



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

WEDNESDAY, THE 6TH DAY OF AUGUST 2025 / 15TH SRAVANA, 1947

CONT.CAS.(CRL.) NO. 1 OF 2025

PETITIONER:

SUO MOTU CONTEMPT PETITION (CRIMINAL)

RESPONDENT:

R. RAJESH
EX- M.L.A AND MEMBER OF SYNDICATE,
UNIVERSITY OF KERALA, PALAYAM,
THIRUVANANTHAPURAM.

BY ADV SRI.RILGIN V.GEORGE

P. DEEPAK (SR)

THIS CONTEMPT OF CASE (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 06.08.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Raja Vijayaraghavan V, J.

The respondent is a former Member of the Legislative Assembly and presently serves as a Member of the Syndicate of the University of Kerala. On 06.07.2025, he published a post on the social media platform 'Facebook', wherein he levelled serious insinuations against this Court. In the said post, he alleged that "the High Court Bench that hears University cases deliberately appoints staunch Sangh Parivar supporters" and further stated that "the Goddess of Justice sits in the High Court, not as a woman carrying a saffron flag."

2. When the aforesaid post was brought to the notice of the learned Judge hearing University matters, the Court felt that the tenor of the post was suggestive of partisan bias and the respondent was, directly imputing improper motives to a Judge of this Court in the discharge of its judicial functions. The Court was of the view that the respondent has cast aspersions on the impartiality and integrity of the Court, thereby tending to lower the authority of the judiciary and erode public confidence in its administration of justice.

3. The learned Single Judge drew up the contempt proceedings suo motu, after satisfying prima facie that the insinuation and intemperate language



used by the alleged contemnor in his Facebook post was intended to interfere with the court proceedings and to scandalise the Court by interfering with the administration of justice. Invoking powers under Section 15 of the Contempt of Courts Act, 1971, the learned Single Judge framed charges against the respondent. The charge reads as under:

"i) You, Mr R Rajesh, Ex-MLA and Syndicate Member of the University of Kerala, by writing the Facebook post on 06.07.2025 on your Facebook page, have clearly intended to defile the image of the Court, cast insinuations and insult to the Judges heading the education Bench.

(ii) You, Mr R Rajesh, Ex-MLA and Syndicate Member of the University of Kerala, have written the Facebook post on 06.07.2025, with the clear intention to bring the Court into disrepute by making scandalous and unfounded allegations in intemperate language. Your ex-facie contemptuous writing on Facebook as envisaged under Section 15 of the Contempt of Courts Act, 1971 defines criminal contempt that makes you liable to be punished under the provisions of the Contempt of Courts Act, 1971, and, therefore, you are hereby called upon to answer the aforesaid charge in person or through counsel and be present yourself to be tried on 23.07.2021.

4. Directions were issued to number the suo motu case and notice was issued to the respondent to appear before this Court on 23.07.2025 at 10.15 a.m. The learned Single Judge also ordered that the Contempt Case be posted before the appropriate Bench after securing orders from the Hon'ble The Chief Justice.



5. In pursuance to the same, the suo motu case was registered under Section 2(c) of the Contempt of Courts Act, 1971. Draft charges have been prepared by the Registrar (Judicial), High Court of Kerala and matter has been placed before this Court.

6. When the matter came up for consideration on 30.7.2025, the respondent filed an application for exemption from personal appearance. He also filed an affidavit requesting that the notice of contempt issued against the respondent be discharged in view of the manifest and incurable deviation from the prescribed procedure.

7. This Court directed the respondent to appear on 06.08.2025 and in terms of the directions, he has appeared in person.

8. We have heard the submissions of Sri. P. Deepak, the learned Senior Counsel appearing for the respondent as instructed by Sri. R. V. George.

9. Sri. P. Deepak submitted that Contempt of Court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. Though the actual proceedings for contempt are quasi criminal and summary in nature, it has been settled by the Apex Court that every motion has to strictly follow the procedure prescribed under law. It is submitted that this Court has framed Rules under the Contempt of Courts Act, 1971



('Rules' for the sake of brevity) sourcing power under Section 23 of the Contempt of Courts Act, 1971 providing in detail the procedure to be followed by the court and its Registry on the one hand and the complainant/respondent on the other hand. He placed reliance on the observations made by the Apex Court in **State of Kerala v. M.S. Mani¹, Muthu Karuppan v. Parithi Ilamvazhuthi²**, and in **Anup Bhushan Vohra v. Registrar General, High Court Of Judicature Of Calcutta³** and it was urged that contempt proceedings being quasi-criminal in nature require strict adherence to the procedure prescribed under the rules applicable in such proceedings. He would also profusely rely on the observations made by this Court in **Suo Motu v Yeshwant Shenoy⁴** and it was forcefully urged that the failure to adhere to the procedural requirement under the Act and the Rules are fatal. It is submitted that any attempt to cure the defect at this stage would convey an impression that the proceedings, particularly in suo motu proceedings, were one-sided and biased.

10. We have given our thoughtful consideration to the submissions advanced by the learned Senior Counsel.

11. We shall now proceed to set out in detail the procedural violations, as highlighted by the learned counsel, which are stated to have been committed at the

¹ [(2001) 8 SCC 82]

² [(2011) 5 SCC 496]

³ [2012 CRI LJ 636]

⁴ [2024 KHC Online 7051]



stage of initiation of the proceedings.

- a) The proviso to clause (ii) of Rule 7 of the Rules mandates that the “information” — which, in the present case, is the downloaded copy of the Facebook post — ought to have been placed before the appropriate Bench, meaning a Bench of two Judges, for preliminary hearing. In view of S.4 of the Kerala High Court Act and Section 18 of the Act, every case of criminal contempt under Section 15 is to be heard by a Bench of not less than two judges. Such an exercise was not undertaken.
- b) Clause (iii) of Rule 7 mandates that, in a suo motu action, the statement of facts constituting the alleged contempt and the draft charges shall be prepared and signed by the Registrar. In the present case, this procedure was not adhered to. Instead, the draft charges were drawn up by the learned Single Judge himself prior to issuing notice to the respondent.
- c) Rule 8A of the Rules provides that, in suo motu proceedings, once the Registrar prepares the statement of facts and the draft charges under Rule 7(iii), the Registry shall, unless otherwise directed, serve a copy of the relevant papers on the Advocate General/Central Government Standing Counsel/Standing Counsel of the concerned Public Authority before placing the matter before the Court for preliminary hearing. No such procedure was followed in the instant case.



- d) Rule 9 mandates that every petition, reference, information, or “direction” shall be placed for preliminary hearing before the appropriate Bench, i.e., a Bench of two Judges. It is only upon such Bench being satisfied that a prima facie case exists that notice is to be issued to the respondent. If no case is made out, the petition is to be dismissed. Once the Bench, under Rule 9(ii)(a), is satisfied that a prima facie case has been made out, it may direct the issue of notice to the respondent in Form No. 1, which shall be accompanied by a copy of the petition, reference, information, or direction and all annexures thereto. In total contravention of Rule 9 of the Rules, the learned Single Judge has himself prepared the statement of facts and framed the charges, having first concluded that a prima facie case of contempt existed, and has thereafter proceeded to issue notice to the respondent otherwise than in Form No. 1. The information or direction was not appended to the notice as well.
- e) The learned Single Judge, after preparing the statement of facts and framing the charges against the respondent, proceeded to direct the Registry to number the contempt case against the respondent. Such a course of action is contrary to Rule 7, which mandates that the registration of such proceedings as a “Contempt of Court Case” by the Registry under Rule 3 is contingent upon strict compliance with the procedural requirements prescribed under Rule 7 of the Rules.



12. Every High Court besides powers under the Act has also the power to punish for contempt as provided in Article 215 of the Constitution of India. The Act was enacted, inter alia, providing for Civil and Criminal Contempt and also providing for filtering of Criminal Contempt Petitions. The Act lays down "contempt of court" to mean civil contempt or criminal contempt. "Criminal contempt" is defined in Section 2(c) of the Contempt of Courts Act, 1971. It, inter alia, 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 scandalises or tends to scandalise, or lowers or tends to lower the authority of any court. The procedure for initiating a proceeding of contempt when it is committed in the face of the Supreme Court or High Courts has been prescribed in Section 14 of the Act. In the case of criminal contempt, other than a contempt referred to in Section 14 the manner of taking cognizance has been provided for in Section 15 of the Act. This section, inter alia, provides that action for contempt may be taken on court's own motion or on a motion made by "(a) the Advocate General, or (b) any other person, with the consent in writing of the Advocate General or (c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.

13. It would be apposite to note at this juncture that the purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. It is



an unusual type of jurisdiction combining 'the jury, the judge and the hangman' and it is so because the court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. (See **Supreme Court Bar Assn. v. Union of India**⁵)

14. Section 23 of the Act provides for the Power of Supreme Court and High Courts to make rules. The said provision reads as under:

Section 23- Power of Supreme Court and High Courts to make rules:-

The Supreme Court or, as the case may be, any High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.

15. Sourcing powers from Article 215 and 225 of the Constitution of India and Section 23 of the Act, the Rules under the Contempt of Courts Act , 1971 has been framed by the High Court of Kerala to regulate the proceedings for contempt of itself or of a court subordinate to the High Court.

16. The Rule provides for -

⁵ [(1998) 4 SCC 409]



- a) Taking Cognizance (Rule 6)
- b) Initiation of suo motu proceedings, on information (Rule 7),
- (c) Service of copy to the Advocate General (Rule 8A),
- (d) Preliminary hearing and notice (Rule 9) and
- (e) Service of notice (Rule 10).

17. In **L.P. Misra (Dr) v. State of U.P**⁶, a Bench of three Hon'ble Judge of the Apex Court had occasion to consider the question whether the invocation of powers and jurisdiction vested in it under Article 215 of the Constitution of India for initiating and punishing for contempt could be sustained otherwise than in accordance with the procedure prescribed by law. In the said case, the Division Bench of the High Court proceeded to punish for contempt, which was in the face of the High Court, without complying with the provisions contained in Chapter XXXV-E of the Allahabad High Court Rules, 1952. It was observed as under:

12. After hearing learned counsel for the parties and after going through the materials placed on record, we are of the opinion that the Court while passing the impugned order had not followed the procedure prescribed by law. It is true that the High Court can invoke powers and jurisdiction vested in it under Article 215 of the Constitution of India but such a jurisdiction has to be exercised in accordance with the procedure prescribed by law. It is in these circumstances the impugned order cannot be sustained.

⁶ [(1998) 7 SCC 379]



18. In **Muthu Karuppan v. Parithi Ilamvazhuthi**,⁷ it was observed that while dealing with criminal contempt in terms of Section 2(c) of the Act, strict procedures are to be adhered to. It was further observed that Section 15 of the Act as well as the Madras High Court Contempt of Court Rules insist that for initiation of criminal contempt, consent of the Advocate General is required. Any deviation from the prescribed Rules should not be accepted or condoned lightly and must be deemed to be fatal to the proceedings taken to initiate action for contempt.

19. Coming back to the facts of the present case, we are satisfied that, from the stage of arriving at prima facie satisfaction to the drawing up of the charges and the issuance of notice, the provisions of the Act and the Rules have not been complied with. We find that there has been a clear and substantial deviation from the procedure mandated under Sections 4 and 18 of the Kerala High Court Act, Section 15 of the Contempt of Courts Act, 1971, and Rules 7, 8A, and 9 of the Rules.

20. The proviso to Rule 7(ii) requires that the "information", in this case, the downloaded copy of the Facebook post, ought to have been placed before the appropriate Bench, namely, a Bench of not less than two Judges, for preliminary hearing. This requirement, which also flows from Section 4 of the Kerala High

⁷ [(2011) 5 SCC 496]



Court Act read with Section 18 of the Act, was not complied with. Instead, without placing the matter before such a Bench for the limited purpose of determining whether a prima facie case existed, the learned Single Judge proceeded to deal with it directly. Further, under Rule 7(iii), in a suo motu action, it is the Registrar who is required to prepare and sign the statement of facts constituting the alleged contempt along with the draft charges. This safeguard ensures that the initiation process remains independent of judicial determination at that stage. In the instant matter, this procedure was not followed; rather, the learned Single Judge himself prepared the draft charges even before issuing notice to the respondent. Rule 8A further provides that, upon preparation of the statement of facts and draft charges under Rule 7(iii), the Registry shall, unless otherwise directed, serve copies of the relevant papers upon the Advocate General, Central Government Standing Counsel, or the Standing Counsel of the concerned Public Authority before placing the matter for preliminary hearing. This important procedural step, which allows for informed consideration before the Court takes cognizance, was completely omitted in the present case. Rule 9 contains yet another safeguard by mandating that every petition, reference, information, or "direction" be placed for preliminary hearing before a Bench of two Judges, and that it is only upon such Bench being satisfied of the existence of a prima facie case that notice shall be issued to the respondent in Form No.1, duly accompanied by the petition, reference, information, or direction and all annexures thereto. If no case is made out, the



matter is to be dismissed at that stage. Contrary to this, the learned Single Judge himself prepared the statement of facts, framed the charges, and came to the conclusion that a prima facie case existed, thereafter issuing notice to the respondent otherwise than in the prescribed Form No. 1 and without appending the required documents. Finally, after having so prepared the statement of facts and framed the charges, the learned Single Judge directed the Registry to number the matter as a "Contempt of Court Case," even though Rule 7 clearly stipulates that such registration by the Registry under Rule 3 is conditional upon full compliance with the procedural requirements of Rule 7, which compliance was wholly lacking.

21. Having given our anxious consideration to the matter, we have deliberated on whether the procedural irregularities pointed out by the learned Senior Counsel could be condoned and the Registry directed to recommence the proceedings afresh against the respondent. The Division Bench of this Court in **Yeshwant Shenoy** (supra), has observed that the satisfaction regarding the existence of a prima facie case can arise only if the Court is satisfied that the proceedings are capable of being continued without any statutory inhibition, notwithstanding the procedural lapses noticed. It was further held therein that if the initiation of the proceedings is found to be without jurisdiction or in violation of statutory provisions, the continuation thereof would also be impermissible in law.



22. Guided by the law laid down by the Hon'ble Supreme Court in **L.P. Misra (Dr)** (supra) and **Muthukaruppan** (supra), we are of the considered view that the initiation of the present proceedings suffers from deviation of procedure and incurable legal infirmities. Consequently, the respondent is entitled to be discharged, and we order accordingly.

This Contempt Case is closed.

Sd/-
RAJA VIJAYARAGHAVAN V
JUDGE

Sd/-
K. V. JAYAKUMAR
JUDGE

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