the best, constitutes offence under

Section 190 IPC, hence, no contempt would lie. In any case the contempt proceedings are barred by Section 20 of Act, 1971 as also by Rule 5

and 6 of Chapter XXXV-E of Rules, 1952.

28. Challenging entire contempt proceedings, in paragraphs 25 and 28 he has said further as under:

25. That the deponent states that all the four References grossly violate mandatory provisions of section 15(3) of Contempt of Courts Act 1971

and do not record judicial findings specifying the contempt of which the deponent charges is alleged to be guilty in their opinion. Hence all the

references are void ab initio. Moreover all the References are based on foreign, irrelevant, extraneous, unwarranted and uncertified material and

too to is entirely hearsay. Hence also all the References are bound to be rejected. It is pertinent to mention here that the referring courts have made

efforts to prejudice the Hon"ble High Court by providing extraneous material with the deliberate intention that Hon"ble High Court may take

cognizance of the same without any reference by them. The deponent specifically states that in none of the approximately 50 matters which are

referred in four References favourable orders have been passed in his favour.

28. That the deponent feels that all the three charges against him are framed on incompetent references and in fact no charges are made out.

29. It is then said that the Contemnor is suffering from partial paralysis and is undergoing treatment at S.G.P.G.I., Lucknow. He was arrested on

several occasions for his non-appearance in the Court. He is 58 years old and a sick person. He has two married younger brothers, who do not

support him. He is living a difficult and miserable life. Then, having said so, it is contended that all the provisions of Act, 1971 are unconstitutional

and violative of Articles 12 , 13 , 14 , 19 , 20 , 21 and 31 of the Constitution.

30. One of the contentions raised in all the three contempt applications is that the proceedings are barred by limitation under Section 20 of Act,

1971. It is contended that under Rule 5 notice is supposed to be issued after framing charge and since the charge was not framed within one year

from the date the contempt, alleged to have been committed, the proceedings are barred by limitation.

31. In our view, the submission is thoroughly misconceived. In Contempt No. 07 of 2006 the alleged act of contempt was committed on 16th

August, 2005 when serious aspersions and scandalous allegations were made by the Contemnor. It was again committed by him on 16.08.2005

when the application under Section 340 and 395 Cr.P.C. was made. The Reference was made by Shri R.A. Singh, Additional District & Sessions

Judge, Bareilly on 10.11.2005 forwarded by the District Judge, Bareilly on 11.11.2005.

32. In Contempt No. 26 of 2010 the act of contempt is said to have been committed on 20.07.2010 when Contemnor presented a memo of

revision, making contemptuous allegations against the Judicial Officers. The Reference has been made by Shri Pramod Kumar Srivastava-I,

Special Judge, SC/ST (Prevention of Atrocities) Act, Bareilly vide Reference dated 21.09.2010 and it was forwarded by the District Judge,

Bareilly on 22.09.2010.

33. In the third case i.e. Contempt No. 27 of 2010 the act of contempt is alleged to have been committed on 22.05.2010, in review application

registered as Miscellaneous Case No. 136 of 2010, and the Reference is made on 22.09.2010.

34. In all the three cases, References have been made by Courts below within one year of the date on which contempt was committed. For the

purpose of Section 20 , in a criminal contempt, it would be the date of reference first, the date of framing of charge or when notice is issued or any

other date, when it can be said that proceeding has been initiated. This is what has been held by Court in Pallav Sheth Vs. Custodian and Others, .

Therein the Court has held that proceedings for criminal contempt would be said to have been initiated when reference is made by subordinate

Court and all subsequent acts of its registration, listing of matter before Court and issuance of notice are only steps following or succeeding to such

initiation. Therefore, for the purpose of limitation under Section 20 , it is the date on which the contempt was referred by the subordinate Court and

that would govern whether the reference is barred by limitation or not. The Court, in paras 38, 39 and 40 of the judgment, said:

38. The Rules so framed by all the Courts in India do show that proceedings are initiated inter alia with the filing of an application or a petition in

that behalf. If, however, proceedings are not initiated by filing of an application within a period of one year from the date on which the contempt is

alleged to have been committed then the Court shall not have jurisdiction to punish for contempt. If, on the other hand, proceedings are properly

initiated by the filing of an application, in the case of civil contempt like the present before the Court within the period of limitation then the

provisions of Section 20 will not stand in the way of the Court exercising its jurisdiction.

39. In the case of criminal contempt of subordinate court, the High Court may take action on a reference made to it by the subordinate court or on

a motion made by the Advocate-General or the Law Officer of the Central Government in the case of Union Territory. This reference or motion

can conceivably commence on an application being filed by a person whereupon the subordinate court or the Advocate-General if it is so satisfied

may refer the matter to the High Court. Proceedings for civil contempt normally commence with a person aggrieved bringing to the notice of the

Court the willful disobedience of any judgment, decree, order etc. which could amount to the commission of the offence. The attention of the Court

is drawn to such a contempt being committed only by a person filing an application in that behalf. In other words, unless a Court was to take a suo

motu action, the proceeding under the Contempt of Courts Act, 1971 would normally commence with the filing of an application drawing to the

attention of the Court to the contempt having been committed. When the judicial procedure requires an application being filed either before the

Court or consent being sought by a person from the Advocate-General or a Law Officer it must logically follow that proceeding for contempt are

initiated when the applications are made.

40. In other words, the beginning of the action prescribed for taking cognizance of criminal contempt under Section 15 would be initiating the

proceedings for contempt and the subsequent action taken thereon of refusal or issuance of a notice or punishment thereafter are only steps

following or succeeding to such initiation. Similarly, in the case of a civil contempt filing of an application drawing the attention of the Court is

necessary for further steps to be taken under the Contempt of Courts Act, 1971.

(emphasis added)

35. The Apex Court in Pallav Sheth (supra) then also confirmed the view taken by a Full Bench of Punjab and Haryana High Court in Manjit Singh

and Others Vs. Darshan Singh and Others, . The Court while affirming the view taken by Punjab and Haryana High Court, has quoted observation

made in para 19 of Manjit Singh and Others (supra) as under:

19. To finally conclude it must be held that the terminus a quo for limitation begins under Section 20 of the Act on the date on which the contempt

is alleged to have been committed. The terminus ad quem in case of criminal contempt would necessarily vary and be related to the modes of

taking cognizance thereof provided for in S. 15 . In cases where it is initiated on the Court's own motion it would necessarily be from the issuance

of the notice for contempt by the Court. In case of a motion by the Advocate General under S. 15(1)(a) , the proceedings would initiate from the

date of the filing of such a motion in the High Court. Where any other person moves the Advocate General for his consent in writing as prescribed

in S. 15(1)(b) , the initiation of proceedings would be with effect from the date of such application. Lastly, in cases of criminal contempt of a

subordinate Court on a reference made by it the proceedings must be deemed to be initiated from the date when such reference is made.

36. A Division Bench consisting one of us (Hon"ble Sudhir Agarwal, J.) has also considered this aspect in judgment dated 14.08.2015 in

Review/Recall Application No. 243043 of 2015 in Contempt Application (Criminal) No. 16 of 2011 and in paragraph 21 the Bench after

following the decision in Pallav Sheth Vs. Custodian and others (supra), has said as under:

21. From a perusal of the aforesaid, it is evident that the view taken by the Court is that beginning of action for contempt under Section 15 would

be when proceedings for contempt are "initiated". That initiation would be when the reference is made. The order issuing notice or not is only a

step follow or succeeded to such initiation. The limitation for contempt has to be seen when the contempt is said to have been committed and when

the reference was made by the subordinate court. If the date for reference made by subordinate court is within one year from the date when the

action or omission constituting contempt was committed, the matter would be within limitation and the date on which this Court issued notice would

be relevant. In the present case, the act of contempt was committed by applicant-contemnor on 9th September, 2010 and reference was made by

Presiding Officer of the Court below on 12.9.2010, which is just within a week. Therefore, proceedings are deemed to be initiated on that date i.e.

12.9.2010 and it cannot be said that Section 20 is attracted in the case in hand.

37. In view of the aforesaid decisions it cannot be said that the proceedings in the aforesaid three contempt applications are barred by limitation

and, therefore, the contention raised otherwise is rejected.

38. Now we come to the merits of the matter. Submission of the documents, namely, memorandum of revision, review applications etc. making

scandalous allegations against Judicial Officers is admitted by Contemnor in all the three cases. What he has said is that the same is "truth" and,

therefore, does not amount to contempt. In this regard reliance has been placed by Contemnor on Section 13 of Act, 1971, as amended, which

reads as under:

13. Contempts not punishable in certain cases. Notwithstanding anything contained in any law for the time being in force,-

(a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it

substantially interferes, or tends substantially to interfere with the due course of justice.

(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest

and the request for invoking the said defence is bona fide.

39. We do not find as to how this provision will help him. The Contemnor has not requested to prove that the allegations made by him were

"truth". In fact he has cast aspersions on the integrity, efficiency and conduct of Judicial Officers in a reckless manner since they did not pass

orders to the likings of Contemnor. These are the allegations made by a litigant against a Presiding Officer, who has failed to get an order in his

own terms. The allegations levelled, therefore, are apparently motivated and biased. The allegations that action of Presiding Officer is corrupt,

result of some conspiracy with the police constitute criminal misconduct, the orders have been passed "madly" and "blindly" and also ""drunk

orders"", the Judicial Officers have coordinated and cooperated with other litigants to manipulate the record; all constitute serious aspersions and

scurrilous allegations against Presiding Officers of the Court below. No litigant has any legal or otherwise right to obtain an order from Court of law

in a particular manner which he desires. The only right of litigant is to place his case, facts and law, before the Court and thereafter what would be

the result, is not his right. No litigant can claim, if an order favourable to him is not passed, it would mean that the Judicial Officer has committed all

kinds of misconduct and illegalities. This cannot give a licence to the litigant to castigate Presiding Officer in any manner. If the order is not correct,

litigant has a remedy to approach higher Courts, but cannot castigate the conduct, character etc. of the Presiding Officer, who has passed the

order.

40. The Contemnor has tried to explain that he was depressed having failed in practice and also in service wherefrom he was removed from

Bank's service, on account of some frustration or otherwise he could not use better language in the aforesaid documents, but this defence, in our

view is unacceptable. The Contemnor is an Advocate, well qualified. He knows meaning of the words used by him. He has deliberately and

intentionally used the words, knowing their meaning well, with an intention to cast such aspersions against the Judicial Officers against whom such

allegations have been made, and he meant and intended that.

41. There are cases where a person has made a fair criticism of the orders passed by Court below, but here the conduct, integrity, and efficiency

of Judicial Officers has been abusively commented and indicted by using impertinent language. If an order is passed wrongly, in an appropriate

manner, with civilized words and manner, it is always open to the litigant or his Advocate or even a common man to criticize such order. We do

not initiate contempt proceedings on just fall of a hat as we are not so sensitive, but then it cannot be extended to the extent of permitting a litigant

or an Advocate or any person to virtually abuse the Presiding Officers of the Court, which would include the Court itself. A fair criticism does not

constitute to scandalize or lower the authority of Court or Judicial Institutions or an attempt to interfere with administration of justice, but ill-motive,

intentional and deliberate castigation going to the extent of virtual abuse is not protected and that has a different impact. It is criminal contempt.

42. In P.N. Dua Vs. P. Shiv Shanker and Others, the Court said that justice is not a cloistered virtue. She must be allowed to suffer the scrutiny

and respectful, even though outspoken, comments of ordinary men. Administration of justice and Judges are open to public criticism and public

scrutiny. Judges have their accountability to the society and their accountability must be judged by their conscience and oath of their office, that is,

to defend and uphold the Constitution and the laws without fear and favour, but any criticism about the judicial system or the Judges which

hampers the administration of justice or which erodes the faith in the objective approach of Judges and brings administration of justice into ridicule

must be prevented. The Courts cannot ignore attempts made to decry or denigrate the judicial process, when it is done with quite seriousness.

43. The definition of Criminal Contempt under Section 2(c) reads as under:

2(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;

44. Publication whether by words spoken or written etc. on any matter or doing of any other act, which scandalizes or tends to scandalize or

lowers or tends to lower the authority of any Court constitutes "criminal contempt". Such act, as aforesaid, if prejudices or interferes or tends to

interfere with due course of any judicial proceeding also amounts to "criminal contempt". Thirdly, if such an act interferes or tends to interfere with

or obstructs or tends to obstruct the administration of justice in any other manner, again it would constitute "criminal contempt". The word

"scandalize" has not been defined in Act, 1971. In Black's Law Dictionary word "scandal" has been described as under:

Scandal consists in the allegation of anything which is unbecoming the dignity of the court to hear, or is contrary to decency or good manners, or

which charges some person with a crime not necessary to be shown in the cause, to which may be added that any unnecessary allegation, bearing

cruelly upon the moral character of an individual, is also scandalous. The matter alleged, however, must be not only offensive, but also irrelevant to

the cause, for however, offensive it be, if it is pertinent and material to the cause the party has a right to plead it. It may often be necessary to

charge false representations, fraud and immorality, and the pleading will not be open to the objection of scandal, if the facts justified the charge.

(emphasis added)

45. In Aiyer's Law Lexicon, second edition, Page 1727, reference has been made to Millington Vs. Loring (1880) 6 QBD 190, where the word

"scandalous" has been explained as under:

A pleading is said to be "scandalous" if it alleges anything unbecoming the dignity of the court to hear or is contrary to good manners or which

charges a crime immaterial to the issue. But the statement of a scandalous fact that is material to the issue is not a scandalous pleading.

46. In Narmada Bachao Andolan Vs. Union of India (UOI) and Others, , in para 7 of the judgment the Court said:

7. We wish to emphasise that under the cover of freedom of speech and expression no party can be given a licence to misrepresent the

proceedings and orders of the court and deliberately paint an absolutely wrong and incomplete picture which has the tendency to scandalise the

court and bring it into disrepute or ridicule.

47. Recently, the aforesaid definitions of the term "scandalise" has been quoted with approval in Indirect Tax Practitioners Association Vs. R.K.

Jain, .

48. In Subramanian Swamy Vs. Arun Shourie, , the court had occasion to examine Section 13(b) as came to be amended by Act 6 of 2006. The

Court observed that the amended provision enables the Court to permit justification by truth as a valid defence in any contempt proceeding if it is

satisfied that such defence is in public interest and the request for invoking the defence is bona fide, unless the Court finds that it is only a

camouflage to escape the consequences of deliberate or malicious attempt to scandalise the court or is an interference with the administration of

justice.

49. In Contempt No. 07 of 2006 the Contemnor has arrayed Judicial Officers as party to the proceedings along with the opposite parties. It is also

alleged that the Judicial Officers have passed orders corruptly and maliciously. The allegations that the Presiding Officers of the Courts when pass

order become a party, colluding and cooperating with the other parties in the litigation, would constitute serious aspersions against conduct of said

Officers and cannot be held fair criticism of the order or the proceedings.

50. Similarly, in Contempt No. 26 of 2010, the allegations that Presiding Officer in passing the orders has covered up concealed criminal

misconduct and criminal design, madly and blindly passed orders and has acted in collusion and conspiracy with the litigants, constitute scandalous

allegations against Presiding Officer which tend to lower down the authority and dignity of the court.

51. In third contempt i.e. Contempt No. 27 of 2010 also, he has levelled allegations upon Judicial Officers of being corrupt, malicious, dishonest.

He has gone to the extent of alleging that there is no difference between the Presiding Officer and hardcore criminal. All constitute grave allegations

against Judicial Officers, constituting "criminal contempt".

52. We, therefore, hold the Contemnor guilty in all the three Criminal Contempts by holding the charges proved against him.

53. Now we come to question of punishment. The charges levelled against Contemnor in all the three Criminal Contempts are quite serious.

54. In Contempt No. 7 of 2006, we impose punishment of simple imprisonment for three months, besides fine of Rs. 1,000/-. In case of non-

payment of fine, the Contemnor shall undergo simple imprisonment for a further period of one month.

55. In Criminal Contempt No. 26 of 2010, we impose punishment of simple imprisonment for four months, besides fine of Rs. 1,500/-. In case of

non-payment of fine, the Contemnor shall undergo simple imprisonment for a further period of two months.

56. In Criminal Contempt No. 27 of 2010, we impose punishment of simple imprisonment for six months, besides fine of Rs. 2,000/-. In case of

non-payment of fine, the Contemnor shall undergo simple imprisonment for a further period of three months.

57. Besides above, we also restrain Contemnor from entering premises of District Judgeship, Bareilly, for a period of six months. This restraint

order shall commence with effect from 28th September, 2015.

58. The References in all three contempt matters are allowed in the manner aforesaid.

59. A copy of this order shall be communicated to District Judge, Bareilly, and Chief Judicial Magistrate, Bareilly forthwith for communication and

compliance.

60. After delivery of judgment in this case, Contemnor prays that sentence imposed by this Court vide judgment of date be suspended to enable

him to avail statutory remedy of appeal under Section 19 of Contempt of Courts Act, 1971 before the superior Court.

61. In the circumstances, we suspend the sentence for a period of two months. In case, the appeal is not filed or if filed but no otherwise order is

passed in the appeal, Contemnor shall surrender before Chief Judicial Magistrate, Bareilly, after two months i.e. on or after 22.11.2015, but not

beyond 30.11.2015, who shall take steps to get the sentence served out by Contemnor.